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HOUSE WAYS AND MEANS COMMITTEE

HOUSE BILL 1255

EDUCATION—PHYSICAL RESTRAINT AND SECLUSION—LIMITATIONS, REPORTING AND TRAINING

MARCH 10, 2021

POSITION: SUPPORT

Disability Rights Maryland (DRM) is the protection and advocacy organization for the state of Maryland; the mission of the organization, part of a national network of similar agencies, is to advocate for the legal rights of people with disabilities throughout the state. Over the years, DRM has dedicated significant resources to representation of children with disabilities in special education matters, both individual and systemic, and to educational policy work. DRM has the unique authority to investigate when a child, youth or adult with disabilities has been, or is at risk of being, abused or neglected. Our special education work and our core protection and advocacy authority come together when children with disabilities are subjected to the use of restraint and seclusion. DRM has investigated a number of school-based restraint and seclusion injuries; it is this work that has informed our policy work since the 2002 General Assembly passed Maryland's first law governing the use of restraint and seclusion in schools.

As a member and chair of the Education Advocacy Coalition (EAC), DRM joins the testimony submitted by the EAC in support of House Bill 1255. We submit separate testimony to underscore the importance of the provisions of the bill, particularly with respect to the new proposed limitations regarding the use of seclusion, the additional data collection requirements, and the accountability measures the bill would require.

It was our hope that the 2017 enactment of Senate Bill 786, stronger regulations and the strong guidance issued by MSDE would lead to a reduction in the use of restraint and seclusion across the state. Unfortunately, this has not been the case. The EAC testimony details the significant number of restraint and seclusion incidents in a number of jurisdictions and notes that restraint and seclusion are used disproportionately with children with disabilities, children of color, and very young children. House Bill 1255 would address the underlying barriers that have impeded progress towards a reduction in the use of these outmoded and dangerous practices which are traumatic for students, their families and school staff alike. House Bill 1255 would prohibit the use of seclusion in public schools and impose significant additional requirements before seclusion could be used in nonpublic schools. Additionally, the bill requires analysis of the data collected by Senate Bill 786, rather than simply a transmittal of the data as currently occurs each December 1st; significantly, the bill also requires individual student data to be reported both to the local school system and to the Maryland State Department of Education (MSDE) if restraint or seclusion is used 10 or more times in a school year with a student. MSDE must also develop an accountability system designed to reduce the use of these aversive interventions. Additionally, House Bill 1255 requires more robust training, which will enable teachers to be better prepared to meet the academic and behavioral needs of the students in their classrooms. All of these provisions, if implemented, should lead to less reliance on restraint and seclusion.

This Committee has heard many stories over the years from families whose children have been subjected to restraint and seclusion. In 2017, this Committee watched an excerpt of a video showing

one of DRM's clients being dragged down a hallway and pushed into a seclusion room where he slumped to the ground and was curled up in a puddle of blood when staff opened the door a few minutes later. Although videos are rare, injuries during restraint and seclusion are not. Over the years, DRM has handled cases involving children restrained by duct tape, neckties, or in equipment meant for children who cannot sit independently. DRM has investigated cases of children physically restrained and placed in seclusion for time periods well beyond the limits imposed by the regulations. We have investigated cases involving children who have sustained broken bones in seclusion rooms, and children who have sustained bruises, cuts, rug burns, and other injuries during restraint and seclusion. We have also conducted investigations of children who died while in restraint while placed in residential school programs. Those are the visible injuries. The damage caused by invisible injuries—the trauma sustained by each child subjected to restraint or seclusion—and the trauma sustained by those who witness it and those who engage in it, is incalculable. We continue to take these cases because the injuries and the trauma continue. We continue to support additional legislative measures because four years of data show us that without accountability measures built into the law, business will continue as usual. We should not have to wait for the United States Department of Justice to investigate Montgomery County or Harford County or Baltimore County or Charles County as it did Frederick County. House Bill 1255 offers an opportunity to put Maryland back at the forefront of states addressing restraint and seclusion with a proactive, accountability-driven approach.

DRM supports House Bill 1255 as the necessary next step to move Maryland forward in reducing the use of these aversive interventions and to ensure that school is the nurturing, safe learning haven it is meant to be for all children. For more information, please contact Leslie Seid Margolis at lesliem@disabilityrightsmd.org or 410-370-5730.