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**Sponsor Testimony**

**Presented by: Senator Charleta B. Tavares**

**Senate Bill 104**

**Education Committee, Chair, Senator Peggy Lehner**

**Wednesday, September 20, 2017**

Good morning, Chairwoman Lehner, Ranking Member Sykes, and members of the Senate Education Committee. Thank you for the opportunity to present Senate Bill 104 which will prohibit the use of seclusion of students in public schools. This legislation will require the State Board of Education to update its policy and standards for student behavior interventions and the use of physical restraint and seclusion on students to prohibit the use of seclusion on students within 90 days after the bill’s effective date. This legislation will require each school district, community schools, STEM school, or college-preparatory boarding school to comply with the updated policy and standards.

This bill defines seclusion as both of the following:

(a) Isolates and confines a student in a separate area until the student is no longer an immediate danger to student's self or others;

(b) Occurs in a specifically constructed or designated room or space that is physically isolated from common areas and from which the student is physically prevented from leaving.

Seclusion does not include any of the following:

(a) A situation in which a staff member who is trained in the use of de-escalation techniques or restraint is physically present in the same unlocked room as the student;

(b) A behavioral intervention in which the student is temporarily removed from the learning activity but in which the student is not confined;

(c) An in-school suspension or detention;

(d) A break that is requested by the student and occurs in a different location in the room or in a separate room.

In the February 2015 *Issue Brief* from the Children’s Defense Fund, it discussed the seclusion room issue. Here are a few of its findings. In Ohio alone, around 4,000 total children accounted for the more than 14,000 total incidents of restraint and seclusion in 2013-2014, indicating the practice is used far more often than just where there is a risk of physical harm. There were over 5,000 incidents of seclusion and 9000 incidents of restraint reported (2013-14). The Substance Abuse and Mental Health Services Administration (SAMHSA) estimated in 1998 the use of seclusion and restraint resulted in approximately 150 deaths per year across the nation. In 2009, the disability advocacy organization The Association of Persons with Severe Handicaps (TASH) found that in a survey of 1,300 children with disabilities, 65 percent had been subjected to seclusion, restraint, or another aversive procedure.

Seclusion is a profoundly harmful practice, especially when used on children whose brains are still developing and whose developmental stages are always in flux. Multiple studies show that children who are secluded are more likely to commit suicide, attempt suicide, and engage in self-harming behaviors. Seclusion fails to respect children’s right to dignity and dehumanizes them, often for minor infractions or because school officials failed to provide appropriate treatment options for students with disabilities. In February 2016, Disability Rights Ohio (DRO) published a report highlighting the many flaws in the use of seclusion rooms. According to the report from DRO, 80% of all restraints used in Ohio were on students with disabilities, despite the fact that they make up only 14% of Ohio’s school population. The report also found that reporting incidents of seclusion was incredibly spotty. The Ohio Administrative Code requires that when a child is secluded, the incident must be documented via written report and given to the parents within 24 hours. Since this data is not audited there is no way to know if schools are in compliance with the notification process or not. The lack of sufficient recourse for seclusion rooms is another major problem. Currently a parent may make a complaint if they feel that their child is improperly secluded but if the school does not address this complaint there is no way to appeal with ODE. Disability Rights Ohio highlights a parent who was at her child’s school for a meeting and happened to see the schools seclusion room. The room had no door handle and an automated lock that could only be unlocked by staff. Seclusions rooms cannot have locks as stated by the (Ohio Administrative Code) OAC. The school admitted that they knew of the rule but had no plans to come into compliance. This is unacceptable and there is currently no way for ensure that the school will ever comply with the rule.

This bill is not banning seclusion rooms outright. It is making sure that when they are used, they are used properly with adult supervision. We do not want to leave our children locked in a room, smaller than a closet, by themselves without any supervision.

There have been a number of incidents where children have hurt themselves in these rooms without any supervision. In 2004, a 13 year old boy in Georgia hung himself in a seclusion room that was not supervised by any adult. The room had no windows, bathroom, food or water. “It's reasonable to think that [an incident similar to this one] could happen in all the other schools that use seclusion on disabled children -- largely because the use of seclusion goes so unchecked," said Jane Hudson, an attorney with the National Disability Rights Network. This is precisely what Senate Bill 104 is trying to prevent.

The State of Ohio can phase out the use of seclusion rooms if it chooses to fund the implementation of Positive Behavior Interventions and Supports and considers using other preventive tools, such as comfort rooms.

Chairwoman Lehner and members of the Committee, I appreciate your attention to this important issue and I respectfully request your favorable consideration and passage of Senate Bill 104. Thank you and I am happy to respond to questions from the committee.