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**SUMMARY OF KEEPING ALL STUDENTS SAFE ACT (S. 2020)
(RESTRAINT/SECLUSION BILL INTRODUCED BY SENATOR HARKIN)**

Senator Tom Harkin (Chair, Health Education Labor and Pension Committee) introduced the Keeping All Students Safe Act, S.2020, to protect students from dangerous restraint and seclusion on December 16, 2011. The bill strengthens protections for children in every state, setting a new high water mark in protecting children from abuse in school.

Restraint and seclusion are very dangerous techniques. In 2009, a Government Accountability Study found that hundreds of children, mostly with disabilities, had been subjected to restraint and seclusion in school, resulting in death, injury, and psychological trauma. Examples included a 7 year old who died after being held face down for hours by school staff, 5 year olds tied to chairs with bungee cords and duct tape and suffering broken arms and bloody noses, and a 13 year old who hung himself in a locked seclusion room. <http://1.usa.gov/GAORS>

The Keeping All Students Safe Act, S.2020, will establish much needed national minimum standards to protect all school children nationwide. Today, only 28 states have binding statutes or regulations with significant protections against restraint and/or seclusion. Another 6 states provide some narrow form of limited protection (e.g., a ban on isolating a preschooler alone or in a dark room). 13 states have nonbinding voluntary policy guidance without the force of law. Five states have nothing at all. (These numbers add up to 52 because they include the District of Columbia and Missouri is counted twice, for its narrow statute and its nonbinding policy). The Keeping All Students Safe Act will instead provide mandatory protection nationwide to all school children.

Senator Harkin's bill contains the following strong requirements, among others.

- Physical restraint will be prohibited except in emergency situations when there is an immediate threat of serious bodily injury. Many states today permit the use of restraint for destruction of property and simple educational disruption. Many children have been injured, traumatized, and killed in physical restraints. In 2002, a 14 year old boy suffocated and died when his 230 lb. teacher sat on him as punishment, according to House testimony. A 52 pound Tennessee child was injured when two adults restrained him for four hours, his mother denied access to him, as he cried for help. *Unsafe in the Schoolhouse* (Jessica Butler COPAA 2009) <http://bit.ly/unsafesh>.
- The bill limits physical restraint to emergency situations. It cannot be used if less restrictive measures would work, and must end when the emergency ends. Of the 185 stories reported in *Unsafe in the Schoolhouse*, 71% of parents reported that their child had not been provided with research-based positive interventions before being restrained or secluded. Staff may only use

the force necessary to prevent the threatened injury--the same standard applied to defense of self or others in other situations.

- The bill prohibits secluding children in locked rooms or other rooms from which they cannot exit. Seclusion is dangerous; children have died or been injured. In *School is Not Supposed to Hurt* (2009), <http://bit.ly/ndrnhurt>, NDRN documented such stories as a 9 year old ordered into a small wooden box in her classroom; California students secluded all day in a small room for such infractions as failing to write 50 sentences; and children placed into seclusion for hours on end, denied food and bathroom access. Many children were confined to unlocked rooms, but they could not leave because staff or furniture blocked the door.
- The bill bans the use of mechanical and chemical restraints; restraints that impair breathing or otherwise threaten life; restraints that stop children from communicating (thus preventing them from warning of danger and distress); and restraints which are medically and psychologically contraindicated. It also bans aversives that compromise health and safety. All of these are dangerous.
- If a child is restrained, parents must be notified the same day, with written follow up within 24 hours. 24 hour notification is important due to risks posed by concussion and other injuries that require quick medical treatment. Many children with disabilities cannot effectively communicate what has happened to them or may not be believed. The bill also requires debriefing sessions, during which the school and family can plan to prevent restraint in the future, and implement Functional Behavioral Assessment recommendations, and require future FBAs.
- The bill requires the collection of data so that parents, schools, SEAs/LEAs and others can prevent the use of restraint/seclusion in the future. The data will also be shared with the public, putting necessary sunshine on practices that have been kept hidden for far too long. In 2010, Florida required the reporting of data about restraint and seclusion; this data led to strengthening of Florida's laws in 2011.
- The bill forbids retaliating against any parent, teacher, staffer, or person who reports a violation of the statute. Teachers and staff report many restraint/seclusion incidents; they should be protected from losing their jobs or other retaliation.
- Staff must be trained and certified in evidence-based practices to prevent the use of restraint and keep school personnel and students safe while restraint is used. Few states provide this important protection, but effective training makes the difference between injury and safety. Last July, the New York Times-affiliated *Bay Citizen* reported on the dangers posed by untrained personnel` <http://nyti.ms/baytrain1> The bill will also require all personnel to be taught about the state and local restraint/seclusion policies. In 2006, a Massachusetts preschooler was strapped into a chair and left in a locked, darkened room by a teacher who had not been trained in her state's laws <http://bo.st/BGTrainRt>
- The bill prohibits the use of physical restraint as a planned intervention in IEPs, 504 plans, student safety plans, or other educational planning documents for individual students.

- The bill applies to all students in public school and to those placed in private schools under the Individuals with Disabilities Education Act. School districts place students with IEPs are placed in such schools.
- The bill also contains numerous provisions to promote positive school climate and culture. It promotes the development of effective intervention and prevention practices, emphasize de-escalation, conflict management, and mandates the use of positive behavioral interventions and supports.