AN ACT concerning schools; creating the freedom from unsafe restraint
and seclusion act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 8, and amendments thereto, shall be
known and may be cited as the freedom from unsafe restraint and
seclusion act.

Sec. 2. As used in sections 1 through 7, and amendments thereto:
(a) "Department" means the state department of education.
(b) "Emergency safety intervention" means the use of seclusion or
physical restraint.
(c) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a
person acting as a parent as defined in K.S.A. 72-1046(d)(2), and
amendments thereto; (4) a legal guardian; (5) an education advocate for a
student with an exceptionality; (6) a foster parent, unless the student is a
child with an exceptionality; or (7) a student who has reached the age of
majority or is an emancipated minor.
(d) "Physical restraint" means bodily force used to substantially limit
a student's movement, except that consensual, solicited or unintentional
contact and contact to provide comfort, assistance or instruction shall not
be deemed to be physical restraint.
(e) "School" means any learning environment, including any
nonprofit institutional day or residential school or accredited nonpublic
school, that receives public funding or which is subject to the regulatory
authority of the state board of education.
(f) "Seclusion" means placement of a student in a location where all
the following conditions are met:
(1) The student is placed in an enclosed area by school personnel;
(2) the student is purposefully isolated from adults and peers; and
(3) the student is prevented from leaving, or the student reasonably
believes that such student will be prevented from leaving, the enclosed
area.

Sec. 3. (a) Emergency safety interventions shall be used only when a
student presents a reasonable and immediate danger of physical harm to
such student or others with the present ability to effect such physical harm.
Less restrictive alternatives to emergency safety interventions, such as positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior prior to the use of any emergency safety interventions. The use of emergency safety interventions shall cease as soon as the immediate danger of physical harm ceases to exist. Action that is destructive of property may necessitate the use of an emergency safety intervention. Use of an emergency safety intervention for purposes of discipline, punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.

(b) The individualized education program team for a student shall consider any information from a licensed health care provider with regard to the use of seclusion on such student if the student is known to have a medical condition that could put the student in mental or physical danger as a result of seclusion. The existence of such medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which has been provided to the school and placed in the student's file.

(c) When a student is placed in seclusion, a school employee shall be able to see and hear the student at all times.

(d) All seclusion rooms equipped with a locking door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, such as fire or severe weather.

(e) A seclusion room shall be a safe place with proportional and similar characteristics as other rooms where students frequent. Such room shall be free of any condition that could be a danger to the student, and shall be well-ventilated and sufficiently lighted.

Sec. 4. (a) When a student is subjected to an emergency safety intervention, the school shall notify the parent, or if a parent cannot be notified, then shall notify an emergency contact person for such student, the same day the emergency safety intervention was used. Documentation of the emergency safety interventions used shall be completed and provided to the parent no later than the school day following the day on which the emergency safety intervention was used. The parent shall be provided the following information after the first incident in which an emergency safety intervention is used during the school year, and may be provided such information after each subsequent incident that occurs during the school year: (1) A copy of the standards of when emergency safety interventions can be used; (2) a flyer on the parent's rights; (3) information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the state board of education; and (4) information that will assist the parent in navigating the
complaint process, including contact information for the parent training
and information center and protection and advocacy system. The parent
may be provided the foregoing information in printed form or may be
provided with a website address containing such information.

(b) If a parent believes emergency safety interventions have been
used in violation of this act, then within 30 days from being informed of
the use of emergency safety intervention, such parent may file a complaint
through the local dispute resolution process. A parent may file a complaint
under the state board of education complaint process within 30 days from
the date a final decision is issued pursuant to the local dispute resolution
process.

c) The department shall compile reports from schools on the use of
emergency safety interventions and provide the results based on aggregate
data on the department website, and to the governor and the committees on
education in the senate and the house of representatives by January 20,
2016, and annually thereafter. The department's reported results shall
include, but shall not be limited to, the following information:

1. The number of incidents in which emergency safety interventions
were used on students who have an individualized education program;
2. The number of incidents in which emergency safety interventions
were used on students who do not have an individualized education
program;
3. The total number of incidents in which emergency safety
interventions were used on students;
4. The maximum and median number of minutes a student was
placed in seclusion;
5. The maximum number of incidents in which emergency safety
interventions were used on a student; and
6. Such other information as the department deems necessary to
report.

Sec. 5. (a) If there is a third incident involving the use of emergency
safety interventions within a school year on a student who has an
individualized education program or a section 504 plan, then such student's
individualized education program team or section 504 plan team shall
meet within 10 days after such third incident to discuss the incident and
consider the need to conduct a functional behavioral analysis, develop a
behavior intervention plan or amend either if already in existence, unless
the individualized education program team or the section 504 plan team
has agreed on a different process.

(b) If there is a third incident involving the use of emergency safety
interventions within a school year on a student who is not described in
subsection (a), then a meeting between such student's parent and school
employees shall be conducted within 10 days after such third incident to
discuss the incident and consider the appropriateness of a referral for an
evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq., and amendments thereto, the need for a functional
behavioral analysis or the need for a behavior intervention plan. Any
meeting called pursuant to this subsection shall include the student's
parent, a school administrator for the school where the student attends, one
of the student's teachers, a school employee involved in the incident and
such other school employees designated by the school administrator as
appropriate for such meeting.

(c) The student shall be invited to any meeting called pursuant to this
section.

(d) The time for calling a meeting pursuant to this section shall be
extended beyond the 10-day limit if the parent of the student is unable to
attend within that time period.

(e) Nothing in this section shall be construed to prohibit the
development and implementation of a functional behavioral analysis or a
behavior intervention plan for any student if such student may benefit from
such measures but has had less than three incidents involving emergency
safety interventions within a school year.

Sec. 6. The state board of education shall adopt rules and regulations
as necessary to implement the provisions of this act on or before January
1, 2016.

Sec. 7. (a) There is hereby established the emergency safety
intervention task force. The task force shall consist of the 15 members
appointed as follows:

(1) Two members shall be appointed by the state board of education,
one of which shall be a member of the state board of education and one of
which shall be an attorney for the department;

(2) two members shall be appointed by the disability rights center of
Kansas;

(3) two members shall be appointed by families together inc., one of
which shall be a parent of a child with a disability;

(4) two members shall be appointed by keys for networking, inc., one
of which shall be a parent of a child with a disability;

(5) two members shall be appointed by the special education advisory
council;

(6) two members shall be appointed by the Kansas association of
special education administrators;

(7) two members shall be appointed by the Kansas association of
school boards, one of which shall be an attorney for the association; and

(8) one member shall be appointed by the Kansas medical society,
who shall be a person licensed to practice medicine and surgery in Kansas.

(b) The emergency safety intervention task force shall study and
review the use of emergency safety interventions and prepare a report on its findings and recommendations concerning the use of such interventions. The task force's report shall be submitted to the governor and the legislature on or before January 20, 2016.

(c) The member of the task force who is also a member of the state board of education shall call an organizational meeting of the task force on or before August 1, 2015. At such organizational meeting the members shall elect a chairperson and vice-chairperson from the membership of the task force. The task force also shall consider dates for future meetings, the agenda for such meetings and the need for electing a facilitator to assist in discussions among the members of the task force.

(d) The task force may meet at any time and at any place within the state on the call of the chairperson. A quorum of the task force shall be eight members. All actions of the task force shall be by motion adopted by a majority of those members present when there is a quorum.

(e) If approved by the legislative coordinating council, members of the task force attending meetings authorized by the task force shall be paid amounts for expenses, mileage and subsistence as provided in K.S.A. 75-3223(e), and amendments thereto.

Sec. 8. The provisions of sections 1 through 8, and amendments thereto, shall expire on June 30, 2017.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.