



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John A. McNeal
Director

MEMORANDUM

DATE: January 28, 2020

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Mr. J. Todd Webb, ^{TW/ps}Chairperson
State Council for Persons with Disabilities

RE: H.B. 236 (Limitations on Use of Seclusion and Restraint)

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 236, which seeks to amend the definition of "public school personnel" to specifically exclude constables appointed pursuant to Chapter 27 of Title 10 from the definition. Section 4112F(a)(4) restricts public school personnel from most forms of seclusion and restraint, but it excludes "law enforcement officers" and Department of Correction (DOC) and Division of Youth Rehabilitative (DYRS) employees and contractors from those restrictions. Additionally, individuals who are excluded from the definition of "public school personnel", who act as school resource officers and who interact with students with disabilities, are required by Section 4112F(d) to undergo awareness training related to interactions with students with disabilities and are also required to undergo annual general School Resource Officer (SRO) training. SCPD has the following observations.

The current definition of "public school personnel" does not include constables because they are not "law enforcement officers" as defined in Title 11. The proposed bill seeks to add constables as a separate category. The Department of Education (DOE) regulations currently restrict SROs under 14 Del Admin Code 610. Section 2.0 to law enforcement officers as defined in 11 Del C §9200:

"School Resource Officer (SRO)" means a contractor, subcontractor or employee of a public school district or charter school who is a sworn law enforcement officer as defined in 11 Del.C. §9200.

Consequently, by regulatory definition, constables cannot serve as SROs; however, they currently do so in several school districts. This anomaly needs to be corrected, first by amending the statute and then by issuing new regulations. This sort of begs the question whether constables are suitable to serve as SROs. There have been many stories in the news of SROs acting in an inappropriate

manner, and in particular assaulting students and not engaging in de-escalating techniques. The training of constables is not nearly as in depth as that of police officers and the qualifications are stricter for police officers. Police officers must have at least 60 hours of postsecondary education (or 30 hours combined with substantial military experience). Del Tech provides “Constable Academy” that, anyone other than retired police officers, must take in order to become a constable. This is a one-month course with 180 hours of instruction. SRO training takes place over five days. Constable training is overseen by a Board of Examiners. State Police training is 22 weeks; cadets must pass a written test and physical exam before being admitted to the program. Not all constables are permitted to carry weapons, but many do.

If school districts intend to employ constables as SROs, it is better that the law clearly requires them to undergo the appropriate training.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

HB 236- limitations on use of seclusion and restraint 1-28-20