**Disability Rights North Carolina Testimony to the U.S. Senate Finance Committee**
**Submitted June 26, 2024, in Response to Committee Hearing on**
**“Youth Residential Treatment Facilities: Examining Failures and Evaluating Solutions”**
**June 12, 2024**

Disability Rights North Carolina (DRNC), a nonprofit organization, is the Protection & Advocacy (P&A) system that serves North Carolina. DRNC is federally mandated to advance and defend the legal rights of people with all types of disabilities, of all ages, statewide. DRNC is a proud member of the National Disability Rights Network. We provide free legal advocacy services to people with disabilities in NC including information and referral, outreach and education, self-advocacy information and technical assistance, policy and coalition work, individual representation and impact litigation.

As the state’s P&A, DRNC has access authority to monitor facilities where people with disabilities receive care, treatment, or services. Where there is probable cause to believe that disabled people have been or are being neglected or abused in these settings, DRNC can initiate an investigation. Due to our grave concerns about the abuse, neglect, and lack of appropriate treatment of children institutionalized in psychiatric residential treatment facilities (PRTFs), we have spent time and resources for many years monitoring these facilities, filing complaints with the appropriate state agency, the Division of Health Service Regulation (DHSR), and taken other action to protect disabled youth who are abused and neglected in PRTFs. We are grateful to the Senate Finance Committee for focusing on these serious issues.

This Committee heard testimony from our colleagues at the Arkansas P&A about the conditions found during their monitoring of PRTFs. Their testimony accurately describes conditions that DRNC observes in North Carolina PRTFs in addition to the conditions North Carolina children have experienced when placed in Arkansas PRTFs. We would therefore like to underscore the previous testimony and recommendations, keep our testimony concise, and focus on some issues not already covered.

PRTFs are designed to provide intensive, short-term, residential psychiatric treatment for stabilization and are unsuitable and not intended for long-term placement. Yet DRNC sees many children who languish in PRTFs, where they regularly face trauma and maltreatment, for extended periods of time, sometimes years. Often, they are confined to prison-like settings under the care of a poorly trained and understaffed workforce; are subject to broken bones, sprains, bruises, and dangerous physical and chemical restraints, many of which are also illegal; withstand sexual and physical abuse, bullying, and hate speech by both other youth and staff; and face mental health deterioration and cocktails of strong psychotropic medications.

In addition to our ongoing monitoring of these facilities, in December 2022, DRNC and co-counsel filed the lawsuit known as [Timothy B. et. al. v. NC DHHS](https://disabilityrightsnc.org/news-events/public-reports/timothy-b-litigation/) against the NC Department of Health and Human Services (DHHS) on behalf of a class of children with mental and behavioral health needs in the custody of the child welfare system who are institutionalized in these heavily restrictive, often clinically inappropriate PRTFs due to the lack of home and community-based services and placements, in violation of the Americans with Disabilities Act (ADA) and other laws. On any given day, hundreds of children with disabilities in child welfare custody remain confined inside PRTFs, away from their communities. Most of these children would be far better and more cost-effectively supported with integrated community-based placements and services, including mental and behavioral health services. We are advocating for increased investment in community-based care and reduction in wasteful spending on ineffective facility-based services.

We highlight that one of DRNC’s co-counsel and co-plaintiffs in the litigation is the NAACP North Carolina State Conference given that the state’s practice of inappropriately warehousing children in PRTFs disproportionately harms Black and Brown children. Black and Brown children are disproportionately represented in DHHS’s foster care system in the first instance. Once in the system, Black and Brown children with disabilities are disproportionately confined to PRTFs, where they bear the brunt of the harms with which those facilities are rife. According to state data from fiscal year 2019 to 2020, Black and Brown (including multiracial) children make up more than 40% of the children receiving Medicaid who are confined to PRTFs. When you include children identified as “other,” the number increases to almost 50%.

Not only are children in foster care in North Carolina routinely sent to PRTFs unnecessarily, more than a third of those children are sent into PRTFs out of state. DHHS ships children of all ages as far away as Utah, Missouri, Arkansas, and Indiana – too far for their caseworkers (or DRNC) to keep an eye on their safety or for their families to visit them. Overwhelmingly, the children NC warehouses in PRTFs would be better served by community placements and, in many instances, they should never have been placed in a PRTF at all. They are sent there because North Carolina has failed to ensure an array of appropriate, accessible community-based services. Out-of-state placements must be sharply decreased and closely monitored.

[A USA Today series of investigative reports entitled “Locked Away”](https://www.usatoday.com/in-depth/news/2021/11/08/investigation-uncovers-treatment-failures-inside-mental-health-facilities-for-youth/8581506002/) issued shortly before the *Timothy B* litigation was filed revealed [the abuse to which disabled children are routinely subject in NC PRTFs](https://disabilityrightsnc.org/general/news-reports-on-prtfs/) as well as i[n out-of-state PRTFs](https://disabilityrightsnc.org/news/drnc-newsfeed/ncs-hidden-children/) Research also shows that children with disabilities confined to PRTFs suffer much worse outcomes than non-institutionalized children. These outcomes include spending longer periods of time in child welfare custody without a permanent home; losing critical family connections with parents, siblings, and extended family due to their confinement; and experiencing higher rates of maltreatment while in child welfare custody. The findings make obvious the need for much stronger oversight and meaningful outcome measures for PRTFs.

DRNC’s monitoring and advocacy work continues to uncover troubling issues within the PRTFs, such as the use of strip searches. Much more like a carceral setting, and completely antithetic to a therapeutic setting, vulnerable children without the protections of their parents or interested adults, are stripped naked and then told to “jump, squat, cough” in front of staff. We learned last fall that at least some of NC’s PRTFs routinely strip search all children upon admission, in addition to kids who leave the facility unaccompanied by staff and then return. So, for example, if a family member wants to take a child to lunch off the premises of the PRTF, the child will be strip searched immediately upon returning to the facility by whomever is available, including individuals of the opposite sex.

These physically invasive searches are being performed on children as a default policy or practice without any consideration as to an individual child’s psychological history of abuse or sexual trauma. The strip searches are dehumanizing and degrading. This practice is neither trauma-informed nor therapeutic. It is simply abusive and has a chilling effect on anyone who wants to leave the facility for fear of being strip searched when they return. One facility failed to keep records of such incidents as required by state law and failed to respond to DRNC’s request for a copy of their strip search policy. It has now been more than 9 months since we notified (and subsequently followed up with) the NC DHHS and submitted a complaint to DHSR regarding the dehumanizing practice, and yet there seems to be limited understanding that strip searches are an abusive practice. We amended our initial complaint and have still not received any findings whether the state agrees that this strip-searching of children constitutes abuse. DRNC recommends federal law that makes strip searches illegal or limited to rare, critically important situations to prevent harm to self or others and only when performed within strict guidelines and with adequate oversight.

DRNC also bears witness to the misuse and overuse of medication as chemical restraint in lieu of therapeutic interventions in PRTFs. The medication lists we reviewed for children in PRTFs show that children are routinely prescribed one or more antipsychotic medications when the child has no diagnosis of psychosis, many medications are prescribed “off label” and/or are not FDA approved for use in children, and that many of the medications on their lengthy medication list are contraindicated and can lead to serious side effects like seizures, fainting, and confusion. We are left with no doubt about the pervasive use of chemical restraints in PRTFs. DRNC urges Congressional action to make abusive chemical restraint and polypharmacy of children in PRTFs an illegal practice and one that invites federal oversight and corrective action.

PRTFs constantly make false claims about their programming. In one DRNC case, neither DHHS nor the Medicaid managed care organization (MCO) responsible for service provision seemed able to arrange appropriate services for a 14-year-old. After months of waiting for services, the child’s mother was contacted by the Piney Ridge PRTF in Arkansas. It is unknown to us how Piney Ridge, which has a well-known record of regulatory failures and abuse, got ahold of the mother’s information, but they communicated to her that this PRTF was a great fit for her son and could address his specific issues (mental health and sexually reactive behaviors from being sexually abused at a younger age). The parent, like many families, was exhausted from trying to get help and despaired of any assistance ever being forthcoming. She leapt at the opportunity Piney Ridge offered and the MCO agreed to the placement.

Of course, little of what the mother was told was true. Her son was physically abused, had his medications changed and increased without her consent or even letting her know, failed to receive much if any “treatment,” and lost a significant amount of weight while in the facility. (DRNC frequently hears from children in PRTFs that they don’t get enough to eat and we observe that the quality and quantity of food served is poor.) When the parent started raising questions and DRNC got the Arkansas P&A involved, the facility threatened to discharge the boy without any plan in place and ultimately did so.

If these facilities can prey on vulnerable children and families, make inaccurate claims, and earn profits while causing children’s outcomes to worsen, perhaps there are or can be federal laws used to punish them for this conduct.

Children have the right to live in their communities where they can be nurtured and cared for and thrive. Children removed from their homes due to abuse or neglect and taken into the custody of a child welfare agency are entitled, at a minimum, to safer, more supportive living conditions. Instead, the federal and state governments send millions of taxpayer dollars each year to private PRTFs that neglect and abuse the most vulnerable among us, leaving children worse off than when they went in. We strongly urge Congress to take every action possible as outlined in the Senate Finance Committee’s Findings and Recommendations. We must act immediately and assiduously to end these damaging practices and stop state-sanctioned abuse and neglect of children. Please take prompt and comprehensive action so the lives and futures of our children are safe and supported. Too much time is being lost and too many lives are being destroyed while states fail to take action to protect children from these proliferating, profit-generating facilities. Thank you for considering DRNC’s testimony. Please contact Virginia Knowlton Marcus, CEO, with any questions: virginia.knowltonmarcus@disabilityrightsnc.org or 919-856-2195.