

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 2602

(SENATE AUTHORS: MCGUIRE, Torres Ray, Hayden and Harrington)

DATE	D-PG	OFFICIAL STATUS
04/19/2012	5952	Introduction and first reading Referred to Education

1.1A bill for an act

1.2relating to education; providing education in care and treatment settings;

1.3appropriating money; amending Minnesota Statutes 2010, sections 124D.68,

1.4subdivision 2; 125A.11, subdivision 2; 125A.20; 125A.515, subdivision 1;

1.5245.4871, subdivision 10; Minnesota Statutes 2011 Supplement, section

1.6126C.05, subdivision 1; proposing coding for new law as Minnesota Statutes,

1.7chapter 125E.

1.8BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9Section 1. Minnesota Statutes 2010, section 124D.68, subdivision 2, is amended to

1.10read:

1.11Subd. 2. **Eligible pupils.** A pupil under the age of 21 or who meets the requirements

1.12of section 120A.20, subdivision 1, paragraph (c), is eligible to participate in the graduation

1.13incentives program, if the pupil:

1.14(1) performs substantially below the performance level for pupils of the same age

1.15in a locally determined achievement test;

1.16(2) is behind in satisfactorily completing coursework or obtaining credits for

1.17graduation;

1.18(3) is pregnant or is a parent;

1.19(4) has been assessed as chemically dependent;

1.20(5) has been excluded or expelled according to sections 121A.40 to 121A.56;

1.21(6) has been referred by a school district for enrollment in an eligible program or

1.22a program pursuant to section 124D.69;

1.23(7) is a victim of physical or sexual abuse;

1.24(8) has experienced mental health problems;

(9) has experienced homelessness sometime within six months before requesting a transfer to an eligible program;

(10) speaks English as a second language or has limited English proficiency; or

(11) has withdrawn from school or has been chronically truant; ~~or~~

(12) has been admitted to a care and treatment setting; or

(13) is being treated in a hospital in the seven-county metropolitan area for cancer or other life threatening illness or is the sibling of an eligible pupil who is being currently treated, and resides with the pupil's family at least 60 miles beyond the outside boundary of the seven-county metropolitan area.

EFFECTIVE DATE. This section is effective

Sec. 2. Minnesota Statutes 2010, section 125A.11, subdivision 2, is amended to read:

Subd. 2. **Nonresident transportation.** When a district provides instruction and services in a day treatment program outside the resident district ~~of residence~~, the resident district ~~of residence~~ is responsible for providing transportation. When a district provides instruction and services requiring board and lodging or placement in a residential program outside the resident district ~~of residence~~, the nonresident providing district ~~in which the child is placed~~ is responsible for providing transportation. Transportation costs shall be paid by the district responsible for providing transportation and the state shall pay transportation aid to that district.

EFFECTIVE DATE. This section is effective

Sec. 3. Minnesota Statutes 2010, section 125A.20, is amended to read:

125A.20 TRANSPORTATION AID AGREEMENTS.

Notwithstanding the provisions of sections 125A.11, 125A.14, and 125A.15, when a child receives special instruction and services in a day treatment program outside the resident district, the resident district and the nonresident providing district ~~where the child is placed~~ may enter into an agreement providing for the nonresident providing district to pay the cost of any particular transportation categories specified in section 123B.92, subdivision 1, and claim transportation aid for those categories. In this case, the nonresident providing district may not obtain any payment from the resident district for the categories covered by the agreement.

EFFECTIVE DATE. This section is effective

Sec. 4. Minnesota Statutes 2010, section 125A.515, subdivision 1, is amended to read:

Subdivision 1. **Approval of education programs.** The commissioner shall approve education programs for placement of children and youth in residential facilities including ~~detention centers~~ residential corrections programs, before being licensed by the Department of Human Services or the Department of Corrections. Education programs in these facilities shall conform to state and federal education laws including the Individuals with Disabilities Education Act (IDEA). This section applies only to placements in facilities licensed by the Department of Human Services or the Department of Corrections.

EFFECTIVE DATE. This section is effective

Sec. 5. **[125E.01] CHILDREN IN CARE AND TREATMENT.**

Sections 125E.01 to 125E.08 may be cited as the "Education in Care and Treatment Settings Act."

Sec. 6. **[125E.02] DEFINITIONS.**

(a) For purposes of this section and sections 125E.03 to 125E.08, the terms defined in this section have the meanings given them.

(b) "Care and treatment program" means a day or residential program, including a court-ordered program, where a child is treated for an emotional disturbance, chemical dependency, or other condition.

(c) "Chemical dependency treatment services" means therapeutic and treatment services provided to alter a child's pattern of harmful chemical use.

(d) "Correctional program services" means any program or activity using treatment services, consequences, and discipline to control or modify behavior. Correctional program services are available to youth between ten and 20 years old, and to youth placed by a court, court services department, parole authority, or other correctional agency having dispositional power over a child or youth who is charged, convicted, or adjudicated guilty or delinquent.

(e) "Mental health day treatment program" means a structured care and treatment program provided to a child under section 245.4871, subdivision 10, or 256B.0943.

(f) "Partial hospitalization" or "partial hospitalization program" means a time-limited, structured program of psychotherapy and other therapeutic services defined in rule.

(g) "Providing district" means the district in which a child's care and treatment program is located.

(h) "Residential treatment" means a 24-hour-a-day program under the clinical supervision of a mental health professional, in a community residential setting other

than an acute care hospital or regional treatment center inpatient unit, that is licensed as a residential treatment program for children with emotional disturbances under rules adopted by the commissioner.

(i) "Secure detention facility" means a physically restrictive facility, including but not limited to a jail, hospital, state institution, residential treatment center, or detention home used for the temporary care of a child pending court action.

(j) "Shelter" means a licensed facility providing temporary safe placement for a child who cannot stay at home.

(k) "Subacute psychiatric care for persons under 21 years of age" means short-term psychiatric services under section 256B.0625, subdivision 45.

(l) "Year-round education" means an education program aligned with the schedule of a care and treatment setting and continuously available throughout a 12-month period.

EFFECTIVE DATE. This section is effective

Sec. 7. **[125E.03] EDUCATING CHILDREN IN CARE AND TREATMENT PROGRAMS.**

Subdivision 1. Education services required. (a) Education services are available to a child in a day or residential care and treatment program. The providing district is responsible for the child's education services, including the services in the child's individualized education program.

(b) A providing district must make education services available to a child beginning within three school days after the child enters a care and treatment program. The district may use the first four days of the child's placement in the program to assess the child's education and safety needs.

(c) A district must provide regular education services to a child who does not receive special education services.

(d) When a school district provides an education program within a care and treatment program, the school board of the district may enter into a contract with the care and treatment program to provide education services or sign a memorandum of understanding with the facility's program director indicating that facility staff are qualified to provide the education program within the therapeutic environment. The memorandum of understanding may be to:

(1) recruit, train, and supervise education programming staff;

(2) contract with an intermediate district, alternative school, or other entity approved by the commissioner to provide education services; or

(3) provide the education services.

5.1 Subd. 2. **Notice to resident district.** The district providing education services to a
5.2 child in a care and treatment program must notify the child's resident district of the child's
5.3 placement in the program within three days of the beginning of that placement.

5.4 Subd. 3. **Coordinating a child's transition to another district.** When a district
5.5 providing a care and treatment program discharges a child and the child enrolls in another
5.6 district, the providing district must coordinate the discharge with the enrolling district.

5.7 Subd. 4. **Educating children in care and treatment programs.** (a) When a
5.8 child is placed in a care and treatment program with an on-site education program, the
5.9 providing district must contact the resident district within one business day after receiving
5.10 notice of the child's placement to determine whether the child is identified as having a
5.11 disability and, if the child is an eligible child with a disability, request at least the child's
5.12 transcript and the most recent individualized education program and evaluation report.
5.13 The resident district must transmit a facsimile copy to the providing district within two
5.14 business days after receiving the request.

5.15 (b) For a child with an individualized education program placed under this section,
5.16 the providing district must conduct an individualized education program meeting to reach
5.17 an agreement about continuing or modifying special education services based on the
5.18 child's individualized education program goals and objectives and determine if additional
5.19 evaluations are necessary. The person or agency placing the child, the resident district,
5.20 appropriate teachers and related services staff in the providing district, appropriate staff
5.21 from the residential facility, the child's parent or legal guardian, and, when appropriate,
5.22 the child, must participate in the meeting.

5.23 (c) For a child who has not been identified as a child with a disability, the providing
5.24 district must assess the child's educational and behavioral needs as soon as practicable,
5.25 which includes reviewing the child's education records.

5.26 Subd. 5. **Placement, services, and due process.** (a) A providing district must
5.27 educate a child in a regular education setting to the extent appropriate. The child's parent
5.28 or legal guardian and the treatment and education staff jointly must determine the amount
5.29 and site of the child's integrated services. Where applicable, the individualized education
5.30 program team of the providing district must make the educational placement decisions,
5.31 including providing education services to the child in the least restrictive environment. The
5.32 providing district and the care and treatment program shall develop emergency discipline
5.33 and behavior management procedures consistent with applicable state and federal law.

5.34 (b) A providing district must ensure that a child placed in a care and treatment
5.35 program receives:

(1) necessary and appropriate education services, regardless of whether the child is performing at grade level as indicated by the child's individualized education program or education records; and

(2) instruction during the school day equal in time to the instructional day in the providing district unless, in consultation with treatment providers, the district determines that the child's unique needs, as documented in the child's individualized education program or education records, requires altering the length of the instructional day.

Subd. 6. Exit report summarizing educational progress. A providing district must prepare an exit report for a child placed in a care and treatment program for 15 or more school days that summarizes the child's regular education, special education, evaluation, educational progress, and service information. The district must transmit the report to the resident district, the next providing district if another district, the child's parent or legal guardian, and appropriate social service agencies. For students with disabilities, the report must include the child's individualized education program. For education programs operated by the Department of Corrections, the providing district is the Department of Corrections. For students remanded to the commissioner of corrections, the Department of Corrections is the providing and resident district.

EFFECTIVE DATE. This section is effective

Sec. 8. [125E.04] PLACEMENT IN A CARE AND TREATMENT PROGRAM.

School districts, courts, human services agencies, parents, licensed mental health professionals, or medical practitioners may place a child in a care and treatment program based on the child's individual needs, the type of care and treatment program, and the ability of the program to immediately serve the child. A district not paying for the care and treatment program may recommend a particular program but cannot require a child to attend that program.

EFFECTIVE DATE. This section is effective

Sec. 9. [125E.05] YEAR-ROUND EDUCATION.

Subdivision 1. Year-round education. A child in a residential treatment, day treatment, shelter, or detention program is eligible for year-round education.

Subd. 2. Year-round education in care and treatment programs. A providing district must offer year-round education throughout the calendar year to a child placed in a mental health day treatment or chemical dependency or residential treatment program.

Subd. 3. **Transportation cost for year-round education.** The district or charter school responsible for transporting a child shall pay transportation costs for year-round education. The state shall pay transportation aid to that district or charter school out of the transportation revenue appropriated under subdivision 4.

Subd. 4. **Annual appropriation; transportation for year-round education.** \$..... annually is appropriated from the general fund to the commissioner for district and charter school costs related to transporting children placed in a care and treatment setting providing year-round education under this section.

EFFECTIVE DATE. This section is effective

Sec. 10. **[125E.06] EDUCATION SERVICES FUND.**

Subdivision 1. **Care and treatment education fund.** A care and treatment education fund is established to pay the costs of educating children placed in care and treatment programs for 15 or more school days. The department shall use a formula based on actual education costs to reimburse providing districts. The department also may use this fund to pay for the regular education costs of children who are not Minnesota residents but who are placed in a Minnesota care and treatment program. A district providing education at a care and treatment program site shall not receive general education aid or special education aid. A district providing education at a site other than the care and treatment program site shall receive general education aid and special education aid. The resident district is responsible for educating children placed in a care and treatment program for fewer than 15 days. This fund does not affect the requirement to educate a child in the least restrictive environment.

Subd. 2. **Billing system.** The commissioner, in cooperation with the commissioners of human services and corrections, and with input from appropriate billing system users, shall develop and implement a uniform billing system applicable to school districts and other agencies, including private providers, who provide education services for children placed in an out-of-home care and treatment setting. The uniform billing system must:

(1) allow service providers to bill districts using minimum district administration;
(2) allow districts to readily bill the state for regular and special education services provided under law;

(3) provide flexibility for day treatment and other services provided to children placed in out-of-home care and treatment programs;

(4) allow the commissioner to track service type, cost, and quality provided to children placed in out-of-home care and treatment programs;

(5) conform with existing special education and proposed regular education billing procedures;

(6) provide a uniform per diem reporting standard; and

(7) determine allowable expenses and maximum reimbursement rates for state reimbursement of services provided in a care and treatment setting.

EFFECTIVE DATE. This section is effective

Sec. 11. **[125E.07] HOMELESS SHELTERS.**

A district enrolling a homeless child under section 127A.47, subdivision 2, who is in a public or private homeless shelter shall provide transportation for that child, unless the enrolling district and the providing district in which the pupil is temporarily placed agree that the providing district shall provide transportation. When a child without a disability is temporarily placed in a residential program outside the child's resident district, the court administrator placing the child must send timely written notice of the placement to the resident district. The providing district may contract with a residential facility for education instruction provided by Minnesota licensed teachers. For purposes of this section, a state correctional facility operated on a fee-for-service basis is a residential program for care and treatment.

EFFECTIVE DATE. This section is effective

Sec. 12. **[125E.08] CARE AND TREATMENT; SPECIAL TRANSPORTATION AID.**

A school district or charter school required to provide transportation services to a child in a care and treatment program is eligible for state aid equal to the amounts actually spent by the district for:

(1) contract transportation services provided to children in care and treatment settings;

(2) the actual cost the district or charter school incurs in providing transportation services;

(3) round-trip reimbursement for parents or guardians who provide transportation for their children, where "round-trip reimbursement" means the rate per mile established by the commissioner for parents' trips between the child's residence and the treatment facility;

(4) transporting up to three children to a facility outside district boundaries;

(5) transporting children receiving year-round education;

(6) transporting children in transition back to their resident district;

- 9.1 (7) care and treatment program costs for transportation;
9.2 (8) the transition from a residential facility to a regular education program; and
9.3 (9) prorated program costs.

9.4 **EFFECTIVE DATE.** This section is effective

9.5 Sec. 13. Minnesota Statutes 2011 Supplement, section 126C.05, subdivision 1, is
9.6 amended to read:

9.7 Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the
9.8 age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c),
9.9 in average daily membership enrolled in the district of residence, in another district under
9.10 sections 123A.05 to 123A.08, 124D.03, 124D.08, or 124D.68; in a charter school under
9.11 section 124D.10; or for whom the resident district pays tuition under section 123A.18,
9.12 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04,
9.13 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this
9.14 subdivision.

9.15 (a) A prekindergarten pupil with a disability who is enrolled in a program approved
9.16 by the commissioner and has an individualized education program is counted as the ratio
9.17 of the number of hours of assessment and education service to 825 times 1.25 with a
9.18 minimum average daily membership of 0.28, but not more than 1.25 pupil units.

9.19 (b) A prekindergarten pupil who is assessed but determined not to be disabled is
9.20 counted as the ratio of the number of hours of assessment service to 825 times 1.25.

9.21 (c) A kindergarten pupil with a disability who is enrolled in a program approved
9.22 by the commissioner is counted as the ratio of the number of hours of assessment and
9.23 education services required in the fiscal year by the pupil's individualized education
9.24 program to 875, but not more than one.

9.25 (d) A kindergarten pupil who is not included in paragraph (c) is counted as .612
9.26 pupil units.

9.27 (e) A pupil who is in any of grades 1 to 3 is counted as 1.115 pupil units for fiscal
9.28 year 2000 and thereafter.

9.29 (f) A pupil who is any of grades 4 to 6 is counted as 1.06 pupil units for fiscal
9.30 year 1995 and thereafter.

9.31 (g) A pupil who is in any of grades 7 to 12 is counted as 1.3 pupil units.

9.32 (h) A pupil who is in the postsecondary enrollment options program is counted
9.33 as 1.3 pupil units.

9.34 (i) A pupil in a day treatment program as defined under section 125E.02, subdivision
9.35 2, or a residential treatment facility as defined in section 125E.02, subdivision 3, is eligible

for up to 300 additional hours of service and is counted by the providing district, in addition to the amounts calculated in paragraphs (a) to (h), as 1.3 pupil units times the lesser of one or the number of hours served in a day treatment program divided by 300.

EFFECTIVE DATE. This section is effective

Sec. 14. Minnesota Statutes 2010, section 245.4871, subdivision 10, is amended to read:

Subd. 10. **Mental health day treatment services program.** ~~"Day treatment," "day treatment services," or "day treatment program"~~ **"Mental health day treatment program"** means a structured program of treatment and care provided to a child in:

(1) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55;

(2) a community mental health center under section 245.62;

(3) an entity ~~that is~~ under contract with the county board to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475; or

(4) an entity ~~that operates~~ operating a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475, ~~that is~~ under contract with an entity that is under contract with a county board.

A mental health day treatment program consists of group psychotherapy and other intensive therapeutic services ~~that are~~ provided for a minimum two-hour time block by a multidisciplinary staff under the clinical supervision of a mental health professional.

Mental health day treatment programs may include education and consultation provided to families and other individuals as an extension of the treatment process. The services are aimed at stabilizing the child's mental health status, and developing and improving the child's daily independent living and socialization skills. Mental health day treatment services programs are distinguished from day care by their structured therapeutic program of psychotherapy services. ~~Day treatment~~ Services provided in a mental health day treatment program are not a part of inpatient hospital or residential treatment services.

A service provided in a mental health day treatment service program must be available to a child up to 15 hours a week throughout the year and must be coordinated with, integrated with, or part of an education program offered by the child's school.

EFFECTIVE DATE. This section is effective