

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 1200

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DATE	D-PG	OFFICIAL STATUS
02/02/2023	605	Introduction and first reading Referred to Education Policy See HF2497

1.1 A bill for an act

1.2 relating to education; amending standards for restrictive procedures and seclusion;

1.3 amending Minnesota Statutes 2022, sections 125A.0941; 125A.0942, subdivisions

1.4 3, 4, 5.

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

1.6 Section 1. Minnesota Statutes 2022, section 125A.0941, is amended to read:

1.7 **125A.0941 DEFINITIONS.**

1.8 (a) The following terms have the meanings given them.

1.9 (b) "Emergency" means a situation where immediate intervention is needed to protect

1.10 a child or other individual from physical injury. Emergency does not mean circumstances

1.11 such as: a child who does not respond to a task or request and instead places his or her head

1.12 on a desk or hides under a desk or table; a child who does not respond to a staff person's

1.13 request unless failing to respond would result in physical injury to the child or other

1.14 individual; or an emergency incident has already occurred and no threat of physical injury

1.15 currently exists.

1.16 (c) "Physical holding" means physical intervention intended to hold a child immobile

1.17 or limit a child's movement, where body contact is the only source of physical restraint, and

1.18 where immobilization is used to effectively gain control of a child in order to protect a child

1.19 or other individual from physical injury. The term physical holding does not mean physical

1.20 contact that:

1.21 (1) helps a child respond or complete a task;

1.22 (2) assists a child without restricting the child's movement;

2.1 (3) is needed to administer an authorized health-related service or procedure; or

2.2 (4) is needed to physically escort a child when the child does not resist or the child's
2.3 resistance is minimal.

2.4 (d) "Positive behavioral interventions and supports" means interventions and strategies
2.5 to improve the school environment and teach children the skills to behave appropriately,
2.6 including the key components under section 122A.627.

2.7 (e) "Prone restraint" means placing a child in a face down position.

2.8 (f) "Restrictive procedures" means the use of physical holding ~~or seclusion~~ in an
2.9 emergency. Restrictive procedures must not be used to punish or otherwise discipline a
2.10 child.

2.11 (g) "Seclusion" means confining a child alone in a room from which egress is barred.
2.12 Egress may be barred by an adult locking or closing the door in the room or preventing the
2.13 child from leaving the room. Removing a child from an activity to a location where the
2.14 child cannot participate in or observe the activity is not seclusion.

2.15 Sec. 2. Minnesota Statutes 2022, section 125A.0942, subdivision 3, is amended to read:

2.16 Subd. 3. **Physical holding ~~or seclusion~~.** (a) Physical holding ~~or seclusion~~ may be used
2.17 only in an emergency. A school that uses physical holding ~~or seclusion~~ shall meet the
2.18 following requirements:

2.19 (1) physical holding ~~or seclusion~~ is the least intrusive intervention that effectively
2.20 responds to the emergency;

2.21 (2) physical holding ~~or seclusion~~ is not used to discipline a noncompliant child;

2.22 (3) physical holding ~~or seclusion~~ ends when the threat of harm ends and the staff
2.23 determines the child can safely return to the classroom or activity;

2.24 (4) staff directly observes the child while physical holding ~~or seclusion~~ is being used;
2.25 and

2.26 (5) each time physical holding ~~or seclusion~~ is used, the staff person who implements or
2.27 oversees the physical holding ~~or seclusion~~ documents, as soon as possible after the incident
2.28 concludes, the following information:

2.29 (i) a description of the incident that led to the physical holding ~~or seclusion~~;

2.30 (ii) why a less restrictive measure failed or was determined by staff to be inappropriate
2.31 or impractical;

3.1 (iii) the time the physical holding ~~or seclusion~~ began and the time the child was released;
 3.2 and

3.3 (iv) a brief record of the child's behavioral and physical status;

3.4 ~~(6) the room used for seclusion must:~~

3.5 ~~(i) be at least six feet by five feet;~~

3.6 ~~(ii) be well lit, well ventilated, adequately heated, and clean;~~

3.7 ~~(iii) have a window that allows staff to directly observe a child in seclusion;~~

3.8 ~~(iv) have tamperproof fixtures, electrical switches located immediately outside the door,~~
 3.9 ~~and secure ceilings;~~

3.10 ~~(v) have doors that open out and are unlocked, locked with keyless locks that have~~
 3.11 ~~immediate release mechanisms, or locked with locks that have immediate release mechanisms~~
 3.12 ~~connected with a fire and emergency system; and~~

3.13 ~~(vi) not contain objects that a child may use to injure the child or others; and~~

3.14 ~~(7) before using a room for seclusion, a school must:~~

3.15 ~~(i) receive written notice from local authorities that the room and the locking mechanisms~~
 3.16 ~~comply with applicable building, fire, and safety codes; and~~

3.17 ~~(ii) register the room with the commissioner, who may view that room.~~

3.18 (b) By February 1, 2015, and annually thereafter each year, stakeholders may, as
 3.19 necessary, recommend to the commissioner specific and measurable implementation and
 3.20 outcome goals for reducing the use of restrictive procedures and the commissioner must
 3.21 submit to the legislature a report on districts' progress in reducing the use of restrictive
 3.22 procedures that recommends how to further reduce these procedures ~~and eliminate the use~~
 3.23 ~~of seclusion~~. The statewide plan includes the following components: ~~measurable goals; the~~
 3.24 ~~resources, training, technical assistance, mental health services, and collaborative efforts~~
 3.25 ~~needed to significantly reduce districts' use of seclusion; and recommendations to clarify~~
 3.26 and improve the law governing districts' use of restrictive procedures. The commissioner
 3.27 must consult with interested stakeholders when preparing the report, including representatives
 3.28 of advocacy organizations, special education directors, teachers, paraprofessionals,
 3.29 intermediate school districts, school boards, day treatment providers, county social services,
 3.30 state human services department staff, mental health professionals, and autism experts.
 3.31 Beginning with the 2016-2017 school year, in a form and manner determined by the
 3.32 commissioner, districts must report data quarterly to the department by January 15, April

4.1 15, July 15, and October 15 about individual students who have been secluded. By July 15
4.2 each year, districts must report summary data on their use of restrictive procedures to the
4.3 department for the prior school year, July 1 through June 30, in a form and manner
4.4 determined by the commissioner. The summary data must include information about the
4.5 use of restrictive procedures, including use of reasonable force under section 121A.582.

4.6 Sec. 3. Minnesota Statutes 2022, section 125A.0942, subdivision 4, is amended to read:

4.7 Subd. 4. **Prohibitions.** The following actions or procedures are prohibited:

4.8 (1) engaging in conduct prohibited under section 121A.58;

4.9 (2) requiring a child to assume and maintain a specified physical position, activity, or
4.10 posture that induces physical pain;

4.11 (3) totally or partially restricting a child's senses as punishment;

4.12 (4) presenting an intense sound, light, or other sensory stimuli using smell, taste,
4.13 substance, or spray as punishment;

4.14 (5) denying or restricting a child's access to equipment and devices such as walkers,
4.15 wheelchairs, hearing aids, and communication boards that facilitate the child's functioning,
4.16 except when temporarily removing the equipment or device is needed to prevent injury to
4.17 the child or others or serious damage to the equipment or device, in which case the equipment
4.18 or device shall be returned to the child as soon as possible;

4.19 (6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical
4.20 abuse under chapter 260E;

4.21 (7) withholding regularly scheduled meals or water;

4.22 (8) denying access to bathroom facilities;

4.23 (9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs
4.24 a child's ability to communicate distress, places pressure or weight on a child's head, throat,
4.25 neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's
4.26 torso; ~~and~~

4.27 (10) prone restraint; and

4.28 (11) seclusion.

5.1 Sec. 4. Minnesota Statutes 2022, section 125A.0942, subdivision 5, is amended to read:

5.2 Subd. 5. **Training for staff.** (a) To meet the requirements of subdivision 1, staff who
5.3 use restrictive procedures, including paraprofessionals, shall complete training in the
5.4 following skills and knowledge areas:

5.5 (1) positive behavioral interventions;

5.6 (2) communicative intent of behaviors;

5.7 (3) relationship building;

5.8 (4) alternatives to restrictive procedures, including techniques to identify events and
5.9 environmental factors that may escalate behavior;

5.10 (5) de-escalation methods;

5.11 (6) standards for using restrictive procedures only in an emergency;

5.12 (7) obtaining emergency medical assistance;

5.13 (8) the physiological and psychological impact of physical holding ~~and seclusion~~;

5.14 (9) monitoring and responding to a child's physical signs of distress when physical
5.15 holding is being used;

5.16 (10) recognizing the symptoms of and interventions that may cause positional asphyxia
5.17 when physical holding is used;

5.18 (11) district policies and procedures for timely reporting and documenting each incident
5.19 involving use of a ~~restricted~~ restrictive procedure; and

5.20 (12) schoolwide programs on positive behavior strategies.

5.21 (b) The commissioner, after consulting with the commissioner of human services, must
5.22 develop and maintain a list of training programs that satisfy the requirements of paragraph
5.23 (a). The commissioner also must develop and maintain a list of experts to help individualized
5.24 education program teams reduce the use of restrictive procedures. The district shall maintain
5.25 records of staff who have been trained and the organization or professional that conducted
5.26 the training. The district may collaborate with children's community mental health providers
5.27 to coordinate trainings.