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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5197

04/02/2024 Authored by Virnig
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; allowing for seclusion to be used; amending Minnesota
1.3 Statutes 2023 Supplement, section 125A.0942, subdivisions 3, 4.

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

1.5 Section 1. Minnesota Statutes 2023 Supplement, section 125A.0942, subdivision 3, is
1.6 amended to read:

1.7 Subd. 3. Physical holding or seclusion. (a) Physical holding or seclusion may be used
1.8 only in an emergency. A school that uses physical holding or seclusion shall meet the
1.9 following requirements:

1.10 (1) physical holding or seclusion is the least intrusive intervention that effectively
1.11 responds to the emergency;

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

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

1.15 (4) staff directly observes the child while physical holding or seclusion is being used;

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

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

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

- 2.1 (iii) the time the physical holding or seclusion began and the time the child was released;
- 2.2 (iv) a brief record of the child's behavioral and physical status; and
- 2.3 (v) a brief description of the post-use debriefing that occurred as a result of the use of
- 2.4 the physical hold or seclusion;
- 2.5 (6) the room used for seclusion must:
- 2.6 (i) be at least six feet by five feet;
- 2.7 (ii) be well lit, well ventilated, adequately heated, and clean;
- 2.8 (iii) have a window that allows staff to directly observe a child in seclusion;
- 2.9 (iv) have tamperproof fixtures, electrical switches located immediately outside the door,
- 2.10 and secure ceilings;
- 2.11 (v) have doors that open out and are unlocked, locked with keyless locks that have
- 2.12 immediate release mechanisms, or locked with locks that have immediate release mechanisms
- 2.13 connected with a fire and emergency system; and
- 2.14 (vi) not contain objects that a child may use to injure the child or others; and
- 2.15 (7) before using a room for seclusion, a school must:
- 2.16 (i) receive written notice from local authorities that the room and the locking mechanisms
- 2.17 comply with applicable building, fire, and safety codes; and
- 2.18 (ii) register the room with the commissioner, who may view that room.
- 2.19 (b) By February 1, 2015, and annually thereafter, stakeholders may, as necessary,
- 2.20 recommend to the commissioner specific and measurable implementation and outcome
- 2.21 goals for reducing the use of restrictive procedures and the commissioner must submit to
- 2.22 the legislature a report on districts' progress in reducing the use of restrictive procedures
- 2.23 that recommends how to further reduce these procedures and eliminate the use of seclusion.
- 2.24 The statewide plan includes the following components: measurable goals; the resources,
- 2.25 training, technical assistance, mental health services, and collaborative efforts needed to
- 2.26 significantly reduce districts' use of seclusion; and recommendations to clarify and improve
- 2.27 the law governing districts' use of restrictive procedures. The commissioner must consult
- 2.28 with interested stakeholders when preparing the report, including representatives of advocacy
- 2.29 organizations, special education directors, teachers, paraprofessionals, intermediate school
- 2.30 districts, school boards, day treatment providers, county social services, state human services
- 2.31 department staff, mental health professionals, and autism experts. Beginning with the
- 2.32 2016-2017 school year, in a form and manner determined by the commissioner, districts

3.1 must report data quarterly to the department by January 15, April 15, July 15, and October
3.2 15 about individual students who have been secluded. By July 15 each year, districts must
3.3 report summary data on their use of restrictive procedures to the department for the prior
3.4 school year, July 1 through June 30, in a form and manner determined by the commissioner.
3.5 The summary data must include information about the use of restrictive procedures, including
3.6 use of reasonable force under section 121A.582.

3.7 (c) Seclusion may be used on a student, if the use of seclusion is part of the student's
3.8 individualized education program under section 125A.08.

3.9 **EFFECTIVE DATE.** This section is effective for the 2024-2025 school year and later.

3.10 Sec. 2. Minnesota Statutes 2023 Supplement, section 125A.0942, subdivision 4, is amended
3.11 to read:

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

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

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

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

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

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

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

3.26 (7) withholding regularly scheduled meals or water;

3.27 (8) denying access to bathroom facilities;

3.28 (9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs
3.29 a child's ability to communicate distress, places pressure or weight on a child's head, throat,
3.30 neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's
3.31 torso;

- 4.1 (10) prone restraint; and
- 4.2 (11) the use of seclusion on children from birth through ~~grade 3~~ prekindergarten by
- 4.3 September 1, 2024.