

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2293

02/15/2012 Authored by Davnie and Erickson

The bill was read for the first time and referred to the Committee on Education Reform

03/12/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
 1.2 relating to education; extending for one additional year school districts' ability
 1.3 to use prone restraints under some conditions; requiring data collection and
 1.4 reporting; amending Minnesota Statutes 2010, sections 125A.0941; 125A.0942,
 1.5 subdivision 4; Minnesota Statutes 2011 Supplement, section 125A.0942,
 1.6 subdivision 3.

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

1.8 Section 1. Minnesota Statutes 2010, section 125A.0941, is amended to read:

1.9 **125A.0941 DEFINITIONS.**

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

1.11 (b) "Emergency" means a situation where immediate intervention is needed to protect
 1.12 a child or other individual from physical injury or to prevent serious property damage.

1.13 (c) "Physical holding" means physical intervention intended to hold a child
 1.14 immobile or limit a child's movement ~~and~~, where body contact is the only source of
 1.15 physical restraint, and where immobilization is used to effectively gain control of a child
 1.16 in order to protect the child or other person from injury. The term physical holding does
 1.17 not mean physical contact that:

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

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

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

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

1.23 (d) "Positive behavioral interventions and supports" means interventions and
 1.24 strategies to improve the school environment and teach children the skills to behave
 1.25 appropriately.

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

2.2 (f) "Restrictive procedures" means the use of physical holding or seclusion in an
2.3 emergency.

2.4 ~~(f)~~ (g) "Seclusion" means confining a child alone in a room from which egress is
2.5 barred. Removing a child from an activity to a location where the child cannot participate
2.6 in or observe the activity is not seclusion.

2.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.8 Sec. 2. Minnesota Statutes 2011 Supplement, section 125A.0942, subdivision 3,
2.9 is amended to read:

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

2.13 (1) the physical holding or seclusion must be the least intrusive intervention that
2.14 effectively responds to the emergency;

2.15 (2) physical holding or seclusion must end when the threat of harm ends and the
2.16 staff determines that the child can safely return to the classroom or activity;

2.17 (3) staff must directly observe the child while physical holding or seclusion is being
2.18 used;

2.19 (4) each time physical holding or seclusion is used, the staff person who implements
2.20 or oversees the physical holding or seclusion shall document, as soon as possible after the
2.21 incident concludes, the following information:

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

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

2.25 (iii) the time the physical holding or seclusion began and the time the child was
2.26 released; and

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

2.28 (5) the room used for seclusion must:

2.29 (i) be at least six feet by five feet;

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

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

2.32 (iv) have tamperproof fixtures, electrical switches located immediately outside the
2.33 door, and secure ceilings;

3.1 (v) have doors that open out and are unlocked, locked with keyless locks that
3.2 have immediate release mechanisms, or locked with locks that have immediate release
3.3 mechanisms connected with a fire and emergency system; and

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

3.5 (6) before using a room for seclusion, a school must:

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

3.8 (ii) register the room with the commissioner, who may view that room; and

3.9 (7) until August 1, ~~2012~~ 2013, a school district may use prone restraints with
3.10 children age five or older under the following conditions:

3.11 (i) a district has provided to the department a list of staff who have had specific
3.12 training on the use of prone restraints;

3.13 (ii) a district provides information on the type of training that was provided and
3.14 by whom;

3.15 (iii) prone restraints may only be used by staff who have received specific training;

3.16 (iv) each incident of the use of prone restraints is reported to the department within
3.17 five working days on a form provided by the department ~~or on a district's restrictive~~
3.18 ~~procedure documentation form~~; and

3.19 (v) a district, prior to using prone restraints, must review any known medical or
3.20 psychological limitations that contraindicate the use of prone restraints.

3.21 The department will report back to the chairs and ranking minority members of the
3.22 legislative committees with primary jurisdiction over education policy by February 1,
3.23 ~~2012~~ 2013, on the use of prone restraints in the schools. Consistent with item (iv), the
3.24 department must collect data on districts' use of prone restraints and publish the data in a
3.25 readily accessible format on the department's Web site on a quarterly basis.

3.26 (b) The department must develop a statewide plan by February 1, 2013, to reduce
3.27 districts' use of restrictive procedures that includes: measurable goals; the resources,
3.28 training, technical assistance, mental health services, and collaborative efforts needed to
3.29 significantly reduce districts' use of prone restraints; and recommendations to clarify
3.30 and improve the law governing districts' use of restrictive procedures. The department
3.31 must convene interested stakeholders to develop the statewide plan and identify the need
3.32 for technical assistance, including representatives of advocacy organizations, special
3.33 education directors, intermediate school districts, school boards, day treatment providers,
3.34 state human services department staff, mental health professionals, and autism experts. To
3.35 assist the department and stakeholders under this paragraph, school districts must report
3.36 summary data to the department by July 1, 2012, on districts' use of restrictive procedures

4.1 during the 2011-2012 school year, including data on the number of incidents involving
4.2 restrictive procedures, the total number of students on which restrictive procedures were
4.3 used, the number of resulting injuries, relevant demographic data on the students and
4.4 school, and other relevant data collected by the district.

4.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.6 Sec. 3. Minnesota Statutes 2010, 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,
4.10 or 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
4.17 to the child or others or serious damage to the equipment or device, in which case the
4.18 equipment 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
4.20 physical abuse under section 626.556;

4.21 (7) withholding regularly scheduled meals or water;

4.22 (8) denying access to bathroom facilities; and

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

4.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.