

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

S.F. No. 1835

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DATE
02/27/2019

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OFFICIAL STATUS
Introduction and first reading
Referred to Human Services Reform Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying requirements for psychiatric residential
1.3 treatment facilities and intensive treatment in foster care; appropriating money;
1.4 amending Minnesota Statutes 2018, sections 125A.515, subdivisions 1, 3, 4, 5, 7,
1.5 8; 256B.0625, subdivision 45a; 256B.0946, subdivision 2; Laws 2017, First Special
1.6 Session chapter 6, article 8, sections 71; 72.

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

1.8 Section 1. Minnesota Statutes 2018, section 125A.515, subdivision 1, is amended to read:

1.9 Subdivision 1. **Approval of on-site education programs.** The commissioner shall
1.10 approve on-site education programs for placement of children and youth in residential
1.11 facilities including detention centers, before being licensed by the Department of Human
1.12 Services or the Department of Corrections. Education programs in these facilities shall
1.13 conform to state and federal education laws including the Individuals with Disabilities
1.14 Education Act (IDEA). This section applies only to placements in children's residential
1.15 facilities and psychiatric residential treatment facilities, as defined in section 256B.0625,
1.16 subdivision 45a, licensed by the Department of Human Services or the Department of
1.17 Corrections. For purposes of this section, "on-site education program" means the educational
1.18 services provided directly on the grounds of the children's residential facility or psychiatric
1.19 residential treatment facility to children and youth placed for care and treatment.

1.20 Sec. 2. Minnesota Statutes 2018, section 125A.515, subdivision 3, is amended to read:

1.21 Subd. 3. **Responsibilities for providing education.** (a) The district in which the children's
1.22 residential facility or psychiatric residential treatment facility is located must provide
1.23 education services, including special education if eligible, to all students placed in a facility.

2.1 (b) For education programs operated by the Department of Corrections, the providing
2.2 district shall be the Department of Corrections. For students remanded to the commissioner
2.3 of corrections, the providing and resident district shall be the Department of Corrections.

2.4 Sec. 3. Minnesota Statutes 2018, section 125A.515, subdivision 4, is amended to read:

2.5 Subd. 4. **Education services required.** (a) Education services must be provided to a
2.6 student beginning within three business days after the student enters the children's residential
2.7 facility or psychiatric residential treatment facility. The first four days of the student's
2.8 placement may be used to screen the student for educational and safety issues.

2.9 (b) If the student does not meet the eligibility criteria for special education, regular
2.10 education services must be provided to that student.

2.11 Sec. 4. Minnesota Statutes 2018, section 125A.515, subdivision 5, is amended to read:

2.12 Subd. 5. **Education programs for students placed in children's residential**
2.13 **facilities.** (a) When a student is placed in a children's residential facility or psychiatric
2.14 residential treatment facility under this section that has an on-site education program, the
2.15 providing district, upon notice from the children's residential facility, must contact the
2.16 resident district within one business day to determine if a student has been identified as
2.17 having a disability, and to request at least the student's transcript, and for students with
2.18 disabilities, the most recent individualized education program (IEP) and evaluation report.
2.19 The resident district must send a facsimile copy to the providing district within two business
2.20 days of receiving the request.

2.21 (b) If a student placed under this section has been identified as having a disability and
2.22 has an individualized education program in the resident district:

2.23 (1) the providing agency must conduct an individualized education program meeting to
2.24 reach an agreement about continuing or modifying special education services in accordance
2.25 with the current individualized education program goals and objectives and to determine if
2.26 additional evaluations are necessary; and

2.27 (2) at least the following people shall receive written notice or documented phone call
2.28 to be followed with written notice to attend the individualized education program meeting:

2.29 (i) the person or agency placing the student;

2.30 (ii) the resident district;

2.31 (iii) the appropriate teachers and related services staff from the providing district;

3.1 (iv) appropriate staff from the children's residential facility or psychiatric residential
3.2 treatment facility;

3.3 (v) the parents or legal guardians of the student; and

3.4 (vi) when appropriate, the student.

3.5 (c) For a student who has not been identified as a student with a disability, a screening
3.6 must be conducted by the providing districts as soon as possible to determine the student's
3.7 educational and behavioral needs and must include a review of the student's educational
3.8 records.

3.9 Sec. 5. Minnesota Statutes 2018, section 125A.515, subdivision 7, is amended to read:

3.10 Subd. 7. **Minimum educational services required.** When a student is placed in a
3.11 children's residential facility or psychiatric residential treatment facility under this section,
3.12 at a minimum, the providing district is responsible for:

3.13 (1) the education necessary, including summer school services, for a student who is not
3.14 performing at grade level as indicated in the education record or IEP; and

3.15 (2) a school day, of the same length as the school day of the providing district, unless
3.16 the unique needs of the student, as documented through the IEP or education record in
3.17 consultation with treatment providers, requires an alteration in the length of the school day.

3.18 Sec. 6. Minnesota Statutes 2018, section 125A.515, subdivision 8, is amended to read:

3.19 Subd. 8. **Placement, services, and due process.** When a student's treatment and
3.20 educational needs allow, education shall be provided in a regular educational setting. The
3.21 determination of the amount and site of integrated services must be a joint decision between
3.22 the student's parents or legal guardians and the treatment and education staff. When
3.23 applicable, educational placement decisions must be made by the IEP team of the providing
3.24 district. Educational services shall be provided in conformance with the least restrictive
3.25 environment principle of the Individuals with Disabilities Education Act. The providing
3.26 district and children's residential facility or psychiatric residential treatment facility shall
3.27 cooperatively develop discipline and behavior management procedures to be used in
3.28 emergency situations that comply with the Minnesota Pupil Fair Dismissal Act and other
3.29 relevant state and federal laws and regulations.

4.1 Sec. 7. Minnesota Statutes 2018, section 256B.0625, subdivision 45a, is amended to read:

4.2 Subd. 45a. **Psychiatric residential treatment facility services for persons younger**
4.3 **than 21 years of age.** (a) Medical assistance covers psychiatric residential treatment facility
4.4 services, according to section 256B.0941, for persons younger than 21 years of age.

4.5 Individuals who reach age 21 at the time they are receiving services are eligible to continue
4.6 receiving services until they no longer require services or until they reach age 22, whichever
4.7 occurs first.

4.8 (b) For purposes of this subdivision, "psychiatric residential treatment facility" means
4.9 a facility other than a hospital that provides psychiatric services, as described in Code of
4.10 Federal Regulations, title 42, sections 441.151 to 441.182, to individuals under age 21 in
4.11 an inpatient setting.

4.12 (c) The commissioner shall ~~enroll up to 150 certified psychiatric residential treatment~~
4.13 ~~facility services beds at up to six sites. The commissioner shall select psychiatric residential~~
4.14 ~~treatment facility services providers through a request for proposals process. Providers of~~
4.15 ~~state-operated services may respond to the request for proposals.~~ invite letters of intent from
4.16 existing children's residential mental health facilities or psychiatric residential treatment
4.17 facility services providers that intend to develop increased psychiatric residential treatment
4.18 facility capacity. Each letter of intent shall describe the need for psychiatric residential
4.19 treatment facility services, specific services that would be provided, the proposed residential
4.20 capacity, and a description of the physical site of the proposed services. The commissioner
4.21 shall respond to each letter of intent within 30 days and provide technical assistance to
4.22 facilitate psychiatric residential treatment facility services development.

4.23 (d) The commissioner shall establish a request for proposals process to distribute grant
4.24 funding for start-up costs associated with the development of psychiatric residential treatment
4.25 facility services.

4.26 Sec. 8. Minnesota Statutes 2018, section 256B.0946, subdivision 2, is amended to read:

4.27 Subd. 2. **Determination of client eligibility.** An eligible recipient is an individual, from
4.28 birth through age 20, who is currently placed in a foster home licensed under Minnesota
4.29 Rules, parts 2960.3000 to 2960.3340, or who requires intensive mental health services to
4.30 prevent placement in a residential facility or hospital, and has received a diagnostic
4.31 assessment and an evaluation of level of care needed, as defined in paragraphs (a) and (b).

4.32 (a) The diagnostic assessment must:

5.1 (1) meet criteria described in Minnesota Rules, part 9505.0372, subpart 1, and be
5.2 conducted by a mental health professional or a clinical trainee;

5.3 (2) determine whether or not a child meets the criteria for mental illness, as defined in
5.4 Minnesota Rules, part 9505.0370, subpart 20;

5.5 (3) document that intensive treatment services are medically necessary within a foster
5.6 family setting to ameliorate identified symptoms and functional impairments;

5.7 (4) be performed within 180 days before the start of service; and

5.8 (5) be completed as either a standard or extended diagnostic assessment annually to
5.9 determine continued eligibility for the service.

5.10 (b) The evaluation of level of care must be conducted by the placing county, tribe, or
5.11 case manager in conjunction with the diagnostic assessment as described by Minnesota
5.12 Rules, part 9505.0372, subpart 1, item B, using a validated tool approved by the
5.13 commissioner of human services and not subject to the rulemaking process, consistent with
5.14 section 245.4885, subdivision 1, paragraph (d), the result of which evaluation demonstrates
5.15 that the child requires intensive intervention without 24-hour medical monitoring. The
5.16 commissioner shall update the list of approved level of care tools annually and publish on
5.17 the department's website.

5.18 Sec. 9. Laws 2017, First Special Session chapter 6, article 8, section 71, the effective date,
5.19 is amended to read:

5.20 **EFFECTIVE DATE.** This section is effective for services provided on July 1, 2017,
5.21 through ~~April 30, 2019, and expires May 1, 2019~~ June 30, 2021, and expires July 1, 2021.

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

5.23 Sec. 10. Laws 2017, First Special Session chapter 6, article 8, section 72, the effective
5.24 date, is amended to read:

5.25 **EFFECTIVE DATE.** This section is effective for services provided on July 1, 2017,
5.26 through ~~April 30, 2019, and expires May 1, 2019~~ June 30, 2021, and expires July 1, 2021.

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

6.1 Sec. 11. **APPROPRIATION; PSYCHIATRIC RESIDENTIAL TREATMENT**
6.2 **FACILITY START-UP GRANTS.**

6.3 \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the general
6.4 fund to the commissioner of human services for grants to providers that have previously
6.5 been approved by the commissioner of human services to provide psychiatric residential
6.6 treatment facility services to initiate additional psychiatric residential treatment facility
6.7 services or increase psychiatric residential treatment facility capacity. Grant funds may be
6.8 used for consulting services, Health Insurance Portability and Accountability Act (HIPAA)
6.9 compliance, training for staff and clients, program site renovations, administrative costs,
6.10 and therapeutic services, including evidence-based and culturally appropriate curricula.