

1.1 A bill for an act

1.2 relating to education; clarifying the definition of a child with a disability;
1.3 specifying obligations to children with disabilities; amending Minnesota Statutes
1.4 2009 Supplement, section 125A.02, subdivision 1; proposing coding for new
1.5 law in Minnesota Statutes, chapter 125A; repealing Minnesota Statutes 2008,
1.6 section 125A.03.

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

1.8 Section 1. Minnesota Statutes 2009 Supplement, section 125A.02, subdivision 1,
1.9 is amended to read:

1.10 Subdivision 1. **Child with a disability.** "Child with a disability" means a child
1.11 identified under federal and state special education law as having a hearing impairment,
1.12 blindness, visual disability, speech or language impairment, physical disability, other
1.13 health impairment, mental disability, emotional/behavioral disorder, specific learning
1.14 disability, autism, traumatic brain injury, multiple disabilities, or deafblind disability
1.15 who needs special education and related services, as determined by the rules of the
1.16 commissioner, ~~is a child with a disability~~. A licensed physician, an advanced practice
1.17 nurse, or a licensed psychologist is qualified to make a diagnosis and determination
1.18 of attention deficit disorder or attention deficit hyperactivity disorder for purposes of
1.19 identifying a child with a disability.

1.20 **EFFECTIVE DATE.** This section is effective July 1, 2010.

1.21 Sec. 2. **[125A.031] GENERAL OBLIGATIONS TO CHILDREN WITH**
1.22 **DISABILITIES.**

1.23 **(a) Except as specifically provided in other law, the following requirements govern**
1.24 **district obligations to children with disabilities.**

2.1 (b) A district shall ensure that all children with disabilities residing in the district
2.2 who need special education and related services, including those who are under age 3,
2.3 are homeless, or are attending a nonpublic school located in the district, are identified,
2.4 located, and evaluated.

2.5 (c) Except as provided in paragraph (d), a district must make available special
2.6 education and related services to each child with a disability residing in the district from
2.7 birth until that child becomes 21 years old or receives a regular high school diploma,
2.8 whichever comes first.

2.9 (d) If a child with a disability becomes 21 years old during the school year, the
2.10 district shall continue to make available special education and related services to that
2.11 child until the last day of that school year, or until the day the child receives a regular
2.12 high school diploma, whichever comes first.

2.13 (e) For the purpose of this section and section 121A.41, subdivision 7, paragraph
2.14 (a), clause (2), "school year" means the days of student instruction designated by the
2.15 school board as the regular school year in the annual calendar adopted pursuant to section
2.16 120A.41.

2.17 (f) Local health, education, and social services agencies must refer children under
2.18 age five who are known to need or suspected of needing special education and related
2.19 services to the school district.

2.20 **EFFECTIVE DATE.** This section is effective July 1, 2010.

2.21 Sec. 3. **REPEALER.**

2.22 Minnesota Statutes 2008, section 125A.03, is repealed.

2.23 **EFFECTIVE DATE.** This section is effective July 1, 2010.

125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.

(a) As defined in paragraph (b), every district must provide special instruction and services, either within the district or in another district, for all children with a disability, including providing required services under Code of Federal Regulations, title 34, section 300.121, paragraph (d), to those children suspended or expelled from school for more than ten school days in that school year, who are residents of the district and who are disabled as set forth in section 125A.02. For purposes of state and federal special education laws, the phrase "special instruction and services" in the state Education Code means a free and appropriate public education provided to an eligible child with disabilities and includes special education and related services defined in the Individuals with Disabilities Education Act, subpart A, section 300.24.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until July 1 after the child with a disability becomes 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the commissioner must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.