

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

**S.F. No. 3351**

(SENATE AUTHORS: NELSON, Cwodzinski, Eichorn, Wiger and Anderson, P.)

DATE	D-PG	OFFICIAL STATUS
02/20/2020	4836	Introduction and first reading Referred to E-12 Finance and Policy
03/04/2020		Comm report: To pass as amended Second reading

- 1.1 A bill for an act
- 1.2 relating to education; modifying school health services to allow for the use of a
- 1.3 private nurse; modifying the use of a functional behavioral assessment; allowing
- 1.4 certain students to participate in alternative delivery of specialized instructional
- 1.5 services program; amending Minnesota Statutes 2018, sections 121A.21; 125A.08;
- 1.6 125A.50, subdivision 1.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2018, section 121A.21, is amended to read:
- 1.9 **121A.21 SCHOOL HEALTH SERVICES.**
- 1.10 (a) Every school board must provide services to promote the health of its pupils.
- 1.11 (b) The board of a district with 1,000 pupils or more in average daily membership in
- 1.12 early childhood family education, preschool disabled, elementary, and secondary programs
- 1.13 must comply with the requirements of this paragraph. It may use one or a combination of
- 1.14 the following methods:
- 1.15 (1) employ personnel, including at least one full-time equivalent licensed school nurse;
- 1.16 (2) contract with a public or private health organization or another public agency for
- 1.17 personnel during the regular school year, determined appropriate by the board, who are
- 1.18 currently licensed under chapter 148 and who are certified public health nurses; or
- 1.19 (3) enter into another arrangement approved by the commissioner.
- 1.20 (c) A school district must allow a private nurse to accompany a pupil on school grounds
- 1.21 and in school activities during the regular school day if the pupil's need for a private nurse
- 1.22 is documented by a physician's order or note, with the following requirements:

2.1 (1) the school district and nurse may enter into agreements as necessary to establish  
 2.2 mutual expectations of the nurse's conduct in the school environment;

2.3 (2) the addition of a private nurse in the classroom must not exceed the room's capacity,  
 2.4 impede a pupil's line of sight, or impact a pupil's access to instruction;

2.5 (3) the nurse has a license issued by the Board of Nursing and has complied with school  
 2.6 district policies relating to adult visitors or volunteers, including a policy requiring a  
 2.7 background check. If the district requires a background check, the student's parent must  
 2.8 provide the results of a background check conducted within the previous three years or  
 2.9 provide the district with payment for the cost of a background check under section 123B.03;  
 2.10 and

2.11 (4) a private nurse does not change a school district's health services or other requirements  
 2.12 under state or federal law.

2.13 Sec. 2. Minnesota Statutes 2018, section 125A.08, is amended to read:

2.14 **125A.08 INDIVIDUALIZED EDUCATION PROGRAMS.**

2.15 (a) At the beginning of each school year, each school district shall have in effect, for  
 2.16 each child with a disability, an individualized education program.

2.17 (b) As defined in this section, every district must ensure the following:

2.18 (1) all students with disabilities are provided the special instruction and services which  
 2.19 are appropriate to their needs. Where the individualized education program team has  
 2.20 determined appropriate goals and objectives based on the student's needs, including the  
 2.21 extent to which the student can be included in the least restrictive environment, and where  
 2.22 there are essentially equivalent and effective instruction, related services, or assistive  
 2.23 technology devices available to meet the student's needs, cost to the district may be among  
 2.24 the factors considered by the team in choosing how to provide the appropriate services,  
 2.25 instruction, or devices that are to be made part of the student's individualized education  
 2.26 program. The individualized education program team shall consider and may authorize  
 2.27 services covered by medical assistance according to section 256B.0625, subdivision 26.  
 2.28 Before a school district evaluation team makes a determination of other health disability  
 2.29 under Minnesota Rules, part 3525.1335, subparts 1 and 2, item A, subitem (1), the evaluation  
 2.30 team must seek written documentation of the student's medically diagnosed chronic or acute  
 2.31 health condition signed by a licensed physician or a licensed health care provider acting  
 2.32 within the scope of the provider's practice. The student's needs and the special education  
 2.33 instruction and services to be provided must be agreed upon through the development of

3.1 an individualized education program. The program must address the student's need to develop  
3.2 skills to live and work as independently as possible within the community. The individualized  
3.3 education program team must consider positive behavioral interventions, strategies, and  
3.4 supports that address behavior needs for children. During grade 9, the program must address  
3.5 the student's needs for transition from secondary services to postsecondary education and  
3.6 training, employment, community participation, recreation, and leisure and home living. In  
3.7 developing the program, districts must inform parents of the full range of transitional goals  
3.8 and related services that should be considered. The program must include a statement of  
3.9 the needed transition services, including a statement of the interagency responsibilities or  
3.10 linkages or both before secondary services are concluded. If the individualized education  
3.11 program meets the plan components in section 120B.125, the individualized education  
3.12 program satisfies the requirement and no additional transition plan is needed;

3.13 (2) children with a disability under age five and their families are provided special  
3.14 instruction and services appropriate to the child's level of functioning and needs;

3.15 (3) children with a disability and their parents or guardians are guaranteed procedural  
3.16 safeguards and the right to participate in decisions involving identification, assessment  
3.17 including assistive technology assessment, and educational placement of children with a  
3.18 disability;

3.19 (4) eligibility and needs of children with a disability are determined by an initial  
3.20 evaluation or reevaluation, which may be completed using existing data under United States  
3.21 Code, title 20, section 33, et seq.;

3.22 (5) to the maximum extent appropriate, children with a disability, including those in  
3.23 public or private institutions or other care facilities, are educated with children who are not  
3.24 disabled, and that special classes, separate schooling, or other removal of children with a  
3.25 disability from the regular educational environment occurs only when and to the extent that  
3.26 the nature or severity of the disability is such that education in regular classes with the use  
3.27 of supplementary services cannot be achieved satisfactorily;

3.28 (6) in accordance with recognized professional standards, testing and evaluation materials,  
3.29 and procedures used for the purposes of classification and placement of children with a  
3.30 disability are selected and administered so as not to be racially or culturally discriminatory;  
3.31 and

3.32 (7) the rights of the child are protected when the parents or guardians are not known or  
3.33 not available, or the child is a ward of the state.

4.1 (c) For all paraprofessionals employed to work in programs whose role in part is to  
4.2 provide direct support to students with disabilities, the school board in each district shall  
4.3 ensure that:

4.4 (1) before or beginning at the time of employment, each paraprofessional must develop  
4.5 sufficient knowledge and skills in emergency procedures, building orientation, roles and  
4.6 responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin  
4.7 meeting the needs, especially disability-specific and behavioral needs, of the students with  
4.8 whom the paraprofessional works;

4.9 (2) annual training opportunities are required to enable the paraprofessional to continue  
4.10 to further develop the knowledge and skills that are specific to the students with whom the  
4.11 paraprofessional works, including understanding disabilities, the unique and individual  
4.12 needs of each student according to the student's disability and how the disability affects the  
4.13 student's education and behavior, following lesson plans, and implementing follow-up  
4.14 instructional procedures and activities; and

4.15 (3) a districtwide process obligates each paraprofessional to work under the ongoing  
4.16 direction of a licensed teacher and, where appropriate and possible, the supervision of a  
4.17 school nurse.

4.18 (d) A school district may conduct a functional behavioral assessment as defined in  
4.19 Minnesota Rules, part 3525.0210, subpart 22, as a stand-alone evaluation without conducting  
4.20 a comprehensive evaluation of the student. A parent may request a school district to conduct  
4.21 a comprehensive evaluation.

4.22 Sec. 3. Minnesota Statutes 2018, section 125A.50, subdivision 1, is amended to read:

4.23 Subdivision 1. **Commissioner approval.** The commissioner may approve applications  
4.24 from districts initiating or significantly changing a program to provide prevention services  
4.25 as an alternative to special education and other compensatory programs. A district with an  
4.26 approved program may provide instruction and services in a regular education classroom,  
4.27 or an area learning center, to eligible pupils. Pupils eligible to participate in the program  
4.28 are pupils who need additional academic or behavioral support to succeed in the general  
4.29 education environment and who may eventually qualify for special education instruction  
4.30 or related services under sections 125A.03 to 125A.24 and 125A.65 if the intervention  
4.31 services authorized by this section were unavailable. A pupil with disabilities, as defined  
4.32 under sections 125A.03 to 125A.24 and 125A.65, whose individualized education program  
4.33 (IEP) team has determined that they do not require special education services in the area of  
4.34 the district's approved program, may participate in the approved program so long as they

- 5.1 do not cause an increase in costs for the program or displace a student who does not currently
- 5.2 have a disability. Pupils may be provided services during extended school days and
- 5.3 throughout the entire year and through the assurance of mastery program under sections
- 5.4 125A.03 to 125A.24 and 125A.65.