

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-SEVENTH LEGISLATURE**

**S.F. No. 1444**

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DATE	D-PG	OFFICIAL STATUS
05/19/2011	2785	Introduction and first reading Referred to Education

1.1 A bill for an act  
1.2 relating to education; clarifying the definition of a child with a disability;  
1.3 clarifying other circumstances related to children with disabilities; amending  
1.4 Minnesota Statutes 2010, sections 125A.02, subdivision 1; 125A.03; 125A.091,  
1.5 subdivision 7; proposing coding for new law in Minnesota Statutes, chapter  
1.6 125A.

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

1.8 Section 1. Minnesota Statutes 2010, section 125A.02, subdivision 1, is amended to  
1.9 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,~~ deaf or hard-of-hearing, blind or visually impaired, deafblind,  
1.13 or having a speech or language impairment, a physical disability impairment, other health  
1.14 impairment disability, mental developmental cognitive disability, emotional/behavioral an  
1.15 emotional or behavioral disorder, specific learning disability, autism spectrum disorder,  
1.16 traumatic brain injury, or severe multiple disabilities impairments, or deafblind disability  
1.17 and who needs special education and related services, as determined by the rules of the  
1.18 commissioner, is a child with a disability. A licensed physician, an advanced practice  
1.19 nurse, or a licensed psychologist is qualified to make a diagnosis and determination  
1.20 of attention deficit disorder or attention deficit hyperactivity disorder for purposes of  
1.21 identifying a child with a disability.

1.22 **EFFECTIVE DATE.** This section is effective July 1, 2011.

2.1 Sec. 2. Minnesota Statutes 2010, section 125A.03, is amended to read:

2.2 **125A.03 SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.**

2.3 (a) ~~As defined~~ Except as provided in paragraph (b), every district must provide or  
2.4 make available special instruction education and related services, either within the district  
2.5 or in another district, for all children every child with a disability, including providing  
2.6 required services under Code of Federal Regulations, title 34, section 300.121, paragraph  
2.7 (d), to those children suspended or expelled from school for more than ten school days  
2.8 in that school year, who are residents is a resident of the district and who are disabled as  
2.9 set forth in section 125A.02 from birth until that child becomes 21 years old or receives  
2.10 a regular high school diploma, whichever comes first. For purposes of state and federal  
2.11 special education laws; The phrase "special instruction education and related services"  
2.12 in the state Education Code means a free and appropriate public education provided to an  
2.13 eligible child with disabilities and includes special education and related services defined  
2.14 in the Individuals with Disabilities Education Act, subpart A, section 300.24 a disability.

2.15 (b) ~~Notwithstanding any age limits in laws to the contrary, special instruction and~~  
2.16 ~~services must be provided from birth until July 1 after the child with a disability becomes~~  
2.17 ~~21 years old but shall not extend beyond secondary school or its equivalent, except as~~  
2.18 ~~provided in section 124D.68, subdivision 2. If a child with a disability becomes 21 years~~  
2.19 ~~old during the school year, the district shall continue to make available special education~~  
2.20 ~~and related services until the last day of the school year, or until the day the child receives~~  
2.21 ~~a regular high school diploma, whichever comes first.~~

2.22 (c) For purposes of this section and section 121A.41, subdivision 7, paragraph (a),  
2.23 clause (2), "school year" means the days of student instruction designated by the school  
2.24 board as the regular school year in the annual calendar adopted under section 120A.41.

2.25 (d) A district shall identify, locate, and evaluate children with a disability in the  
2.26 district who are in need of special education and related services. Local health, education,  
2.27 and social service agencies must refer children under age five who are known to need or  
2.28 suspected of needing special instruction education and related services to the school  
2.29 district. Districts with less than the minimum number of eligible children with a disability  
2.30 as determined by the commissioner must cooperate with other districts to maintain a full  
2.31 range of programs for education and services for children with a disability. This section  
2.32 does not alter the compulsory attendance requirements of section 120A.22.

2.33 **EFFECTIVE DATE.** This section is effective July 1, 2011.

2.34 Sec. 3. **[125A.031] RESOLVING DISPUTES AMONG DISTRICTS.**

**S.F. No. 1444, as introduced - 87th Legislative Session (2011-2012) [11-1644]**

3.1 If districts dispute which district is responsible for providing or making available  
3.2 special education and related services to a child with a disability who is not currently  
3.3 enrolled in a district because the child's district of residence is disputed, the district in  
3.4 which that child first tries to enroll shall provide or make available special education  
3.5 and related services to the child until the commissioner is notified and expeditiously  
3.6 resolves the dispute. For purposes of this section, "district" means a school district or a  
3.7 charter school.

3.8 Sec. 4. Minnesota Statutes 2010, section 125A.091, subdivision 7, is amended to read:

3.9 Subd. 7. **Conciliation conference.** A parent must have an opportunity to meet with  
3.10 appropriate district staff in at least one conciliation conference if the parent objects to  
3.11 any proposal of which the parent receives notice under subdivision 3a. A district must  
3.12 offer to hold a conciliation conference within two business days after receiving a parent's  
3.13 objection to a proposal or refusal in the prior written notice. The district must hold the  
3.14 conciliation conference within ten calendar days from the date the district receives a the  
3.15 parent's objection to a proposal or refusal in the prior written notice. Except as provided  
3.16 in this section, all discussions held during a conciliation conference are confidential  
3.17 and are not admissible in a due process hearing. Within five school days after the final  
3.18 conciliation conference, the district must prepare and provide to the parent a conciliation  
3.19 conference memorandum that describes the district's final proposed offer of service. This  
3.20 memorandum is admissible in evidence in any subsequent proceeding.

3.21 **EFFECTIVE DATE.** This section is effective the day following final enactment  
3.22 and applies to all conciliation conferences required after that date.