

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **3157**

February 25, 2010

Authored by Mahoney, Drazkowski, Brod, Scott and Faust

The bill was read for the first time and referred to the Committee on K-12 Education Policy and Oversight

1.1 A bill for an act
1.2 relating to children; modifying parent notification of child maltreatment in a
1.3 school facility; requiring a mental health assessment of teachers disciplined for
1.4 child maltreatment; revoking the teaching license of repeat child maltreatment
1.5 offenders; requiring a district policy for educating employees about mandatory
1.6 child maltreatment reporting; amending Minnesota Statutes 2008, sections
1.7 122A.20, subdivision 1; 122A.40, by adding a subdivision; 122A.41, by adding
1.8 a subdivision; 626.556, subdivisions 7, 10d; proposing coding for new law in
1.9 Minnesota Statutes, chapter 123B.

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

1.11 Section 1. Minnesota Statutes 2008, section 122A.20, subdivision 1, is amended to
1.12 read:

1.13 Subdivision 1. **Grounds for revocation, suspension, or denial.** (a) The Board of
1.14 Teaching or Board of School Administrators, whichever has jurisdiction over a teacher's
1.15 licensure, may, on the written complaint of the school board employing a teacher, a teacher
1.16 organization, or any other interested person, refuse to issue, refuse to renew, suspend, or
1.17 revoke a teacher's license to teach for any of the following causes:

- 1.18 (1) immoral character or conduct;
- 1.19 (2) failure, without justifiable cause, to teach for the term of the teacher's contract;
- 1.20 (3) gross inefficiency or willful neglect of duty;
- 1.21 (4) failure to meet licensure requirements; or
- 1.22 (5) fraud or misrepresentation in obtaining a license.

1.23 The written complaint must specify the nature and character of the charges.

1.24 (b) The Board of Teaching or Board of School Administrators, whichever
1.25 has jurisdiction over a teacher's licensure, shall refuse to issue, refuse to renew, or
1.26 automatically revoke a teacher's license to teach without the right to a hearing upon

2.1 receiving a certified copy of a conviction showing that the teacher has been convicted of
 2.2 child abuse, as defined in section 609.185, sexual abuse under section 609.342, 609.343,
 2.3 609.344, 609.345, 609.3451, subdivision 3, or 617.23, subdivision 3, using minors in a
 2.4 sexual performance under section 617.246, or possessing pornographic works involving a
 2.5 minor under section 617.247, or under a similar law of another state or the United States.
 2.6 The board shall send notice of this licensing action to the district in which the teacher is
 2.7 currently employed.

2.8 (c) A person whose license to teach has been revoked, not issued, or not renewed
 2.9 under paragraph (b), may petition the board to reconsider the licensing action if the
 2.10 person's conviction for child abuse or sexual abuse is reversed by a final decision of the
 2.11 Court of Appeals or the Supreme Court or if the person has received a pardon for the
 2.12 offense. The petitioner shall attach a certified copy of the appellate court's final decision or
 2.13 the pardon to the petition. Upon receiving the petition and its attachment, the board shall
 2.14 schedule and hold a disciplinary hearing on the matter under section 214.10, subdivision 2,
 2.15 unless the petitioner waives the right to a hearing. If the board finds that, notwithstanding
 2.16 the reversal of the petitioner's criminal conviction or the issuance of a pardon, the
 2.17 petitioner is disqualified from teaching under paragraph (a), clause (1), the board shall
 2.18 affirm its previous licensing action. If the board finds that the petitioner is not disqualified
 2.19 from teaching under paragraph (a), clause (1), it shall reverse its previous licensing action.

2.20 (d) For purposes of this subdivision, the Board of Teaching is delegated the authority
 2.21 to suspend or revoke coaching licenses.

2.22 (e) The Board of Teaching shall revoke a person's license to teach for a period of not
 2.23 less than five years if the person has been disciplined or discharged or has resigned after a
 2.24 charge is filed with the school board under sections 122A.40, subdivisions 13, paragraph
 2.25 (a), clause (1), and 14, and 122A.41, subdivisions 6, paragraph (a), clause (1), and 7, for
 2.26 maltreatment in any school facility on two or more occasions.

2.27 **EFFECTIVE DATE.** This section is effective August 1, 2011.

2.28 Sec. 2. Minnesota Statutes 2008, section 122A.40, is amended by adding a subdivision
 2.29 to read:

2.30 Subd. 9a. **Teachers; mental health screening.** After a teacher has been disciplined
 2.31 for child maltreatment in a school facility, the school district shall arrange a mental health
 2.32 screening for the teacher within 30 calendar days. The district shall not be required to pay
 2.33 for the mental health screening.

2.34 **EFFECTIVE DATE.** This section is effective August 1, 2011.

3.1 Sec. 3. Minnesota Statutes 2008, section 122A.41, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 6a. **Teachers; mental health screening.** After a teacher has been disciplined
3.4 for child maltreatment in the school facility, the school district shall arrange a mental
3.5 health screening for the teacher within 30 calendar days. The district shall not be required
3.6 to pay for the mental health screening.

3.7 **EFFECTIVE DATE.** This section is effective August 1, 2011.

3.8 Sec. 4. **[123B.031] DISTRICT POLICY; MANDATORY CHILD**
3.9 **MALTREATMENT REPORTING.**

3.10 A school board shall adopt a written policy requiring training within the first
3.11 ten working days of the school year for all district employees regarding employee
3.12 responsibility as mandatory child maltreatment reporters. The policy shall address all
3.13 aspects of maltreatment reporting such as the criminal aspects of failing to report child
3.14 abuse in the school facility. The commissioner shall maintain a model policy and make it
3.15 available to the districts.

3.16 **EFFECTIVE DATE.** This section is effective August 1, 2011.

3.17 Sec. 5. Minnesota Statutes 2008, section 626.556, subdivision 7, is amended to read:

3.18 Subd. 7. **Report.** An oral report shall be made immediately by telephone or
3.19 otherwise. An oral report made by a person required under subdivision 3 to report shall be
3.20 followed within 72 hours, exclusive of weekends and holidays, by a report in writing to
3.21 the appropriate police department, the county sheriff, the agency responsible for assessing
3.22 or investigating the report, or the local welfare agency, unless the appropriate agency
3.23 has informed the reporter that the oral information does not constitute a report under
3.24 subdivision 10. The local welfare agency shall determine if the report is accepted for an
3.25 assessment or investigation as soon as possible but in no event longer than 24 hours
3.26 after the report is received. Any report shall be of sufficient content to identify the child,
3.27 any person believed to be responsible for the abuse or neglect of the child if the person
3.28 is known, the nature and extent of the abuse or neglect and the name and address of the
3.29 reporter. ~~If requested,~~ The local welfare agency or the agency responsible for assessing or
3.30 investigating the report shall inform the reporter and parent, guardian, or legal custodian,
3.31 within ten days after the report is made, either orally or in writing, whether the report was
3.32 accepted for assessment or investigation. Written reports received by a police department
3.33 or the county sheriff shall be forwarded immediately to the local welfare agency or the

4.1 agency responsible for assessing or investigating the report. The police department
4.2 or the county sheriff may keep copies of reports received by them. Copies of written
4.3 reports received by a local welfare department or the agency responsible for assessing or
4.4 investigating the report shall be forwarded immediately to the local police department or
4.5 the county sheriff.

4.6 A written copy of a report maintained by personnel of agencies, other than welfare
4.7 or law enforcement agencies, which are subject to chapter 13 shall be confidential. An
4.8 individual subject of the report may obtain access to the original report as provided by
4.9 subdivision 11.

4.10 **EFFECTIVE DATE.** This section is effective August 1, 2011.

4.11 Sec. 6. Minnesota Statutes 2008, section 626.556, subdivision 10d, is amended to read:

4.12 Subd. 10d. **Notification of neglect or abuse in facility.** (a) When a report is
4.13 received that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child
4.14 while in the care of a licensed or unlicensed day care facility, residential facility, agency,
4.15 hospital, sanitarium, or other facility or institution required to be licensed according to
4.16 sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 245B, or a school
4.17 as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed
4.18 personal care provider organization as defined in section 256B.04, subdivision 16, and
4.19 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing
4.20 or investigating the report or local welfare agency investigating the report shall provide
4.21 the following information to the parent, guardian, or legal custodian of a child alleged to
4.22 have been neglected, physically abused, sexually abused, or the victim of maltreatment
4.23 of a child in the facility: the name of the facility; the fact that a report alleging neglect,
4.24 physical abuse, sexual abuse, or maltreatment of a child in the facility has been received;
4.25 the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child
4.26 in the facility; that the agency is conducting an assessment or investigation; any protective
4.27 or corrective measures being taken pending the outcome of the investigation; and that a
4.28 written memorandum will be provided when the investigation is completed.

4.29 (b) The commissioner of the agency responsible for assessing or investigating the
4.30 report or local welfare agency may also provide the information in paragraph (a) to the
4.31 parent, guardian, or legal custodian of any other child in the facility if the investigative
4.32 agency knows or has reason to believe the alleged neglect, physical abuse, sexual
4.33 abuse, or maltreatment of a child in the facility has occurred. In determining whether
4.34 to exercise this authority, the commissioner of the agency responsible for assessing
4.35 or investigating the report or local welfare agency shall consider the seriousness of the

5.1 alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the
5.2 number of children allegedly neglected, physically abused, sexually abused, or victims of
5.3 maltreatment of a child in the facility; the number of alleged perpetrators; and the length
5.4 of the investigation. The facility shall be notified whenever this discretion is exercised.

5.5 (c) When the commissioner of the agency responsible for assessing or investigating
5.6 the report or local welfare agency has completed its investigation, every parent, guardian,
5.7 or legal custodian previously notified of the investigation by the commissioner or
5.8 local welfare agency shall be provided with the following information in a written
5.9 memorandum: the name of the facility investigated; the nature of the alleged neglect,
5.10 physical abuse, sexual abuse, or maltreatment of a child in the facility; the investigator's
5.11 name; a summary of the investigation findings; a statement whether maltreatment was
5.12 found; and the protective or corrective measures that are being or will be taken. The
5.13 memorandum shall be written in a manner that protects the identity of the reporter and
5.14 the child and shall not contain the name, or to the extent possible, reveal the identity of
5.15 the alleged perpetrator or of those interviewed during the investigation. If maltreatment
5.16 is determined to exist, the commissioner or local welfare agency shall also provide the
5.17 written memorandum to the parent, guardian, or legal custodian of each child in the facility
5.18 who had contact with the individual responsible for the maltreatment. When the facility is
5.19 the responsible party for maltreatment, the commissioner or local welfare agency shall also
5.20 provide the written memorandum to the parent, guardian, or legal custodian of each child
5.21 who received services in the population of the facility where the maltreatment occurred.
5.22 This notification must be provided to the parent, guardian, or legal custodian of each child
5.23 receiving services from the time the maltreatment occurred until either the individual
5.24 responsible for maltreatment is no longer in contact with a child or children in the facility
5.25 or the conclusion of the investigation. In the case of maltreatment within a school facility,
5.26 as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10, the commissioner
5.27 of education need not provide notification to parents, guardians, or legal custodians of each
5.28 child in the facility, but ~~may~~ shall, within ten days after the investigation is completed,
5.29 provide written notification to the parent, guardian, or legal custodian of any student
5.30 alleged to have been maltreated or. The commissioner of education may notify the parent,
5.31 guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

5.32 **EFFECTIVE DATE.** This section is effective August 1, 2011.