



February 14, 2024

Minnesota Senate Education Policy Committee
3207 Minnesota Senate Bldg
St. Paul, MN 55155

Dear Chair Cwodzinski and Members of the Senate Education Policy Committee:

The Minnesota Disability Law Center (MDLC) and the Legal Services Advocacy Project (LSAP) write to express our strong opposition to removing a clear prohibition on the use of prone restraint and breath-impacting holds in SF3534. Use of this kind of restraint can be terrifying for children and, despite any protests to the contrary, can cause harm and, worse, permanent physical and emotional damage, even death. While we understand the need to clarify last year's law and the need to assure SROs that they have the appropriate tools, maintaining the ban on prone restraint along with other changes that are being made should in no way create an impediment to the ongoing use of SROs in schools.

MDLC and LSAP are statewide projects of Mid-Minnesota Legal Aid. MDLC serves as the Protection and Advocacy (P&A) organization for Minnesota, one of 57 P&A's federally designed under a Congressional act. MDLC provides free legal services to children and adults with disabilities in Minnesota. LSAP is the advocacy arm of Legal Aid and has provided legislative and administrative advocacy on behalf of Legal Aid's clients and all low-income Minnesotans since 1977. Ensuring the health and safety of students so that they can participate and equitably access education is a central priority in our work.

We strongly oppose repealing the explicit ban on dangerous, face-down breath-impacting restraints for children in schools by SROs and security personnel working in Minnesota's schools. The proposed language repeals the clear prohibitions on the uses of prone and other dangerous holds by SROs and security personnel working in schools that the Legislature passed last session into chapter 121A. If this passes, there will no longer be – neither in the “choke hold ban” in Minn. Stat. § 609.06, nor in the proposed requirements of the model policy – a clear ban on the use of prone and other restraints that we know to be dangerous for children. The current version of the legislation includes language to “minimize the use and duration of prone restraint ... and other physical holds of students, and the duty to render reasonably prompt care, consistent with the officer's training.” This language still allows dangerous restraints to be used on children.

Prone restraint and restraints that impact breathing are not safe or appropriate for children. A 2009 United States Government Accountability Office report includes multiple, tragic, deaths of children due to uses of restraints that impacted breathing, such as prone, and found that “facedown or other restraints that block air to the lungs can be deadly.”¹

¹ See Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers, United States Government Accountability Office at 6-7 (2009), available at [GAO-09-719T Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers](https://www.gao.gov/products/GAO-09-719T)

A 2011 study of restraint-related deaths found evidence that “certain groups are more vulnerable to risks when being restrained,” including “young people (under the age of 20).”² The study also highlighted the serious risks of positional asphyxiation involved with prone restraint specifically, noting that prone restraints used in the United States have been known to “prevent[] adequate chest wall, abdominal, and diaphragmatic movement, leading to hypoventilatory respiratory compromise and risk of death from positional asphyxia,” and that “[s]ignificant changes were found after restraint in a prone position: vital capacity was reduced, expiratory volume decreased, heart rate decreased, BP decreased and cardiac output decreased.” The study noted that “this form of restraint is not recommended in any UK guidelines for healthcare, prisons or police restraint.”³

If the research weren’t clear on its own, this Legislature’s actions are: Minnesota banned the use of prone for students with disabilities as of 2015 and banned the use of prone in prisons – including for adults – in 2021. The 2023 Legislature was correct to ban the use of prone restraint and other dangerous holds for students in schools by all adults.

Legal Aid appreciates that it was invited to share input with the chief authors, the Minnesota Department of Education, the Minnesota Department of Public Safety, and the Bureau of Criminal Apprehension. In each meeting, Legal Aid requested language to retain protections for children that ban prone restraints, breath-impacting restraints, and physical holds that limit a child’s ability to communicate distress.

We now request again that this proposal be modified to be clear that dangerous restraints may not be used on children. This could be effectuated by adding the following language under the Model Policy in subdivision 5:

“The model policy must include the prohibition of face-down, breath-impacting holds on children in Minnesota Schools, unless Minnesota Statutes 609.066 authorizes the use of deadly force to protect the officer or another from death or great bodily harm.”

Face-down, breath-impacting holds on children are dangerous and high-risk for even the most experienced and highly trained law enforcement officers. The risks of injury and fatality are too great to ignore.

Legal Aid acknowledges and supports the Legislature’s intent to clarify that Minn. Stat. § 609.06 governs the duties and responsibilities of law enforcement. Legal Aid also welcomes the addition of a model policy, mandatory training, and POST Board oversight and enforcement for SROs. We respectfully request that the Legislature retain the ban on face-down, breath-impacting holds on children in Minnesota schools.

Sincerely,
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Legal Services Advocacy Project

² Aiken, F., Duxbury, J., Dale, C., & Harbinson, I., Review of the medical theories and research relating to restraint related deaths, Caring Solutions at 7, 38 (2011), available at [Caring-Solutions-UK-Ltd-Review-of-Medical-Theories-of-Restraint-Deaths.pdf \(squarespace.com\)](https://www.squarespace.com/Caring-Solutions-UK-Ltd-Review-of-Medical-Theories-of-Restraint-Deaths.pdf).

³ *Id.*