

Open Letter Regarding Prone Restraint and Breath-Impacting Holds on Children in Schools

February 12, 2024

Dear Governor Walz, Lt. Governor Flanagan, Speaker Hortman, Majority Leader Murphy, and Members of the Minnesota Legislature:

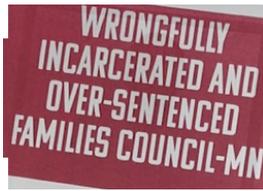
Today we join with colleagues, parents, youth, and educators in the Solutions Not Suspensions Coalition to express grave concerns about repealing the ban on prone holds and breath-impacting restraints on children in Minnesota schools. We need these prohibitions for school resource officers and school security personnel to remain in statute.

Following George Floyd's murder, our state leaders and the undersigned organizations made commitments to identify and change policies and practices that disproportionately harm people of color.

While some school districts in the state support the use of SROs in their buildings, and their aim is to mend relationships with law enforcement and pass new legislation around model policies and training – reversing the ban on prone holds and dangerous restraints will perpetuate the disparities we have all pledged to end.

Thank you for your consideration.





MIDWEST CENTER FOR SCHOOL TRANSFORMATION



The ARC Minnesota
 Autism Society of Minnesota
 ACCRA
Adrian Perryman
Amber Rhodes
Andrea Vencl, parent
Angela Myers
Anita Chikkatur, Carleton College
Anita Smithson
Annie Westmoreland RN
Ben Snyder
Bruce Hanson
Ceema Samimi, PhD
Charlie St. Dennis
Charlie Tirey, Community Organizer for Educational Equity
Chauntyll Allen -Founder, Love First Community Engagement
 Chelles Kitchen
 Closeknit
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Conie Borchardt
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Dr. Kimberly Wilburn, Minnetonka City Councilmember, Indivisible West Metro
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Elaine Kue
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 Global Teen Activists
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Jen Westmoreland - Hopkins School Board Member
Jessica Davis , Public School Teacher & MNTOY 2019

Karen J Larson , On-air radio personality WFNU
Katie Posey
 Know Your Worth Clothing LLC
Lachelle Cunningham
Lauretta Dawolo Towns
 Legal Rights Center
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Martha Meyer
Mary Lee
Megan Jensen
 Minnesota Wrongfully Convicted Judicial Reform
 Multicultural Autism Action Network
 National Parents Union MN
Nekima Levy Armstrong
Pamela Isham
 Racial Justice Network
Raeisha Williams
Raymond Blackledge
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 Solutions Not Suspensions
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Tania Rhiger
Teresa Stadem
 Tubman
 Ubuntu
 Until We Are All Free Movement
 Voices for Racial Justice
 Wayfinder Foundation
 Wrongfully incarcerated & over-sentenced families council-MN
Xue Xiong
 Youthprise

COALITION FOR CHILDREN WITH DISABILITIES

February 9, 2024

Education Policy Committee
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Chair Pryor and Members of the Education Policy Committee,

On behalf of the Coalition for Children with Disabilities, we are writing to express concern on the SRO bill.

We agree with the proposed language that prohibits "any form of physical holding that restricts or impairs a pupil's ability to breathe; restricts or impairs a pupil's ability to communicate distress; places pressure or weight on a pupil's head, throat neck, chest lungs sternum, diaphragm, back or abdomen; or results in straddling a pupil's torso," but we do not agree with carving out an exception to this for law enforcement.

This is especially concerning to us for children with disabilities whom history has shown are mostly likely to be restrained, and may be more susceptible to injury as a result of their disability or less able to communicate distress due to complex communication needs.

Coalition for Children with Disabilities

Autism Society of Minnesota • The Arc Minnesota • Decoding Dyslexia Minnesota
Epilepsy Foundation of Minnesota • Mid-Minnesota Legal Aid/Minnesota Disability Law Center
Minnesota Brain Injury Alliance • Minnesota Council on Disability
Multicultural Autism Action Network • PACER Center
Prader-Willi Syndrome Association of Minnesota • Proof Alliance

February 8, 2024

Dear Members of the House Education and Public Safety Committees:

On behalf of NAMI Minnesota, I am submitting our concerns regarding the school resource officer bill. We are very aware of the controversy surrounding the issue of school resource officers (SROs) and the use of prone restraints and understand the need for clarity, but it should not be done at the expense of student safety.

Prone restraints are different than other types of restraints because it involves putting a student in a face down position on the floor or another surface and physical pressure is applied to the student's body to keep them in that position. Many states have banned the use of prone restraints in schools and treatment facilities due to the danger of impairing a child's ability to communicate and breathe. Using prone restraints can actually damage the brain due to lack of oxygen, and the risk increases when the student who is being restrained struggles against its use. It's also known that putting pressure on the chest can lead to cardiac events. An adult applying their full weight in prone restraint to a student who is smaller, could lead to serious injury.

NAMI Minnesota advocated for the first legislation to regulate the use of seclusion and restraints in our schools. Later, upon recommendation of the advisory committee overseeing this legislation, banning prone restraints became law. The committee had a very robust discussion about the pros and cons of banning prone restraints but came down on protecting the health and well-being of students. We do not agree that SROs should be exempt from this prohibition. We support maintaining the ban on prone restraints to include SROs.

An important component of the seclusion and restraint law is training. Training on how to de-escalate a situation or identify the antecedents in order to avoid their use. Training on restraints to prevent harm and injuries. The use of prone restraints, which can already lead to injury, should not be used in our schools even if someone has extensive training.

We believe it's important to define the role of SROs in our schools. The Office of Community Oriented Policing (COPS) within the US Department of Justice produced a report in 2022 titled "Guiding Principles for School Resource Officer Programs." There is much to learn from this document. The report highlighted the controversy surrounding the use of SROs in schools:

For example, there are documented cases of SROs interceding to prevent mass shootings on campus and responding to mitigate school violence events. However, SRO programs also have the potential to result in unintended negative consequences. Although there is a need for more rigorous research evaluating the effects of SROs in schools, some studies have found an increased use of exclusionary student discipline and arrests in schools where SROs are present. Research also suggests that students of color in some schools have greater levels of fear and mistrust of SROs than their White classmates do. Because of the potential for negative outcomes, including the exacerbation of perceived or actual

discrimination by SROs based on race, color, national origin (including English language learners), disability, and sex (including sexual orientation, intersex traits, and gender identity), communities must carefully consider for themselves whether to implement an SRO program.

Providing detail on the duties of SROs is important. We support the language on lines 6.1 through 6.3. SROs should not be used to enforce school rules. The COPs report suggested the following for the role of SROs which are somewhat different than what is being proposed in the bill:

- to address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school;
- to develop or expand crime prevention efforts for students;
- to educate likely school-age victims in crime prevention and safety;
- to develop or expand community justice initiatives for students;
- to train students in conflict resolution, restorative justice, and crime awareness;
- to assist in the identification of physical changes in the environment that may reduce crime in or around the school; and
- to assist in developing school policy that addresses crime and to recommend procedural changes.”

We have heard SROs play an important role in developing relationships with students. In a 2014 report on SROs in Minnesota, it was noted that 44% of SROs had held this position for less than two years. It is difficult to build the relationships noted under section 9 subdivision 2, with high turnover.

While the bill establishes a task force to develop a model policy, we would also recommend that they create a model MOU. In the MN School Resource Officer report only 64% of officers were aware of an MOU. The COPS report suggests that a Memorandum of Understanding (MOU) should contain the following items:

- documents the SRO duties and program mission;
- identifies partner roles and responsibilities;
- prohibits SROs from engaging in school disciplinary incidents or enforcing school
- codes of conduct or addressing typical student behavior that can be safely and appropriately handled by school officials;
- defines reporting and data collection requirements;
- requires annual assessment of SROs;
- provides for effective training on various school-related topics (see “Specialized training” on page 13), including nondiscrimination and serving diverse students and communities (e.g., diversity based on race, color, national origin, disability, and sex);
- outlines supervision of the SRO(s) named in the MOU.

Back in 2004 the Minnesota School Board Association did work with advocates on creating a model policy to govern SROs and removing students with disabilities from school. It might be good to look at that policy. We also suggest that the model policy be developed in consultation with mental health professionals, particularly those with experience in mental health crisis response, and a representative from an intermediate school district. One piece missing is collection of data on the activities of an SRO in

the building. The national COPs report recommends keeping and sharing data so that disparities can be addressed.

The training requirements are very important. In the MN SRO report, only half of the SROs surveyed had received training on child development, youth brain development, or trauma. When asked what additional training they would like to see:

- Current juvenile case law and school law 23%
- Active shooter, 20%
- External threat, 20%
- Working with and understanding special ed students, especially EBD, 12%
- Drug and gang training, 12%
- Juvenile interviewing, interrogation, 11%
- Social media, 9%
- Juvenile search and seizure, 9%
- Youth mental health 8%

The national COPS report also listed topics for training and the bill omits several important topics mentioned in the report including the following:

- Conflict resolution
- Trauma informed practices
- FERPA (Family Education Rights and Privacy Act)
- Social media use
- Bias-free policing
- Teen dating violence and sexual assault
- Restorative justice practices
- Multi-tiered system of supports
- Knowing when to call a mental health professional/mobile mental health crisis team
- The role of an SRO in a school

The training list in the bill should clarify that under (4), physical intervention strategies are not to be used for simply verbal conflict but when there is an actual threat to hurt someone. Number (11) is also poorly worded and should include an understanding of student and parents' rights under FERPA. And lastly, we need to make sure police understand the physical and mental impact on youth when using restraints.

Thank you for the opportunity to provide written testimony.

Sincerely,



Sue Abderholden, MPH
Executive Director



February 9, 2024

Re: School Resource Officer Legislation

Dear Senator Westlin and Representative Frazier:

Thank you for your continued work on the school resource officer (SRO) legislation and the opportunity to provide feedback on the latest changes to the draft language. We appreciate your effort to clarify the role and responsibilities of SROs and the urgency to hear the legislation early in the legislative session.

The organizations listed on this letter respectfully request the changes outlined below be made to the bill. We have provided further explanation for our continued request for clarifying language addressing our special duty concerns. We look forward to continuing the work this legislative session to clarify officer roles and responsibilities as they serve as a valuable resource in Minnesota schools.

Clarification on SRO Duties

We continue to request that the term “shall” be changed to “may” to reflect the various goals and resources of SRO programs across the state. We further request SROs have explicit authority for lawful physical contact in “caretaking” situations, such as taking a child into protective custody or where a designated mental health professional believes a person, as the result of a mental disorder, presents an imminent likelihood of serious harm. Under the current version of this bill, it is clear that SROs can enforce criminal laws; however, there is also explicit language prohibiting SROs from using force or the authority of their office solely to enforce school rules or policies or in the enforcement of discipline for violations of school rules. It is important for the legislation to expressly state that SROs have lawful authority to perform other duties of a peace officer including the ability to intervene in a non-criminal, caretaker situations.

We respectfully request the use of the following language:

Sec. 9. [626.8482] SCHOOL RESOURCE OFFICERS; DUTIES; TRAINING;

5.11 MODEL POLICY.

5.21 Subd. 2. **Duties.** (a) A school resource officer's contractual duties with a school district or charter school may include:

5.22 (1) fostering a positive school climate through relationship building and open

5.23 communication;

5.24 (2) protecting students, staff, and visitors to the school grounds from criminal activity;

5.25 (3) coordinating criminal investigations between law enforcement and school officials;

5.26 (4) providing advice on safety drills;

5.27 (5) identifying vulnerabilities in school facilities and safety protocols;

5.28 (6) educating and advising students and staff on law enforcement topics; and

5.29 (7) enforcement of criminal laws and execution of other duties imposed upon peace officers by law.

6.4 Subd. 3. **Instruction required.** (a) Except as provided for in paragraphs (b) through 6.5 (d), beginning December 1, 2025, a peace officer assigned to serve as a school resource officer 6.6 must complete a training course that provides instruction on the learning objectives identified

7.23 Subd. 5. **Model Policy.** (a) By June 1, 2025, the Board of Peace Officer Standards and 7.24 Training, after consulting with the Department of Public Safety's School Safety Center, the Minnesota School Resource Officers Association, the National Association of School Resource Officers, the

7.25 Minnesota School Boards Association, the Minnesota Association of Secondary School 7.26 Principals, Education Minnesota, the Minnesota Sheriffs' Association, the Minnesota Chiefs 7.27 of Police Association, the Minnesota Police and Peace Officers Association, Juvenile Officers 7.28 Association, Solutions Not Suspensions, and the Minnesota Youth Council, and at least one 7.29 community organization supporting the rights of special education students, shall develop 7.30 a model school resource officer policy.

The most recent draft of the SRO bill could be read to mandate SROs undertake specific duties for the benefit of a particular class of persons. If not explicitly addressed, our concern is this will be an opening for litigation that could unintentionally create challenges to the language of the legal duties established. We support language that will make it clear that no special duty is being created: *Nothing in the enumeration of these duties or the inclusion of them in a contract between a school resource officer's employer and the designated school district or charter school shall create a special duty to any individual.* This will further help address concerns raised by stakeholders regarding unintended (and additional) civil liability exposures for SROs and their employers.

We thank you again for your engagement with us on this important issue. Our organizations hope bill authors support our recommendations to the proposed language. If the aforementioned changes to the language are adopted, we would offer support for passage and enactment.

Respectfully,



Jeff Potts
Executive Director
Minnesota Chiefs of Police Association



Brian Peters
Executive Director
Minnesota Police and Peace Officers Association



James Stuart
Executive Director
Minnesota Sheriffs Association

Cc: Governor Walz, Speaker Hortman, Senate Majority Leader Murphy, Chair Moller, and Chair Pryor



February 9, 2024

Senator Bonnie Westlin
Representative Cedrick Frazier

RE: School resource officer (SRO) legislation

Dear Senator Westlin and Representative Frazier,

Thank you for authoring legislation aimed at clarifying the roles and duties of school resource officers (SROs). While our organizations do not advise cities on whether to take part in SRO programs, we support the authority cities and school districts have to enter into agreements for the purpose of keeping schools safe. Our hope is the bill that advances will support school safety and other important objectives of police/school relations, while minimizing potential civil and criminal liability risks created by ambiguity in the current law.

The draft legislation provides clarity around some key issues. Our organizations support provisions in the bill that make it clear SROs are not employees or agents of school districts and are not present in school settings for school disciplinary purposes. We also appreciate the provision clarifying SROs have explicit authority provided in Minn. Stat. § 609.06, the state statute governing use of force.

We have concerns about the “duties” provisions in section 9 of the bill. Specifically, we request the word “shall” on line 5.21 be changed to “may” to reflect the various goals and resources of SRO programs across the state. We further request SROs have explicit authority for lawful physical contact in “caretaking” situations, such as taking a child into protective custody or where a designated mental health professional believes a person, as the result of a mental disorder, presents an imminent likelihood of serious harm. Under the current version of this bill, it is clear SROs can enforce criminal laws; however, there is also explicit language prohibiting SROs from using force or the authority of their office solely to enforce school rules or policies or in the enforcement of discipline for violations of school rules. It is important for the legislation to expressly state that SROs have lawful authority to perform other duties of a peace officer including the ability to intervene in a non-criminal, caretaker situations.

We respectfully request the use of the following language:

**Sec. 9. [626.8482] SCHOOL RESOURCE OFFICERS; DUTIES; TRAINING;
5.11 MODEL POLICY.**

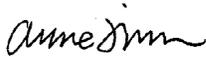
5.21 Subd. 2. **Duties.** (a) A school resource officer's contractual duties with a school district or charter school may include:

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- 5.27 (5) identifying vulnerabilities in school facilities and safety protocols;
- 5.28 (6) educating and advising students and staff on law enforcement topics; and
- 5.29 (7) enforcement of criminal laws and execution of other duties imposed upon peace officers by law.

Finally, the bill could be read to mandate SROs undertake specific duties for the benefit of a particular class of persons. If not explicitly addressed, our concern is this will be an opening for litigation that could unintentionally create challenges to the language of the legal duties established. We support language that will make it clear that no special duty is being created: *Nothing in the enumeration of these duties or the inclusion of them in a contract between a school resource officer's employer and the designated school district or charter school shall create a special duty to any individual.* This will further help address concerns raised by stakeholders regarding unintended (and additional) civil liability exposures for SROs and their employers.

We appreciate you considering our input and look forward to working with you to advance legislation that serves all impacted stakeholders.

Sincerely,



Anne Finn
Intergovernmental Relations Director
League of Minnesota Cities



Bradley Peterson
Executive Director
Coalition of Greater Minnesota Cities



Patricia Nauman
Executive Director
Metro Cities



Cap O'Rourke
Executive Director
Minnesota Association of Small Cities



Mayor of Edina
James Hovland
President
Municipal Legislative Commission

Cc: Governor Tim Walz
Speaker of the House Melissa Hortman
Senate Majority Leader Erin Murphy
House Minority Leader Lisa Demuth
Senate Minority Leader Mark Johnson

February 9, 2024

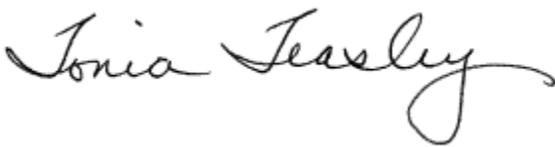
Education Policy Committee
Minnesota House of Representatives
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

Chair Pryor and Members of the Education Policy Committee,

On behalf of PACER Center, we would like to express our concerns with the language of the proposed school resource officer (SRO) bill that would exempt SROs and law enforcement as employees or agents of the district and allow them to use prone restraint and other dangerous physical holds. Discipline practices are disproportionately used against children with disabilities who are sometimes less able to communicate distress and are more at risk for injury.

We appreciate the language that provides de-escalation trainings and supportive practices to the law enforcement who operate within our schools and interact with our students. We suggest that these training policies be pursued instead of dangerous physical holds.

Sincerely,



Tonia Teasley
Executive Director



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February 8, 2024

Chair Rep. Laurie Pryor and Education Policy Members,

My name is Kristy Snyder, and I am the Policy and System Transformation Officer at Youthprise.

I am writing in the still be numbered School Resource Officer Bill. **I am testifying against the passing of this bill and the re-legalization of the prone restraint, the same restraint used in the lynching of George Floyd, by SROs in schools.** There is a certain irony that we are here in Minnesota attempting to bring back the prone restraint to our Minnesota schools.

Prone restraint is one of the most dangerous forms of restraint still permitted in a school setting. It is a technique that restricts a student's airway and lessens the supply of oxygen to the rest of the body. The U.S. Department of Education recommends that prone restraints never be used in schools, and over 30 other states have prohibited this form of behavioral restraint on all students. Why is Minnesota—of all states—rolling back this needed protection for children and young people?

Many will testify about the dissonance in how prone restraint is not allowed in Minnesota police departments yet believe that School Resource Officers should be allowed to use them –so I won't focus on that. **I want to focus on how passing this law will be a license for our state tax dollars to be used to possibly cause an Adverse Childhood Experience (ACE) for children who are targeted for this violent and dangerous hold.** When young people are placed in these holds and their breathing is limited, it is natural for any person to fear for their lives. When an individual is restrained in a prone position, their safety, belonging, and esteem needs are compromised. We are teaching young people that schools are a place of violence, fear, and insecurity. I refuse to have my tax dollars to support these dangerous holds on children and young people in any place, but particularly a place where safety should be sacred.

I join the many community leaders who are concerned about safety and security in schools. Rolling back the commonsense legislation passed last year and clarified by Attorney General Ellison would cause more unsafe and dangerous conditions for young people. Please do not move this proposed legislation forward.

Sincerely,

Kristy Snyder,
Policy & System Transformation Officer

Chair Pryor and members of the committee,

On behalf of the Minnesota Chapter of the American Academy of Pediatrics, I am writing in support of ongoing protections for the safety of children in Minnesota schools.

As pediatricians our priority is to ensure the health and wellbeing of children in Minnesota. We ask that this committee vote to maintain existing language that restricts the use of harmful restraints by all adults in Minnesota schools. When parents send their children to school each morning it is with the simple expectation that they will be treated with dignity and kept safe from physical and emotional harm. School is the single place where children spend the most time outside of the home, and because of that, the way our kids are treated while at school is profoundly important.

To keep kids safe at school, we must therefore limit the use of harmful and potentially life threatening restraints. Prone restraints are dangerous and have been shown to cause physical and emotional harm to both children and adults. More specifically, forcibly holding a child face-down on the ground leads to their decreased ability to both inhale and exhale. When someone cannot adequately inhale, it leads to decreased levels of oxygen circulating in the body. Low oxygen levels can lead to brain damage, irregular heart rhythms, and cardiac arrest. When someone cannot exhale completely, it leads to a buildup of carbon dioxide inside the bloodstream. Carbon dioxide is converted into acid which is toxic and leads to irregular heart rhythms and cardiac arrest.

Prone restraints can also have a negative effect on childrens' mental health both from the trauma of the act itself and by reactivating past traumas. This is particularly noteworthy because children with a history of trauma and mental illness are more likely to act outside of typical behavioral norms and therefore be subjected to this type of restraint.

In addition to their direct harm to children, prone restraints also do not help improve children's behavior in the long term. Forceful and traumatic restraints worsen the relationship and erode trust between the child and whoever is forcibly restraining them. In the case of schools, any use of a prone restraint by a law enforcement or school resource officer would lead to a more strained relationship between the affected student and law enforcement in the long term.

Because of all of these negative impacts of prone restraints, all other modalities of de-escalation and restraint should be used prior to resorting to such a grave action.

Prone restraints are an extreme act and should be reserved for extreme situations where there is imminent threat to life or bodily safety. Law enforcement officers should be held to just as high a standard as other adults when it comes to ensuring the safety of our children. Please vote to maintain this vital protection and ensure that schools can remain a safe environment for all Minnesota children.

Hannah Lichtsinn, MD

Policy Committee Chair, MN Chapter of the American Academy of Pediatrics

February 8, 2024

Rep. Laurie Pryor, Chair
Rep. Josiah Hill, Vice Chair
House Education Policy Committee

Chair Pryor, Vice Chair Hill, and Members of the Education Policy Committee,

I am a former school psychologist who is appalled at the idea of authorizing school resource officers, police officers, and security officers to use prone restraints and air restrictive restraints on children in schools. The new SRO bill should be blocked. NO ONE should be allowed to use these kinds of procedures on students! These restraints are considered too dangerous to use on adults in prison. How can they be okay for children?

Students of color and students with disabilities tend to receive harsher treatment, possibly as a result of Implicit bias. Students with disabilities in particular are at greater risk of injury, and many have more difficulty communicating distress. Kids should feel safe in school. Restraints do more harm than good and create ongoing trauma for students.

Training is not good enough to prevent injury and should not be a reason to back slide on the fabulous bill passed in 2023. Trained law enforcement officers have killed people.

Please maintain the protections for students that last year's bill put in place. This year's SRO bill should not pass.

Thank you.

Betty Greene, Former Educator
Duluth MN

Thank you for this opportunity. I am speaking to you as a mother and a pediatric nurse practitioner.

I work with patients who have disorders like autism, intellectual disability, and genetic disorders. You can't always see things like autism, and it can be easy to misinterpret a child's response. But we cannot afford to make mistake when using a procedure that could seriously injure or kill a child.

Death from prone restraint occurs due to cardiac arrest. In other words, compromised breathing and circulation can stop the heart. Pressure in the neck and chest decreases cardiac output and ventilation until the body can no longer compensate. Children with developmental differences are at increased risk of cardiac arrest because many have communication problems and low muscle tone.

Another issue is that many children have experienced violent trauma in the hands of adults who were supposed to keep them safe. Traumatized children need safety and protection when they are in distress. Placing a child who is dysregulated face down on a hard floor is repeating a major power difference they have been subjected to. In my 24 years of working with high-risk children, I have never needed to use prone restraint to keep a child or myself safe. Upset children can be calmed by compassionate adults trained in de-escalation techniques. In mental health we call this attunement. When a child experiences attunement in relationships, they can begin healing. A healed child becomes a healthy adult, parent, employee, etc. who does not continue the cycle of violence.

I also want to speak about my experiences as a mother to children with disabilities. My disclosure is that I have children of color and children who look like me. Our family's experience mirrors the disturbing data that shows children of color are more likely to experience harsh punishments than their white peers. My education and whiteness have not protected my children at school. We have encountered serious lapses in judgement leaving lasting marks. We are aware of persistent discrepancies in educational outcomes for Minnesota students and we can also be certain that prone restraint would disproportionately be applied to children of color.

Prone restraint is a traumatic experience for the child and everyone who watches this act of violence. It sends the message that we can solve problems through aggression. This procedure is so vile that it is not even allowed in prisons.

Governor Walz has said he wants to make Minnesota the greatest state in the nation for kids. If this is our goal, then we must be willing to prioritize the needs of our children over the wants of law enforcement.



February 8, 2024

MN House of Representatives Education Policy Committee

SUBJECT: PRONE RESTRAINT

Dear Chair Pryor and Education Committee Members,

Our organization works with families of children with disabilities in multicultural communities. We have been honored to work with Education Committee members in the past to address issues such as Recess for All and disproportionality in discipline and we are grateful for your leadership. We know that you are a group of people who care deeply about children. That is why we met the news of the proposed language on prone restraint with such dismay and concern.

We do not believe that any child, under any circumstances, should ever be subjected to “any form of physical holding that restricts or impairs a pupil’s ability to breathe; restricts or impairs a pupil’s ability to communicate distress; places pressure or weight on a pupil’s head throat, neck, chest , lungs, sternum, diaphragm, back or abdomen; or results in straddling a pupil’s torso.” There should not be an exception to this for law enforcement officers, which is what the current language proposes.

We are especially concerned about how this exception for law enforcement may affect children with disabilities who may be more susceptible to physical injury or unable to communicate distress.

When we have sat in meetings with leadership to discuss the proposal, they have offered “concessions” around training, around the amount of time a child is held in prone restraint, and POST board policies. But to the best of our knowledge there is no evidence that any of these things made any difference to the 38 children who have died as a result of prone restraint.¹

We know the members of this committee care deeply about children and have done much to further educational opportunities for kids in Minnesota. But we do not understand why the legislature would prioritize the wants of law enforcement over the needs of children on this issue. That is exactly what this bill does as written. We respectfully ask you to ensure that the ban on prone restraint remains in law and applies to all.

Sincerely,
Multicultural Autism Action Network

Rufo Jiru

Delia Samuel

Fatima Molas

Maren Christenson Hofer

¹ Nunno, M.A., McCabe, L.A., Izzo, C.V. *et al.* A 26-Year Study of Restraint Fatalities Among Children and Adolescents in the United States: A Failure of Organizational Structures and Processes. *Child Youth Care Forum* **51**, 661–680 (2022). <https://doi.org/10.1007/s10566-021-09646-w>



February 9, 2024

Minnesota House Education Policy Committee
571 State Office Building
St. Paul, MN 55155

Dear Chair Pryor and Members of the House Education Policy Committee:

The Legal Services Advocacy Project (LSAP) and the Minnesota Disability Law Center (MDLC) write with regard to the SRO legislation being heard in committee today. 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 oppose removing a clear prohibition on the use of prone restraint and breath-impacting holds.

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

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

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](#)

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 \(squarespace.com\)](#).

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,
Jessica L. Webster
Staff Attorney
Legal Services Advocacy Project

³ *Id.*

My name is Kimberly Wilburn. I want to thank the chair and committee members in advance for taking the time to read and consider my statements. I know that we are all concerned with the mental and physical safety of all of our students. I appreciate the time and effort the authors of HF3489 have put into setting clear standards aimed at keeping everyone safe and applaud the inclusion of mandatory training and the creation of a model policy for School Resource Officers.

I have some concerns about the change in language for school staff listed as “a teacher, school principal, school employee or, school bus driver, or other agent of a district”.

Sec. 3. Minnesota Statutes 2023 Supplement, section 121A.582, subdivision 1, is amended 2.13 to read:
Subdivision 1. Reasonable force standard. (a) A teacher or school principal, in exercising the person's lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student to prevent ~~imminent~~ bodily harm or death to the student or to another.

My concern is with the removal of the word imminent. While this may seem like an inconsequential change, my worry is for which students are more likely to be perceived as a threat or danger and therefore have unnecessary force used against them. Studies have shown that students of color are more likely to receive harsher discipline than their white counterparts for the same actions. Studies have also shown that black children are perceived as older, larger, and angrier than they actually are (referred to as “adultification”). I’m also concerned about the message this sends to all students about the level of concern regarding their safety when a lower standard is employed in schools than in our prisons where correctional officers may only use prone restraint holds to protect against “great bodily harm,”

I urge members to strongly consider the potential harm of the recommended language change.

Thank you,
Dr. Kimberly Wilburn
Minnetonka City Councilmember