

HOUSE RESEARCH

Bill Summary

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Authors: Pierson

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Analyst: Danyell A. Punelli

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Overview

This bill is the Department of Human Services' policy bill related to positive support strategies and restrictive interventions for persons receiving home and community-based services or other licensed services. This bill is the result of a federal court order under the Jensen Settlement. The bill provides for legislative approval of the new positive support strategies and restrictive interventions rules that were adopted in 2015 and makes conforming changes.

The Minnesota Legislature previously authorized DHS to adopt the positive support strategies and restrictive interventions rules to: (1) govern the use of positive support strategies; and (2) ensure the applicability of the chapter 245D prohibitions and limits on the emergency use of manual restraint and on the use of restrictive interventions to facilities and services governed by the rules (see Minnesota Statutes § 245.8251, subd. 1).

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- 1** **Legislative approval.** Amends § 245.8251, by adding subd. 1a. Provides for legislative approval of Minnesota Rules, chapter 9544, positive support strategies and restrictive interventions. This section is unusual, but necessary due to requirements in Minnesota Statutes, section 14.127. Section 14.127 requires legislative approval of rules if it is determined that the cost of complying with the rule in the first year after the rule takes effect will exceed \$25,000 for any one business that has less than 50 full-time employees. The administrative law judge who approved the rules did not approve the department's estimate that the cost of complying with the new rule would not exceed the \$25,000 threshold for

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small businesses. If the legislature does not approve the rules, small businesses can file a written statement with DHS claiming a temporary exemption from the rule.

Makes this section effective the day following final enactment.

- 2 **Data collection.** Amends § 245.8251, subd. 2. Removes obsolete language. Makes this section effective the day following final enactment.
- 3 **Service requirements.** Amends § 252.275, subd. 1a. Updates cross-references.
- 4 **Restraints.** Amends § 253B.03, subd. 1. Updates cross-references.
- 5 **Consent for treatment for developmental disability.** Amends § 253B.03, subd. 6a. Updates terminology and a cross-reference.
- 6 **Noncovered personal care assistance services.** Amends § 256B.0659, subd. 3. Updates terminology and a cross-reference.
- 7 **Variance of certain standards prohibited.** Amends § 256B.0951, subd. 5. Updates a cross-reference.
- 8 **Regional quality councils.** Amends § 256B.097, subd. 4. Updates a cross-reference.
- 9 **Approval of alternatives.** Amends § 256B.77, subd. 17. Updates a cross-reference.
- 10 **Definitions.** Amends § 626.556, subd. 2. Updates a cross-reference.
- 11 **Abuse.** Amends § 626.5572, subd. 2. Updates a cross-reference.
- 12 **Repealer.** Repeals Minnesota Statutes, section 245.825, subs. 1 (rules governing aversive and deprivation procedures) and 1b (review and approval). Makes this section effective the day following final enactment.