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ADMINISTERING MEDICATION TO PUPILS

Senate Bill 614 as passed by the Senate First Analysis (2-9-00)

Sponsor: Sen. Philip E. Hoffman
House Committee: Education
Senate Committee: Education

THE APPARENT PROBLEM:

The Revised School Code provides for immunity from liability for the administration of medications to pupils in schools. Under the code and as reported in the Senate Fiscal Agency analysis dated 10-21-99, a student's parent or guardian must provide the school with written permission and request school personnel to administer the medication in compliance with a physician's instructions. A school administrator, teacher, or other school employee designated by the school administrator may administer the medication to the student, but the medication must be administered in the presence of a second adult, except in an emergency situation. In many schools, licensed nursing professionals serve as school nurses, who administer medications to students as part of their nursing duties. Some people believe that licensed nurses, who are trained to dispense medicine, should be allowed to perform this duty without the presence of a second adult.

THE CONTENT OF THE BILL:

The bill would amend the Revised School Code to provide that the code's liability exemption for persons who administer medication to a pupil would apply to a school employee who was a licensed professional nurse, regardless of whether the medication was administered in the presence of another adult.

Currently, a school administrator, teacher, or other school employee designated by the school administrator, who in good faith administers medication to a pupil in the presence of another adult or in an emergency that threatens the pupil's life or health, pursuant to written permission of the pupil's parents or guardian and in compliance with a physician's instructions, is not liable in a criminal action or for civil damages as a result of the administration of the medication, except for an act or omission amounting to gross negligence or willful and

wanton misconduct. The bill would retain this provision but specifies that the school administrator, teacher, or employee would not be liable as a result of "an act or omission" in the administration of the medication.

MCL 380.1178

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have no fiscal impact on state or local government. (10-21-00)

ARGUMENTS:

For:

Licensed registered professional nurses who serve as school nurses have been trained in the appropriate procedures to follow when dispensing medicine. Thus, requiring another adult, including an unlicensed individual, to witness a school nurse administering medicine to a student is not necessary. As a result of this requirement, nurses often spend unproductive time locating another adult to witness medicine being administered to a student according to a physician's instructions, and students lose educational instruction time waiting for an adult to be located.

Response:

The presence of a second adult helps to minimize potential errors when medication is given to a student.

POSITIONS:

The Department of Education supports the bill. (2-8-00)

The Michigan Association of School Nurses supports the bill. (2-8-00)

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The Michigan Education Association supports the bill.
(2-8-00)

The Michigan Federation of Teachers and School
Related Personnel supports the bill. (2-8-00)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.