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Senate Bill 843 (as reported without amendment)  
Senate Bill 844 (Substitute S-1 as reported)  
Sponsor: Senator Peter J. Lucido (S.B. 843)  
Senator Michael D. MacDonald (S.B. 844)  
Committee: Health Policy and Human Services

## **CONTENT**

### **Senate Bill 843 would amend the Revised School Code to do the following:**

- Specify that a school employee who in good faith administered an epinephrine auto injector generally would not be liable in a criminal action or for civil damages as a result of an act or omission in the administration.
- Specify that the immunity conferred under the Code for the administration of a medication or epinephrine auto injector would not eliminate, limit, or reduce any other immunity or defense that a person could have under other State law.

### **Senate Bill 844 (S-1) would amend the Administration of Opioid Antagonists Act to do the following:**

- Specify that an agency that purchased, possessed, or distributed an opioid antagonist under the Act also would be immune from civil liability for death arising out of the administration of an opioid antagonist to an individual.
- Specify that an employee or agent who possessed, administered, or failed to administer an opioid antagonist under the Act would be immune from liability for injury, death, or damages arising out of the act or omission of administration if the conduct did not amount to willful or wanton misconduct that was the proximate cause of the injury, death, or damages.
- Exempt from criminal prosecution an employee or agent who failed to administer an opioid antagonist under the Act.
- Specify that immunity and exemptions conferred under the Act would not eliminate, limit, or reduce any other immunity or defense that could be available under the laws of the State.

### **Senate Bill 843**

Under the Revised School Code, 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 life or health of the pupil, pursuant to written permission of the pupil's parent or guardian, and in compliance with the instructions of a physician, physician's assistant, or certified nurse practitioner is not liable in a criminal action or for civil damages as a result of an act or omission in the administration of the medication, except for an act or omission amounting to gross negligence or willful or wanton misconduct. The Code also extends this exemption to a school employee who in good

faith administers an epinephrine auto injector to an individual consistent with policies under the Code. If a school employee is a licensed registered professional nurse, the above provision applies to that school employee regardless of whether the medication or epinephrine is administered in the presence of another adult.

The Code provides that a school district, nonpublic school district, member of a school board, or director or officer of a nonpublic school is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from a person acting as described above. Under the bill, a school district, nonpublic school, member of a school board, or director or officer of a nonprofit school also would not be liable in a criminal action.

Under the bill, the provisions described above would not eliminate, limit, or reduce any other immunity or defense that a person described above could have under other State law.

### **Senate Bill 844 (S-1)**

Under the Administration of Opioid Antagonists Act, an agency that purchases, possesses, or distributes an opioid antagonist under the Act is immune from civil liability for injuries or damages arising out of the administration of that opioid antagonist to an individual under the Act, if the conduct does not amount to gross negligence that is the proximate cause of the injury or damages. Under the bill, an agency that purchased, possessed, or distributed an opioid antagonist as described above also would be immune from civil liability for death arising out of the administration to an individual.

The Act provides that an employee or agent who possesses or in good faith administers an opioid antagonist under the Act is immune from civil liability for injuries or damages arising out of the administration of that opioid antagonist to an individual under the Act, if the conduct does not amount to gross negligence that is the proximate cause of the injury or damage. Under the bill, an employee or agent who possessed, administered, or failed to administer an opioid antagonist under the Act would be immune from civil liability for injury, death, or damages arising out of the administration or failure to administer that opioid antagonist to an individual under the Act, if the conduct did not amount to willful or wanton misconduct that was proximate cause of the injury, death, or damages.

The Act provides that an agency that purchases, possesses, or distributes an opioid antagonist under the Act, and an employee or agent that possesses, or in good faith administers, an opioid antagonist under the Act, is not subject to criminal prosecution for purchasing, possessing, or distributing an opioid antagonist under the Act or for administering an opioid antagonist to an individual under the Act. The bill would extend the exemption from criminal prosecution to an employee or an agent as described above who failed to administer an opioid antagonist to an individual under the Act.

Under the Code, the immunity provided as described above is in addition to any immunity otherwise provided by law. Instead, under the bill, the provisions described above would not eliminate, limit, or reduce any other immunity or defense that could be made available under the laws of the State.

MCL 380.1178 (S.B. 843)  
15.677 (S.B. 844)

Legislative Analyst: Tyler VanHuyse

## **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

Date Completed: 5-28-20

Fiscal Analyst: Joe Carrasco  
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