



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 843 and 844 (as enacted)
Sponsor: Senator Peter J. Lucido
Senate Committee: Health Policy and Human Services
Senate Committee: Health Policy
Judiciary

PUBLIC ACTS 320 & 321 of 2020

Date Completed: 3-23-21

CONTENT

Senate Bill 843 amended Section 1178 of the Revised School Code to do the following:

- Specify that a school employee who in good faith administers an epinephrine auto injector generally is not 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 Section 1178 for the administration of a medication or epinephrine auto injector does not eliminate, limit, or reduce any other immunity or defense that a person may have under other State law.

Senate Bill 844 amended Section 107 of the Administration of Opioid Antagonists Act to do the following:

- Specify that an agency that purchases, possesses, or distributes an opioid antagonist under the Act is 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 possesses, administers, or fails to administer an opioid antagonist under the Act is immune from liability for injury, death, or damages arising out of the act or omission of administration if the conduct does not amount to willful or wanton misconduct that is the proximate cause of the injury, death, or damages.
- Exempt from criminal prosecution an employee or agent who fails to administer an opioid antagonist under the Act.
- Specify that immunity and exemptions conferred under the Act do not eliminate, limit, or reduce any other immunity or defense that may be available under the laws of the State.

The bills took effect on December 29, 2020.

Senate Bill 843

Under Section 1178 of 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.

Section 1178 specifies 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 is not liable in a criminal action.

Under the bill, the Section 1178 does not eliminate, limit, or reduce any other immunity or defense that a person described above may have under other State law.

Senate Bill 844

Section 107 of The Administration of Opioid Antagonists Act specifies that 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 purchases, possesses, or distributes an opioid antagonist as described above also is immune from civil liability for death arising out of the administration to an individual.

Previously, Section 107 provided that an employee or agent who possessed or in good faith administered an opioid antagonist under the Act was 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 did not amount to gross negligence that was the proximate cause of the injury or damage. Instead, under the bill, an employee or agent who possesses, administers, or fails to administer an opioid antagonist under the Act is 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 does not amount to willful or wanton misconduct that is proximate cause of the injury, death, or damages.

Section 107 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 extends the exemption from criminal prosecution to an employee or an agent as described above who fails to administer an opioid antagonist to an individual under the Act.

Previously, the immunity provided as described above was in addition to any immunity otherwise provided by law. The bill deleted this provision. Instead, under the bill, Section 107 does not eliminate, limit, or reduce any other immunity or defense that may be made available under the laws of the State.

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

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

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

Fiscal Analyst: Joe Carrasco
Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.