

Legislative Analysis



PROHIBIT SCHOOLS FROM CERTAIN COVID-19-RELATED ACTIONS

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Senate Bills 600 (S-1) and 601 as passed by Senate
Sponsor: Sen. Lana Theis

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 602 (S-1) as passed by Senate
Sponsor: Sen. Tom Barrett

Senate Bill 603 (S-1) as passed by Senate
Sponsor: Sen. Kim LaSata

House Committee: Education
Senate Committee: Education and Career Readiness
Complete to 6-6-22

SUMMARY:

Together, Senate Bills 600 to 603 would do all of the following:

- Prohibit schools from requiring that a student receive a vaccine authorized under an emergency use authorization (EUA) as a condition of enrollment or participation in other activities and prohibit the Michigan Department of Education (MDE) and the Michigan Department of Health and Human Services (DHHS) from promulgating rules doing the same.
- Requiring that a waiver process be established if an approved COVID-19 vaccine is required for enrollment or attendance.
- Prohibit schools from requiring students who have not received a COVID-19 vaccine, whether authorized under an EUA or not, to wear a face mask or have separate seating from students who have received a COVID-19 vaccine.

Senate Bill 600 would amend the Revised School Code by adding two new sections, sections 1177b and 1177c, that would prohibit a school district, intermediate school district (ISD), or public school academy (PSA) from adopting a policy that requires an enrolled student to receive an *EUA vaccination* in order to do any of the following activities:

- Enter or attend a school operated in that school district, ISD, or PSA.
- Ride a school bus or other school-related vehicle.
- Participate in or attend a school-sponsored activity or event, regardless of whether that activity or event is held on school premises, including school-sponsored sports, band, theater, educational trips, or other extracurricular activities.

EUA vaccination would mean a vaccine authorized by the United States Food and Drug Administration for emergency use.

The bill also would prohibit a school district, ISD, or PSA from discriminating against or treating differently a student based solely on whether the student has received an EUA vaccination. Discrimination would include, at a minimum, the following conduct if based solely on whether the student has received an EUA vaccination (or on whether a waiver is submitted under the new 1177c as described below):

- Implementing segregated seating.

- Requiring that a student wear a *face mask*.
- Requiring that a student or any member of the student’s family pay a different fee for admission to a school-sponsored activity or event, including school-sponsored sports, band, theater, educational trips, or other extracurricular activities.
- The implementation of a policy that prohibits a student from participating in school-sponsored interscholastic athletic activities, including certain teams within a school-sponsored interscholastic athletic activity.

Face mask would mean a tightly woven cloth or other multilayer absorbent material that closely covers an individual’s mouth and nose.

The new section 1177c would require schools to provide a waiver process to opt out of receiving a COVID-19 vaccine that has received final authorization by the Food and Drug Administration if the school district, ISD, or PSA adopts a policy requiring enrolled students to receive that vaccine. A parent or legal guardian of a student, or a student who is at least 18 years of age or an emancipated minor, could request the waiver.

If a waiver were received for a student, the school district, ISD, or PSA would be prohibited from requiring the vaccination for the student to do any of the following:

- Enter or attend a school operated by the school district, ISD, or PSA.
- Ride a school bus or other school-related vehicle.
- Participate in or attend a school-sponsored activity or event, whether or not it is held on school premises, including school-sponsored sports, band, theater, educational trips, or other extracurricular activities.

Any of the following would be allowed as a waiver under the bill:

- A statement signed by the student’s parent or legal guardian, or a student who is at least 18 years of age or an emancipated minor, to the effect that the child has not received the vaccine because of religious convictions or other objection to the vaccination.
- A statement signed by a physician that certifies that the child is in the process of receiving the vaccine.
- A statement signed by a physician that certifies that the vaccine is or may be detrimental to the child’s health or is not appropriate.

Finally, the bill would prohibit a school district, ISD, or PSA from requiring that an individual receive an EUA vaccination or a COVID-19 vaccine that has received final authorization as a condition to attend a *board* meeting.

Board would mean the board of a school district or ISD or the board of directors of a PSA.

MCL 380.1177 and proposed MCL 380.1177b and 380.1177c

Senate Bill 601 would amend the Revised School Code by adding two new sections, sections 1136a and 1136b, that would mirror the language used in SB 600 regarding a waiver process, but would pertain to schools, ISDs, and PSAs that require students to wear a face mask. If a waiver were received for a student, their school district, ISD, or PSA would be prohibited from discriminating against that student solely because of that waiver.

The bill would also prohibit a requirement that a student who is asymptomatic be tested for COVID-19 to do the following:

- Enter or attend a school operated by the school district, ISD, or PSA.
- Ride a school bus or other school-related vehicle.
- Participate in or attend a school-sponsored activity or event, whether or not it is held on school premises, including school-sponsored sports, band, theater, educational trips, or other extracurricular activities.

The bill would also prohibit a school district, ISD, or PSA from discriminating against a student who is asymptomatic solely based on whether they have been tested. A board would be prohibited from requiring a face mask be worn at its meeting and from requiring an asymptomatic person be tested in order to attend its meeting.

Proposed MCL 380.1136a and 380.1136b

Senate Bill 602 would amend the Public Health Code to prohibit DHHS from promulgating a rule or enforcing a policy that SBs 600 and 601 would prohibit a school district, ISD, or PSA from implementing (i.e., requiring a child to receive an EUA vaccination, wear a face mask, or be tested for COVID-19 while asymptomatic in order to engage in the listed school-related activities). The bill would include nonpublic schools in the definition of a “school” for purposes of this prohibition.

Proposed MCL 333.5111a

Senate Bill 603 would amend the Public Health Code to prohibit an emergency order issued by DHHS, or by a local public health officer, from including provisions requiring students to wear a face mask, receive an EUA vaccine, or be tested for COVID-19 if asymptomatic in order to:

- Enter or attend a school operated by the school district, ISD, or PSA.
- Ride a school bus or other school-related vehicle.
- Participate in or attend a school-sponsored activity or event, whether or not it is held on school premises, including school-sponsored sports, band, theater, educational trips, or other extracurricular activities.

MCL 333.2253 and 333.3453

Senate Bills 600 and 602 are tie-barred to each other, as are Senate Bills 601 and 603. A bill cannot take effect unless each bill it is tie-barred to is also enacted.

FISCAL IMPACT:

The bills would have no fiscal impact on the state or on school districts, intermediate school districts (ISDs), or public school academies (PSAs).

Senate Bill 602 and 603 would have indeterminate fiscal implications for DHHS and for local public health departments. Health department costs related to pandemic events include monitoring, contact tracing, collaborating with other public and private entities for pandemic infrastructure and response, and many others. In the current pandemic many of these costs are

supported by state and local funds, and some of these costs have been supported by federal appropriations since FY 2019-20.

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