

SUBSTITUTE FOR
HOUSE BILL NO. 5414

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1307e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1307E. THE STATE POLICY UNDER SECTION 1307A SHALL INCLUDE
2 AT LEAST ALL OF THE FOLLOWING PROVISIONS CONCERNING DEVELOPMENT AND
3 IMPLEMENTATION OF AN EMERGENCY INTERVENTION PLAN:

4 (A) IF A PUPIL EXHIBITS A PATTERN OF BEHAVIOR THAT POSES A
5 SUBSTANTIAL RISK OF CREATING AN EMERGENCY SITUATION IN THE FUTURE
6 THAT COULD RESULT IN THE USE OF EMERGENCY SECLUSION OR EMERGENCY
7 PHYSICAL RESTRAINT, SCHOOL PERSONNEL SHOULD DEVELOP A WRITTEN
8 EMERGENCY INTERVENTION PLAN TO PROTECT THE HEALTH, SAFETY, AND
9 DIGNITY OF THE PUPIL. THE EMERGENCY INTERVENTION PLAN SHOULD BE
10 DEVELOPED IN PARTNERSHIP WITH THE PARENT OR GUARDIAN BY A TEAM THAT

1 INCLUDES A TEACHER, AN INDIVIDUAL KNOWLEDGEABLE ABOUT THE LEGALLY
2 PERMISSIBLE USE OF EMERGENCY SECLUSION AND EMERGENCY PHYSICAL
3 RESTRAINT, AND AN INDIVIDUAL KNOWLEDGEABLE ABOUT THE USE OF
4 POSITIVE BEHAVIORAL INTERVENTION AND SUPPORT TO ELIMINATE THE USE
5 OF SECLUSION AND RESTRAINT. THE EMERGENCY INTERVENTION PLAN SHOULD
6 BE DEVELOPED AND IMPLEMENTED BY TAKING ALL OF THE FOLLOWING
7 DOCUMENTED STEPS:

8 (i) DESCRIBE IN DETAIL THE EMERGENCY INTERVENTION PROCEDURES.

9 (ii) DESCRIBE IN DETAIL THE LEGAL LIMITS ON THE USE OF
10 EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT, INCLUDING
11 EXAMPLES OF LEGALLY PERMISSIBLE AND PROHIBITED USE.

12 (iii) MAKE INQUIRY TO THE PUPIL'S MEDICAL PERSONNEL, WITH
13 PARENTAL CONSENT, REGARDING ANY KNOWN MEDICAL OR HEALTH
14 CONTRAINDICATIONS FOR THE USE OF EMERGENCY SECLUSION OR EMERGENCY
15 PHYSICAL RESTRAINT.

16 (iv) CONDUCT A PEER REVIEW BY KNOWLEDGEABLE SCHOOL PERSONNEL.

17 (v) PROVIDE THE PARENT OR GUARDIAN WITH ALL OF THE FOLLOWING,
18 IN WRITING AND ORALLY:

19 (A) A DETAILED EXPLANATION OF THE POSITIVE BEHAVIORAL
20 INTERVENTION AND SUPPORT STRATEGIES THAT WILL BE UTILIZED TO REDUCE
21 THE RISK OF THE PUPIL'S BEHAVIOR CREATING AN EMERGENCY SITUATION.

22 (B) AN EXPLANATION OF WHAT CONSTITUTES AN EMERGENCY SITUATION
23 AS DEFINED IN SECTION 1307H, INCLUDING EXAMPLES OF SITUATIONS THAT
24 WOULD FALL WITHIN THE DEFINITION AND SITUATIONS THAT WOULD FALL
25 OUTSIDE THE DEFINITION.

26 (C) A DETAILED EXPLANATION OF THE INTERVENTION PROCEDURES TO
27 BE FOLLOWED IN AN EMERGENCY SITUATION, INCLUDING THE POTENTIAL USE

1 OF EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT.

2 (D) A DETAILED EXPLANATION OF THE LEGAL LIMITS ON THE USE OF
3 EMERGENCY SECLUSION AND EMERGENCY PHYSICAL RESTRAINT, INCLUDING
4 EXAMPLES OF LEGALLY PERMISSIBLE AND PROHIBITED USE.

5 (E) A DESCRIPTION OF POSSIBLE DISCOMFORTS OR RISKS.

6 (F) ANSWERS TO ANY QUESTIONS.

7 (B) A PUPIL WHO IS THE SUBJECT OF AN EMERGENCY INTERVENTION
8 PLAN SHOULD BE TOLD OR SHOWN THE CIRCUMSTANCES UNDER WHICH
9 EMERGENCY SECLUSION OR EMERGENCY PHYSICAL RESTRAINT COULD BE USED.

10 (C) EMERGENCY SECLUSION OR EMERGENCY PHYSICAL RESTRAINT MUST
11 ONLY BE USED IN RESPONSE TO AN ONGOING EMERGENCY SITUATION AND NOT
12 AS A PLANNED RESPONSE FOR THE CONVENIENCE OF SCHOOL PERSONNEL, AS
13 DISCIPLINE OR PUNISHMENT, OR AS A SUBSTITUTE FOR AN APPROPRIATE
14 EDUCATIONAL PROGRAM. THE DEVELOPMENT OF AN EMERGENCY INTERVENTION
15 PLAN SHALL BE SOLELY FOR THE PURPOSE OF PROTECTING THE HEALTH,
16 SAFETY, AND DIGNITY OF THE PUPIL AND DOES NOT EXPAND THE LEGALLY
17 PERMISSIBLE USE OF EMERGENCY SECLUSION OR EMERGENCY PHYSICAL
18 RESTRAINT.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.

21 Enacting section 2. This amendatory act does not take effect
22 unless all of the following bills of the 98th Legislature are
23 enacted into law:

24 (a) House Bill No. 5410.

25 (b) House Bill No. 5417.