

Act No. 364  
Public Acts of 2020  
Approved by the Governor  
January 4, 2021  
Filed with the Secretary of State  
January 4, 2021  
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**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2020**

**Introduced by Reps. Warren, Rendon, Lasinski, LaGrand, Brenda Carter, Kennedy, Koleszar,  
Kuppa, Filler, Miller, Howell, LaFave and Berman**

# **ENROLLED HOUSE BILL No. 5418**

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to make appropriations for certain purposes; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,”

(MCL 380.1 to 380.1852) by adding sections 1180 and 1181.

*The People of the State of Michigan enact:*

Sec. 1180. (1) The administrator of a public or nonpublic school, or his or her designee, who receives a copy of a do-not-resuscitate order executed under section 3a or 3b of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1053a and 333.1053b, from a parent or legal guardian of a pupil enrolled in the school shall ensure that all of the following are met:

(a) The copy of the do-not-resuscitate order is placed in a file created specifically for a copy of a do-not-resuscitate order or the revocation of a do-not-resuscitate order in a manner and location to be determined by the administrator of the public or nonpublic school, regardless of whether the order pertains to a pupil with an individualized education program.

(b) If the administrator, or his or her designee, received a copy of a do-not-resuscitate order for a pupil during the immediately preceding school year, the administrator, or his or her designee, inquires of the pupil's parent or legal guardian at the beginning of the school year to determine if the order is still in effect.

(c) The administrator, or his or her designee, provides actual notice of the do-not-resuscitate order described in this subsection to each teacher or other school employee who provides instructional or noninstructional services directly to the pupil.

(2) The administrator, or his or her designee, who receives actual notice of a revocation of a do-not-resuscitate order under section 10 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1060, shall provide actual notice of the revocation to each teacher or other school employee who provides instructional or noninstructional services directly to the pupil.

(3) If a public or nonpublic school has a copy of a do-not-resuscitate order in a file described under subsection (1)(a) for a pupil, the board of the school district or intermediate school district that operates the school, the board of directors of the public school academy that operates the school, or the governing body of the nonpublic school that operates the school shall ensure that timely and appropriate training regarding compliance with the do-not-resuscitate order is provided to each teacher or other school employee who provides services to the pupil, according to his or her level of responsibility.

(4) All of the following apply:

(a) A school administrator, teacher, or other school employee who calls 9-1-1 in an emergency that threatens the life or health of a pupil described under subsection (1) is not liable in a criminal action or for civil damages as a result of that act.

(b) A school administrator, teacher, or other school employee is not subject to civil or criminal liability as provided under sections 12 and 13 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1062 and 333.1063.

(c) A school administrator, teacher, or other school employee, who in good faith in accordance with his or her knowledge and ability administers or attempts to administer a comfort care measure to a pupil, or in good faith in accordance with his or her knowledge and ability acts or attempts to act in compliance with a do-not-resuscitate order, in an emergency that threatens the life or health of the pupil is not liable in a criminal action or for civil damages as a result of an act or omission in the administration or attempted administration of the comfort care measure or as a result of an act or omission in acting or attempting to act in compliance with the do-not-resuscitate order, except for an act or omission amounting to gross negligence or willful or wanton misconduct.

(d) This subsection does not eliminate, limit, or reduce any other immunity or defense that a person described under subdivision (a), (b), or (c) may have under other state law.

(5) An individual shall comply with section 11(3) of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1061.

(6) A school district, intermediate school district, public school academy, nonpublic school, member of a school board, or director or officer of a public school academy or nonpublic school is not liable for damages in a civil action for injury, death, or loss to an individual or property allegedly arising from an individual acting under this section. This subsection does not eliminate, limit, or reduce any other immunity or defense that a person described under this subsection may have under other state law.

(7) This section does not create a right to an individualized education program.

(8) As used in this section:

(a) "Actual notice" means that term as defined in section 2 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1052.

(b) “Comfort care measure” means a treatment designed by the physician issuing a do-not-resuscitate order for a pupil to ensure the pupil’s mental and physical comfort in circumstances in which resuscitation is not attempted. Comfort care measure does not include the routine provision of medications, treatment, or procedures.

(c) “Do-not-resuscitate order” or “order” means that term as defined in section 2 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1052.

(d) “Individualized education program” means that term as defined in section 1704.

Sec. 1181. (1) The administrator of a public or nonpublic school, or his or her designee, who receives a copy of a POST form from a parent or legal guardian of a pupil enrolled in the school shall ensure that all of the following are met:

(a) The copy of the POST form must be placed in a file created specifically for a copy of a POST form or the revocation of a POST form, in a manner and location to be determined by the administrator of the public or nonpublic school, regardless of whether the form pertains to a pupil with an individualized education program.

(b) If the administrator, or his or her designee, received a copy of a POST form for a pupil during the immediately preceding school year, the administrator, or his or her designee, inquires of the pupil’s parent or legal guardian at the beginning of the school year to determine if the POST form is still in effect and requests an updated copy of the form, if applicable.

(c) The administrator, or his or her designee, provides actual notice of the POST form described in this subsection to each teacher or other school employee who provides instructional or noninstructional services directly to the pupil.

(2) The administrator of a public or nonpublic school, or his or her designee, who receives actual notice that a POST form described in subsection (1) has been revoked shall immediately place the revocation in the file described under subsection (1)(a) and shall provide actual notice of the revocation to each teacher or other school employee who provides instructional or noninstructional services directly to the pupil, regardless of whether the revocation pertains to a pupil with an individualized education program.

(3) If a public or nonpublic school has a copy of a POST form in a file described under subsection (1)(a) for a pupil, the board of the school district or intermediate school district that operates the school, the board of directors of the public school academy that operates the school, or the governing body of the nonpublic school that operates the school shall ensure that timely and appropriate training regarding compliance with the POST form is provided to each teacher or other school employee who provides services to the pupil, according to his or her level of responsibility.

(4) All of the following apply:

(a) A school administrator, teacher, or other school employee who calls 9-1-1 in an emergency that threatens the life or health of a pupil described under subsection (1) is not liable in a criminal action or for civil damages as a result of that act.

(b) A school administrator, teacher, or other school employee, who in good faith in accordance with his or her knowledge and ability provides or attempts to provide medical care to a pupil consistent with the pupil’s POST form in an emergency that threatens the life or health of the pupil, is not liable in a criminal action or for civil damages as a result of an act or omission in providing or attempting to provide the medical care, except for an act or omission amounting to gross negligence or willful or wanton misconduct.

(c) This subsection does not eliminate, limit, or reduce any other immunity or defense that a person described under subdivision (a) or (b) may have under other state law.

(5) A school district, intermediate school district, public school academy, nonpublic school, member of a school board, or director or officer of a public school academy or nonpublic school is not liable for damages in a civil action for injury, death, or loss to an individual or property allegedly arising from an individual acting under this section. This subsection does not eliminate, limit, or reduce any other immunity or defense that a person described under this subsection may have under other state law.

(6) This section must not be construed to create a right to an individualized education program.

(7) As used in this section:

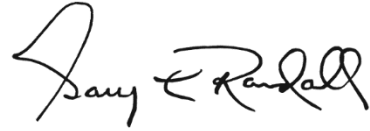
(a) “Actual notice” means that term as defined in section 5672 of the public health code, 1978 PA 368, MCL 333.5672.

(b) “Individualized education program” means that term as defined in section 1704.

(c) “POST form” means that term as defined in section 5674 of the public health code, 1978 PA 368, MCL 333.5674.

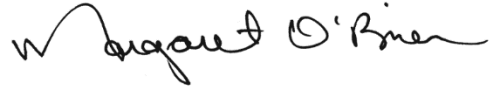
Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5417 of the 100th Legislature is enacted into law.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved \_\_\_\_\_

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Governor