

SCHOOL SAFETY INSPECTIONS (LILLIANA’S LAW)

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House Bill 4167 (H-1) as reported from committee

Sponsor: Rep. Ryan Berman

Committee: Education

Complete to 5-13-21

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

SUMMARY:

House Bill 4167 would add a section to the Revised School Code entitled “Lilliana’s Law,” which would require districts, intermediate school districts (ISDs), public school academies (PSAs, or charter schools), and nonpublic schools to conduct yearly health and safety inspections of their school premises, with the first to take place by August 15, 2022, and yearly thereafter. The Department of Health and Human Services (DHHS) would have to develop and publish guidelines for these inspections by March 1, 2022.

The bill would require each entity described below to designate an individual to inspect the school premises, including each *school building*, of every school operated by the entity for *health and safety violations*, in accordance with guidelines developed and published by DHHS:

- For ISDs, an ISD superintendent or designee. (Inspections would have to be conducted for each ISD school (buildings and premises) as well as each school (buildings and premises) operated by a constituent school district.)
- For PSAs, an individual designated by the PSA board of directors.
- For nonpublic schools, an individual designated by the nonpublic school’s governing body.

School building would mean a building used primarily to provide instruction to pupils and a recreational or athletic structure or field intended to be used by pupils.

Health and safety violation would include either of the following:

- The presence on school premises of a table, chair, desk, movable wall, bleacher, or fixture, including a shelf or other piece of furniture, that has been recalled, found defective, or otherwise been declared unsafe by any state or federal department or agency.
- The presence of anything on school premises that would raise a clear and obvious concern for student safety based on the good-faith judgment of the individual conducting the inspection of the school premises.

The inspection guidelines developed by DHHS would have to state that inspection of any portion of a school premises would not be required if that inspection were already required by any other Michigan department or agency.

Within 14 days after an inspection, the individual who conducted the inspection (or his or her successor) would have to submit an inspection report to DHHS. The report would have to include notice of any health and safety violations on inspected premises and, if applicable, a statement detailing any modification or remedial measure that will be taken to address the violation.

Generally, within 14 days after the report was submitted, if modification or remedial measures were required, the individual who conducted the inspection (or his or her successor) would have to submit proof that it had occurred. However, if the entity (ISD, district, PSA, or nonpublic school) contracted for the completion of the measure, the individual who submitted the report (or his or her successor) would instead have to submit proof to DHHS of the steps taken to ensure completion, as well as the eventual proof of completion.

Finally, the board of the ISD, board of directors of the PSA, or governing body of the nonpublic school, as applicable, would have to ensure that the initial inspection report was posted on its website, subject to state and federal privacy laws.

The bill would take effect 90 days after its enactment.

Proposed MCL 380.1263a

BACKGROUND:

The bill is understood to be a response to the 2017 death of a three-year-old child at a Head Start program, which occurred when a lunch table fell on her.¹

FISCAL IMPACT:

State

DHHS would have additional costs under House Bill 4167, estimated to be between \$100,000 and \$500,000. Costs would include development of guidelines and reporting systems for health and safety inspections of school premises and buildings, information technology systems, support, training, and a system for receipt and tracking of the inspection and follow-up reports for over 4,500 school buildings. Initial information technology costs may be higher than ongoing costs.

The Department of Licensing and Regulatory Affairs (LARA) currently conducts several types of inspections on schools, though none are completed on a regularly scheduled basis. The Bureau of Construction Codes conducts inspections related to construction permits obtained by schools, the Bureau of Community and Health Systems inspects schools containing licensed child care facilities, and the Bureau of Fire Services conducts necessary inspections pursuant to the Fire Prevention Code. Generally speaking, LARA defrays the costs that it incurs to conduct the inspections through the imposition of various fees on facilities undergoing said inspections.

Local

House Bill 4167 would create an indeterminate cost increase for ISDs, PSAs, and nonpublic schools to annually inspect all school premises, including each school building, for health and safety violations. ISDs, PSAs, and nonpublic schools would incur costs to dedicate staff time, training, and travel for inspections, follow-up notifications, and reporting to carry out the bill's requirements. Additionally, startup costs may be higher in the initial year for training and the development of administrative systems to meet the requirements of the bill. Over 4,500 buildings fall under the requirements of this bill. (This number does not include athletic structures/fields that must be inspected under the bill.)

¹ <https://www.fox2detroit.com/news/mom-of-girl-killed-by-falling-lunch-table-fights-for-lillianas-law>

Beyond the initial startup costs and annual inspections, ISDs, school districts, PSAs, and nonpublic schools would incur additional costs if inspections determined that there was a health and safety violation on one of their school premises, which would require proof of modification or remedial measures. This cost is indeterminate, as it would depend on the type and extent of repair and remediation necessary.

[Note: While constituent districts are not explicitly required to perform inspections, it is likely that they would assume at least a portion of the inspection costs that fall on ISDs. This would likely take the form of redirecting staff time from other required activities to meet the bill's requirements.]

ARGUMENTS:

For:

Supporters described the death of a child at a Head Start program and argued that no more children should suffer injury or death because of accidents that could be prevented by regular inspections of school buildings. They pointed to the numerous health and safety inspections conducted annually at facilities ranging from amusement parks to funeral homes—surely schools should be held to the same level of scrutiny.

Against:

Some indicated that they do not oppose the intent of the bill—a safer school environment for all students—but rather the logistics and fiscal concerns accompanying those goals. The bill requires individual districts, ISDs, and PSAs to perform inspections, but it does so without providing additional funding to complete those tasks. There was a concern that this creates an unfunded mandate and would shift funds from the important goals of educating students. Some also wonder how useful the resulting report would be, given that there are no background or knowledge-base requirements for the person writing and submitting it.

POSITIONS:

The following entities indicated opposition to the bill:

Michigan Association of Secondary School Principals (3-23-21)

Michigan Association of School Boards (3-23-21)

Michigan Association of Superintendents and Administrators (3-23-21)

Michigan Association of Intermediate School Administrators (4-13-21)

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