



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-8486

DSS SCHOOL RESPONSIBILITIES

House Bill 5394 (Substitute H-1)
First Analysis (1-30-92)

Sponsor: Rep. Kirk Profit
Committee: Education

THE APPARENT PROBLEM:

School officials and citizens in some school districts have expressed strong opposition, and even alarm, over plans by the Department of Social Services to transfer responsibility for the education of young people placed in DSS juvenile facilities to the local school districts in which the residential facilities are located, including the funding of the education. The DSS based the plans on its belief that the local districts are, under the constitution and school-related statutes, primarily responsible for the education of elementary and secondary school pupils and that such a transfer would improve the quality of education of the youth under DSS care. The department's intentions became public knowledge late last summer, causing what one observer has called "a firestorm," and opponents have characterized the plans as simply a way for the DSS to shed a \$14 million item from its budget and force the state school aid fund and local taxpayers to pick up the costs. (The DSS had said reducing expenditures was one of its aims.) This is not a cost local school systems feel they can bear. There are also fears that institutionalized juveniles, some of whom have committed serious violent offenses, would begin attending local public schools or that local district teachers not equipped to deal with students with such backgrounds and problems would be responsible for teaching in DSS facilities. From the local school districts' point of view, there are numerous other problems with the mechanics of the DSS proposal, such as the melding of teachers who belong to different bargaining units, with complicated questions of seniority and transfer, the impact on student test scores and discipline policies, the effect on public support for local schools, including millage elections, and the need for two agencies to be involved in the administration of a single youth facility.

In the best known case, the DSS proposed that the responsibility for educating the over 400 residents at the W. J. Maxey Boys Training School be transferred to the Whitmore Lake School District, thereby increasing its student population by 50

percent. In another case, responsibility for educating the youth at the Genesee Valley Regional Detention Center would have fallen on the Flushing Community Schools. The superintendent there, who has toured the detention facility, claims that his district could not provide the same quality of education and the same specially trained teachers already being provided there in a setting he described as "a prison." While in some cases the transfer of educational programs from the DSS to local or state education departments may be workable or desirable, representatives of local school officials argue that it should not be done unilaterally, without the consent of the local districts, and legislation needs to be enacted to prevent the DSS from doing so.

THE CONTENT OF THE BILL:

The bill would amend the School Code to permit the Department of Social Services to consult with the Department of Education and to enter into contracts with school districts, intermediate school districts, and other providers for the provision of educational services to children and youth residing in facilities operated by the DSS. However, the bill would specify that the responsibility for funding and providing education to those children and youth could not be transferred to a local school district, an intermediate school district, or the Department of Education.

MCL 380.1149

FISCAL IMPLICATIONS:

According to the Department of Education, the legislation seeks to preserve the status quo, and thus the bill would have little or no budgetary consequences for the department. (1-13-92) The Department of Education notes that the bill would "deny access to school aid assistance" for the affected youth; under the school aid formula,

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districts would be eligible to receive per-pupil aid at 1 1/2 times the membership rate. (1-27-92)

ARGUMENTS:

For:

The bill would represent a clear statement by the legislature that the DSS cannot shift the responsibility for the education of young people in DSS residential facilities to the local or intermediate school districts where the facilities are located nor to the state Department of Education. It is unfair to demand of a local school district that they take on the responsibility for educating young people from all over the state because courts have assigned them to a residential facility that happens to be located within the boundaries of that school district. It is an unusual and very narrow interpretation of the state constitution and statutes to argue that the responsibility legally belongs to local districts. It is outrageous that the DSS would use this argument to shed its educational responsibilities in order to push these costs onto other budgets after years of providing the educational services themselves. The Youth Rehabilitation Services Act, for example, requires the DSS to accept certain young people as state wards and requires the department "to provide the food, clothing, housing, educational, medical and treatment needs of the youth." It may be that the education of some students under DSS care can best be handled by local school districts and that some of the young people at residential facilities should be attending the local public schools. That can continue to happen under this bill through contracts between the DSS and local and intermediate districts. What the bill would prevent is the unilateral "dumping" of education responsibilities on local districts as a way of reducing the DSS budget.

Against:

The bill is not necessary because the DSS has said that it will not pursue its original plan of transferring the responsibility for educational services at DSS residential programs to local public school districts. Although DSS leadership continues to argue that the responsibility for educating youth in residential care belongs to the Department of Education and local districts and that the young people in DSS facilities would benefit from a transfer of responsibility, they have responded to opposition from local districts by backing off from the original proposal. Currently, an interdepartmental committee from the Departments

of Education and Social Services are looking at alternative methods of providing quality educational services to the youth the courts have assigned to DSS care. It is a mistake to pass a bill that forecloses future resolutions of this issue.

Response:

In a recent letter, the director of the DSS, Gerald Miller, says: "I continue to believe that the responsibility for the education of youth under DSS care is that of the local school district." In another, Director Miller says: "I continue to believe that the Michigan Department of Education has responsibility for all public education K-12, including youth in residential care. I continue to be concerned about issues of standard setting, access to state school aid, accreditation, and transferability of school credits earned, and the quality of education to our youth in general." This suggests that the DSS could at any time decide again to move toward the transfer of educational responsibilities, making this bill a necessary precaution.

Against:

The DSS makes the following points in defense of its original proposal. The responsibility for educating the state's elementary and secondary pupils, according to the state constitution and school-related statutes, lies with the local school district. It would be in the best interest of children under DSS care to be in educational programs run by the public educational system. The state department and local districts have the expertise to set standards and administer programs, the DSS does not. The children under DSS care will be going back to their own local school districts at some point, so they will need the educational experience that will allow them to reintegrate successfully. They need credits that will transfer and a curriculum that will prepare them for the public schools. The DSS also points out that educational programs in DSS facilities could be a useful way of implementing pilot programs that could later be used with similar students in local public schools, students who pose the most serious educational challenges to schools. The DSS says it never intended that the adjudicated delinquent youth in DSS facilities all attend the local public school, although a few would benefit from this. The aim has been to have the school districts take responsibility for educating the youth under DSS care at the facilities where they reside.

POSITIONS:

A representative from the Department of Social Services testified that the department strongly opposes the bill. (1-28-92)

The Michigan Association of School Boards supports the bill. (1-28-92)

Representatives from the Whitmore Lake School District and Flushing Community Schools testified in favor of the bill. (1-28-92)

Others indicating support for the bill to the House Education Committee include: the Michigan Education Association; the Michigan Federation of Teachers; and the Michigan Association of School Administrators. (1-28-92)