

HOUSE BILL No. 4565

March 14, 1991, Introduced by Reps. Jondahl, Bryant, DeMars, Profit, Kosteva, Gubow, Dolan, Perry Bullard, Berman, Barns, Hollister, Pitoniak and Jaye and referred to the Committee on Judiciary.

A bill to amend Act No. 451 of the Public Acts of 1976,
entitled as amended

"The school code of 1976,"

as amended, being sections 380.1 to 380.1852 of the Michigan
Compiled Laws, by adding section 1191.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 451 of the Public Acts of 1976, as
2 amended, being sections 380.1 to 380.1852 of the Michigan
3 Compiled Laws, is amended by adding section 1191 to read as
4 follows:

5 SEC. 1191. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-
6 TION, A PUPIL IN A PUBLIC SCHOOL HAS THE RIGHT TO EXERCISE FREE-
7 DOM OF SPEECH AND FREEDOM OF THE PRESS WHILE IN ATTENDANCE AT
8 SCHOOL OR SCHOOL-RELATED FUNCTIONS. THOSE RIGHTS INCLUDE, BUT
9 ARE NOT LIMITED TO, ALL OF THE FOLLOWING FORMS OF EXPRESSION,

1 WHETHER OR NOT THE FORM OF EXPRESSION IS FINANCIALLY SUPPORTED BY
2 THE SCHOOL, INVOLVES USE OF SCHOOL FACILITIES, OR IS PRODUCED IN
3 CONJUNCTION WITH A COURSE:

4 (A) USE OF BULLETIN BOARDS.

5 (B) DISTRIBUTION OF PRINTED MATERIALS OR PETITIONS, OR
6 BOTH.

7 (C) WEARING OF BUTTONS, BADGES, OR OTHER INSIGNIA.

8 (D) PERFORMANCE OF THEATRICAL OR MUSICAL EVENTS, OR BOTH.

9 (E) PUBLICATION OF EXPRESSION IN SCHOOL-SPONSORED PUBLICA-
10 TIONS OR OTHER PUBLICATIONS MADE AVAILABLE TO STUDENTS.

11 (2) A PUPIL SHALL NOT EXPRESS, PUBLISH, OR DISTRIBUTE MATE-
12 RIAL THAT CONSTITUTES 1 OR MORE OF THE FOLLOWING:

13 (A) IS OBSCENE TO MINORS UNDER STATE LAW.

14 (B) IS DEFAMATORY UNDER STATE LAW.

15 (C) SO INCITES PUPILS AS TO CREATE A CLEAR AND PRESENT
16 DANGER OF THE COMMISSION OF UNLAWFUL ACTS ON SCHOOL PREMISES OR
17 THE VIOLATION OF LAWFUL SCHOOL REGULATIONS, OR TO CAUSE SCHOOL
18 ADMINISTRATORS TO REASONABLY BELIEVE THERE IS A CLEAR AND PRESENT
19 DANGER OF A MATERIAL AND SUBSTANTIAL DISRUPTION OF THE ORDERLY
20 OPERATION OF THE SCHOOL, BASED ON SPECIFIC FACTS SUCH AS PAST
21 EXPERIENCE IN THE SCHOOL AND EVENTS INFLUENCING PUPIL BEHAVIOR AT
22 THE TIME THE EXPRESSION IS MADE AND NOT ON UNDIFFERENTIATED FEAR
23 OR APPREHENSION.

24 (3) IF A SCHOOL SPONSORS A PUBLICATION THAT IS PUBLISHED BY
25 PUPILS, THE PUPILS CONSTITUTING THE EDITORIAL STAFF ARE RESPONSI-
26 BLE FOR DETERMINING THE NEWS, OPINION, AND ADVERTISING CONTENT OF
27 THE PUBLICATION. THERE SHALL BE A FACULTY ADVISER FOR EACH

1 PUBLICATION, WHO SHALL SUPERVISE THE PRODUCTION OF THE
2 PUBLICATION AND TEACH PROFESSIONAL STANDARDS OF ENGLISH AND JOUR-
3 NALISM TO THE PUPILS INVOLVED IN THE PUBLICATION. A SCHOOL
4 ADMINISTRATOR, SCHOOL DISTRICT, OR SCHOOL BOARD SHALL NOT DIS-
5 CHARGE, TRANSFER, OR REMOVE FROM HIS OR HER POSITION A FACULTY
6 ADVISER FOR REFUSING TO SUPPRESS OR INTERFERE WITH THE FREE
7 EXPRESSION RIGHTS SPECIFIED IN THIS SECTION OR IN OTHER LAW.

8 (4) A SCHOOL ADMINISTRATOR, SCHOOL DISTRICT, OR SCHOOL BOARD
9 SHALL NOT SUBJECT A PUBLICATION PRODUCED BY PUPILS, WHETHER OR
10 NOT THE PUBLICATION IS SPONSORED OR ENDORSED BY THE SCHOOL, TO
11 PRIOR REVIEW.

12 (5) AN EXPRESSION MADE BY A PUPIL EXERCISING HIS OR HER FREE
13 SPEECH OR FREE PRESS RIGHTS IS NOT AN EXPRESSION OF SCHOOL
14 POLICY, AND A SCHOOL BOARD, SCHOOL DISTRICT, SCHOOL BOARD MEMBER,
15 OR SCHOOL ADMINISTRATOR IS NOT LIABLE IN ANY CIVIL OR CRIMINAL
16 ACTION FOR ANY EXPRESSION MADE OR PUBLISHED BY PUPILS UNLESS THE
17 SCHOOL BOARD, SCHOOL DISTRICT, SCHOOL BOARD MEMBER, OR SCHOOL
18 ADMINISTRATOR HAS ALTERED OR INTERFERED WITH THE CONTENT OF THE
19 PUPIL EXPRESSION.

20 (6) THE BOARD OF EACH SCHOOL DISTRICT SHALL MAKE AND ENFORCE
21 SUITABLE REGULATIONS ESTABLISHING A WRITTEN STUDENT FREE EXPRES-
22 SION POLICY THAT IS CONSISTENT WITH THIS SECTION. THE POLICY MAY
23 INCLUDE, BUT IS NOT LIMITED TO, REASONABLE PROVISIONS FOR REGU-
24 LATING THE TIME, PLACE, AND MANNER OF EXPRESSION BY PUPILS AND A
25 COPY SHALL BE DISTRIBUTED TO EACH PUPIL AT THE BEGINNING OF EACH
26 SCHOOL YEAR.

1 (7) A PUPIL, A PARENT OR GUARDIAN ON BEHALF OF A PUPIL, OR A
2 FACULTY ADVISER MAY BRING AN APPROPRIATE ACTION FOR INJUNCTIVE OR
3 DECLARATORY RELIEF IN THE CIRCUIT COURT IN A COUNTY IN WHICH THE
4 SCHOOL DISTRICT IS LOCATED TO ENFORCE THIS SECTION.