

# SENATE BILL No. 338

May 29, 1991, Introduced by Senators SCHWARZ, DE GROW,  
WARTNER and BERRYMAN and referred to the Committee  
on Education.

A bill to amend section 1312 of Act No. 451 of the Public  
Acts of 1976, entitled as amended  
"The school code of 1976,"  
as amended by Act No. 521 of the Public Acts of 1988, being sec-  
tion 380.1312 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1.   Section 1312 of Act No. 451 of the Public Acts  
2 of 1976, as amended by Act No. 521 of the Public Acts of 1988,  
3 being section 380.1312 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5       Sec. 1312.   (1) As used in this section, "corporal  
6 punishment" means ~~the deliberate infliction of physical pain by~~  
7 ~~any means upon the whole or any part of a pupil's body as a~~  
8 ~~penalty or punishment for a pupil's offense~~ HITTING, PADDLING,  
9 SPANKING, SLAPPING, OR ANY OTHER PHYSICAL FORCE USED AS A MEANS

1 OF DISCIPLINE THAT IS UNREASONABLY INFLICTED UPON A PUPIL AND  
2 CAUSES PHYSICAL HARM TO THE PUPIL. CORPORAL PUNISHMENT DOES NOT  
3 INCLUDE AN ACT THAT IS CONSISTENT WITH AN INDIVIDUALIZED EDUCA-  
4 TIONAL PLAN OR BEHAVIOR MANAGEMENT PROGRAM DEVELOPED FOR A HANDI-  
5 CAPPED PERSON PURSUANT TO ARTICLE 3 AND THE RULES PROMULGATED  
6 UNDER THAT ARTICLE OR PURSUANT TO RULES PROMULGATED UNDER THE  
7 REHABILITATION ACT OF 1973, PUBLIC LAW 93-112, 87 STAT. 355.  
8 CORPORAL PUNISHMENT ALSO DOES NOT INCLUDE PHYSICAL PAIN OR DIS-  
9 COMFORT CAUSED BY PARTICIPATION IN PRACTICE OR COMPETITION IN AN  
10 INTERSCHOLASTIC ATHLETIC ACTIVITY, PARTICIPATION IN PHYSICAL EDU-  
11 CATION, OR PARTICIPATION IN AN EXTRACURRICULAR ACTIVITY.

12 (2) A person employed by or engaged as a volunteer or con-  
13 tractor by a local or intermediate school board OR THE BOARD OF A  
14 NONPUBLIC SCHOOL shall not ~~threaten to inflict,~~ inflict ~~,~~ or  
15 cause to be inflicted corporal punishment upon any pupil.  
16 However, the person ~~, within the scope of his or her~~  
17 ~~responsibilities,~~ may use such reasonable physical force UPON A  
18 PUPIL as may be necessary: ~~to:~~

19 (a) ~~Protect himself, herself, the pupil, or others from~~  
20 ~~immediate physical injury.~~ FOR SELF-DEFENSE OR THE DEFENSE OF  
21 ANOTHER.

22 (b) ~~Obtain~~ TO OBTAIN possession of a weapon or other dan-  
23 gerous object upon or within the control of a pupil.

24 (c) ~~Protect~~ TO PROTECT property. ~~from physical damage.~~

25 (D) TO REMOVE A DISRUPTIVE PUPIL FROM A CLASSROOM, ANOTHER  
26 LOCATION ON SCHOOL PREMISES, SCHOOL PREMISES, SCHOOL BUS OR OTHER

1 SCHOOL-RELATED MOTOR VEHICLE, OR A SCHOOL SPONSORED ACTIVITY OR  
2 EVENT WHETHER OR NOT IT IS HELD ON SCHOOL PREMISES.

3 (E) TO PREVENT A PUPIL FROM INFLECTING HARM ON HIMSELF OR  
4 HERSELF.

5 (F) TO QUELL A DISTURBANCE OR PREVENT AN ACT THAT THREATENS  
6 PHYSICAL INJURY TO ANY PERSON.

7 (G) FOR INCIDENTAL OR MINOR PHYSICAL CONTACT OR ANOTHER ACT  
8 INTENDED TO MAINTAIN ORDER AND CONTROL IN A SCHOOL OR  
9 SCHOOL-RELATED SETTING.

10 (3) A person employed by or engaged as a volunteer or con-  
11 tractor by a local or intermediate school board OR THE BOARD OF A  
12 NONPUBLIC SCHOOL who exercises necessary reasonable physical  
13 force upon a pupil, OR UPON ANOTHER PERSON OF SCHOOL AGE IN A  
14 SCHOOL-RELATED SETTING, as described in subsection (2) ~~shall~~ IS  
15 not ~~be~~ liable in a civil action for damages arising from the  
16 use of that physical force as provided in Act No. 170 of the  
17 Public Acts of 1964, being sections 691.1401 to 691.1415 of the  
18 Michigan Compiled Laws, OR IN A CRIMINAL ACTION FOR THE USE OF  
19 THAT PHYSICAL FORCE.

20 (4) A person who violates subsection (2) may be appropri-  
21 ately disciplined by his or her school board.

22 (5) IN DETERMINING WHETHER A PERSON HAS ACTED IN ACCORDANCE  
23 WITH SUBSECTION (2), DUE DEFERENCE SHALL BE GIVEN TO REASONABLE,  
24 GOOD-FAITH JUDGMENTS MADE BY THE PERSON.

25 (6) WITHIN THE SCOPE OF HIS OR HER AUTHORITY, A PERSON MAY  
26 HOLD A PUPIL STRICTLY ACCOUNTABLE FOR ANY MISCONDUCT IN A  
27 CLASSROOM, ELSEWHERE ON SCHOOL PREMISES, ON A SCHOOL BUS OR OTHER

1 SCHOOL-RELATED VEHICLE, OR AT A SCHOOL SPONSORED ACTIVITY OR  
2 EVENT WHETHER OR NOT IT IS HELD ON SCHOOL PREMISES.

3       (7) ~~—(5)—~~ A local or intermediate school board AND THE BOARD  
4 OF A NONPUBLIC SCHOOL shall ~~approve and cause to be distributed~~  
5 ~~to~~ PROVIDE IN-SERVICE TRAINING TO ASSIST each employee, volun-  
6 teer, and contractor ~~a list of~~ IN COMPLYING WITH THIS SECTION  
7 AND IMPLEMENTING alternatives to the use of corporal punishment.  
8 Upon request, the department of education shall provide assist-  
9 ance to schools in the development ~~and adoption of such a list~~  
10 OF PROGRAMS AND MATERIALS FOR THE IN-SERVICE TRAINING.

11       (8) ~~—(6)—~~ Any resolution, bylaw, rule, policy, ordinance, or  
12 other authority permitting corporal punishment CONTRARY TO THIS  
13 SECTION is void.