



**House
Legislative
Analysis
Section**

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FLEXIBILITY FOR GUN EXPULSIONS

**House Bill 4033 (Substitute H-2)
First Analysis (3-23-95)**

**Sponsor: Rep. James Agee
Committee: Education**

THE APPARENT PROBLEM:

The federal Gun-Free Schools Act (GFSA) of 1994 specifies that each state receiving federal funds under the Improving America's Schools Act (of which the GFSA is a part) must have in effect a law requiring local educational agencies to expel students from school for at least one year if they are determined to have brought a weapon to school. The GFSA also requires the state law to "allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis." The term "weapon" in the federal law refers to firearms.

Michigan has in place Public Act 328 of 1994 (Senate Bill 966), which requires the permanent expulsion from a school district (with reinstatement possible after certain specified time periods) of a student who possess a dangerous weapon, unless the student can establish that certain exculpatory conditions exist. (Unless a district operates or participates in a program appropriate for such expelled students and in its discretion admits such a student, a student expelled under the act is expelled from all public schools in the state, and a district cannot admit the student except through reinstatement. The expulsion provisions also apply to arson and rape.) The term "dangerous weapon" refers to a firearm, dagger, dirk, stiletto, knife with a blade over three inches, pocket knife opened by mechanical device, iron bar, or brass knuckles. Reinstatement is possible by petitioning the school board that expelled the student or, if that board denies the petition, another school board. A student who had been in grade 5 or below when expelled could not be reinstated before the expiration of 90 school days after the expulsion, and a student in a higher grade could not be reinstated before the expiration of 180 school days. The Michigan law, however, does not specifically contain the provision required by the federal legislation allowing local school officials to modify the expulsion requirement on a case-by-case basis.

THE CONTENT OF THE BILL:

The bill would amend the section of the School Code that requires expulsions for the possession of a dangerous weapon (and arson and rape) to permit a school board to modify the expulsion requirement, as to duration, for a student on a case-by-case basis. A school board could modify an expulsion that occurred before the effective date of the bill.

MCL 380.1311

FISCAL IMPLICATIONS:

The bill has no fiscal implications, according to the House Fiscal Agency. (3-20-95)

ARGUMENTS:

For:

The bill would make the state statute on mandatory expulsions for weapons violations in schools conform with the federal law. Not to do so could risk the loss of some federal funds. It would grant local school boards more flexibility in dealing with students found with guns in school by permitting an expulsion for a shorter duration. Some school officials believe the current permanent expulsion (with possible reinstatement) requirement too rigid to cover all the possible instances. This is particularly the case since the state law applies not only to firearms (as the federal law does) but to numerous other kinds of weapons. Reportedly, conversations with federal officials have verified that giving the flexibility to a school board and not, as the federal law specifies, "the chief administering officer" is an acceptable approach. In this state, it is school boards that expel students not administrators. It should be noted that expulsions can be modified on a "case-by-case" basis, which is said to mean that a district could not use this provision to shorten expulsions in a blanket fashion.

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Response:

The state should not have to amend its laws in very specific ways simply to avoid the loss of federal funds.

Against:

Some people believe both the federal and state legislation constitute unwarranted interference in local schools. The disciplining of students who commit weapons violations in or around school, or at school functions, ought to be left to the representatives of the local community. Presumably, they know best the local situation and the extent of the danger posed by weapons in schools. Further, there still remains no guarantee that students will be offered alternative educational programs; it is possible they will simply be banned from all public schools for the duration of their expulsion.

POSITIONS:

The Michigan Association of School Boards supports the bill. (3-21-95)

The Michigan Association of School Administrators supports the bill. (3-21-95)

The Michigan Association of Secondary School Principals supports the bill. (3-21-95)