



**House
Legislative
Analysis
Section**

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WEAPON-FREE SCHOOLS

House Bills 4672 as enrolled
Public Act 320 of 1993
House Committee: Education
Senate Committee: Education
(Discharged)

House Bill 4673 as enrolled
Public Act 158 of 1994
House Committee: Judiciary
Senate Committee: Family Law, Mental
Health, and Corrections

House Bill 4674 as enrolled
Public Act 321 of 1993
House Committee: Judiciary
Senate Committee: Education
(Discharged)

Second Analysis (1-26-95)
Sponsor: Rep. Kirk Profit

THE APPARENT PROBLEM:

The 1990 Youth Risk Behavior Survey asked a representative sample of students in grades 9 through 12: "During the past 30 days, how many times have you carried a weapon, such as a gun, knife, or club, for self-protection or because you thought you might need it in a fight?" The responses indicated that 19.6 percent of the students (and 31.5 percent of the males) had carried a weapon at least once in the 30 days prior to the survey.

Of the high school seniors in the Class of 1991 responding to a University of Michigan survey, 6.5 percent said someone had injured them with a weapon (such as a gun, knife, or club) at school during the past 12 months one or more times and over 16 percent said someone had threatened them with a weapon (but not injured them). (Source for the above: Sourcebook of Criminal Justice Statistics - 1991, issued by the U.S. Department of Justice.)

A deputy superintendent from the Lansing School District told the House Education Committee that there were 101 "incidents involving weapons on

school property" in the 1991-92 school year, and said that "an increasing number of the firearms confiscated from students are the property of the student's parents who failed to secure the firearm from access by their child."

Whatever the other disagreements are over how children should be educated, it is generally accepted that the school environment ought to be safe. Students should not be fearful because of the presence of weapons in and around their schools. Yet apparently this is all too often the case. Some people believe that new efforts need to be made to investigate this problem and attack it on several fronts at once.

THE CONTENT OF THE BILLS:

House Bill 4673 would amend the Michigan Penal Code (MCL 752.82 et al.) to establish special penalties for possession or use of a weapon on school property or within a school bus (school property and vehicles would collectively be a "weapon-free school zone").

Felonious assault. An assault with a dangerous weapon within a weapon-free school zone would be a felony punishable by imprisonment for up to four years, community service of up to 150 hours, a fine of up to \$6,000, or any combination thereof. (Felonious assault ordinarily is punishable by up to four years in prison and/or a maximum fine of \$2,000.)

Parents. A custodial parent of a minor would be guilty of a misdemeanor if the minor violated weapons laws on school property and the parent either knew that the minor would commit the violation or acted to further the violation. Punishment could be any combination of a fine (up to \$2,000), community service (up to 100 hours), or probation.

The bill specifies that it would be a complete defense to a prosecution if the defendant had promptly notified the local law enforcement agency or the school administration that the minor was violating or would commit a gun violation in a weapon free school zone.

Weapons violations. Someone who committed any of thirteen existing felony weapons violations in a weapon-free school zone would be subject to felony penalties of imprisonment for up to the term authorized for the underlying offense, community service of up to 150 hours, a fine of up to three times the amount authorized for the underlying offense, or any combination thereof. The weapons violations to which these penalties would apply are four- and five-year felonies carrying maximum fines of \$2,000 or \$2,500.

Someone who committed any of 16 existing misdemeanor weapons violations in a weapon-free school zone would be subject to misdemeanor penalties of imprisonment for up to the term authorized for the underlying offense, community service for up to 100 hours, a fine of up to \$2,000, or any combination thereof.

Weapon possession. Possession of a weapon in a weapon-free school zone would be a misdemeanor punishable by up to 93 days in jail, community service of up to 100 hours, a fine of up to \$2,000, or any combination thereof. Exceptions would be made for security guards, police officers, holders of concealed weapons permits, weapons instructors, and people with permission of the school's principal or an agent of the school designated by the

principal or school board. Exceptions also would be made for a person 18 years of age or older who was not a student at the school and who possessed one of several kinds of firearms, unloaded in a wrapper or container in a vehicle's trunk, while transporting a student to or from the school. This would apply to an unloaded antique firearm being transported while en route to or from a hunting or target shooting area or function involving the exhibition, demonstration, or sale of antique firearms; a firearm in the possession of a person with a valid Michigan hunting license or proof of membership in an organization with a shooting range, while en route to or from a hunting or target shooting area; a firearm being transported from the place of purchase to his or her home or place of business, to or from a place of repair, and in moving goods from one place of abode or business to another. (The firearm could be in the passenger compartment of a vehicle if the vehicle did not have a trunk and the wrapper or container was not readily accessible to the vehicle occupants.)

Effective date. The bill would take effect August 15, 1994.

House Bill 4672 would amend the School Code (MCL 380.1291) to allow a school district to establish a local school security task force to perform functions at the local level similar to those performed by the state-level task force. The local task force would have to include representatives of parents, teachers, and other school employees, school administrators, law enforcement officials, students, and other community members. A district could use school operating funds for the task force's activities. (School districts would not be required to establish such a task force and would incur no liability if they did not.)

(Note: House Bill 4672 specifically says that the local task force is "to perform functions at the local level similar to those performed at the state level by the school security task force created by the School Security Task Force Act." However, the bill that would have created that act, House Bill 4675, was not enacted into law. See the analysis dated 5-26-93 for the provisions of House Bill 4675.)

House Bill 4674 would amend the act establishing the Department of State Police (Public Act 59 of 1935, MCL 28.16) to require the department to establish and maintain a firearms safety program to educate children about the dangerous nature and

safe handling of firearms. The department would make the program available to local school districts. The department also would produce or arrange for public service announcements to educate the public about the need to keep firearms and other weapons securely stored so that they are not accessible to children, as well as the need to operate or use weapons in a safe and lawful manner. There would also be public service announcements to educate the public about weapon-free school zones.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The bills are part of a package aimed at addressing the problem of weapons in and around schools. Proponents say the bills are a first step, but an important one. Strong penalties will discourage students from bringing guns to school. The task force bill will encourage community leaders to reach a better understanding of the nature and sources of the problem, as well as evaluate possible solutions. The effort will likely involve representatives from education, law enforcement, state and local government, the gun-owning community, and others. This is a community-wide problem and it needs the involvement of many sectors of the community. There would also be an emphasis on firearms education and on reducing the access to firearms and other weapons by minors.

For:

With its strong and specific penalties, House Bill 4673 would do much to ensure that parents and minors alike respect the need to keep weapons away from school property. The bill not only would punish someone who brought a weapon onto school property; it also would hold parents accountable in some instances. While criminal penalties admittedly are not the whole answer to the problems of weapons in schools and elsewhere, they are an important first step and essential complement to educational efforts. The focus of the bill is clear: to get the guns out of the hands of children.

Against:

Actually, the focus would be clearer if provisions from an earlier version of House Bill 4673 dealing with the access to weapons by minors had not been

removed. Because the tragic consequences of guns in the hands of children are by no means confined to the schoolyard, an earlier version of the bill would have required owners of pistols and other short-barreled guns to fulfill their responsibility to keep and store those dangerous weapons safely. Although hard data appears to be lacking on the numbers of children killed by guns in the hands of other children, even a casual reader of newspapers cannot help but be struck by the sad frequency of accounts of children killed or maimed by guns fired in anger or in ignorance by other children who found loaded guns stored in dresser drawers or under mattresses. It makes sense to add criminal penalties for not keeping guns in a secure location.

Response:

Public perceptions on the severity of the problem with children and guns, at least with regard to accidents at home, may not be accurate: the National Rifle Association notes that according to the National Safety Council, firearm-related accidents involving children have decreased over fifty percent in the past twenty years. Nonetheless, it is a tragic thing when a child finds an improperly stored gun and harms someone with it. However, if the gun owner was negligent, then civil remedies can be brought to bear on the responsible party; the bill should not compound the harm by making the owner guilty of a felony. Rather than punish a grieving family member after a tragic event has already happened, the legislature would do better to develop and fund safety education programs that would prevent tragedies from happening. It is already a two-year, \$2,000 misdemeanor for a person to carelessly cause or allow any firearm under his or her immediate control to be discharged to as to kill or injure another. The bill should let the law stand at this.

Against:

One of the bills in the original package, House Bill 4675, was not enacted. That would have created a statewide task force to address the problems with weapons in schools and would have provided for grants to school districts to help them deal with this problem. Those efforts are still needed.