



**House
Legislative
Analysis
Section**

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ALLOW ASSAULTED STUDENT TO TRANSFER OUT OF THE ISD

**Senate Bill 689 (Substitute H-4)
Revised First Analysis (5-12-98)**

**Sponsor: Sen. Dale Shugars
Senate Committee: Education
House Committee: Education**

THE APPARENT PROBLEM:

Under the State School Aid Act, the approval of a student's local district of residence is required for a student to be counted in the membership of another school district, with certain specified exceptions. (When a student is counted in membership that means the school district receiving the out-of-district student gets the funds attributable to that student.) One of those exceptions allows enrollment within an intermediate school district (ISD) when the ISD is participating in a schools-of-choice program. (An intermediate school district typically operates countywide and its constituent units are the local school districts within the county.) Currently, if there is an ISD schools-of-choice program, a student can enroll in any local district within his or her intermediate school district that is accepting out-of-district students (and that has room) and be counted in membership.

In a much-publicized case, according to press accounts, a 15-year-old girl attending Kalamazoo Central High School was allegedly raped on a Friday night near a school baseball diamond by eight youths, some of whom were armed with guns. The girl's family requested that she be allowed to transfer not only out of the local school district but out of the intermediate school district to attend school. The attack occurred in December of 1996 but the local school board in Kalamazoo reportedly resisted approving the request for some time, apparently believing it could provide the student a safe educational environment in other ways, and did not approve the request until the middle of August in 1997, by which time it had come under intense media scrutiny. Legislation was introduced soon after so that in similar future cases, students who were victims of serious assaults could enroll in any school that would take them without school board approval.

THE CONTENT OF THE BILL:

Under the State School Aid Act, the approval of a student's district of residence is required for the student to be counted in the membership of another school district, with certain specified exceptions. The bill would provide for an additional exception. It would apply to a non-resident student (or "pupil") in cases in which:

-- the student or the student's parent or legal guardian had made an official complaint to law enforcement and to officials of the school district of residence that the student had been the victim of a criminal sexual assault or other serious assault; and

-- the complaint indicated that either the assault occurred at school or that the assault was committed by one or more other students enrolled in the school that the assaulted student would otherwise attend in the district or was committed by an employee of the district of residence.

A person who intentionally made a false complaint to law enforcement officials for this purpose or who made a complaint to law enforcement officials and subsequently withdrew the complaint after the non-resident student had been counted in the membership of another district, would be subject to criminal penalties provided in Section 411a of the Michigan Penal Code.

[Section 411a of the penal code provides that a false report to law enforcement officers of a misdemeanor is itself a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100 or both, and a false report of a felony is itself a felony punishable by the lesser of: 1) the penalty for the felony falsely reported or 2) imprisonment for not more than four years or a fine of not more than \$2,000 or both.]

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The term "serious assault" as used in the bill would mean an act that constituted a felony violation of Chapter XI of the Michigan Penal Code or that constituted an assault and infliction of serious or aggravated injury under Section 81a of the penal code. The bill is tie-barred to House Bill 5707, which would amend the Michigan Penal Code to provide for enhanced penalties for false reporting of assaults in such cases and require restitution equivalent to the amount of per pupil funding lost to a school district as a result of a student enrolling outside of the intermediate school district based on a false report.

MCL 388.1606

HOUSE COMMITTEE ACTION:

The bill as passed by the Senate applies to criminal sexual assaults, other criminal assaults, and acts violating a school district's sexual harassment policy. The substitute reported by the House Committee on Education applies to criminal sexual assaults and other serious assaults; it does not apply to acts of sexual harassment. The House substitute also contains provisions about the penalties for false complaints.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reported on the Senate-passed version of the bill that its exact fiscal impact was indeterminate because of a lack of data on eligible assaults. The SFA said that a district would lose and the receiving district would gain an average of \$5,913 for each pupil who moved from one district to another as a result of the bill. If a district lost 20 students, it would lose \$118,000 in state aid for fiscal year 1997-98. (SFA Floor Analysis dated 10-14-97)

ARGUMENTS:

For:

It is outrageous that a school district would not automatically grant permission for a person sexually assaulted on or near school grounds or by fellow students to enroll anywhere she or he chose. A family should not have to go through a cumbersome, perhaps heavily publicized, process to accomplish this end. Students who suffer serious assaults should not have to attend school with the perpetrators of the assaults or the perpetrator's friends or allies, but should be allowed to enroll where they feel safe and supported. The choice should be theirs, not the local school board's.

Response:

Is it wise, based on one case, to take away the traditional decision-making authority of the local school board? It should be noted that in the case that led to the introduction of this bill, the student's request to attend a district outside of the intermediate school district was eventually approved. Given the nature of the publicity surrounding this case, school boards are likely to be very sensitive to this kind of case in the future.

POSITIONS:

The Department of Education supports the bill. (5-4-98)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.