



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

SCHOOL VIOLENCE PACKAGE

House Bill 4075 (Substitute H-3)

Sponsor: Rep. Terry London

House Bill 5478 (Substitute H-5)

Sponsor: Rep. Jessie Dalman

House Bill 5482 (Substitute H-4)

Sponsor: Rep. Beverly Hammerstrom

House Bill 5702 as introduced

Sponsor: Rep. Martha G. Scott

House Bill 5707 (Substitute H-1)

Sponsor: Rep. Edward LaForge

Committee: Education

First Analysis (5-12-98)

House Bills 4075, 5478, 5482, 5702 and 5707 (5-12-98)

THE APPARENT PROBLEM:

Schools should be safe places for teaching and learning. Amid all the disagreements over education policy, there is widespread agreement about that. Teachers should not have to worry about assaults and verbal abuse from their students; students should not stay away from school out of fear for their personal safety. Violence and the threat of violence should not prevent schools from being effective communities of learning. Fear should not permeate school classrooms, playgrounds, and school buses. A House Subcommittee on Violence in the Schools has recently completed several months of conducting hearings around the state on the issue and has transmitted proposed legislation to the House Committee on Education. The report from the chair of the subcommittee noted:

"Reporting of school violence is not systematic in Michigan, and accurate records of school violence at a statewide level do not exist. Consequently, the committee sought to explore the severity and frequency of school violence, possible causes of incidents that occurred and programs that were already effective in combating the problem. The main goal of the committee's inquiry was to develop legislative solutions that give every school in Michigan the resources and flexibility to directly confront, neutralize and responsibly remove violent students who threaten the safety of students, teachers and school personnel." At the same time, the chair's report says, "The mere

removal of violent students from the classroom to the streets puts our communities at greater risk," and suggests that "any effort to reduce school violence must require the expelled student to attend structured, supervised, disciplinary educational programs that keep students off the street."

The report also noted, "Expanded community policing and enhanced penalties for crimes committed on school property can play an important role in gang deterrence, violence prevention, and making sure students and teachers feel safe. Additionally, communication and sharing of information between law enforcement, the schools, the judiciary, and mental health services must be encouraged and enhanced."

Legislation addressing these and other subjects is now before the House.

THE CONTENT OF THE BILLS:

These bills are part of a package of bills addressing, in general, the subject of violence in schools. Senate Bills 313 and 689 and House Bills 5424 and 5699 are already before the House. (See the analysis of Senate Bill 313 and House Bill 5424 dated 4-28-98; the analysis of Senate Bill 689 dated 5-5-98; and the analysis of House Bill 5699 dated 5-5-98.) This analysis describes the following bills, which unless

otherwise indicated would amend the Revised School Code:

-- House Bill 4075, which would specify that provisions that currently require the reporting of crimes committed by certain teachers and administrators apply to teachers and administrators, whether certificated or not. (MCL 380.1535a)

-- House Bill 5478, which would require the development of a memorandum of understanding by school boards, local law enforcement agencies, child protection agencies, county prosecutors, probation officers, and others to facilitate the reporting of incidents affecting school safety and sharing of other school safety information. The memorandum, among other things, would determine what incidents must be reported by school officials to law enforcement and child protection agencies. (MCL 380.1308)

-- House Bill 5482, which would create an Office for Safe Schools within the Department of Education and would allow a teacher to suspend a student from a class, subject, or activity for up to one full day if the student's presence posed a clear threat to others or created an unsafe school environment. (MCL 380.1309)

-- House Bill 5702, which would create a new act to establish an anti-gang assistance program within the Department of Treasury whereby grants would be provided to local communities to employ additional police officers to work with local schools and the community to reduce gang violence. Grant funds would provide 100 percent of the matching money necessary for the local community to receive money under the federal community oriented policing services program under the Violent Crime Control and Law Enforcement Act of 1994.

-- House Bill 5707, which would amend the Michigan Penal Code to provide for enhanced penalties (up to the amount of the foundation grant for the district-of residence) for the intentional false reporting of criminal sexual assaults and other serious assaults for the purpose of transferring out of an intermediate school district and would allow judges to require restitution in such cases equivalent to the amount of the foundation allowance lost to a school district. This bill is tie-barred to Senate Bill 689. (See the HLAS analysis for Senate Bill 689 dated 5-5-98 for a discussion.)

Remaining in the House Committee on Education is House Bill 5696, which would create the new Section 1310 referred to in Senate Bill 313 and House Bill 5424. That section would require a school board to develop and adopt a suspension/expulsion policy;

develop and adopt a due process policy for suspensions and expulsions; develop and maintain a school discipline record for each school; and distribute to the households of students its student conduct codes, sexual harassment policies, suspension/expulsion policies, and due process policies. The State Board of Education would be required to create models of such codes and policies for school districts.

Additional information follows.

House Bill 5478 would amend the Revised School Code to require a school board to work with local law enforcement agencies, child protection agencies, county prosecutors, appropriate probation officers, and other appropriate organizations to establish and implement a memorandum of understanding, signed by the parties involved, to facilitate reporting of incidents affecting school safety. The memorandum would have to establish procedures to be followed when a reportable incident occurred in school and could address procedures for reporting incidents involving dangerous weapons (in existing Section 1313). The memorandum would have to address:

* Law enforcement protocols and priorities for the reporting process. Protocols would have to be developed with the cooperation of the appropriate state or local law enforcement agency. Law enforcement priorities would have to include at least investigation of incidents, identification of those involved, and assistance in preventing such incidents.

* Definition of the types of incidents requiring reporting to law enforcement and response by law enforcement, taking into account the intent of the actor and the circumstances surrounding the incident. This definition would have to include incidents of sexual harassment that should be reported.

* Protocols for responding to reportable incidents, addressing at least initial notification and reporting by school officials; the information to be provided by school officials; the initial response by law enforcement and child protection agencies, tailored for, respectively, incidents in progress, incidents not in progress, and incidents involving delayed reporting; and custody of the actors.

* The amount and nature of assistance to be provided by school officials and the scope of their involvement in law enforcement procedures, including the requirement that school officials notify the parent/legal guardian of a minor student who was a victim or witness when law enforcement authorities interview the student.

* Any other matters that would facilitate reporting of incidents affecting school safety and the exchange of other information affecting school safety.

If school officials determined an incident had occurred at school that required reporting, the superintendent would have to report it to the appropriate state or local law enforcement agency and the appropriate state or local child protection agency in the manner prescribed by the memorandum of understanding. If the memorandum so required, a local law enforcement agency would have to report to school officials in a building of incidents reported to the agency that alleged the commission of a crime that either occurred within 1,000 feet of the school or that involved a student or staff member as a victim or alleged perpetrator. Upon request, school officials would have to provide the law enforcement agency with any information needed to provide such a report.

If provided in the memorandum, the county prosecutor would have to notify a school district of any criminal or juvenile court action initiated or taken against a student of the district, including but not limited to convictions, adjudications, and dispositions. The notification could be to either the superintendent of the local district or the intermediate district superintendent. If the intermediate superintendent was notified, he or she would have to forward the information to the local superintendent. The local superintendent would share the information with appropriate school building personnel. Prosecutors could inquire of school-age individuals involved in a court action which school district, if any, they attended as students. Also, if provided in the memorandum, the circuit court would have to inform an appropriate school administrator of the name of an individual assigned to monitor a convicted or adjudicated youth attending a public school and of how that individual could be contacted.

Reporting of information by a school district or school personnel would be subject to the federal Family Educational Rights and Privacy Act of 1974.

If a student was involved in an incident reported to law enforcement under a memorandum of understanding, upon request of school officials, the parent/legal guardian would have to execute any waivers or consents necessary to allow school officials access to school, court, or other pertinent records of the student concerning the incident and the action taken as a result of the incident.

House Bill 5482 would amend the Revised School Code to 1) create an Office for Safe Schools within the Department of Education and 2) to allow a public school teacher to suspend a student from a class,

subject, or activity for up to one full school day in certain specified circumstances.

The Office for Safe Schools would work with local school boards, law enforcement agencies, community leaders, and other state departments and agencies for the prevention of school violence. The office would have to develop, implement, and coordinate a statewide clearinghouse for information, program development, model programs and policies, and technical assistance on school violence prevention. To accomplish its functions, the office would have to:

* Assist districts in developing and maintaining school discipline records.

* Evaluate the effectiveness and produce recommendations for local school boards on public school violence prevention programs, including programs aimed at reducing weapon possession and the incidence of other violent behaviors, violence prevention curriculums, conflict resolution and other peer mediation training, interagency cooperative referral and treatment programs, parental involvement programs, and school safety planning.

* Develop and distribute to local school boards a model memorandum of understanding and provide technical assistance for implementing such memorandums.

* Provide public education on school violence prevention and crime awareness, intervention, prevention, and treatment, including presentations to students, school personnel, civic groups, and other organizations and agencies.

* In consultation with appropriate organizations, develop and distribute to school districts and public school academies (charter schools) a model code of conduct for students.

* Develop recommendations on how local and intermediate school districts and public school academies can work with local public health, social services, mental health, and law enforcement agencies to develop and implement multipurpose collaborative bodies and programs that provide direct treatment, prevention, and intervention services to children at school; provide technical assistance to school districts, intermediate school districts, and public school academies in developing the collaborative bodies; and providing technical assistance to the collaborative bodies themselves.

* Coordinate with the office of Drug Control Policy in the Department of Community Health to ensure that

there is meaningful linkage between the efforts under this bill and the initiatives of that office, including safe and drug-free school plans for school districts, and to facilitate timely applications for and distribution of available grant money.

* Survey public schools around the nation to identify schools that require or otherwise use school uniforms or strict dress codes for students, to identify best practices for uniforms and dress codes, and provide information to the state's public schools about those best practices.

* Develop and distribute a model sexual harassment policy that sets forth specific reporting, enforcement, and due process procedures, and that defines conduct that should be reported to law enforcement and provides for that reporting.

* Identify the best practices in the state among peer mediation and other conflict resolution programs and provide information on those best practices.

* Develop and distribute to school districts recommendations on integrating community policing programs in school buildings.

* Work with teacher preparation institutions to encourage training for prospective teachers in classroom management, conflict resolution, and disciplinary techniques.

The bill also would allow teachers to suspend students for up to one full school day. If a teacher in a public school had good reason to believe that a student's presence in a class, subject, or activity posed a clear threat to the safety and welfare of other students or school personnel or created an unsafe school environment, the teacher could cause the student to be suspended from the class, subject, or activity for up to one full school day. The teacher would have to immediately report the suspension and the reason for it to the school principal and send the student to the principal or principal's designee for appropriate action. If the appropriate action required the continued presence of the student at school, the student would be under appropriate supervision. During a suspension of this kind, the student could not be returned that school day to the class, subject, or activity without the concurrence of the teacher and school principal.

As soon as possible after such a suspension, the teacher would have to ask the parent/legal guardian of the student to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school psychologist, or school social worker would attend the conference. A school

administrator would attend the conference if the teacher or parent/guardian so requested.

The bills in the package that are all currently tie-barred to one another are: Senate Bill 313 and House Bills 4075, 5424, 5478, 5482, 5696, 5699, and 5700.

SUGGESTED AMENDMENT:

An amendment is expected to be presented on the floor to House Bill 5478 requiring school boards to report at least annually on crimes in their school districts to the Office for Safe Schools. As proposed (and later withdrawn) in committee, the amendment would require the reporting to include at least crimes involving physical violence, gang-related activity, illegal possession of controlled substances and other intoxicants, trespassing, and property crimes, such as theft and vandalism. The report would have to include the cost to the district of the property crimes. The amendment specifies that its intent is 1) to help policy makers and program designers at the local and state levels develop appropriate prevention and intervention programs; 2) to provide the continuous assessment tools needed for revising and refining school safety programs; 3) to assist schools and school districts to identify the most pressing safety issues, to direct resources appropriately, and to enhance campus safety; 4) to foster the creation of partnerships among school districts, state agencies, communities, law enforcement, and the media to prevent further crime and violence and assure a safe learning environment for every student. The arguments for such an amendment include the fact that there is not enough reliable information about the nature of the problem of violence in the schools (beyond the anecdotal). Reporting of such information might well establish that the state's schools are as safe as or safer than schools elsewhere and reduce anxiety levels while moving the debate to questions of how to make schools even safer. Arguments against such an amendment centered on concerns that the information reported would be used to sensationalize school violence and stigmatize some school districts, particularly the large urban districts. Some people would like to see limitations on the availability of the reported information.

FISCAL IMPLICATIONS:

There is no information at present. House Bill 5702, which would create an anti-gang grant program and a special anti-gang assistance fund, specifies that "the legislature shall appropriate money from the amount of money available for the community policing program," first created in section 959d of Public Act 11 of 1997.

ARGUMENTS:**For:**

These bills are part of a larger package of bills addressing the subject of school violence. Proponents of school violence-related legislation issued the following remarks in connection with the completion of the work of a special subcommittee of the House Education Committee:

"Schools should be places of learning, where young people are afforded unlimited opportunities for intellectual, social and personal growth. Schools should be places of enrichment, where educators have the freedom to inspire students to great achievements, both in the classroom and beyond. Violence -- be it real or threatened -- suppresses learning and stifles enrichment. Violence poses the single greatest threat to the mission of Michigan's public schools, and the hopes of Michigan's youth. Threats, intimidation, and violent acts have no place in our classrooms, on our school yards, or in our communities." The statement emphasized the following guiding principles:

-- "Zero tolerance for acts of violence should be standard policy in Michigan's schools.

-- Local schools are best suited to judge violent students and punish their actions.

-- Structure and discipline are the best methods of changing the behavior of those students expelled for acts of violence.

-- Punishing the most serious violent crimes committed in our schools requires flexibility for local prosecutors.

-- Preventing violence means early intervention, and responding to the needs of students.

-- Support for local law enforcement is indispensable in preventing school violence and combating juvenile crime in our communities.

-- Coordination between schools, law enforcement, local governments and the state is essential to success.

-- Parents have ultimate responsibility for their children. They have an indisputable role to play both before and after their child is involved in a violent act."

The bills in the package aim to put these principles into practice and provide school officials, law enforcement, social service agencies, parents, and others the tools to

engage in collaborative efforts to reduce incidents of violence in the schools.

For:

The report issued by the chair of the special subcommittee on school violence contained eight policy recommendations, several of which would be put in legislation by bills described in this analysis. The report recommended the expansion of community policing to work with schools and in gang deterrence efforts. House Bill 5702 would establish a grant program to add local police or sheriff's deputies to help schools reduce gang violence. The report recommended the reporting to schools by law enforcement and other related agencies of incidents affecting school safety. House Bill 5478 would do that, among other things. It also would ensure the cooperation of school officials, law enforcement, and child protection agencies in deciding what kind of incidents need to be reported to one another. The subcommittee chair's report also recommended the development of a statewide clearinghouse to share successful models of prevention programs, alternative disciplinary programs, and other related policy. House Bill 5482 would create a new Office for Safe Schools within the Department of Education.

Response:

The Department of Management of Budget has said, in an analysis dated 5-7-98, that House Bill 5702 requires the legislature to appropriate funding for the anti-gang program from the community policing program established in the general government budget for fiscal year 1998. The funding for that program was one-time-only general fund support for matching grants, and of the \$10 million appropriated, \$4 million has already been committed for grants. Requiring an appropriation from the amount "available" from the current year's appropriation could result in canceling the second phase of grant applications, which are due June 30, 1998. The bill requires no state match and if the community policing funds are used for this 100 percent match, the result will be 50 fewer officers than currently proposed for the community policing program. Further, the bill does not define anti-gang activities. There are many aspects to community policing and the bill could exclude communities that want to assist with programs other than anti-gang programs.

For:

House Bill 5482 would empower teachers and promote school safety by allowing teachers to suspend students for up to one day when they were posing a threat or

creating an unsafe environment. Teachers are expected to be effective classroom managers, but sometimes they are not given sufficient support within a school building to carry out that function. This provision will provide teachers with an additional tool should they need it. Teachers and students should not have to put up with unsafe classroom conditions.

Response:

Some people are wary of putting this kind of provision in statute. This is the kind of matter best left to the policies established at the local level, even the school building level and not imposed from on high by the legislature. Teachers typically can now send students out of their classrooms when necessary, particularly if there is a threat to safety. In school buildings where teachers would need to rely on this to overcome poor discipline by administrators, the problems are likely to be more deep-seated and severe and in need of a more comprehensive examination. In addition, this provision would put the onus for the suspension and subsequent follow-up with parents on the teacher rather than the school building principal or other school administrators, where it properly belongs.

Against:

While this package of bills may be well-intentioned and may contain many useful ideas, it remains the case

that school districts by and large already have the ability to carry out many of the recommended activities and programs, and in fact many districts are doing so. The recent revisions of the main state school law envisioned school districts as having "general powers" to engage in the activities necessary for them to achieve their aims. Many of the provisions in this package run counter to that philosophy. Is there really a need for these bills? Has it been demonstrated that local school districts do not have the desire and devices to deal with the problem of school violence and school safety themselves? There may have been some isolated instances where school districts did not deal appropriately with violent acts by children, but is there evidence that this is an area in need of comprehensive new state legislation?

POSITIONS:

The Department of Management and Budget has said it cannot support House Bill 5702 due to revenue concerns. (Departmental analysis dated 5-7-98)

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.