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PUPIL FREE-EXPRESSION POLICY

House Bill 6129

Sponsor: Rep. Lynne Martinez

Committee: Education

Complete to 10-9-98

A SUMMARY OF HOUSE BILL 6129 AS INTRODUCED 9-17-98

House Bill 6129 would add a new section to the Revised School Code to specify that a public school pupil would have the right to exercise freedom of expression while attending school or school-related functions. Within a year after the bill's effective date, the bill would require each school or school district board to prepare a written pupil free-expression policy and to distribute the policy to each pupil at the beginning of the school year.

In school-sponsored publications with a student editorial staff, the bill would require all of the following: a faculty adviser to supervise and to teach professional journalism standards; student editorial responsibility for news, opinion, and advertising content (if any); if requested by school officials, a disclaimer that the content is not necessarily an expression of school policy; employment security (subject to applicable collective bargaining agreements) for a faculty advisor who refuses to alter or interfere with the free expression rights specified in the bill.

House Bill 6129 would prohibit prior review or prior restraint of sponsored and unsponsored pupil expression unless a student had voluntarily sought review, except in cases where school officials determined that the expression was obscene; actionable as defamation; or, presented a clear and present danger of either an unlawful act or violation of a school rule, or a material and substantial disruption of school order.

Under the bill, school officials would not be liable in any civil or criminal action for any expression made by a pupil unless the school official altered or interfered with the content of the pupil's expression. A pupil, parent, or guardian could bring an action for injunctive or declaratory relief or damages in circuit court to enforce the provisions of the bill. In such a case, damages could be recovered only for unreasonable conduct, and the plaintiff could recover reasonable attorney fees.

House Bill 6129 defines "publication" to mean pupil expression, in print, broadcast, or by cable, intended to reach a general audience of pupils of the school. "Sponsored," "school-sponsored," "sponsored expression," and "sponsored pupil expression" would mean expression authorized to bear the name of the school or school district.

MCL 380.1191

Analyst: J. Hunault

■ 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.