

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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House Bill 5255 (Substitute H-2 as passed by the House)  
House Bill 5256 (as passed by the House)  
Sponsor: Representative Andrew Richner (H.B. 5255)  
Representative Lauren Hager (H.B. 5256)  
House Committee: Family and Civil Law  
Senate Committee: Education

Date Completed: 11-29-00

## **CONTENT**

House Bill 5255 (H-2) would amend the Revised School Code to establish a standard of willfulness or gross negligence for a person to be subject to discipline for using corporal punishment or physical force. Currently, a person who violates the Code's prohibition against corporal punishment, or who uses physical force upon a pupil that is not authorized under the Code, may be appropriately disciplined by his or her school board or public school academy. Under the bill, the person would have to have acted willfully or through gross negligence. ("Corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.)

Under the Code, a person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or upon another person of school age in a school-related setting, is not liable in a civil action for damages arising from the use of that physical force. The bill also specifies that the person would be presumed not to have violated the Code's prohibition against corporal punishment by the use of that physical force. The bill states that these provisions would not alter or limit a person's immunity from liability under the governmental immunity law.

House Bill 5256 would amend the Michigan Penal Code to state that the Code's penalties for assault and battery would not apply to an individual using necessary reasonable physical force against pupils in compliance with Section 1312 of the Revised School Code.

Section 1312 allows a person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy to use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting in order to provide an environment conducive to safety and learning. The person may use physical force upon a pupil as necessary to restrain or remove a pupil whose behavior is interfering with school functions, for self-defense or the defense of another, to prevent a pupil from inflicting harm on himself or herself, to quell a disturbance that threatens physical injury, to obtain possession of a weapon or other dangerous object from a pupil, or to protect property.

MCL 380.1312 (H.B. 5255)  
750.81 (H.B. 5256)

Legislative Analyst: N. Nagata

## **FISCAL IMPACT**

### **House Bill 5255 (H-2)**

The bill would have no fiscal impact on the State.

The local fiscal impact is indeterminate. There are no available data that would identify whether this bill would lead to more or fewer disciplinary hearings before school boards. If this bill led to fewer overall hearings relating to disciplining teachers who had used “unreasonable” force to quell disturbances, then it is possible that the costs associated with holding these hearings would fall.

If, on the other hand, local school boards adopted very strict “don’t touch” policies as a result of this bill, then boards could be faced with more disciplinary hearings. In this scenario, teachers could quell disturbances in violation of local school board policies, but not in violation of State law. This could lead to more local board hearings, and higher associated costs.

### **House Bill 5256**

The bill would have an indeterminate fiscal impact on local government.

There are no statewide data available to indicate how many offenders are convicted of simple assault, or how many were applying reasonable physical force in compliance with Section 1312 of the revised school code. To the extent that local government incurs the costs and/or receives the fine revenue from these misdemeanor offenses, changes to the assault and battery statute would have a fiscal impact on local units.

Fiscal Analyst: K. Summers-Coty  
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.