

HOUSE BILL No. 4129

January 30, 2003, Introduced by Reps. Daniels and Woodward and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1312 (MCL 380.1312), as amended by 2000 PA
461.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1312. (1) As used in this section, "corporal
2 punishment" means the deliberate infliction of physical pain by
3 hitting, paddling, spanking, slapping, or any other physical
4 force used as a means of discipline.

5 (2) Corporal punishment does not include physical pain caused
6 by reasonable physical activities associated with athletic
7 training.

8 (3) A person employed by or engaged as a volunteer or
9 contractor by a local or intermediate school board, ~~or~~ public
10 school academy, **or nonpublic school** shall not inflict or cause to

1 be inflicted corporal punishment upon any pupil under any
2 circumstances.

3 (4) A person employed by or engaged as a volunteer or
4 contractor by a local or intermediate school board, ~~or~~ public
5 school academy, **or nonpublic school** may use reasonable physical
6 force upon a pupil as necessary to maintain order and control in
7 a school or school-related setting for the purpose of providing
8 an environment conducive to safety and learning. In maintaining
9 that order and control, the person may use physical force upon a
10 pupil as may be necessary for 1 or more of the following:

11 (a) To restrain or remove a pupil whose behavior is
12 interfering with the orderly exercise and performance of school
13 district, ~~or~~ public school academy, **or nonpublic school**
14 functions within a school or at a school-related activity, if
15 that pupil has refused to comply with a request to refrain from
16 further disruptive acts.

17 (b) For self-defense or the defense of another.

18 (c) To prevent a pupil from inflicting harm on himself or
19 herself.

20 (d) To quell a disturbance that threatens physical injury to
21 any person.

22 (e) To obtain possession of a weapon or other dangerous
23 object upon or within the control of a pupil.

24 (f) To protect property.

25 (5) A person employed by or engaged as a volunteer or
26 contractor by a local or intermediate school board, ~~or~~ public
27 school academy, **or nonpublic school** who exercises necessary

1 reasonable physical force upon a pupil, or upon another person of
2 school age in a school-related setting, as described in
3 subsection (4) is not liable in a civil action for damages
4 arising from the use of that physical force and is presumed not
5 to have violated subsection (3) by the use of that physical
6 force. This subsection does not alter or limit a person's
7 immunity from liability provided under 1964 PA 170, MCL 691.1401
8 to ~~691.1415~~ **691.1419**.

9 (6) A person who willfully or through gross negligence
10 violates subsection (3) or who willfully or through gross
11 negligence violates subsection (4) may be appropriately
12 disciplined by his or her school board, ~~or~~ public school
13 academy, **or nonpublic school**. This subsection does not limit a
14 school board's, ~~or~~ public school academy's, **or nonpublic**
15 **school's** authority to discipline an employee for a violation of
16 its own policies.

17 (7) In determining whether an employee, volunteer, or
18 contractor has acted in accordance with subsection (4), deference
19 shall be given to reasonable good-faith judgments made by that
20 person.

21 (8) A local or intermediate school district, ~~or~~ a public
22 school academy, **or a nonpublic school** shall develop and implement
23 a code of student conduct and shall enforce its provisions with
24 regard to pupil misconduct in a classroom, elsewhere on school
25 premises, on a school bus or other school-related vehicle, or at
26 a school sponsored activity or event whether or not it is held on
27 school premises.

1 (9) The department shall develop a model list of alternatives
2 to the use of corporal punishment. This model list shall be
3 developed in consultation with organizations that represent the
4 interests of teachers, school employees, school boards, school
5 administrators, pupils, parents, and child advocates, plus any
6 other organization that the state board ~~of education~~ may wish
7 to consult. The department shall send this model list to each
8 school district, public school academy, and intermediate school
9 district in the state and to each nonpublic school in the state
10 that requests it. A local or intermediate school board or public
11 school academy shall approve and cause to be distributed to each
12 employee, volunteer, and contractor a list of alternatives to the
13 use of corporal punishment. Upon request, the department ~~of~~
14 ~~education~~ shall provide assistance to schools in the development
15 of programs and materials to implement this section.

16 (10) Any resolution, bylaw, rule, policy, ordinance, or other
17 authority permitting corporal punishment is void.

18 (11) **This section does not apply to a home school in which a**
19 **child is educated at the child's home by his or her parent or**
20 **legal guardian.**