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BILL



ANALYSIS

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House Bill 5618 (Substitute S-2 as reported)
House Bill 5619 (Substitute H-1 as reported without amendment)
House Bill 5620 (Substitute H-1 as reported without amendment)
House Bill 5621 (Substitute H-1 as reported without amendment)
House Bills 5693, 5694, and 5695 (as reported without amendment)
Sponsor: Representative Andy Schor (H.B. 5618)
Representative Al Pscholka (H.B. 5619)
Representative Adam F. Zemke (H.B. 5620)
Representative Lisa Posthumus Lyons (H.B. 5621)
Representative Martin Howrylak (H.B. 5693)
Representative David LaGrand (H.B. 5694)
Representative Peter J. Lucido (H.B. 5695)

House Committee: Education
Senate Committee: Judiciary

CONTENT

House Bill 5618 (S-2) would amend the Revised School Code to require school officials, before suspending or expelling a student, to consider a number of situation-specific factors, including whether a lesser intervention or restorative practices would address the pupil's violation or behavior.

Under Section 1310 of the Code, if a pupil enrolled in grade 6 or above commits a physical assault at school against another pupil, the school board or its designee must suspend or expel the pupil for up to 180 days. Under Section 1311, the school board, district superintendent, or another school official, may authorize or order the suspension or expulsion of a pupil guilty of a misdemeanor or persistent disobedience if doing so serves the school's interest. If a pupil possesses a dangerous weapon in a weapon-free school zone, or commits arson or criminal sexual conduct (CSC) in a school building or on school grounds, the school board or its designee must expel the pupil permanently. A school board, however, is not required to expel a pupil for possessing a weapon under certain circumstances (which House Bill 5693 would amend). Under Section 1311a, if a pupil enrolled in grade 6 or above commits a physical assault at school against an employee, volunteer, or contractor, the pupil must be expelled from the school district permanently. If a pupil enrolled in grade 6 or above commits a verbal assault at school against an employee, volunteer, or contractor, or makes a bomb threat or similar threat directed at a school building, other school property, or school-related event, the pupil must be suspended or expelled for a period of time as determined by the school board or its designee.

The bill would add Section 1310d to provide that, before suspending or expelling a pupil under Section 1310, 1311, or 1311a, the board of a school district or intermediate school district or board of directors of a public school academy (PSA), or a superintendent, school principal, or other designee would have to consider each of the following factors:

- The pupil's age and disciplinary history.
- Whether the pupil was a student with a disability.
- The seriousness of the violation or behavior committed by the pupil.

- Whether the violation or behavior threatened the safety of any pupil or staff member.
- Whether restorative practices would be used to address the violation or behavior.
- Whether a lesser intervention properly would address the violation or behavior.

"Expel" would mean to exclude a pupil from school for disciplinary reasons for a period of at least 60 school days. "Suspend" would mean to exclude a pupil from school for disciplinary reasons for a period of fewer than 60 school days.

The bill provides that Section 1310d would apply in order to give the school board, intermediate school board, or PSA board of directors, or its designee, discretion over whether to suspend or expel a pupil as prescribed in the Code. In the exercise of that discretion, there would be a rebuttable presumption that a suspension or expulsion was not justified.

Section 1310d would not apply to a pupil being expelled for possessing a firearm in a weapon-free school zone. Otherwise, consideration of the factors listed in the bill would be mandatory before a student was suspended or expelled. The method used for considering the factors would be at the sole discretion of the board or its designee.

House Bill 5618 (S-2) is tie-barred to House Bills 5693, 5694, and 5695.

House Bills 5693, 5694, and 5695 would amend Sections 1311, 1310, and 1311a of the Code, respectively, to indicate that provisions allowing or requiring suspension or expulsion would apply subject to proposed Section 1310d.

Additionally, House Bill 5693 would revise an exemption to a mandatory expulsion requirement in the case of a pupil who possesses a weapon, and create a rebuttable presumption that expulsion was not justified if certain conditions were met. Under Section 1311, expulsion is not required for possession of a weapon, as otherwise required by the section, if the pupil establishes, in a clear and convincing manner, at least one of the circumstances listed in the Code, e.g., he or she did not possess the object or instrument for use as a weapon.

Under the bill, in order for this exemption to apply, the board would have to determine in writing that the expulsion was not justified due to unique circumstances in that particular case. There would be a rebuttable presumption that expulsion was not justified if the pupil either established that he or she met one of the existing criteria for exemption, or had no history of suspension or expulsion.

House Bills 5693, 5694, and 5695 are tie-barred to House Bill 5618.

House Bill 5619 (H-1) would amend the Code to require the board of a school district, intermediate school district, or PSA to consider using restorative practices as an alternative or in addition to suspension or expulsion. "Restorative practices" would mean practices that emphasize repairing the harm to the victim and the school community caused by the pupil's misconduct.

Restorative practices could include victim-offender conferences that: were initiated by the victim; were approved by the victim's parent or legal guardian or, if the victim were at least 15 years old, by the victim; were attended voluntarily by the victim, a victim advocate, the offender, school community members, and supporters of the victim and the offender; and provided an opportunity for the offender to accept responsibility for the harm caused to those affected by the misconduct and to participate in setting consequences to repair the harm. The attendees, known as a restorative practices team, could require the pupil to do one or more of the following: apologize; participate in community service; restoration, or counseling; or pay restitution. The selected consequences would have to be incorporated into an agreement that set time limits for completion and was signed by all participants.

The bill provides that restorative practices should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

House Bill 5620 (H-1) would amend the Code to include provisions for considering the use of restorative practices in the correction of bullying behavior, among the elements that a school board, intermediate school board, or PSA board of directors is encouraged to include in its anti-bullying policy.

House Bill 5621 (H-1) would amend the Code to require a school board, intermediate school board, or PSA board of directors to report to the appropriate law enforcement agencies and prosecutors all information required to be reported to those officials under the Statewide School Safety Information Policy.

MCL 380.1310d (H.B. 5618)
Proposed MCL 380.1310c (H.B. 5619)
MCL 380.1310b (H.B. 5620)
MCL 380.1308 (H.B. 5621)
MCL 380.1311 (H.B. 5693)
MCL 380.1310 (H.B. 5694)
MCL 380.1311a (H.B. 5695)

Legislative Analyst: Patrick Affholter
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FISCAL IMPACT

The bills would have no fiscal impact on the State or local school districts. The bills would not require any changes that would add costs to the State or the process for determining discipline at the school level. Though the bills would allow more flexibility for schools to determine discipline, schools already are required to fulfill reporting requirements and have costs associated with determining and appealing discipline decisions. For these reasons, it is unlikely that the bills would have any fiscal impact on the State or local school districts.

Date Completed: 9-28-16

Fiscal Analyst: Cory Savino

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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.