

## EXEMPT LAW ENFORCEMENT OFFICERS FROM SECLUSION AND RESTRAINT REQUIREMENTS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

House Bill 5126 (H-1) as reported from committee

Sponsor: Rep. Daniela R. Garcia

Committee: Education Reform

Complete to 11-7-17

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 260 of 2017)*

### **BRIEF SUMMARY:**

House Bill 5126 would amend the Revised School Code to exempt law enforcement officers from requirements under the Seclusion and Restraint package enacted as Public Acts 394 through 402 of 2016.<sup>1</sup>

### **FISCAL IMPACT:**

The bill would have no fiscal impact on state or local units of government.

### **THE APPARENT PROBLEM:**

The Seclusion and Restraint package was introduced and enacted to ensure a safe learning environment for students and staff. However, since it took effect March 29, 2017, an unintended consequence of the legislation has arisen. School Resource Officers (SROs) are sworn law enforcement officers contracted to schools to build positive relationships between the police and the community. They are also available in case of physical altercations, drug activity, or if an active shooter situation were to occur.

As written, the law prohibits the use of mechanical restraints—including handcuffs—by “school personnel,” and the definition of school personnel includes those working under contract or under agreement in a public school. Accordingly, there is concern that the law currently prohibits SROs from performing their duties as law enforcement officers.

### **THE CONTENT OF THE BILL:**

The Seclusion and Restraint package defined *school personnel* as including all individuals employed in a public school, individuals assigned to work regularly and continuously under contract or under agreement in a public school, or public school personnel providing service at a nonpublic school.

The bill would add that the definition does not include a law enforcement officer assigned to work regularly and continuously under contract or under agreement in a public school.

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<sup>1</sup> House Fiscal Agency analysis of PAs 394 to 402 of 2016 (House Bills 5409 to 5417):  
<http://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-5409-D1BBA312.pdf>

The sections added by the package—Sections 1307 to 1307h of the Code—charged the Michigan Department of Education with developing a state policy regarding the use of seclusion and restraint. The policy was required to include a clear statement that all of the following practices are prohibited for school personnel:

- Corporal punishment (defined in Section 1312 as the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline).
- The deprivation of basic needs.
- Child abuse.
- Seclusion, other than emergency seclusion.
- The intentional application of any noxious substance or stimulus that results in physical pain or extreme discomfort, whether the substance or stimulus is generally acknowledged or is specific to the pupil.
- Restraint of a pupil, including mechanical restraint; chemical restraint; any restraint that negatively impacts breathing; prone restraint; physical restraint, other than emergency physical restraint; or any other type of restraint.

Additionally, under the package, the policy must include provisions that, among other actions, school personnel must do all of the following:

- Call for help in certain emergency situations.
- Follow certain observation and reporting requirements when using emergency seclusion or emergency physical restraint.
- Make reasonable efforts to debrief with the parent or guardian or the pupil after the use of seclusion or restraint.

House Bill 5126 would provide that law enforcement officers—individuals licensed under the Michigan Commission on Law Enforcement Standards Act—would not be subject to those requirements. However, law enforcement officials must follow the documentation and reporting requirements in Sections 1307d and 1307f of the Code.

The bill would take effect 90 days after its enactment.

MCL 380.1307h

***POSITIONS:***

Representatives of the following organizations testified in support of the bill:

- Holland Department of Public Safety (10-19-17)
- Holland High School (10-19-17)
- Thrun Law Firm (10-19-17)

The following organizations indicated support for the bill:

- Michigan Association of Secondary School Principals (10-19-17)
- Michigan Sheriffs' Association (10-19-17)

- Oakland Public Schools (10-19-17)
- Michigan Association of Chiefs of Police (10-19-17)
- Michigan Municipal League (10-19-17)
- ESA Legislative Group (10-19-17)
- Barry, Branch, Calhoun, Jackson, Lenawee, and Monroe ISDs (10-26-17)
- West Michigan Talent Triangle (10-26-17)
- Michigan State Police (10-26-17)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.