

ELIGIBILITY OF HIGH SCHOOL ATHLETE TRANSFERS

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House Bill 5393 as introduced
Sponsor: Rep. Jim Tedder
Committee: Education Reform
Complete to 1-10-18

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

SUMMARY:

House Bill 5393 would amend the Revised School Code to provide that, beginning with the 2017-2018 school year, school districts, intermediate school districts (ISDs), and public school academies (PSAs) could not bar a student from participating in interscholastic athletic activities because the student transferred to the district, regardless of the reason for the transfer.

Additionally, the district, ISD, or PSA would be prohibited from adopting a resolution or entering into an agreement that prevents compliance with this prohibition. Any such resolution or agreement in place when the bill takes effect would be voided.

Proposed MCL 380.1290

BACKGROUND:

This bill is understood to address the situation of a high school basketball player and his eligibility to play after transferring high schools for his senior season. The student's former school district refused to sign off on the transfer, rendering him ineligible to play for 90 days. Subsequently, his former district appealed to the Michigan High School Athletic Association (MHSAA), arguing that the transfer was athletically motivated and that he should be ineligible to play for 180 days.

The MHSAA agreed, finding that the transfer violated Section 9(E) of their eligibility requirements—namely, that his was a transfer for athletic reasons given that he “[sought] to participate with teammates or coaches with whom he/she participated in non-school competition during the preceding 12 months.”¹ The student appealed to the MHSAA's executive committee, but it upheld the 180-day ineligibility period.²

The student sued the MHSAA and his former district in December of 2016, alleging a violation of his right to substantive due process (under the Fourteenth Amendment of the

¹ 2017-2018 Michigan High School Athletic Association Handbook,
<https://www.mhsaa.com/portals/0/documents/AD%20Forms/1718handbook.pdf>

² <http://www.detroitnews.com/story/sports/high-school/2017/12/07/mhsaa-rules-clarkstons-thomas-kithier-ineligible/108410930/>
<https://www.freep.com/story/sports/college/michigan-state/spartans/2017/12/29/clarkstons-thomas-kithier-sues-mhsaa-says-he-bullied-after-transfer-michigan-state-basketball/991005001/>

U.S. Constitution), a civil conspiracy, defamation, and intentional infliction of emotional distress.³ He is also seeking a preliminary injunction to be allowed to play until the case is decided on its merits. The motion hearing on the preliminary injunction is set for January 11, 2018.

FISCAL IMPACT:

House Bill 5393 would have no fiscal impact on the state or on school districts, intermediate school districts (ISDs), or public school academies (PSAs).

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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.

³ *Kithier v MHSAA et al*, 2:17-cv-14227-MOB-DRG (ED Mich, 2018),
<https://www.scribd.com/document/368093897/Kithier-v-MHSAA>