

Legislative Analysis



CSC: SEPARATE VICTIM AND PERPETRATOR AT SCHOOL

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

House Bills 5530 and 5531 as introduced
Sponsor: Rep. Lana Theis

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

House Bill 5532 as introduced
Sponsor: Rep. Sylvia A. Santana

Committee: Law and Justice
Complete to 2-19-18

SUMMARY:

Together, the bills would amend various acts to prohibit an individual who was convicted of, or adjudicated for, criminal sexual conduct (CSC) from attending the same school as his or her victim. Each of the bills would take effect 90 days after being enacted.

House Bill 5530 would add a new section to the Michigan Penal Code to require a court to prohibit a student at a school in this state who is convicted of, or adjudicated as a juvenile for, CSC in the 1st, 2nd, 3rd, or 4th degree, or assault with the intent to commit CSC in the 1st, 2nd, or 3rd degree, from returning to the same school building he or she attended if the student's victim attends school in that school building. The prohibition would be a part of the court's judgment of sentence, adjudication order, order of disposition, or order of probation.

[Note: The term "school" is not defined in the Michigan Penal Code or in the bill.]

Proposed MCL 750.520o

House Bill 5531 would amend the Revised School Code. Currently, the Code requires, subject to Section 1310d, described below, that the school board or its designee must expel a pupil from the school district permanently (subject to possible reinstatement) if the pupil commits arson or criminal sexual conduct in a school building or on school grounds. (Different expulsion criteria exist for possessing a dangerous weapon in a weapon free school zone.)

The bill would add that a pupil must also be expelled if he or she commits criminal sexual conduct against another pupil enrolled in the same school district. The Code defines "criminal sexual conduct" as CSC in the 1st, 2nd, 3rd, or 4th degree or assault with the intent to commit CSC in the 1st, 2nd, or 3rd degree.

[Section 1310d of the Code requires that, before suspending or expelling a student for certain offenses listed in Section 1311(2), the board of a school district or intermediate school district (ISD) or board of directors of a public school academy (PSA, or charter school), or a superintendent, school principal, or other designee, must consider each of the following factors:

- The student's age.
- The student's disciplinary history.
- Whether the student is student with a disability.

- The seriousness of the violation or behavior.
- Whether the violation or behavior committed by the student threatened the safety of any student or staff member.
- Whether restorative practices will be used to address the violation or behavior.
- Whether a lesser intervention would properly address the violation or behavior.]

MCL 380.1311

House Bill 5532 would amend Section 2950 of the Revised Judicature Act, which establishes the procedure for personal protection orders (PPOs) in situations involving domestic violence. An individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, an individual with whom he or she has or has had a dating relationship, or an individual residing or who once resided in the same household as the petitioner from doing one or more of several listed actions, such as entering unto the premises.

To the current list of actions, the bill would add prohibiting the respondent (the subject of the PPO) from attending school in the same building as the petitioner. This would apply if the individual petitioning the court for a PPO is a minor who has been the victim of sexual assault by the respondent and is enrolled in a public or nonpublic school that operates any of grades K to 12. As used in the bill, “sexual assault” would mean criminal sexual conduct in the 1st, 2nd, 3rd, or 4th degree; assault with the intent to commit CSC in the 1st, 2nd, or 3rd degree; or a substantially similar offense under a law of the United States, another state, or a foreign country or tribal or military law.

MCL 600.2950

FISCAL IMPACT:

Department of Education

There would be no fiscal impact for the state School Aid budget and minimal, if any, fiscal impact for local school districts. While a district may lose per pupil funding for an expelled pupil, pupils could transfer to other districts, and the net effect would likely be zero.

Judiciary

House Bill 5532, which would allow a minor victim to obtain a PPO, would have an indeterminate fiscal impact on local court funding units. The fiscal impact would depend on how provisions of the bill affected court caseloads and the related administrative costs.

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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.