

Legislative Analysis



SEPARATION OF SERVICE RECORDS FOR SCHOOL EMPLOYEES AND CONTRACT WORKERS

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

House Bill 5786 as introduced
Sponsor: Rep. Cara Clemente
Committee: Law and Justice
Complete to 4-23-18

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

SUMMARY:

House Bill 5786 would require the Michigan Department of Education (MDE) to prepare and maintain records describing the circumstances under which an employee or contract worker separates from service at a public school, including the reason or reasons for the separation. The employee or worker could review the record and, if he or she disagreed with its accuracy, could request correction or removal of the disputed section. If MDE and the individual could not agree on the contents of the record, the individual could submit his or her own explanation, which would be included as part of the record.

If an individual who had separated from service sought to be reemployed by a school district, intermediate school district (ISD), or public school academy (PSA, or charter school) or to work under contract regularly and continuously in a public school, the individual would have to execute a waiver authorizing MDE to release the records to the prospective employer. MDE would have to provide the record to the prospective employer within 20 business days.

If the individual did not authorize MDE to release the records to the prospective employer, the district, ISD, or PSA could not hire the individual or allow him or her to work regularly and continuously under contract in a public school.

MDE and its employees would be immune from civil liability for the disclosure of the records as long as the disclosure was made in good faith after receipt of the waiver. Good faith would be presumed unless a preponderance of the evidence established that MDE or the employee knew that the information disclosed was false or misleading, that the disclosure was made with a reckless disregard for the truth, or that the disclosure was specifically prohibited by a state or federal statute.

The bill would take effect 90 days after enactment.

Proposed MCL 380.1230j

FISCAL IMPACT:

House Bill 5786 would increase costs for MDE and could increase costs for local school districts, ISDs, and PSAs.

According to MDE, the bill would create both one-time and ongoing costs for the department. MDE would incur one-time technology costs of approximately \$1.0 million to create a system to manage separation records for not only employees hired directly by a district, ISD, or PSA, but also anyone who is assigned to regularly and continuously work under contract in a public school. For reference, there were approximately 320,000 individuals employed or contracted by public school entities for the 2016-2017 school year as reported in the Registry of Educational Personnel (REP). According to MDE, the time required to bid a contract and build the system would be approximately two years.

The department also estimates that it would incur ongoing annual costs of \$100,000 for system maintenance as well as ongoing staff costs of \$200,000 for two FTEs to prepare and maintain separation records, process reconciliation requests regarding the record accuracy, and process waivers authorizing MDE to release records to prospective employers.

Local school districts, ISDs, and PSAs could incur additional administrative costs related to reporting separation records to MDE and processing separation waivers with MDE when hiring new employees or contractors.

Legislative Analyst: Jenny McInerney
Fiscal Analysts: Bethany Wicksall
Samuel Christensen

■ 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.