

NO SUSPENSION OR EXPULSION FOR VICTIM OF SEXUAL ASSAULT

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House Bill 5800 (H-3) as reported from committee
Sponsor: Rep. Yousef Rabhi
Committee: Law and Justice
Complete to 5-23-18

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

SUMMARY:

House Bill 5800 would amend the Revised School Code to prohibit the board of a school district or intermediate school district (ISD) or board of directors of a public school academy (PSA, or charter school) from taking certain actions toward a student for the student's actions arising out of an incident in which the student reported, or a school official or staff member witnessed or received credible evidence that the student experienced, a *sexual assault*. In those instances, the board or board of directors would not be allowed to expel the student, or suspend the student for more than 10 school days, for actions the student took during the incident of sexual assault. The bill would encourage a board or board of directors to follow the recommendations of its Title IX coordinator in deciding to suspend such a student.

Sexual assault would be defined as an act constituting criminal sexual conduct (CSC) in the first, second, third, or fourth degree or assault with intent to commit CSC in the first, second, or third degree.

This prohibition would not apply if any of the following are met concerning the reported incident:

- The student is convicted of, pleads guilty to, pleads responsible for, or is adjudicated responsible for aggravated assault, felonious assault, assault with intent to commit murder, assault with intent to do great bodily harm, assault with intent to maim, attempted murder, homicide, or manslaughter, or one of the offenses defined as sexual assault, above.
- The student possessed a dangerous weapon in a weapon-free school zone (and was not able to establish mitigating factors), committed arson in a school building or on school grounds, or committed CSC in a school building or on school grounds.
- A completed Title IX investigation determined by clear and convincing evidence that the report of sexual assault is conclusively false.

The bill would take effect 90 days after enactment.

Proposed MCL 380.1310e

FISCAL IMPACT:

House Bill 5800 would have no fiscal impact for the state or local units of government.

The bill should not create additional costs for local school districts, IDSs, or PSAs because any entity receiving federal funds from the U.S. Department of Education already is required under Title IX to identify someone on staff to act as and carry out the duties of a Title IX coordinator.

POSITIONS:

A representative of the Student Advocacy Center testified in support of the bill. (5-1-18)

The following organizations indicated support for the bills:

- Department of Attorney General (4-17-18)
- Wayne County SAFE Program (4-23-18)
- American Association of University Women (5-1-18)

The Michigan Coalition to End Domestic and Sexual Violence indicated support for the bill in principle. (4-24-18)

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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.