

Senate Fiscal Agency  
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**SFA**



**BILL ANALYSIS**

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Senate Bill 183 (as enrolled)  
Senate Bill 206 (as enrolled)  
House Bill 4240 (as enrolled)  
House Bill 4241 (as enrolled)

**PUBLIC ACT 103 of 1999**  
**PUBLIC ACT 104 of 1999**  
**PUBLIC ACT 102 of 1999**  
**PUBLIC ACT 23 of 1999**

Sponsor: Senator Bev Hammerstrom (Senate Bill 183)  
Senator Leon Stille (Senate Bill 206)  
Representative Clark Bisbee (House Bill 4240)  
Representative Gerald Van Woerkom (House Bill 4241)

Senate Committee: Education  
House Committee: Education

Date Completed: 7-21-99

### **RATIONALE**

The issue of school violence periodically captures the nation's attention when there is an incident of shootings in school, such as those at high schools in Paducah, Kentucky, in 1997; Jonesboro, Arkansas, in March 1998; and Littleton, Colorado, last April. In Michigan, school safety is an ongoing concern. This State enacted Public Act 328 of 1994 to require schools to expel a pupil for possessing a dangerous weapon in a weapon-free school zone, or committing arson or criminal sexual conduct in a school building or on school grounds. Since the law took effect, hundreds of students reportedly have been expelled for possessing guns, knives, and other weapons.

While Public Act 328 addresses several aspects of school violence, additional concerns remain. In particular, it has been suggested that students should be expelled or suspended when they physically or verbally assault teachers or other school personnel, or attack other students. Also, some people believe that teachers should have the authority to suspend a pupil for a day, when he or she presents a danger. Related issues involve the reporting of school violence, cooperation between school officials and law enforcement authorities, and alternative education for expelled pupils.

### **CONTENT**

**Senate Bill 183** amended the Revised School Code to allow a teacher to suspend a pupil for up to one day, according to a locally adopted policy; and to require a school board to adopt a policy specifying conduct for which a pupil may be suspended. **Senate Bill 206** amended the Code to require a pupil in grade six or above to be expelled permanently (subject to possible reinstatement after 180 school days) for physically assaulting a school employee, or to be expelled for up to 180 school days for verbally assaulting a school employee or making a bomb threat. **House Bill 4240** amended the Code to require the development of a Statewide school

**safety information policy identifying incidents occurring at a school that must be reported to law enforcement agencies; to require schools, prosecutors, and local law enforcement agencies to comply with the policy; and to require that a pupil in grade six or above be expelled for up to 180 school days for physically assaulting another pupil. House Bill 4241 created the "Safe Schools and Communities Law" within the Code to provide for the establishment of strict discipline academies for the enrollment of expelled and court-placed pupils.**

Senate Bills 183 and 206 and House Bill 4240 were tie-barred to each other. The Senate bills also were tie-barred to House Bill 4241.

#### **Senate Bill 183**

The bill allows a public school teacher to suspend a pupil for up to one full school day from a class, subject, or activity, if the teacher has good reason to believe that the pupil's conduct in the class, subject, or activity constitutes conduct for which the pupil may be suspended according to the local policy adopted by the school board.

The teacher immediately must report the suspension and the reason for it to the school principal and send the pupil to the principal or the principal's designee for appropriate action. If that action requires the continued presence of the pupil at school, he or she must be under appropriate supervision. During the suspension, the pupil may not be returned that school day to the class, subject, or activity from which he or she was suspended without the concurrence of the teacher and the principal.

As soon as possible after the suspension, the teacher must ask the pupil's parent or guardian to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor, school

psychologist, or school social worker must attend the conference. A school administrator also must attend, upon the request of the teacher or the parent or guardian.

The bill requires a school board to adopt a local policy specifying the types of conduct for which a pupil may be suspended from a class, subject, or activity under these provisions. The policy must be included in the board's code of student conduct.

(Senate Bills 183 and 206, and House Bill 4240 define "school board" as a school board, an intermediate school board, or the board of directors of a public school academy.)

### **Senate Bill 206**

#### Overview

The bill does the following:

- Requires the expulsion of a student, subject to possible reinstatement, if he or she is enrolled in grade six or above and physically assaults a school employee, a volunteer, or a person under contract with the school.
- Requires the expulsion of a student for up to 180 days if he or she is enrolled in grade six or above and verbally assaults a school employee, volunteer, or contractor, or makes a bomb threat directed at school property.

- Provides that an expelled student is expelled from all public schools in the State (except a strict discipline academy) unless a district operates or participates in an appropriate alternative education program and admits the expelled student to it.
- Requires a school district, within three days after an expulsion, to refer the student to an appropriate county social services or mental health agency.
- Provides that an expelled student's parent or legal guardian, or the student if he or she is at least 18 or emancipated, may petition the school board for reinstatement, but the student may not be reinstated before 180 school days after the expulsion.
- Provides that it is the responsibility of an expelled individual and his or her parent or guardian to locate a suitable educational program.

#### Expulsion Requirements

The bill requires a school board, or the designee of a school board, to expel a pupil permanently from the school district if he or she is enrolled in grade six or above and commits a physical assault at school against a person employed by or engaged as a volunteer or contractor by the board, and the assault is reported to the board, district superintendent, or building principal by the victim or, if he or she cannot report the assault, by another person on the victim's behalf. The pupil will be subject to possible reinstatement. (The bill defines "physical assault" as intentionally causing or attempting to cause physical harm to another through force or violence. "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises. "School district" means a school district, a local act school district, an intermediate school district (ISD), or a public school academy.)

A pupil must be expelled from the school district for up to 180 days if he or she is enrolled in grade six or above and commits a verbal assault, as defined by school board policy, at school against a person employed by or engaged as a volunteer or contractor by the school board, and if the verbal assault is reported to the school board, district superintendent, or building principal by the victim or by another person on the victim's behalf, if he or she cannot report. A student in grade six or above also must be expelled from the district for up to 180 days for making a bomb threat or a similar threat directed at a school building, other school property, or a school-related event. A school district is not required to allow an individual expelled from another district under these provisions to attend school in that district during the expulsion.

A district superintendent or building principal who receives a report of a physical or verbal assault must forward it to the school board.

If an individual is permanently expelled for a physical assault, the school district must enter that information on the individual's permanent record. Unless the school operates or participates cooperatively in an alternative education program appropriate for individuals expelled for physical assault or under Section 1311(2), and in its discretion admits the individual to that program, and except for a strict discipline academy, the individual will be expelled from all public schools in this State and the officials of a school district may not allow the individual to enroll in the district unless he or she has been reinstated. Except as otherwise provided by law, a program operated for permanently expelled individuals must ensure that they are physically separated at all times during the school day from the general pupil population. (Section 1311(2) contains the requirement that a pupil be expelled for possessing a weapon in a weapon-free school zone, or committing arson or criminal sexual conduct in a school building or on school grounds.)

If a permanently expelled individual is not placed in an alternative education program or strict discipline academy, the school district may provide, or arrange for the ISD to provide, appropriate instructional services to the individual at home. The type of services provided must meet the requirements of the Section 6(4)(v) of the State School Aid Act, and the services may be contracted for in the same manner as services for homebound pupils under Section 109 of the Act. (Section 6(4)(v) prescribes instructional requirements for pupils educated at home under an alternative education program. Section 109 requires each district or ISD to provide appropriate instructional services to an enrolled pupil who has a certified medical condition that requires the pupil to be hospitalized or confined to his or her home during regular school hours for more than five school days.)

The bill specifies that these provisions do not require a school district to spend more money for providing services for a permanently expelled pupil than the amount of the foundation allowance the district receives for the pupil under the State School Aid Act.

If a pupil expelled from a school district under the bill is enrolled by a public school district-sponsored alternative education program or a public school academy during the period of expulsion, the program or academy will be eligible immediately for the prorated share of the foundation allowance of the academy or operating school district, or of the expelling school district, whichever is higher.

If a school board expels an individual under the bill, the board must to ensure that, within three days after

the expulsion, an official of the district refers the individual to the appropriate county department of social services or county community mental health agency, and notifies his or her parent or legal guardian or, if the individual is at least 18 or an emancipated minor, notifies him or her of the referral.

A school board or its designee must report all physical or verbal assaults described in the bill to appropriate State or local law enforcement officials and prosecutors as provided in the Statewide school safety information policy (pursuant to House Bill 4240).

A school board or school administrator that complies with the bill will not be liable for damages for expelling a pupil, and the authorizing body of a public school academy will not be liable for damages for expulsion of a pupil.

The bill specifies that it does not diminish the due process rights under Federal law of a pupil who has been determined to be eligible for special education programs and services.

#### Reinstatement

The parent or legal guardian of an individual permanently expelled under the bill or, if he or she is at least 18 or an emancipated minor, the individual may petition the expelling school board for reinstatement to public education in the district. If the board denies the petition, the parent or guardian or the individual may petition another school board for reinstatement in that other district.

The individual's parent or legal guardian, or the individual if he or she is at least 18 or emancipated, may initiate a petition for reinstatement at any time after the expiration of 150 school days following the date of expulsion. The individual may not be reinstated before the expiration of 180 school days after the date of expulsion.

The bill specifies that it is the responsibility of the parent or legal guardian, or the individual if he or she is at least 18 or emancipated, to prepare and submit the petition. A school board is not required to provide any assistance in preparing the petition. Upon request by the parent, guardian, or individual, the board must make available a form for a petition.

Within 10 school days after receiving the petition, the school board must appoint a committee to review it and any supporting information submitted by the parent, legal guardian, or individual. The committee is to consist of two school board members, one school administrator, one teacher, and one parent of a pupil in the district. During this time, the district superintendent may prepare and submit for the committee's consideration information concerning the circumstances of the expulsion and any factors

mitigating for or against reinstatement.

Within 10 school days after all members are appointed, the committee must review the petition and any supporting information, and submit a recommendation to the school board. The recommendation must be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation must be based on consideration of all of the following factors:

- The extent to which reinstatement would create a risk of harm to pupils or school personnel.
- The extent to which reinstatement would create a risk of school district or individual liability for the school board or school district personnel.
- The individual's age and maturity.
- The individual's school record before the incident that caused the expulsion.
- The individual's attitude concerning the incident.
- The individual's behavior since the expulsion and the prospects for his or her remediation.
- If the petition was filed by a parent or legal guardian, the degree of cooperation and support that he or she has provided and that may be expected if the individual is reinstated, including receptiveness toward possible conditions placed on the reinstatement.

By the next regularly scheduled board meeting after receiving the committee's recommendation, the school board must make a decision to reinstate the individual unconditionally, reinstate him or her conditionally, or deny reinstatement. The board's decision will be final.

A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or guardian, to agree in writing to specific conditions before reinstating the individual conditionally. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian, or the individual if he or she is at least 18 or emancipated, may include proposed conditions in a petition for reinstatement.

The Department of Education must develop and distribute to all school districts a form for a reinstatement petition. The Department may designate the form used for a petition under Section

1311 as a form that may be used under this provision.

#### Alternative Education

The bill states that, if an individual is expelled under the bill, it is the responsibility of the individual and his or her parent or legal guardian to locate a suitable educational program and to enroll the individual in such a program during the expulsion. The Office of Safe Schools in the Department of Education must compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled under the bill or Section 1311(2). The office must distribute this information periodically to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school must notify the office about it and the types of pupils it serves. The office also must work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

#### House Bill 4240

#### Statewide School Safety Information Policy

Within 90 days after the bill's effective date, the Superintendent of Public Instruction, Attorney General, and Director of the Department of State Police must adopt, publish, and distribute to school boards, county prosecutors, and local law enforcement agencies a Statewide school safety information policy. Within 180 days after the bill's effective date, each school board, county prosecutor, and local law enforcement agency must 1) meet and confer as appropriate on the implementation of the Statewide policy for each school district and on any related issues unique to the affected locality, and 2) begin compliance with the Statewide policy. The appropriate local law enforcement agency or agencies to be involved must be determined locally, consistent with the policy.

The Statewide policy must identify the types of incidents occurring at school that have to be reported to law enforcement agencies, and establish procedures to be followed when such an incident occurs at school. The policy also may address procedures for reporting incidents involving possession of a dangerous weapon as required under the Code.

The Statewide policy must address at least all of the following:

- Law enforcement protocols and priorities for the reporting process. The protocols must be

developed with the cooperation of the appropriate State or local law enforcement agency. The priorities must include at least investigation of reported incidents, identification of those involved, assistance in preventing these types of incidents, and, when appropriate, assistance from a child protection agency.

- Definition of the types of incidents requiring reporting to law enforcement and response by law enforcement, taking into account the actor's intent and the circumstances surrounding the incident.
- Protocols for responding to reportable incidents, addressing at least initial notification and reporting by school officials; the information to be provided by them; initial response by law enforcement; and custody of actors.
- The amount and nature of assistance to be provided by school officials, and the scope of their involvement in law enforcement procedures. This provision must require school officials to notify the parent or legal guardian of a minor pupil who is a victim or witness when law enforcement authorities interview the pupil.
- Any other matters that will facilitate reporting incidents and exchanging information affecting school safety.

If officials of a school district determine that an incident has occurred at school and is required to be reported to law enforcement agencies according to the Statewide policy, the superintendent of the district, or his or her designee, immediately must report that finding to the appropriate State or local law enforcement agency, as provided in the policy.

If provided in the Statewide policy, a local law enforcement agency having jurisdiction over a school building of a school district must report to the school officials of the building incidents reported to the law enforcement agency that allege the commission of a crime and that, according to the incident report, either occurred on school property or within 1,000 feet of school property, or involved a pupil or staff member of the school as a victim or alleged perpetrator. Upon the agency's request, school officials must give it any information needed to provide this report to school officials.

If provided in the Statewide policy, the prosecuting attorney of a county must notify a school district located entirely or partly in that county of any criminal or juvenile court action initiated or taken against a pupil of the district, including convictions, adjudications, and dispositions. This notice must be made to the school district superintendent or to the intermediate superintendent of the ISD in which the county is located, as provided in the policy or by local agreement. If the intermediate superintendent is

notified, he or she must forward the information to the superintendent of the school district in which the pupil is enrolled. Upon receiving the information, the superintendent must share it with appropriate school building personnel. The prosecutor may ask each school age individual involved in a court action described in this provision whether he or she is a pupil in a school district and, if so, in which district.

If provided for in the Statewide policy, the appropriate court must inform an appropriate school administrator of the name of the individual assigned to monitor a convicted or adjudicated youth attending a public school and of how that individual may be contacted.

A school board, county prosecutor, and local law enforcement agency may enter into a local agreement or take other measures to facilitate the sharing of school safety information or to promote school safety, if the agreement or other measures are consistent with the Statewide policy.

A school board must cooperate with local law enforcement agencies to ensure that detailed and accurate building plans, blueprints, and site plans, as appropriate, for each school building operated by the school board are provided to the appropriate local law enforcement agency.

If a pupil is involved in an incident reported to law enforcement according to the Statewide policy, upon request by school officials, the pupil's parent or legal guardian must execute any waivers or consents necessary to allow school officials access to school, court, or other pertinent records of the pupil concerning the incident and action taken as a result of it.

The bill specifies that the reporting of information by a school district or school personnel under these provisions is subject to the Federal Family Educational Rights and Privacy Act of 1974.

#### Assaults on Pupils

If a pupil enrolled in grade six or above commits a physical assault at school against another pupil, and the assault is reported to the school board, school district superintendent, or building principal, the school board must expel the pupil from the district for up to 180 school days. A district superintendent or building principal who receives such a report must forward it to the school board. A school district is not required to allow an expelled individual from another district to attend school in that district during the expulsion.

The bill states that, if an individual is expelled under these provisions, it is the responsibility of the individual and his or her parent or legal guardian to locate a suitable educational program and to enroll

the individual in such a program during the expulsion. The Office of Safe Schools must compile information on and catalog existing alternative education programs or schools and nonpublic schools that may be open to enrollment of individuals expelled under the bill, Senate Bill 206, or Section 1311(2). The office must distribute this information periodically to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school must notify the office about it and the types of pupils it serves. The office also must work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

### Reporting Expulsions and Crime

At least annually, each school board must prepare and submit to the Superintendent of Public Instruction a report stating the number of pupils expelled from the district during the immediately preceding school year, with a brief explanation of the incident that caused each expulsion.

Also, at least annually, each school board must report to the Superintendent incidents of crime occurring at school within the district. In determining the form and manner of this report, the Superintendent must consult with local and intermediate school districts and law enforcement officials. The reporting must include at least crimes involving physical violence, gang-related activity, illegal possession of a controlled substance or controlled substance analogue, or other intoxicant, trespassing, and property crimes, including theft and vandalism. For a property crime, the report must include an estimate of the cost to the district resulting from the crime. At least once each semester, each school board must provide a copy of the most recent report available for the district to the parent or legal guardian of each pupil enrolled in the district.

### **House Bill 4241**

#### Admission Policy

A strict discipline academy may enroll only one or more of the following types of pupils:

- Pupils placed in the academy by a court or by the Family Independence Agency (FIA) or a county juvenile facility under the direction of a court.
- Pupils who have been expelled under Section 1311 (for possession of a dangerous weapon, arson, or criminal sexual conduct).
- Pupils who have been expelled for under Section 1311a (for assault or a bomb threat) or under another section of the Code.

- Other expelled pupils referred to the academy by a pupil's school and placed in the academy by the pupil's parent or legal guardian.

A strict discipline academy also must be open for enrollment of a special education pupil who does not meet the preceding requirements, if the pupil's individualized educational planning committee recommends that the pupil be placed in the strict discipline academy.

An academy is not required to keep any group of pupils described above physically separated from another group of those pupils, as might otherwise be required by the Code.

The bill specifies that strict discipline academies are not intended to enroll or otherwise be used to educate individuals who are committed to a high- or medium-security juvenile facility operated by the FIA or another State department or agency. If the FIA, the Department of Corrections, or another State department or agency has custody of or jurisdiction over a child, that department or agency has the financial responsibility for educating the child.

#### Enrollment

Except for a foreign exchange student who is not a U.S. citizen, a strict discipline academy may not enroll a pupil who is not a resident of Michigan. Enrollment may be open to all individuals residing in this State who meet the admission policy (concerning the type of pupils who may be enrolled), and must be open to all pupils residing within the geographic boundaries, if any, of the authorizing body. Admission to a strict discipline academy on the grounds of a Federal military installation must be open to all pupils residing in the county in which the military installation is located. For a strict discipline academy authorized by a State public university, enrollment must be open to all pupils residing in the State who meet the admission policy.

If there are more applications to enroll in a strict discipline academy than there are spaces available, pupils must be selected by use of a random selection process. An academy may give enrollment priority, however, to a sibling of an enrolled pupil. An academy must allow any pupil who was enrolled in the immediately preceding school year to enroll in the appropriate grade unless the academy does not offer that grade.

A strict discipline academy may include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. The authorizing body may approve amendment of a contract with respect to ages of pupils or grades offered.

A strict discipline academy must not charge tuition. Except in regard to the types of pupils who may be enrolled, a strict discipline academy must not discriminate in its pupil admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, or status as a handicapped person, or on any other basis that would be illegal if used by a school district. An academy, however, may limit admission to pupils who are within a particular range of age or grade level or on any other basis that would be legal if used by a school district.

If a strict discipline academy is operated by a school district that is subject to a court desegregation order, pupil selection at the academy is subject to that order.

### Organization & Creation of Academy

Constitutional Provisions. The bill specifies that a strict discipline academy is a public school under Article VIII, Section 2 of the State Constitution (which provides that no public money or property may be appropriated or paid to aid or maintain any private, denominational or other nonpublic school). A strict discipline academy is subject to the leadership and general supervision of the State Board of Education and is a school district for the purposes of Article IX, Section 11 of the Constitution (which provides for the State School Aid Fund and requires it to be used for aid to school districts, higher education, and school employees' retirement systems).

Organization. A strict discipline academy must be organized and administered under the direction of a board of directors in accordance with the bill and with bylaws adopted by the board of directors. A strict discipline academy corporation created to operate an academy must be organized under the Nonprofit Corporation Act, although the corporation does not have to comply with sections of law governing educational corporations. To the extent disqualified under the State or U.S. Constitution, a strict discipline academy may not be organized by a church or other religious organization, and may not have any organizational or contractual affiliation with or constitute a church or other religious organization.

Authorizing Body. Any of the following may act as an authorizing body to issue a contract to organize and operate one or more strict discipline academies:

- The board of a school district operating grades K to 12, except that the board may not issue a contract for the academy to operate outside the school district's boundaries.
- An intermediate school board, although the board may not issue a contract for the academy to operate outside the ISD's boundaries.
- The governing board of a State public

university.

- The board of a community college.

A community college board may not issue a contract for a strict discipline academy to operate in a first class school district, or outside the boundaries of the community college. A community college board may issue a contract for one strict discipline academy to operate on the grounds of an active or closed Federal military installation located outside the boundaries of the community college district, however, or may operate an academy on the grounds of a military installation, if the college has previously offered courses on the grounds of the installation for at least 10 years.

An authorizing body must adopt a resolution establishing the method of selection, length of term, and number of members of the board of directors of each strict discipline academy subject to its jurisdiction.

The authorizing body for a strict discipline academy is its fiscal agent. A State school aid payment for the academy must be paid to the authorizing body, which must forward the payment to the academy.

Application. To obtain a contract to organize and operate one or more strict discipline academies, one or more people or an entity may apply to an authorizing body. The application must include at least the applicant's identification; a list of the proposed members of the academy's board of directors and a description of the qualifications and method for appointment or election of board members; the proposed articles of incorporation; a copy of the academy's proposed bylaws; descriptions of staff responsibilities and of the academy's governance structure; identification of the local and intermediate school districts in which the academy will be located (for an application to the board of a school district, an ISD, or a community college); an agreement that the academy will comply with the bill and with all other State law applicable to public bodies and with Federal law applicable to public bodies or school districts; a description of and address for the proposed physical plant in which the academy will be located; and, for an academy authorized by a school district, an assurance that academy employees will be covered by the collective bargaining agreements that apply to other employees of the district employed in similar classifications in schools that are not strict discipline academies.

The application also must contain documentation meeting the application requirements of the authorizing body, including at least all of the following:

- The academy's governance structure.
- A copy of the academy's educational goals and the curricula to be offered and methods of

pupil assessment to be used by the academy. To the extent applicable, pupils' progress must be assessed using at least a Michigan Education Assessment Program test or an assessment instrument developed under the Code for a State-endorsed high school diploma.

- The admission policy and criteria to be maintained by the academy, and a description of how the applicant will give to the general public adequate notice that a strict discipline academy is being created and adequate information on the admission policy, criteria, and process.
- The school calendar and school day schedule.
- The age or grade range of pupils to be enrolled.
- The type of pupils to be enrolled.

Oversight. An authorizing body must oversee, or contract with an ISD, community college, or State public university to oversee, each strict discipline academy operating under a contract issued by the authorizing body. The oversight must be sufficient to ensure that the authorizing body can certify that the academy is in compliance with statute, rules, and the terms of the contract.

If the State Board finds that an authorizing body is not engaging in sufficient continuing oversight of one or more strict discipline academies operating under a contract issued by the authorizing body, the State Board may suspend the body's power to issue new contracts to organize and operate strict discipline academies. A contract issued during the suspension will be void. A contract issued before the suspension will not be affected by it.

Fee. An authorizing body may not charge a fee, or require reimbursement of expenses, for considering a contract application, issuing a contract, or overseeing a contract, in an amount that exceeds a combined total of 3% of the total State school aid received by the strict discipline academy in the school year in which the fee or expenses are charged. An authorizing body may provide other services for an academy and charge a fee for them, but may not require such an arrangement as a condition of issuing the authorizing contract.

Site. A strict discipline academy may be located in all or part of an existing public school building. Except for a strict discipline academy that includes pupils who are the responsibility of a county juvenile agency, an academy may not operate at a site other than the single site requested for the configuration of grades that will use the site, as specified in its application and contract.

Immunity. A strict discipline academy and its incorporators, board members, officers, employees, and volunteers have governmental immunity as

provided in the governmental immunity Act. An authorizing body and its board members, officers, and employees are immune from civil liability, both personally and professionally, for any acts or omissions in authorizing a strict discipline academy if the authorizing body or the person acted or reasonably believed he or she acted within the body's or person's scope of authority.

Presumption of Legality. A strict discipline academy will be presumed to be legally organized if it has exercised the franchises and privileges of a strict discipline academy for at least two years.

#### Contract/Ballot Question

An authorizing body is not required to issue a contract to any person or entity. Contracts for strict discipline academies must be issued on a competitive basis taking into consideration the resources available for a proposed academy, the population to be served by it, and the educational goals to be achieved by it.

If a person or entity applies to the board of a school district for a contract to organize and operate one or more strict discipline academies and the board does not issue the contract, the person or entity may petition the board to place the question of issuing the contract on the ballot to be decided by the school electors of the district. The petition must contain all of the information required to be in the contract application, and must be signed by at least 15% of the total number of school electors of that district. The petition must be filed with the secretary of the school board. If a board receives a petition meeting these requirements, it must place the question on the ballot at its next annual school election held at least 60 days after the petition is received. If a majority of the school electors of the district voting on the question vote to issue the contract, the board must do so.

Within 10 days after issuing a contract for a strict discipline academy, the board of the authorizing body must submit to the State Board a copy of the contract and the application.

A contract must contain at least all of the following:

- The academy's educational goals.
- A description of the method to be used to monitor the academy's compliance with applicable law and its performance in meeting its targeted educational objectives.
- A description of the process for amending the contract.
- All of the matters set forth in the contract application.
- For an academy authorized by a school district, an agreement that academy employees will be covered by the collective bargaining agreement that applies to similarly



classified employees of the district who are not strict discipline academy employees.

- Procedures and grounds for revoking the contract.
- A description of and address for the proposed physical plant in which the academy will be located.
- Requirements and procedures for financial audits, which must be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

An authorizing body has the responsibility to oversee a strict discipline academy's compliance with the contract and all applicable law. The authorizing body may revoke the contract if it determines that one or more of the following have occurred:

- The academy failed to abide by and meet the educational goals set forth in the contract.
- The academy failed to comply with all applicable law.
- The academy failed to meet generally accepted public sector accounting principles.
- One or more other grounds for revocation as specified in the contract exist.

The decision to revoke a contract is solely within the discretion of the authorizing body, is final, and is not subject to review by a court or any State agency. An authorizing body that revokes a contract is not liable for that action to the academy, the strict discipline academy corporation, an academy pupil, the parent or legal guardian of a pupil, or any other person.

#### Taxation

A strict discipline academy is exempt from all taxation on its earnings and property, and instruments of conveyance to or from an academy are exempt from all taxation. A strict discipline academy may not levy ad valorem property taxes or any other tax for any purpose. The operation of one or more strict discipline academies by a school district or ISD, however, will not affect the district's ability to levy property taxes or any other tax.

Revenue from taxes levied by a school district or ISD or bonds issued by it under the Code may be used to support the operation or facilities of a strict discipline academy operated by the district in the same manner as it may use revenue to support district operations and facilities.

#### Teachers/Techniques

Except as otherwise provided by law, a strict discipline academy must use certificated teachers according to State Board or Superintendent of Public Instruction rule. An academy operated by a State public university or community college may use

noncertificated individuals to teach as follows:

- An academy operated by a State public university may use as a classroom teacher in any grade a faculty member who is employed full-time by the university and who has been granted institutional tenure, or has been designated as being on tenure track, by the university.
- An academy operated by a community college may use as a classroom teacher a full-time member of the college faculty who has at least five years' experience at that college in teaching the subject matter that he or she is teaching at the academy.
- An academy may use noncertificated teachers in any other situation in which a school district is permitted under the Code to do so.

A strict discipline academy may develop and implement new teaching techniques or methods or significant revisions to known teaching techniques or methods. The academy must report them to the authorizing body and the State Board to be made available to the public. An academy also may use any instructional technique or delivery method that may be used by a school district.

#### Applicable Law

A strict discipline academy must comply with all applicable law, including the Open Meetings Act, the Freedom of Information Act, Public Act 336 of 1947 (which prohibits strikes by certain public employees), Public Act 166 of 1965 (which requires payment of the prevailing wage on State projects), and the following sections of the Code:

- Section 1134, which requires schools to tag the record of students reported missing by a law enforcement agency.
- Section 1135, which prescribes identification requirements for enrolling students.
- Section 1146, which prohibits school segregation on account of race, color, or sex.
- Section 1153, which permits bilingual instruction.
- Section 1263(3), which governs the construction and design of school buildings.
- Section 1267, which requires competitive bidding on construction contracts.
- Section 1274, which governs the procurement of supplies, equipment, and services.

In addition, a strict discipline academy must comply with all provisions of the Code (except Part 6a) that explicitly apply to public school academies established under Part 6a.

#### State Board Report

Within one year after the bill's effective date, and at

least annually thereafter, the State Board must submit a comprehensive report, with findings and recommendations, to the House and Senate Education Committees. The report must evaluate strict discipline academies. For each academy, the report must contain a copy of its mission statement, attendance statistics and dropout rate, aggregate assessment test scores, projections of financial stability, and number of and comments on supervisory visits by the authorizing body.

### Expelled Students

Under Section 1311 of the Code, a school board must expel a pupil who possesses a dangerous weapon in a weapon-free school zone or commits arson or criminal sexual conduct in a school building or on school grounds. The pupil is expelled from all public schools in this State unless a school district operates or participates cooperatively in an appropriate alternative education program and admits the pupil to that program. Under the bill, the pupil also may be admitted to a strict discipline academy.

The bill specifies that if an individual is expelled under these provisions, it is the responsibility of the individual and of his or her parent or legal guardian to locate a suitable alternative educational program and to enroll the individual in it during the expulsion. The Office of Safe Schools in the Department of Education must compile information on and catalog schools that may be open to enrollment of individuals expelled under the current provisions and under House Bill 4240, and periodically must distribute this information to school districts for distribution to expelled individuals. A school board that establishes an alternative education program or school described in these provisions must notify the Office of Safe Schools about the program or school and the types of pupils it serves.

The Office of Safe Schools also must work with and provide technical assistance to school districts, authorizing bodies for public school academies, and other interested parties in developing these types of alternative education programs or schools in geographic areas that are not being served.

### Public School Academy

The bill states that "public school academy" means a public school academy established under Part 6a and, except as the term is used in Part 6a, includes a strict discipline academy established under the bill.

### Detroit Public Schools

Public Act 10 of 1999 amended the Revised School Code to provide for the establishment of a school reform board for the Detroit Public Schools. The board includes six members appointed by the mayor of Detroit and, for five years after the effective date

of Public Act 10 (March 26, 1999), the Superintendent of Public Instruction. Public Act 10 required the reform board, within 30 days after its appointment, to appoint a chief executive officer (CEO) for the district, and required the appointment of the CEO to be by a unanimous vote of the board. House Bill 4241 removed the 30-day deadline on the appointment of the CEO, and deleted the requirement that the appointment be by a unanimous vote. Under the bill, the appointment must be by at least a two-thirds majority vote of the reform board. For the five-year period after the effective date of Public Act 10, the majority vote must include the vote of the Superintendent of Public Instruction or his or her designee on the board.

MCL 380.1309 (S.B. 183)  
380.1311a (S.B. 206)  
380.1308 et al. (H.B. 4240)  
380.5 et al. (H.B. 4241)

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

By requiring the expulsion of armed students, Public Act 328 of 1994 took an important step toward making Michigan's public schools safer for teachers and students. Many schools also are trying to ensure school safety by implementing early detection and treatment programs for aggressive youths, installing security cameras, hiring security guards, and increasing the number of adult hall monitors. Nevertheless, additional measures are necessary to create and maintain a safe educational environment. Teachers who are subject to student assaults cannot effectively teach, and pupils who feel endangered cannot learn. According to an article in the *Detroit News* ("Order in the Classroom", 6-4-99), each year since 1995, more than 1,000 battery offenses were reported among the 263 schools within the Detroit Public Schools, and batteries against teachers and other employees rose from 34 incidents in 1995 to 58 in the last school year.

This package of legislation significantly advances the State's goal of safe schools. Senate Bill 206 requires the permanent expulsion of pupils who physically assault a school employee. These provisions are virtually parallel to the requirements enacted in 1994 for weapons' possession. In addition, expulsion for up to 180 days is required for verbally assaulting school personnel or making a bomb threat. Students who engage in this behavior not only jeopardize learning but also may be inclined to carry out their threats. Under House Bill 4240, a pupil may be expelled for up to 180 days for physically attacking another student--a problem that cannot be overlooked in view of the Littleton tragedy.

Senate Bill 183 enables teachers to control the

classroom environment by authorizing them to suspend students under a locally adopted policy. Otherwise, if a pupil simply returns to class after being sent to the principal's office, the teacher's authority is undermined. The bill will bolster students' respect for teachers. Further, the bill will engage parents by requiring teachers to ask a parent or guardian to attend a parent-teacher conference. By requiring schools to adopt their own suspension policies, the bill retains the tradition of local control.

All of these measures will help guarantee that unruly and dangerous students are removed from the public schools--for one day, up to 180 school days, or permanently, and for conduct ranging from insubordination to physical violence. Since just one miscreant can disrupt an entire classroom, and a handful can ruin the atmosphere of a school, removing these individuals will promote efforts to educate and to learn, as well as protect the physical safety of school personnel and students. A comprehensive State approach toward student violence should deter future assaults and other disciplinary problems.

**Response:** It is questionable how effective these measures will be. According to the *Detroit News* article cited above, while 825 students in the Detroit schools have been found in possession of a gun, knife, or other lethal weapon since 1995, only one was expelled.

#### **Supporting Argument**

The reporting requirements in House Bill 4240 will significantly improve communication between school officials and law enforcement agencies. The new Statewide school safety information policy must identify the types of incidents that schools will be required to report to law enforcement. If provided for in the policy, law enforcement authorities must inform school officials of incidents alleging a crime that took place on school property or that involved a pupil or staff member as a victim or perpetrator. Also, if provided for in the policy, prosecutors will have to notify a school district of criminal or juvenile court action against a pupil of the district. In addition, Senate Bill 206 requires schools to report assaults to State or local law enforcement officials and prosecutors, as provided in the Statewide policy. This information-sharing will enable both school and law enforcement officials to identify and attend to students who pose a threat to school safety. Schools may be able to help address the problems of a troubled youth, while prosecutors may bring charges as appropriate.

The House bill also requires schools to report expulsions and incidents of crime to the Superintendent of Public Instruction. As a result, the State will have the data necessary to determine the scope of school violence in Michigan, identify problem areas, and design prevention and intervention strategies, and develop partnerships

among schools, communities, law enforcement, and the State.

#### **Supporting Argument**

The bills require a school board, within three days after expelling a student, to refer him or her to a social services or mental health agency. Otherwise, the student might come into contact with such an agency only if he or she is charged with a crime, and subsequently is referred through the judicial process. Mandating this referral will ensure the child's contact with individuals and programs that might address the causes for his or her behavior. In addition, an expelled student who benefits from the services of a mental health or social services agency may have a better chance of reinstatement.

#### **Supporting Argument**

This legislation recognizes the need for alternative education and the importance of expelled students' continuing their education. House Bill 4241 creates a new educational opportunity in the form of strict discipline academies, which may enroll expelled students who otherwise may not be admitted to a public school in this State (as well as court- or FIA-placed youths, other expelled students, and special education pupils). To a large extent, the provisions for strict discipline academies parallel language in the Code governing public school academies (charter schools). According to the Department of Education, there are now three public school academies that focus on educating adjudicated youths (Saginaw Transitional Academy, St. Clair Learning Academy, and Curtis House Academy). With the establishment of strict discipline academies, additional schools for expelled individuals will become available.

In addition, Senate Bill 206 and House Bills 4240 and 4241 make it clear that it is the responsibility of an expelled student (including a student expelled for possession of a weapon) and his or her parent or guardian to locate a suitable educational program and enroll the individual in it during the expulsion. Like the provisions enacted in 1994, Senate Bill 206 states that a school may provide or arrange for the ISD to provide appropriate instruction at home, if a student is not placed in an alternative education program or strict discipline academy. The bill also contains provisions for the reinstatement of permanently expelled students.

Further, these bills provide for the collection and dissemination of data about alternative education programs. The bills require the Office of Safe Schools (which presently is being established in the Department of Education) to compile and catalog existing alternative education programs or schools, as well as nonpublic schools open to expelled individuals. The office must distribute this information to school districts for distribution to expelled individuals, and schools must notify the office about their programs. The office also must

work with schools in developing alternative education in areas not being served. These requirements will ensure that a clearinghouse of information is available to educators, parents, and students across the State.

**Response:** It also would be helpful to include some tracking requirements, in order to see whether expelled students are appropriately placed.

#### **Opposing Argument**

The bills fail to provide adequately for the education of expelled students. Despite the provisions described above, there is no actual requirement that schools create or offer alternative education, that strict discipline academies be established, or that expelled students be admitted to a particular program or school. In areas where alternative education is not available through the public schools, an expelled individual's only option might be private school or tutoring--something that many, if not most, families cannot afford.

Simply stating that individuals and their parents are responsible for finding education during a period of expulsion does little to ensure that someone actually receives instruction, and does nothing to increase the availability of alternative education. In fact, in many cases, it is the lack of responsibility within a family that leads to a student's misconduct and expulsion in the first place.

Mandatory expulsion pushes individuals away from the educational system and takes a "hands-off" approach toward students who need help the most. Without adequate options for alternative education, the bills merely will move students from the classroom to the street. While violent individuals should be removed from mainstream classrooms, their need for structured discipline and instruction still must be met. Also, while teachers and pupils must be protected from dangerous students, society must be protected from the dangerous adults they will become without intervention. By investing in violence prevention, juvenile services, and educational programs for all youths, the State might have a chance to close some prisons instead of building more.

#### **Opposing Argument**

Mandatory expulsion deprives schools of the flexibility they need to examine mitigating circumstances and determine whether expulsion is appropriate in individual cases. For example, a student might be off his or her medication, or might be experiencing personal distress, such as the divorce of his or her parents. Local school boards, which are elected to exercise their discretion, should have the authority to make expulsion decisions.

In addition, mandatory expulsion might lead to the underreporting of assaults.

#### **Opposing Argument**

Senate Bill 183 contains several provisions that may be problematic. When a teacher suspends a student, the teacher must send the pupil to the principal for "appropriate action", and the pupil must be under "appropriate supervision" if the student is required to stay at school. It is not clear what "appropriate supervision" means, however; while it may include in-school suspension, such a program is not available in all schools, particularly at the elementary level. The bill also requires a school administrator to attend a parent-teacher conference, upon the parent's or teacher's request. As a result, a principal could spend a disproportionate amount of time attending these meetings, especially in a large district.

#### **Opposing Argument**

It is not clear whether the bills' suspension and expulsion provisions will apply to special education students, who must be treated in conformity with the Federal Individuals with Disabilities Education Act.

#### **Opposing Argument**

Because the expulsion provisions in Senate Bill 206 and House Bill 4240 apply to students in grade six and above, the bills create a two-tiered approach in elementary schools that include sixth grade.

**Response:** The sixth-grade threshold is based on the size and maturity level of students, rather than the configuration of school systems.

#### **Opposing Argument**

Senate Bill 206 is overly restrictive as to the composition of a reinstatement committee. Under the bill, the committee must consist of two school board members, one school administrator, one teacher, and one parent of a pupil in the district. Other individuals, such as school social workers and psychologists, also might be qualified and necessary to assess the suitability of an individual for reinstatement. Either the committee should be expanded or the school board should be allowed to decide its membership.

#### **Opposing Argument**

The bills' reporting requirements violate the privacy interests of students and turn schools into adjuncts of the criminal justice system. Although House Bill 4240 states that information-reporting under the bill is subject to Federal law, it also requires parents to give school officials access to school, court, or other records concerning an incident.

Legislative Analyst: S. Lowe

#### **FISCAL IMPACT**

##### **Senate Bill 183**

The bill will have no fiscal impact on State or local government.

### **Senate Bill 206**

The bill will have no fiscal impact on State government. A local district might incur costs associated with appointing a committee to review reinstatement petitions. Often, these types of panels are paid per diem stipends each time they convene. Estimates of costs are indeterminate, due to varying existing processes and an unpredictable number of instances.

The Department of Education will likely incur the cost of 1.0 FTE dedicated solely to compiling and distributing information on alternative education programs, and for providing technical assistance to entities interested in developing alternative education programs. An estimate of the cost of the employee and services is \$80,000.

### **House Bill 4240**

State: The Departments of Education, Attorney General, and State Police will incur costs associated with developing, publishing, and distributing the Statewide school safety information policy required by this bill. It is anticipated, however, that current staffing levels will be sufficient for the development of the school safety policy. Therefore, the costs of publishing and distributing the policy are estimated at \$3,000 to \$5,000.

Local: Both local districts and law enforcement agencies might incur minimal costs associated with the reporting of incidents or sharing of information.

Additionally, the bill (in Section 1310a) requires local school boards to prepare and submit reports describing incidents of crime occurring at schools within the district. The reporting will include crimes related to physical violence, gang activity, drug use, and property crimes (with corresponding estimates of costs).

The reports must be submitted to the State Superintendent, as well as distributed once a semester to parents of pupils enrolled in the district. Compiling the data necessary to prepare these reports, as well as the submission and distribution of the reports, will likely minimally increase costs faced by local districts. An estimate of local costs is indeterminate, however, due to the varying sizes and crime incidents among districts.

### **House Bill 4241**

The Department of Education will likely incur the cost of 1.0 FTE dedicated solely to compiling and distributing information on alternative education programs, and for providing technical assistance to entities interested in developing alternative education programs. An estimate of the cost of the employee and services is \$80,000. The FY 1999-2000

Department of Education budget bill does appropriate \$200,000 for an Office for Safe Schools, whose duties could encompass the requirements of this bill.

This bill allows strict discipline academies to enroll court-placed pupils, Family Independence Agency-placed pupils, or expelled pupils. This bill will not affect State costs with respect to educating these types of pupils because the State School Aid Act already allocates funds to cover these costs. This bill simply creates an alternative for the education of these pupils in a strict discipline academy.

Fiscal Analyst: K. Summers-Coty

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.