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BILL ANALYSIS



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House Bill 5530 (Substitute H-2 as passed by the House)
House Bill 5531 (Substitute H-1 as passed by the House)
House Bill 5532 (as passed by the House)
Sponsor: Representative Lana Theis (H.B. 5530 & 5531)
Representative Sylvia A. Santana (H.B. 5532)
House Committee: Law and Justice
Senate Committee: Judiciary

Date Completed: 4-9-18

CONTENT

House Bill 5530 (H-2) would amend the Michigan Penal Code to allow a court to order that an individual who was convicted of, or a juvenile who was adjudicated for, criminal sexual conduct (CSC) and who was a student, to be prohibited from attending the same school building as his or her victim, or using a school bus for transportation if he or she would have contact with his or her victim on the bus.

House Bill 5531 (H-1) would amend the Revised School Code to do the following:

- Allow a school board, or the school district superintendent, a school building principal, or a school district official designated by the board, to suspend or expel a pupil from school if he or she committed CSC against another pupil enrolled in the same school district.
- Require the school board, or its designee, to expel the pupil from the school district permanently if he or she pleaded to, were convicted of, or were adjudicated for CSC against another pupil enrolled in the same school district.
- Allow a permanently expelled student to enroll in a cyber school.

House Bill 5532 would amend the Revised Judicature Act to do the following:

- Allow a personal protection order (PPO) to enjoin a person from attending school in the same building as the petitioner if he or she were a minor and the victim of sexual assault by the respondent, and if the petitioner were enrolled in a public or nonpublic school that operated any of grades K to 12.
- Allow a court to could restrain or enjoin an individual subject to a PPO for sexually assaulting the petitioner or for furnishing obscene material to the petitioner from attending school in the same building as the petitioner if he or she were a minor enrolled in a public or nonpublic school that operated any of grades K to 12.

Each bill would take effect 90 days after its enactment.

House Bill 5530 (H-2)

Under the bill, as part of its adjudication order, order of disposition, judgment of sentence, or order of probation, a court could order an individual who was convicted of, or a juvenile who was adjudicated for, a violation of Section 520b 520c, 520d, 520e, or 520g of the Michigan

Penal Code (which prohibit first-, second-, third-, or fourth-degree CSC, or assault with intent to commit CSC, respectively), and who was a student at a school in the State from doing either of the following:

- Attending the same school building as that attended by the victim of the violation.
- Using a school bus for transportation to and from any school if the individual or juvenile would have contact with the victim during use of the bus.

"School" would mean a public school, as that term is defined in the Revised School Code, that offers developmental kindergarten, kindergarten, or any grade from 1 to 12. "School bus" would mean every motor vehicle, except station wagons, with a manufacturers' rated seating capacity of 16 or more passengers, including the driver, owned by a public, private, or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to and from school.

House Bill 5531 (H-1)

The Revised School Code generally allows a school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, to authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. Under the bill, this also would apply to a pupil who committed CSC against another pupil enrolled in the same school district.

Subject to consideration of the pupil's age and disciplinary history, and other factors, if a pupil possesses a dangerous weapon in a weapon free school zone, commits arson in a school building or on school grounds, or commits CSC in a school building or on school grounds, the school board, or its designee, must expel the pupil from the school district permanently, with the possibility of reinstatement upon petition to the school board. Under the bill, this also would apply to a pupil who pleaded to, was convicted of, or was adjudicated for CSC against another pupil enrolled in the same school district.

A pupil who is permanently expelled from a school district is expelled from all public school districts in the State, and the officials of a school district must not allow the expelled individual to enroll in the school district unless he or she has been reinstated, the school district operates or participates cooperatively in an alternative education program, or the pupil is placed in a strict discipline academy. If an individual permanently expelled from a school district is not placed in an alternative education program or strict discipline academy, the school district may provide appropriate instruction services to the individual at home.

Under the bill, in addition to an alternative education program or strict discipline academy, a school district could allow a permanently expelled individual to enroll in a cyber school, as defined in Section 551 of the School Code (a school of excellence established under the Code that has been issued a contract to be organized and operated as a cyber school and that provides full-time instruction to pupils through online learning or otherwise on a computer or other technology, which instruction and learning may be remote from a school facility).

House Bill 5532

Domestic Violence PPOs

The Revised Judicature Act allows a person to petition the Family Division of Circuit

Court (family court) to enter a PPO 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 having resided in the same household as the petitioner, from engaging in certain actions, such as entering onto premises, assaulting a named individual, or threatening to kill or injure a named individual.

Under the bill, a PPO also could enjoin a person described above from attending school in the same building as the petitioner if the petitioner were a minor who had been the victim of sexual assault, as that term is defined in Section 2950a of the Act, by the respondent, and if the petitioner were enrolled in a public or nonpublic school that operated any of grades K to 12. ("Sexual assault" means an act, attempted act, or conspiracy to engage in an act of criminal sexual conduct as defined in Section 520b, 520c, 520d, 520e, or 520g of the Penal Code, or a substantially similar offense under a law of the United States, another state, or a foreign country or tribal or military law.)

(Violation of a PPO subjects the restrained or enjoined individual to the following penalties: a) if the respondent is 17 years of age or older, immediate arrest and the civil and criminal contempt powers of the court, and, if he or she is found guilty of criminal contempt, up to 93 days' imprisonment and a maximum fine of \$500; or b) if the respondent is less than 17 years old, immediate apprehension or being taken into custody, and dispositional alternatives listed in the juvenile code.)

Sexual Assault/Obscene Material PPOs

The Act allows an individual to petition the family court for a PPO to restrain or enjoin an individual from engaging in certain activities if the respondent has been convicted of a sexual assault of the petitioner or of furnishing obscene material to the petitioner, or if the petitioner has been subjected to, threatened with, or placed in reasonable apprehension of sexual assault by the individual to be restrained.

The court may restrain or enjoin the individual against whom the PPO is sought from a number of activities, including the following:

- Entering onto premises.
- Threatening to sexually assault, kill, or physically injure the petitioner or a named individual.
- Purchasing or possessing a firearm.
- Interfering with the petitioner's efforts to remove his or her children or personal property from premises that are solely owned or leased by the individual.
- Interfering with the petitioner at his or her place of employment or education or engaging in conduct that impairs the petitioner's employment or educational relationship or environment.

Under the bill, the court also could restrain or enjoin the individual from attending school in the same building as the petitioner if the petitioner were a minor who was enrolled in a public or nonpublic school that operated any of grades K to 12.

(The penalties for violating a PPO under these provisions are the same as the penalties for violating a domestic violence PPO.)

Proposed MCL 750.520o (H.B. 5530)
MCL 380.1311 (H.B. 5531)
600.2950 & 600.2950a (H.B. 5532)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bill 5530 (H-2) & House Bill 5531 (H-1)

The bills would have no fiscal impact on the State School Aid budget, the Department of Education, or local school districts.

House Bill 5532

The bill could have a minor, indeterminate cost for local court systems. The cost would depend on the number of PPO filings that were a direct result of the bill and the administrative costs to local circuit courts as a result of those filings. The bill would have no impact on the State.

Fiscal Analyst: Cory Savino
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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.