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SFA



BILL ANALYSIS

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House Bill 4240 (Substitute H-2 as passed by the House)
House Bill 4241 (Substitute H-2 as passed by the House)
Sponsor: Representative Clark Bisbee (House Bill 4240)
Representative Gerald Van Woerkom (House Bill 4241)

House Committee: Education
Senate Committee: Education

Date Completed: 5-5-99

CONTENT

House Bill 4240 (H-2) would amend the Revised School Code to do the following:

- Require a public school pupil's parent or guardian to notify school officials of the pupil's conviction or adjudication.
- Require the parent or guardian of an expelled, convicted, or adjudicated pupil to disclose information to another school district.
- Require school boards to work with law enforcement agencies, child protection agencies, prosecutors, and probation officers to establish a memorandum of understanding to facilitate the reporting of incidents affecting school safety and the sharing of information.
- Require school boards to develop and implement a disciplinary action policy for pupils who committed an assault at school.
- Require that a disciplinary action policy provide for the expulsion of a pupil aged 12 or older who committed an assault and battery at school.
- Allow an expelled pupil to petition for reinstatement.
- Require a school board to report incidents of crime at school to the Department of Education, and to report the number of pupils expelled under the disciplinary policy.

House Bill 4241 (H-2) would create the "Safe Schools and Communities Act" within the Revised School Code to provide for the establishment of a "strict discipline public school academy" to enroll expelled or court-placed pupils.

The bills are tie-barred to each other.

House Bill 4240 (H-2)

Notification by Parents

If a pupil in a school district, intermediate school district (ISD), public school academy, or public school operated by a State public university were the subject of a criminal or juvenile court conviction or adjudication, the pupil's parent or legal guardian would have to notify school officials of the conviction or adjudication and of the court's disposition, within 30 days after the conviction or adjudication. Upon request by school officials, the parent or guardian would have to execute a waiver or consent necessary to allow the officials access to court records concerning the conviction or adjudication.

If a pupil had been expelled from a public or nonpublic school or had been the subject of one or more criminal or juvenile court convictions or adjudications, and the pupil's parent or legal guardian sought to enroll the pupil in a school district other than the district in which he or she resided, or sought to enroll the pupil in an ISD, a public school academy, or a public school operated by a State public university, the parent or guardian would have to do the following at the time of contacting school officials about enrolling the pupil:

- If the pupil had been expelled, disclose to school officials that he or she had been expelled by another school district or public or nonpublic school, and the reason for the expulsion.
- If the pupil had been the subject of one or more criminal or juvenile court convictions or adjudications, disclose to school officials each of the convictions and adjudications and the court disposition of each.
- Upon request by school officials, execute a waiver or consent necessary to allow school officials access to school or court records of

the pupil concerning the matters described above, as applicable.

Memorandum of Understanding

A school board would have to work with local law enforcement agencies, child protection agencies, courts, county prosecutors, appropriate probation officers, and other appropriate organizations to establish and implement a memorandum of understanding to facilitate the reporting of incidents, and the sharing of other information, affecting school safety. The memorandum of understanding would have to establish procedures to be followed when an incident (described below) occurred at school. The memorandum of understanding also could address procedures for reporting incidents involving possession of a dangerous weapon as required under the Code. ("School board" would mean a school board, an intermediate school board, or the board of directors of a public school academy. "At school" would mean 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 was held on school premises.)

The memorandum of understanding would have to address at least all of the following:

- Law enforcement protocols and priorities for the reporting process. The protocols would have to be developed with the cooperation of the appropriate State or local law enforcement agency. The priorities would have to include at least investigation of reported incidents, identification of those involved, and assistance in preventing these types of incidents.
- 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 child protection agencies; 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 would have to require school officials to notify the parent or legal guardian of a minor pupil who was a victim or witness when law enforcement authorities interviewed the pupil.
- Any other matters that would facilitate reporting incidents and exchanging information.

If the territory of a school district extended into multiple local law enforcement jurisdictions, the school board could fulfill these duties by working toward a single memorandum of understanding that involved all of the local law enforcement agencies with jurisdiction in the district. Also, the memorandum of understanding could provide that the district report incidents to a single local law enforcement agency on behalf of all of the involved local law enforcement agencies regardless of the jurisdiction in which an incident occurred. ("School district" would mean a school district, a local act school district, an ISD, or a public school academy.)

If officials of a school district determined that an incident had occurred at school and was required to be reported to law enforcement agencies and/or child protection agencies according to the memorandum of understanding, the superintendent of the district, or his or her designee, immediately would have to report that finding to the appropriate State or local law enforcement agency and to the appropriate State or local child protection agency, as provided in the memorandum.

If provided in the memorandum of understanding, a local law enforcement agency having jurisdiction over a school building of a school district would have to report to the school officials of the building incidents reported to the law enforcement agency that alleged 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 would have to give it any information needed to provide this report to school officials.

If provided in the memorandum of understanding, the prosecuting attorney of a county would have to 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 would have to be made to the school district superintendent or to the intermediate superintendent of the ISD in which the county was located, as provided in the memorandum. If the notice were made to the intermediate superintendent, he or she would have to forward the information to the superintendent of the school district in which the pupil was enrolled. Upon receiving the information, the superintendent would have to share it with appropriate school building personnel. The prosecutor could ask each school age individual involved in a court action described in this provision whether he or she was a pupil in a school district and, if so, in which district.

If provided for in the memorandum of understanding, the appropriate court would have to 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 could be contacted.

If a pupil were involved in an incident reported to law enforcement according to the memorandum of understanding, upon request by school officials, the pupil's parent or legal guardian would have to 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 would be subject to the Federal Family Educational Rights and Privacy Act of 1974.

Disciplinary Action Policy

Each school board would have to develop, publish, and implement a policy concerning disciplinary action for pupils who committed an assault at school. At a minimum, the policy would have to require that the school board expel a pupil aged 12 or older from the district if he or she committed an assault and battery at school; if the assault and battery were reported to the school board by the victim or, if the victim could not report the assault, by another person on the victim's behalf; and if the school board determined that an assault and battery did in fact occur and was committed by the pupil. The expulsion would have to be permanent, subject to possible reinstatement as provided in the bill. These provisions would apply to any assault and battery on a teacher or other school employee or on a person acting as a volunteer, that was committed with an intent to harm; and to an assault and battery on another pupil that resulted in serious or aggravated injury or constituted an assault with a dangerous weapon.

If an individual were expelled, the school district would have to enter on the individual's permanent record that he or she had been expelled pursuant to the policy and the reason for the expulsion. Unless a district operated or participated cooperatively in an appropriate alternative education program, and in its discretion admitted the individual to that program, and except for a strict discipline public school academy established under House Bill 4241, the individual would be expelled from all public schools in this State, and the officials of a school district could not allow him or her to enroll in the district unless the individual had been reinstated. Except as otherwise provided by law, an program operated for individuals expelled for assault or possession of a weapon would have to ensure that they were physically separated at all times during the school

day from the general pupil population.

If an expelled individual were not placed in an alternative education program, the school district could provide, or arrange for the ISD to provide, appropriate instructional services to the individual at home. The type of instructional services provided at home would have to meet certain requirements of the State School Aid Act, and could be contracted for in the same manner as services for homebound pupils under that Act. The bill specifies that these provisions would not require a school district to spend more money for providing services for an expelled pupil than the amount of the foundation allowance the district received for the pupil under the School Aid Act.

If a school board expelled an individual, it would have to ensure that, within three days after the expulsion, an official of the district referred the individual to the appropriate county community mental health agency or other appropriate human services agency, and notified the individual's parent or legal guardian or, if the individual were at least 18 or were an emancipated minor, notified the individual of the referral.

If a pupil were permanently expelled under a disciplinary action policy, his or her parent or legal guardian, or the individual if he or she were at least 18 or emancipated, could petition the expelling school board for reinstatement to public education in the district. If the expelling board denied the petition, the parent, legal guardian, or individual could petition another school board for reinstatement in that other district. A reinstatement petition could be initiated at any time after the expiration of 150 school days following the date of expulsion; the individual could not be reinstated before the expiration of 180 school days after the expulsion date.

It would be the responsibility of the parent or legal guardian, or the individual if he or she were at least 18 or emancipated, to prepare and submit the petition. A school board would not be required to provide any assistance in preparing the petition. Upon request by a parent, guardian, or individual, a school board would have to make a petition form available.

Within 10 school days after receiving a reinstatement petition, a school board would have to appoint a committee to review it and any supporting information submitted by the parent, guardian, or individual. The committee would have 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 or his or her designee would have to 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 were appointed, the committee would have to review the petition, any supporting information, and information provided by the district, and would have to submit a recommendation to the school board. The recommendation would have to 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 would have to 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 liability 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 were filed by a parent or legal guardian, the degree of cooperation and support that he or she had provided and that could be expected if the individual were 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 would have to make a decision to reinstate the individual unconditionally, to reinstate conditionally, or to deny reinstatement. The board's decision would be final.

The school board could require the individual and, if the petition were filed by a parent or legal guardian, his or her parent or guardian to agree to specific conditions before reinstating the individual in a conditional reinstatement. The conditions would have to include specific requirements for parental involvement and could include, but would not be limited to, agreement to a behavior contract, which could 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 an individual at least 18 or emancipated, could include proposed

conditions in a reinstatement petition.

A school board or school administrator that complied with the bill would not be liable for damages for expelling a pupil pursuant to the disciplinary action policy, and the authorizing body of a public school academy would not be liable for damages for expelling a pupil.

The Department of Education would have to develop and distribute to all school districts a form for a reinstatement petition. The Department could designate the form used for a reinstatement petition for possession of a weapon as a form that could be used under the bill.

A school board would have to use its locally adopted due process policy in expulsion proceedings pursuant to the disciplinary action policy. The Department would have to develop and distribute to school districts a model due process policy that they could adopt for use in reinstatement proceedings under the bill and similar proceedings. The bill specifies that it would not diminish the due process rights under Federal law of a pupil who had been determined to be eligible for special education programs and services.

If an expelled pupil were enrolled by a public school-sponsored alternative education program or a public school academy during the period of expulsion, the program or academy would be immediately eligible for the prorated share of either the expelling school district's foundation allowance or the academy's foundation allowance, whichever was higher.

If an individual were expelled under a disciplinary action policy, it would be the responsibility of that individual and of his or her parent or legal guardian to locate a suitable educational program and to enroll the individual in it during the expulsion. The Office of Safe Schools in the Department would have to compile information on and catalog existing alternative education programs or schools and nonpublic schools that could be open to enrollment of individuals under the bill or for possession of a weapon. The office also would have to distribute this information periodically to school districts for distribution to expelled individuals. A school board that established an alternative education program or school described in these provisions would have to notify the office about the program or school and the types of pupils it served. The office would have to 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 were not being served.

School Reporting Requirements

A school board or its designee would have to report all assaults occurring at school to appropriate State or local law enforcement officials and prosecutors as provided for in the memorandum of understanding under the bill.

In order to obtain an accurate local and statewide picture of school crime and to develop the partnerships necessary to plan and implement school safety programs, at least annually each school board would have to report to the Department, in the form and manner prescribed by the Department, incidents of crime occurring at school within the district. In determining the form and manner of this report, the Department would have to consult with local and intermediate school districts and law enforcement officials. The reporting would have to 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 would have to include an estimate of the resulting cost to the district.

At least annually, each school district would have to prepare and submit to the Department a report stating the number of pupils expelled pursuant to the disciplinary action policy during the immediately preceding school year, with a brief description of the incident that caused each expulsion.

House Bill 4241 (H-2)

Academy Pupils

A strict discipline public school academy would have to be established specifically for enrolling one or more of the following types of pupils:

- Pupils placed in the academy by a court or by the Family Independence Agency (FIA) under the direction of a court.
- Pupils who had been expelled 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.
- Pupils who had been expelled under Section 1311a of the Code (which would require schools to develop disciplinary action policies, under House Bill 4240) 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 could enroll only one or more of the types of pupils described above. The academy would not be required to keep any group of such pupils physically separated from another group,

as might otherwise be required by the Revised School Code.

The bill specifies that strict discipline academies would not be intended to enroll or otherwise be used to educate individuals who were committed to a high- or medium-security juvenile facility operated by the FIA.

Organization & Creation of Academy

Constitutional Provisions. The bill specifies that a strict discipline public school academy would be 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 would be subject to the leadership and general supervision of the State Board of Education and would be 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 public school academy would have to 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 public school academy corporation created to operate a strict discipline academy would have to be organized under the Nonprofit Corporation Act, although a public school academy corporation would 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 could not be organized by a church or other religious organization, and could not have any organizational or contractual affiliation with or constitute a church or other religious organization.

Authorizing Body. Any of the following could 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 could not issue a contract for the academy to operate outside the school district's boundaries.
- An intermediate school board, although the board could 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 could 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 could 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 could operate an academy on the grounds of a military installation, if the college had previously offered courses on the grounds of the installation for at least 10 years.

An authorizing body would have to 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 would be its fiscal agent. A State school aid payment for the academy would have to be paid to the authorizing body, which would have to 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 could apply to an authorizing body. The application would have to 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 would be located (for an application to the board of a school district, an ISD, or a community college); an agreement that the academy would 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; for an academy authorized by a school district, an assurance that academy employees would be covered by the collective bargaining agreements that applied to other employees of the district employed in similar classifications in schools that were not public school academies; and a description of and address for the proposed physical plant in which the academy would be located.

The application also would have to 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

would have to 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 would give to the general public adequate notice that a strict discipline academy was 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 would have to 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 would have to be sufficient to ensure that the authorizing body could certify that the academy was in compliance with statute, rules, and the terms of the contract.

If the State Board found that an authorizing body was 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 could suspend the body's power to issue new contracts to organize and operate strict discipline academies. A contract issued during the suspension would be void. A contract issued before the suspension would not be affected by it.

Fee. An authorizing body could not charge a fee, or require reimbursement of expenses, for considering an application for a contract, issuing a contract, or providing oversight of a contract, in an amount that exceeded 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 were charged. An authorizing body could provide other services for an academy and charge a fee for them, but could not require such an arrangement as a condition of issuing the authorizing contract.

Presumption of Legality. A strict discipline academy would have to be presumed to be legally organized if it had exercised the franchises and privileges of a strict discipline public school academy for at least two years.

Contract/Ballot Question

An authorizing body would not be required to issue a contract to any person or entity. Contracts for strict discipline academies would have to be issued on a competitive basis taking into consideration the resources available for the proposed academy, the

population to be served by it, and the educational goals to be achieved by it.

If a person or entity applied to the board of a school district for a contract to organize and operate one or more strict discipline academies and the board did not issue the contract, the person or entity could 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 would have to contain all of the information required to be in the contract application, and would have to be signed by at least 15% of the total number of school electors of that district. The petition would have to be filed with the Secretary of State. If a board received a petition meeting these requirements, it would have to place the question on the ballot at its next annual school election held at least 60 days after the petition was received. If a majority of the school electors of the district voting on the question voted to issue the contract, the board would have to do so.

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

A contract would have to 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 application for the contract.
- For an academy authorized by a school district, an agreement that academy employees would be covered by the collective bargaining agreement that applied to similarly classified employees of the district who were not public school academy employees.
- Procedures and grounds for revoking the contract.
- A description of and address for the proposed physical plant in which the academy would be located.
- Requirements and procedures for financial audits, which would have to be conducted at least annually by a certified public accountant in accordance with generally accepted governmental auditing principles.

An authorizing body would have the responsibility to oversee a strict discipline academy's compliance with the contract and all applicable law. The authorizing body could revoke the contract if it determined that one or more of the following had 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 existed.

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

Taxation

A strict discipline public school academy would be exempt from all taxation on its earnings and property, and instruments of conveyance to or from a strict discipline academy would be exempt from all taxation. A strict discipline academy could 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, would 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 could be used to support the operation or facilities of a strict discipline academy operated by the district in the same manner as it could use revenue to support district operations and facilities.

Enrollment

Except for a foreign exchange student who was not a U.S. citizen, a strict discipline academy could not enroll a pupil who was not a resident of Michigan. Enrollment could be open to all individuals residing in this State who met the admission policy, and would have to be open to all pupils residing within the geographic boundaries, if any, of the authorizing body. Admission to a strict discipline academy authorized by a community college board to operate, or operated by a community college board, on the grounds of a Federal military installation would have to be open to all pupils residing in the county in which the military installation was located. For a strict discipline academy authorized by a State public university, enrollment would have to be open to all pupils residing in the State who met the admission policy.

If there were more applications to enroll in the strict discipline academy than there were spaces available, pupils would have to be selected by use of a random selection process. An academy could give

enrollment priority, however, to a sibling of an enrolled pupil. An academy would have to allow any pupil who was enrolled in the immediately preceding school year to enroll in the appropriate grade unless the academy did not offer that grade.

A strict discipline academy could include any grade up to grade 12 or any configuration of those grades, including kindergarten and early childhood education, as specified in its contract. If specified in its contract, an academy also could operate an adult basic education program, adult high school completion program, or general education development testing preparation program. The authorizing body could approve amendment of a contract with respect to ages of pupils or grades offered.

A strict discipline academy could not discriminate in its pupil admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, or any other basis that would be illegal if used by a school district. An academy could limit admission, however, to pupils who were 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 were operated by a school district that was subject to a court desegregation order, pupil selection at the academy would be subject to that order.

A strict discipline academy could not charge tuition.

Teachers

Except as otherwise provided by law, a strict discipline academy would have to use certificated teachers according to State Board or Superintendent of Public Instruction rule. An academy operated by a State public university or community college could use noncertificated individuals to teach as follows:

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

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

Applicable Law

A strict discipline academy would have to 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.

Other Academy Provisions

A strict discipline academy could be located in all or part of an existing public school building. An academy could not operate at a site other than the single site requested for the configuration of grades that would use the site, as specified in its application and in the contract.

A strict discipline academy, with the approval of its authorizing body, could employ or contract with personnel as necessary for the academy's operation, prescribe their duties, and fix their compensation.

A strict discipline academy and its incorporators, board members, officers, employees, and volunteers would have governmental immunity as provided in the governmental immunity Act. An authorizing body and its board members, officers, and employees would be 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.

State Board Report

Within one year after the bill's effective date, and at least annually thereafter, the State Board would have to submit a comprehensive report, with findings and recommendations, to the House and Senate Education Committees. The report would have to evaluate strict discipline public school academies. For each strict discipline academy, the report would have to 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 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 could be admitted to a strict discipline public school academy.

The bill specifies that if an individual were expelled under these provisions, it would be 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 would have to compile information on and catalog schools that could be open to enrollment of individuals expelled under the current provisions and under the disciplinary action policy required by House Bill 4240, and periodically would have to distribute this information to school districts for distribution to expelled individuals. A school board that established an alternative education program or school described in these provisions would have to notify the Office of Safe Schools about the program or school and the types of pupils it served.

The Office of Safe Schools also would have to 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 were not being served.

Proposed MCL 380.1307 et al. (H.B. 4240)
MCL 380.1311 et al. (H.B. 4241)

Legislative Analyst: S. Lowe

FISCAL IMPACT

House Bill 4240 (H-2)

The Department of Education could incur costs on

two fronts: 1) developing and distributing a "model" due process policy for expulsion proceedings; and 2) compiling information on and cataloging existing alternative education programs open to enrollment for expelled pupils. Depending on current workloads, one FTE could probably satisfy both requirements at a cost of \$80,000.

The fiscal impact on local entities is more difficult to analyze. This bill would require extensive cooperation among local school districts, law enforcement agencies, community health agencies, and others. If there already exists a strong partnership, additional costs could be nonexistent. If, however, communication between the agencies does not exist or is minimal, some costs could be incurred with the formation of these partnerships and reporting requirements. Additional costs could be incurred by the district pursuant to the requirement of establishing a committee to review reinstatement petitions. Often, these types of panels are paid per diem stipends each time they convene. Overall, it is anticipated that there would be increased costs to local agencies, but the amounts are indeterminate and would vary according to existing conditions.

House Bill 4241 (H-2)

The Department of Education would 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 would be \$80,000.

There would be no local fiscal impact because this bill would provide only guidelines for the establishment of strict discipline public school academies.

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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.