



House Law & Justice Committee Testimony
May 2, 2018

HB 5539 (support), 5659 (support in concept), 5785 (oppose as introduced), 5786 (oppose), 5791 (support), and 5800 (no position at this time).

Thank you, Mr. Chairman and Committee Members for allowing me to testify today. I am Jennifer Smith, Director of Government Relations for the Michigan Association of School Boards.

First, I'd like to thank you and the members for the deliberative nature of this process. We also appreciate the willingness of all involved to discuss the details of the bills and work to address some of the issues.

I'd like to speak to six of the bills that have come before this committee over the last few hearings. While we support most of them in concept, we do have some concerns and suggestions. I am speaking to the introduced versions but would like to acknowledge all the work going on behind the scenes.

House Bill 5539 would expand OK2SAY to specifically list sexual abuse, assault and rape as reportable incidents. MASB has always fully supported the OK2SAY hotline and do believe these types of incidents are reportable already as harm or criminal acts however we do still support this bill. We would encourage you to also remove the sunset as was done in HB 5850 that was reported out of the House Appropriations Committee this morning. The law is currently set to sunset on Oct. 1, 2021.

We support **House Bill 5785** in concept but not as introduced. We support adding the listed issues around safe relationships but believe the grade level restriction in the bill to just 11th and 12th grades would not adequately address this issue. We believe the grade level specification should be removed and replaced with "age-appropriate instruction." Sex education begins at much lower grades and districts determine what is appropriate to teach for their student population and community. Also, no other section under this law is specific to a grade level. We appreciate the bill sponsor being willing to address this issue. Finally, the end of the bill says a school district may work with other agencies to develop this curriculum. We'd like to also see a requirement for MDE to create a model curriculum that districts could look to for guidance or to adopt, which is how many curriculum additions are treated.

With these changes, we would be able to support HB 5785.

We support **HB 5791**, which requires that material on sexual assault and sexual harassment be available in schools that include of the grades 6-12. We do suggest that under Subsection 2 it be noted that a district shall disseminate the informational material in a manner as determined by the district and maintain it on the district website. We suggest removing the requirement that it be contained within the student code of conduct and leaving that as an option for districts. This would allow districts to determine the best way to make sure students receive and review it and still allow it to remain accessible.

We support **House Bill 5659** in concept which expands the list of mandatory reporters. We support the inclusion of paid coaches and trainers and would even suggest including bus drivers. But we have concerns with including volunteers at the K-12 level. This could have a chilling effect on the number of parent volunteers a district can find due to the increased time needed for training and the penalties they could face. This proposal also only focuses on sports when there are many other extracurricular activities that students are involved in. Also, as written the additions would apply to minors who are coaches. You do see instances where high school students are coaches for younger kids. We suggest limiting this to those individuals over the age of 18 and appreciate the sponsor's willingness to address it.

MASB **opposes HB 5786**, which requires employment records and separation of service information to be transmitted to the Department and then the Department would release said records to a new employer. Under Section 1230b of the school code, a district is already required to have an applicant sign a statement authorizing the release of his/her personnel record from current or previous employers, relating to any unprofessional conduct by the applicant and then make a request for those records from the current or previous employer. This applies to public and nonpublic schools. The request must be fulfilled within 20 business days. If the applicant does not sign the statement, a new employer shall not hire that person. Section 1230b also bans a district from entering in a contract or an agreement that would suppress information about unprofessional conduct of an employee. Also, section 1230g of the school code states that if anything criminal comes back as a result of the background check that information must be shared with MDE.

Therefore, we oppose this bill because we feel it is unnecessary. It would insert MDE into a process that schools have already been following since 1996. We do appreciate the sponsor's willingness to look at the redundancies.

Finally, MASB has not yet taken a position on **House Bill 5800**, but do have a number of concerns with it as introduced. First, we believe there is a drafting error as there is already a section 1310d in the school code dealing with suspension and expulsion for firearms and the factors to use in determining discipline for other issues.

To the issue of the bill, it says a district shall not suspend a pupil for more than 10 days for an action taken during an incident the pupil reports as being sexual assault. It then states that this

section does not apply if that pupil is later convicted of criminal sexual conduct. We would like Subsection 2 to say that it would not apply if that pupil is later convicted of, adjudicated for or pled to any action as a result of the incident, not just a CSC crime. We would also like to see an exemption for the 10-day limit if during the investigation of the incident it is found to be a false report.

We understand trying to protect a student from unnecessary discipline and encourage reporting of incidents and we have taken steps in recent years to give districts more discretion when it comes to suspensions and expulsions, most notably in the zero tolerance repeals and changes a couple years ago. This bill seems to be going back the other way and limiting the options a district has to deal with incidents in their buildings. Once again, we appreciate the willingness to address these concerns.

Again, thank you for the time to testify today. This package of bills certainly has promise to address issues to prevent or limit future criminal sexual assault cases. We appreciate the forethought in these bills to try to get at preventative measures and look forward to continuing to work with the committee and bill sponsors on the issues raised.

I'd be happy to take any questions.