



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone: 517/373-6466

PROHIBIT CORPORAL PUNISHMENT

**Senate Bill 212 (Substitute H-4)
First Analysis (11-17-88)**

**Sponsor: Sen. Lana Pollack
First Senate Committee: Education and Mental Health**

**Second Senate Committee: Judiciary
House Committee: Education**

RECEIVED

JAN 18 1989

Mich. State Law Library

S.B. 212 (11-17-88)

THE APPARENT PROBLEM:

Michigan law continues to allow corporal punishment to be used in schools despite arguments from opponents that research shows it to be an ineffective, counterproductive, and emotionally and physically harmful method of discipline. They say it is an example of large people using physical force on smaller people to impose their will: most commonly corporal punishment is used against very small children, usually boys. Its use teaches children that violence is an acceptable means of resolving disputes, that the use of force against the weak is a way of solving problems, and that "discipline" means hitting people. It adversely affects not only those who are punished directly but children who witness the punishment of others. The use of corporal punishment in schools often contradicts the messages children receive in their own homes about violent behavior. Although the frequency of corporal punishment is difficult to determine, information compiled by the U.S. Office of Civil Rights (distributed by the Student Advocacy Center) suggests that in recent years there have been over one million cases of corporal punishment each year nationally, and about ten thousand cases in Michigan, with a significant overrepresentation of cases involving students identified as African-Americans. (Nationwide, children reportedly are subjected to the use of wooden paddles, straps, hands, sticks, ropes, belts, and fists, and have been thrown against walls, desks, and concrete pillars; students have suffered broken limbs and teeth, nerve damage, gashes requiring stitches, and broken blood vessels). About one-third of Michigan's children attend schools in which corporal punishment is prohibited, and leading educational and child advocacy groups want corporal punishment abolished throughout the state, as it has been in many cities, states, and foreign countries, and advocate the use of more effective alternative methods of managing classrooms and disciplining children.

THE CONTENT OF THE BILL:

The bill would amend the School Code to prohibit a person employed by or engaged as a volunteer or contractor by a local school board, an intermediate school board, or the board of a non-public school from threatening to inflict, inflicting, or causing to be inflicted corporal punishment upon any pupil. A school board could appropriately discipline violators. Corporal punishment would be defined in the bill as "the deliberate infliction of physical pain by any means upon the whole or any part of a pupil's body as a penalty or punishment for a pupil's offense." Under the bill, any resolution, bylaw, rule, policy, ordinance, or other authority permitting corporal punishment would be void.

A person could, however, use such reasonable physical force as may be necessary within the scope of his or her responsibilities to protect anyone from physical injury,

obtain possession of a weapon or other dangerous object upon or within the control of a pupil, and to protect property from physical damage. A person exercising necessary physical force would not be liable in a civil action for damages arising as a result, as provided in the governmental immunity act.

Local, intermediate, and non-public school boards would have to approve and have distributed a list of alternatives to the use of corporal punishment. The list would go to each employee, volunteer, and contractor. The state board of education would, on request, assist schools with the development and adoption of a list.

(The School Code currently says: "A teacher or superintendent may use reasonable physical force on the person of a pupil necessary for the purpose of maintaining proper discipline over pupils in attendance at school." This language would be deleted.)

MCL 380.1312

HOUSE COMMITTEE ACTION:

The House Education Committee reported out the original version of Senate Bill 212, removing various exemptions in the Senate-passed version of the bill. As passed by the Senate, the bill would not have applied to private schools. Further, that version allowed school districts to opt out if they did not want the ban on corporal punishment to apply to them. Parents in districts that opted out could, however, refuse to allow corporal punishment to be administered to their children.

FISCAL IMPLICATIONS:

The Department of Education points out that the bill would require it to assist schools in developing lists of alternatives to corporal punishment, but says this should not result in significant costs. Further, local units are required to make these lists available. Should costs to the local units exceed \$300, the department says, the state would have to fund this requirement in full. (4-27-87)

ARGUMENTS:

For:

The bill would clearly prohibit the use of corporal punishment as a means of disciplining children in all schools in the state. As stated above, corporal punishment is ineffective, counterproductive, and emotionally and physically harmful disciplinary method. Its use sends children the wrong messages about the use of force as a means of solving problems and does not change behavior over the long run. Research suggests that at best it only temporarily suppresses behavior and actually may both

decrease learning and arouse aggression against others and school property. Educators point to a 1979 recommendation by a Governor's Task Force on School Violence and Vandalism that corporal punishment be prohibited as a way of dealing with those problems. Prisoners, inmates of other institutions, and military personnel are all protected against beatings. This bill will extend that protection of personal safety to the state's schoolchildren. Effective alternative disciplinary methods exist and are used successfully by Michigan schools. Teachers and other school personnel can receive training in positive disciplinary methods.

Research suggests that there are a number of reasons why children misbehave in school, including inadequate parenting; ineffective teacher training; student alienation stemming from ineffective school organization and administration; and the interaction of student characteristics, such as learning disabilities, with the school environment. Changing the school environment to foster positive discipline and the prevention of discipline problems is key. Educators say that the most frequent recipients of corporal punishment are students with emotional and behavioral problems and students from Black, Hispanic, and low-income homes. Victims also tend to be elementary school children rather than children in higher grades.

For:

It should be noted that the bill does allow school personnel to use "reasonable physical force" in certain specific circumstances, including cases of self-defense and to prevent harm to others or to school property. Further, the bill provides immunity for the use of force in those instances. These protections are similar to those that exist currently in the School Code.

Against:

This bill would impose one controversial philosophical position on corporal punishment on every school in the state, public and private. This is unjustifiable. This is a decision that should be made (and is now made) at the local level with parental involvement. At the very least, religious and other private schools should be exempt. To do otherwise would be to impose public morality on religious institutions and override strongly held religious beliefs.

Underlying this bill is the argument that corporal punishment can never be effective or of value, and there is simply no indisputable evidence to support such a view. It is a subject on which people, including educators, disagree. Imagine if an attempt was made to mandate corporal punishment! This bill is just such an extreme approach. Some educators believe that corporal punishment can be effective, used sparingly, carefully controlled, lovingly administered, and with parental involvement. Corporal punishment (e.g., spanking) can reduce the aggressive, unruly, and disrespectful behavior of some schoolchildren, and can promote child development. In many schools, classroom discipline is the most serious problem teachers face. Schools need more disciplinary options, not fewer, if they are to provide quality education.

Parents seek out private schools because they believe they provide a better education and superior discipline. This bill will limit the effectiveness of some private schools — schools freely chosen by parents — by removing one of their disciplinary tools.

Against:

There are state laws that protect children from abuse and neglect, including abuse to children by teachers. Children can be protected from unreasonable physical force without prohibiting school officials from the careful, controlled use of corporal punishment. It should also be noted that the U.S. Supreme Court has at least twice ruled that corporal punishment, such as paddling, is not unconstitutional when certain guidelines are followed.

POSITIONS:

The following are among the organizations that have indicated their support for the bill in its current form:

- The State Board of Education
- The Michigan Association of School Boards
- The Michigan Education Association
- The Michigan Association of School Psychologists
- The League of Women Voters of Michigan
- Council Against Domestic Assault
- Michigan Association of Children's Alliances
- Michigan Association of Teachers of Emotionally Disturbed Children
- Student Advocacy Center
- Michigan Women's Commission
- Michigan PTA
- The American Association of University Professors

The following have expressed their opposition to the bill in its current form:

- The Michigan Association of Christian Schools
- Christian Schools International
- Missouri Synod Lutheran Schools