

Legislative Analysis



STUDENT WITH A DISABILITY

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 730 (Substitute H-2)

Sponsor: Sen. John J. Gleason

House Committee: Education

Senate Committee: Education

First Analysis (12-03-07)

BRIEF SUMMARY: The bill would replace references to a "handicapped person" found in the Revised School Code with the phrase "student with a disability."

FISCAL IMPACT: The bill would have no fiscal impact.

THE APPARENT PROBLEM:

The term "handicapped" has long been considered offensive to many individuals with disabilities. See [Background Information](#).

Although the term has been replaced with more current language in sections of the Michigan Administrative Code dealing with disabled students, references to handicapped individuals or handicappers remain in some sections of the Revised School Code.

It has been suggested that those references be changed to "student with a disability," in order to reflect present usage.

THE CONTENT OF THE BILL:

The bill would amend the Revised School Code (MCL 380.4 et al). to replace references to a "handicapped person" with "student with a disability," and to state that a section of the code concerning the expulsion or suspension of a pupil would not diminish "any" rights (rather than "due process rights") of a special education pupil under federal law.

The code contains references to a "handicapped person," "handicapped pupil," and "handicapper" in certain definitions and other provisions throughout the code. The bill would replace those terms with "student with a disability."

"Student with a disability" would mean that term as defined in R 340.1702 of the Administrative Code. [There, the term is defined as follows: "A person who is determined by an individualized education program team or a hearing officer to have one or more of specified impairments that necessitate special education or related services, or both, who is not more than 25 years of age as of September 1 of the school year of enrollment, who has not completed a normal course of study, and who has not graduated from high school."]

BACKGROUND INFORMATION:

The following background information is derived for the analysis of the of the bill by the Senate Fiscal Agency dated 10-18-07.

Original meaning of the term "handicapped". The word "handicap" is derived from a 17th century game called "hand in cap" according to the *Oxford Dictionary of English*. In that game, two participants offered to exchange two articles. A referee could require one of the participants to contribute additional money to the trade to adjust for any difference in the value of the two items. The participants then signaled acceptance or rejection of the trade by withdrawing their hands from their caps simultaneously, either full or empty.

The word came to represent any equaling out of differences, such as in horseracing, in which faster horses are handicapped by the addition of weights to make the race more competitive. In that context, the term was used to describe the weights themselves or any other added impediment, and gradually came to represent any type of impediment. The word was first used to refer to a physical disability in the early 20th century.

HOUSE COMMITTEE ACTION:

The House Education Committee adopted a "conflict substitute" (Substitute H-1) to ensure that Senate Bill 730 is up-to-date, and includes the most recent changes in statutory law. Changes to Senate Bill 730 included those embodied in Public Act 138 of 2007 (Senate Bill 571). Specifically, Substitute H-1 incorporated recent changes to the code that ensure special education students full rights under all federal laws (rather than limiting them to "due process" rights, as was earlier the case).

PA 138 protects the due process rights of children with disabilities--covering the full extent of a child's individual rights under the federal law known as the Individuals with Disabilities Education Act (sometimes called IDEA). Before the enactment of Public Act 138, the language of the code appeared to diminish the rights of special education students--language that was included in original version of Senate bill 730. The new law broadens the language of the state statute to include "any rights" (not only due process rights) of students with disabilities, ensuring that the Michigan law complies with the federal act, and that the state remains eligible for federal special education funds.

The House Education Committee members then adopted one amendment to the H-1 substitute. That amendment makes accurate a reference on page 2 to the Michigan Election Law.

ARGUMENTS:

For:

Many believe that referring to individuals with disabilities as "handicapped" is demeaning. Although the term has a different origin (see *Background Information*), the word continues to carry a negative connotation, despite the fact that many people with

disabilities are independent, living normal lives. In many cases, people use the label without realizing that it is hurtful or offensive. The bill would help to raise awareness of the issue and remove the term from the Revised School Code, making the language consistent with the Administrative Code.

POSITIONS:

The Michigan Department of Education supports the bill. (11-27-07)

The Michigan Education Association supports the bill. (11-27-07)

Michigan Small & Rural Schools support the bill. (11-27-07)

Legislative Analyst: J. Hunault
Fiscal Analyst: Mary Ann Cleary
Bethany Wicksall

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.