

# State of Michigan

MIDLAND COUNTY PROBATE COURT  
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Michigan Senate Judiciary Committee Testimony  
on House Bills 5618-21 and 5693-5695 aka Zero Tolerance  
Honorable Dorene S. Allen, Midland County Probate & Juvenile Court Judge

September 20, 2016

Chairman Senator Jones and Senators of this committee, thank you for your time and attention to this important set of bills. I know them as the Zero Tolerance Bills, or House Bills 5618 through 5621 and House Bills 5693 through 5695. I appear today on behalf of the Michigan Probate Judges Association which has supported these bills right from their first versions two years ago. My name is Dorene S. Allen and I have been a probate judge dealing with youth from the bench for 16 years. We are eager to get this package of bills passed as we see the impact on the youth in front of us in the courtroom. These bills are also known as the initiative to stop the school to prison pipeline.

These bills were originally drafted in a different form actually by Angela Cole, who sits beside me and myself about three years ago. Angela Cole is the attorney referee for Midland Family Court among many other duties. We were both extremely active, and continue to be, in the state-wide initiative known as the Michigan School-Justice Partnership. The original versions were vetted by that state-wide initiative which is comprised of multi-disciplinary county teams. All counties but a couple participated in these state-wide summits. There is another one planned for this November, 2016. So, judges, referees, prosecutors, superintendents of both ISD's and regular school systems have actively reviewed, commented and supported this legislation to stop the School to Prison Pipeline here in Michigan.

Here is my main message for my comments today: If we want to reduce, crime, save money for taxpayers, and give our kids and youth the best chance for a productive life, we have to keep kids in school. That is what this legislation aims to do.

Our present Zero Tolerance laws came about as a result of the horrible school shootings in Columbine. The federal zero tolerance school discipline laws were adopted. Michigan not only adopted the laws but made them significantly broader, therefore casting a very wide net to include thousands more students under the Zero Tolerance Laws. The proposals before you today seek to limit our Michigan laws to the parameters laid out in the Federal law. With adoption of these laws there will be no loss of federal funding.

Why are we concerned about an overly broad application of the federal law here in Michigan? Young people are expelled and suspended far too often and they end up in the prison system. The numbers are stunning. An estimated 250,000 Michigan youth are not enrolled in school at all, are not working, and do not have a GED or high school diploma. Of the 8,800 people sentenced to prison in Michigan in 2012, 49% did not have a GED or high school diploma. Every student a district loses is worth roughly \$7,200 in annual per pupil funding. Every prisoner Michigan gains each year costs about \$37,500. The numbers are as high as 68% of prisoners having no GED or high school degree. 88% of high school dropouts without a GED are incarcerated by the time they are 25 years old.

These are profoundly disturbing numbers for our youth. That is not the end of the story though -- there is disproportionate representation of minorities, the mentally ill, the developmentally disabled.

You may ask that perhaps these students deserve to be expelled or suspended. There is no evidence between the correlation between overly broad expulsions and school safety; in fact, there is evidence otherwise.

Attached to this testimony are two maps of Michigan. They are heat maps and the information is derived totally from public sources of the Michigan Student Data System through the Michigan Center for Educational Performance and Information (CEPI). We have worked closely with CEPI on this legislation. Already captured in our state-wide data system is the number of expulsions under the current law. So, the first map is a map that shows where expulsions are occurring by headcount for the school years 2008 to 2013. The green is for school systems who have less than one, yellow for one to three per one thousand students and red for three to 33. You can easily see that the map is mainly green. These are expulsions for all weapons which is a broader category than firearms. By far and away most weapons related expulsions for this five year period are less than one.

Then contrast the second heat map. These indicate the same matrix on the expulsions, one, one to three and then three to 33. This map, however, is for **all** expulsions, not only weapons. These include what we would define as behavior expulsions. Students dressed the wrong way and attitude issues are the main reasons. As you can see, expulsions for weapons under the current law are rare. What is really happening is that youth are getting expelled for behavior. And we would point out that these are the students who end up in the justice system -- incarcerated at extraordinarily high rates.

There are two very important tools that are going to be enhanced by this legislation: local control and restorative practices. The true complaint that has been heard from the schools, school boards and superintendents is that even when there is knowledge of a student and the fact that the violation of a portion of the Zero Tolerance was inadvertent and a first time offense, there is no built in flexibility to be able to use that front-line knowledge of the youth, their history and their home life. So, the youth who comes from a farming family who has bailed hay that morning and inadvertently brings the bailing knife to school is mandatorily expelled. You will hear other examples I am quite sure this afternoon. The application of the Zero Tolerance laws has been a tragedy.

Here's the thing though -- local control and decision making is imbedded in this legislation. So, for the student that intentionally brings a gun to school, that student can still be expelled or suspended. It is up to the schools. Likewise, for the student who unknowingly brings the knife for bailing hay, that decision is up to the school as well.

The legislation does imbed local control but it also has decision making factors that have to be considered before a student can be expelled or suspended. Logical things such as the disciplinary history of that student, their age, seriousness of the violation, among other facts. The use of restorative justice is an integral part of this legislation. It is the focus on the victim and the use of measures basically to make that victim whole. This is a practice that has been shown to work and actually increases safety in the school.

So, the option to suspend or expel is still there regarding student behavior. It is up to the local front line decision makers who have the access to the best information. Importantly there are definitions for all three terms: expulsion (60 or more days), suspension (less than 60 days) and restorative practice.

This is a classic win-win piece of legislation. We reduce crime, save money for taxpayers and give our kids the best chance for a productive life by keeping them in school. On behalf of the Michigan Probate Judges Association, we urge your support of this legislation to stop the School to Prison Pipeline.