

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 206**

(As Passed the Senate May 12, 1999)

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1311a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1311A. (1) IF A PUPIL ENROLLED IN GRADE 6 OR ABOVE
2 COMMITS A PHYSICAL ASSAULT AT SCHOOL AGAINST A PERSON EMPLOYED BY
3 OR ENGAGED AS A VOLUNTEER OR CONTRACTOR BY THE SCHOOL BOARD AND
4 THE PHYSICAL ASSAULT IS REPORTED TO THE SCHOOL BOARD, SCHOOL DIS-
5 TRICT SUPERINTENDENT, OR BUILDING PRINCIPAL BY THE VICTIM OR, IF
6 THE VICTIM IS UNABLE TO REPORT THE ASSAULT, BY ANOTHER PERSON ON
7 THE VICTIM'S BEHALF, THEN THE SCHOOL BOARD, OR THE DESIGNEE OF
8 THE SCHOOL BOARD AS DESCRIBED IN SECTION 1311(1) ON BEHALF OF THE
9 SCHOOL BOARD, SHALL EXPEL THE PUPIL FROM THE SCHOOL DISTRICT
10 PERMANENTLY, SUBJECT TO POSSIBLE REINSTATEMENT UNDER
11 SUBSECTION (5). A DISTRICT SUPERINTENDENT OR BUILDING PRINCIPAL

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1 WHO RECEIVES A REPORT DESCRIBED IN THIS SUBSECTION SHALL FORWARD
2 THE REPORT TO THE SCHOOL BOARD.

3 (2) IF A PUPIL ENROLLED IN GRADE 6 OR ABOVE COMMITS A VERBAL
4 ASSAULT, AS DEFINED BY SCHOOL BOARD POLICY, AT SCHOOL AGAINST A
5 PERSON EMPLOYED BY OR ENGAGED AS A VOLUNTEER OR CONTRACTOR BY THE
6 SCHOOL BOARD AND THE VERBAL ASSAULT IS REPORTED TO THE SCHOOL
7 BOARD, SCHOOL DISTRICT SUPERINTENDENT, OR BUILDING PRINCIPAL BY
8 THE VICTIM OR, IF THE VICTIM IS UNABLE TO REPORT THE VERBAL
9 ASSAULT, BY ANOTHER PERSON ON THE VICTIM'S BEHALF, OR IF A PUPIL
ENROLLED IN GRADE 6 OR ABOVE MAKES A BOMB THREAT OR SIMILAR
10 SCHOOL BOARD, OR THE DESIGNEE OF THE SCHOOL BOARD AS DESCRIBED IN
11 SECTION 1311(1) ON BEHALF OF THE SCHOOL BOARD, SHALL EXPEL THE
12 PUPIL FROM THE SCHOOL DISTRICT FOR UP TO 180 SCHOOL DAYS. A DIS-
13 TRICT SUPERINTENDENT OR BUILDING PRINCIPAL WHO RECEIVES A REPORT
14 DESCRIBED IN THIS SUBSECTION SHALL FORWARD THE REPORT TO THE
15 SCHOOL BOARD. NOTWITHSTANDING SECTION 1147, A SCHOOL DISTRICT IS
16 NOT REQUIRED TO ALLOW AN INDIVIDUAL EXPELLED FROM ANOTHER SCHOOL
17 DISTRICT UNDER THIS SUBSECTION TO ATTEND SCHOOL IN THE SCHOOL
18 DISTRICT DURING THE EXPULSION.

19 (3) IF AN INDIVIDUAL IS PERMANENTLY EXPELLED PURSUANT TO
20 SUBSECTION (1), THE EXPELLING SCHOOL DISTRICT SHALL ENTER ON THE
21 INDIVIDUAL'S PERMANENT RECORD THAT HE OR SHE HAS BEEN PERMANENTLY
22 EXPELLED PURSUANT TO SUBSECTION (1). EXCEPT IF A SCHOOL DISTRICT
23 OPERATES OR PARTICIPATES COOPERATIVELY IN AN ALTERNATIVE EDUCA-
24 TION PROGRAM APPROPRIATE FOR INDIVIDUALS EXPELLED PURSUANT TO
25 SUBSECTION (1) AND SECTION 1311(2) AND IN ITS DISCRETION ADMITS
26 THE INDIVIDUAL TO THAT PROGRAM, AND EXCEPT FOR A STRICT
27 DISCIPLINE ACADEMY ESTABLISHED UNDER SECTIONS 1311B TO 1311I, AN

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1 INDIVIDUAL PERMANENTLY EXPELLED PURSUANT TO SUBSECTION (1) IS
2 EXPELLED FROM ALL PUBLIC SCHOOLS IN THIS STATE AND THE OFFICIALS
3 OF A SCHOOL DISTRICT SHALL NOT ALLOW THE INDIVIDUAL TO ENROLL IN
4 THE SCHOOL DISTRICT UNLESS THE INDIVIDUAL HAS BEEN REINSTATED
5 UNDER SUBSECTION (5). EXCEPT AS OTHERWISE PROVIDED BY LAW, A
6 PROGRAM OPERATED FOR INDIVIDUALS EXPELLED PURSUANT TO SUBSECTION
7 (1) AND SECTION 1311(2) SHALL ENSURE THAT THOSE INDIVIDUALS ARE
8 PHYSICALLY SEPARATED AT ALL TIMES DURING THE SCHOOL DAY FROM THE
9 GENERAL PUPIL POPULATION. IF AN INDIVIDUAL PERMANENTLY EXPELLED
10 FROM A SCHOOL DISTRICT PURSUANT TO SUBSECTION (1) IS NOT PLACED
11 IN AN ALTERNATIVE EDUCATION PROGRAM OR STRICT DISCIPLINE ACADEMY,
12 THE SCHOOL DISTRICT MAY PROVIDE, OR MAY ARRANGE FOR THE INTERME-
13 DIATE SCHOOL DISTRICT TO PROVIDE, APPROPRIATE INSTRUCTIONAL SERV-
14 ICES TO THE INDIVIDUAL AT HOME. THE TYPE OF SERVICES PROVIDED
15 SHALL MEET THE REQUIREMENTS OF SECTION 6(4)(v) OF THE STATE
16 SCHOOL AID ACT OF 1979, MCL 388.1606, AND THE SERVICES MAY BE
17 CONTRACTED FOR IN THE SAME MANNER AS SERVICES FOR HOMEBOUND
18 PUPILS UNDER SECTION 109 OF THE STATE SCHOOL AID ACT OF 1979, MCL
19 388.1709. THIS SUBSECTION DOES NOT REQUIRE A SCHOOL DISTRICT TO
20 EXPEND MORE MONEY FOR PROVIDING SERVICES FOR A PUPIL PERMANENTLY
21 EXPELLED PURSUANT TO SUBSECTION (1) THAN THE AMOUNT OF THE FOUN-
22 DATION ALLOWANCE THE SCHOOL DISTRICT RECEIVES FOR THE PUPIL UNDER
23 SECTION 20 OF THE STATE SCHOOL AID ACT OF 1979, MCL 388.1620.

24 (4) IF A SCHOOL BOARD EXPELS AN INDIVIDUAL PURSUANT TO THIS
25 SECTION, THE SCHOOL BOARD SHALL ENSURE THAT, WITHIN 3 DAYS AFTER
26 THE EXPULSION, AN OFFICIAL OF THE SCHOOL DISTRICT REFERS THE
27 INDIVIDUAL TO THE APPROPRIATE COUNTY DEPARTMENT OF SOCIAL

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1 SERVICES OR COUNTY COMMUNITY MENTAL HEALTH AGENCY AND NOTIFIES
2 THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL
3 IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, NOTIFIES THE INDI-
4 VIDUAL OF THE REFERRAL.

5 (5) THE PARENT OR LEGAL GUARDIAN OF AN INDIVIDUAL PER-
6 MANENTLY EXPELLED PURSUANT TO SUBSECTION (1) OR, IF THE INDIVID-
7 UAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, THE INDIVIDUAL
8 MAY PETITION THE EXPELLING SCHOOL BOARD FOR REINSTATEMENT OF THE
9 INDIVIDUAL TO PUBLIC EDUCATION IN THE SCHOOL DISTRICT. IF THE
10 EXPELLING SCHOOL BOARD DENIES A PETITION FOR REINSTATEMENT, THE
11 PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18
12 OR IS AN EMANCIPATED MINOR, THE INDIVIDUAL MAY PETITION ANOTHER
13 SCHOOL BOARD FOR REINSTATEMENT OF THE INDIVIDUAL IN THAT OTHER
14 SCHOOL DISTRICT. ALL OF THE FOLLOWING APPLY TO REINSTATEMENT
15 UNDER THIS SUBSECTION:

16 (A) THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OR, IF THE
17 INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, THE
18 INDIVIDUAL MAY INITIATE A PETITION FOR REINSTATEMENT AT ANY TIME
19 AFTER THE EXPIRATION OF 150 SCHOOL DAYS AFTER THE DATE OF
20 EXPULSION.

21 (B) THE INDIVIDUAL SHALL NOT BE REINSTATED BEFORE THE EXPI-
22 RATION OF 180 SCHOOL DAYS AFTER THE DATE OF EXPULSION.

23 (C) IT IS THE RESPONSIBILITY OF THE PARENT OR LEGAL GUARDIAN
24 OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED
25 MINOR, OF THE INDIVIDUAL TO PREPARE AND SUBMIT THE PETITION. A
26 SCHOOL BOARD IS NOT REQUIRED TO PROVIDE ANY ASSISTANCE IN
27 PREPARING THE PETITION. UPON REQUEST BY A PARENT OR LEGAL

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1 GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN
2 EMANCIPATED MINOR, BY THE INDIVIDUAL, A SCHOOL BOARD SHALL MAKE
3 AVAILABLE A FORM FOR A PETITION.

4 (D) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING A PETITION
5 FOR REINSTATEMENT UNDER THIS SUBSECTION, A SCHOOL BOARD SHALL
6 APPOINT A COMMITTEE TO REVIEW THE PETITION AND ANY SUPPORTING
7 INFORMATION SUBMITTED BY THE PARENT OR LEGAL GUARDIAN OR, IF THE
8 INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, BY THE
9 INDIVIDUAL. THE COMMITTEE SHALL CONSIST OF 2 SCHOOL BOARD MEM-
10 BERS, 1 SCHOOL ADMINISTRATOR, 1 TEACHER, AND 1 PARENT OF A PUPIL
11 IN THE SCHOOL DISTRICT. DURING THIS TIME THE SUPERINTENDENT OF
12 THE SCHOOL DISTRICT MAY PREPARE AND SUBMIT FOR CONSIDERATION BY
13 THE COMMITTEE INFORMATION CONCERNING THE CIRCUMSTANCES OF THE
14 EXPULSION AND ANY FACTORS MITIGATING FOR OR AGAINST
15 REINSTATEMENT.

16 (E) NOT LATER THAN 10 SCHOOL DAYS AFTER ALL MEMBERS ARE
17 APPOINTED, THE COMMITTEE DESCRIBED IN SUBDIVISION (D) SHALL
18 REVIEW THE PETITION AND ANY SUPPORTING INFORMATION AND INFORMA-
19 TION PROVIDED BY THE SCHOOL DISTRICT AND SHALL SUBMIT A RECOMMEN-
20 DATION TO THE SCHOOL BOARD ON THE ISSUE OF REINSTATEMENT. THE
21 RECOMMENDATION SHALL BE FOR UNCONDITIONAL REINSTATEMENT, FOR CON-
22 DITIONAL REINSTATEMENT, OR AGAINST REINSTATEMENT, AND SHALL BE
23 ACCOMPANIED BY AN EXPLANATION OF THE REASONS FOR THE RECOMMENDA-
24 TION AND OF ANY RECOMMENDED CONDITIONS FOR REINSTATEMENT. THE
25 RECOMMENDATION SHALL BE BASED ON CONSIDERATION OF ALL OF THE FOL-
26 LOWING FACTORS:

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1 (i) THE EXTENT TO WHICH REINSTATEMENT OF THE INDIVIDUAL
2 WOULD CREATE A RISK OF HARM TO PUPILS OR SCHOOL PERSONNEL.

3 (ii) THE EXTENT TO WHICH REINSTATEMENT OF THE INDIVIDUAL
4 WOULD CREATE A RISK OF SCHOOL DISTRICT OR INDIVIDUAL LIABILITY
5 FOR THE SCHOOL BOARD OR SCHOOL DISTRICT PERSONNEL.

6 (iii) THE AGE AND MATURITY OF THE INDIVIDUAL.

7 (iv) THE INDIVIDUAL'S SCHOOL RECORD BEFORE THE INCIDENT THAT
8 CAUSED THE EXPULSION.

9 (v) THE INDIVIDUAL'S ATTITUDE CONCERNING THE INCIDENT THAT
10 CAUSED THE EXPULSION.

11 (vi) THE INDIVIDUAL'S BEHAVIOR SINCE THE EXPULSION AND THE
12 PROSPECTS FOR REMEDIATION OF THE INDIVIDUAL.

13 (vii) IF THE PETITION WAS FILED BY A PARENT OR LEGAL GUARDI-
14 AN, THE DEGREE OF COOPERATION AND SUPPORT THAT HAS BEEN PROVIDED
15 BY THE PARENT OR LEGAL GUARDIAN AND THAT CAN BE EXPECTED IF THE
16 INDIVIDUAL IS REINSTATED, INCLUDING, BUT NOT LIMITED TO, RECEP-
17 TIVENESS TOWARD POSSIBLE CONDITIONS PLACED ON THE REINSTATEMENT.

18 (F) NOT LATER THAN THE NEXT REGULARLY SCHEDULED BOARD MEET-
19 ING AFTER RECEIVING THE RECOMMENDATION OF THE COMMITTEE UNDER
20 SUBDIVISION (E), A SCHOOL BOARD SHALL MAKE A DECISION TO UNCONDI-
21 TIONALLY REINSTATE THE INDIVIDUAL, CONDITIONALLY REINSTATE THE
22 INDIVIDUAL, OR DENY REINSTATEMENT OF THE INDIVIDUAL. THE DECI-
23 SION OF THE SCHOOL BOARD IS FINAL.

24 (G) A SCHOOL BOARD MAY REQUIRE AN INDIVIDUAL AND, IF THE
25 PETITION WAS FILED BY A PARENT OR LEGAL GUARDIAN, HIS OR HER
26 PARENT OR LEGAL GUARDIAN TO AGREE IN WRITING TO SPECIFIC
27 CONDITIONS BEFORE REINSTATING THE INDIVIDUAL IN A CONDITIONAL

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1 REINSTATEMENT. THE CONDITIONS MAY INCLUDE, BUT ARE NOT LIMITED
2 TO, AGREEMENT TO A BEHAVIOR CONTRACT, WHICH MAY INVOLVE THE INDI-
3 VIDUAL, PARENT OR LEGAL GUARDIAN, AND AN OUTSIDE AGENCY; PARTICI-
4 PATION IN OR COMPLETION OF AN ANGER MANAGEMENT PROGRAM OR OTHER
5 APPROPRIATE COUNSELING; PERIODIC PROGRESS REVIEWS; AND SPECIFIED
6 IMMEDIATE CONSEQUENCES FOR FAILURE TO ABIDE BY A CONDITION. A
7 PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18
8 OR IS AN EMANCIPATED MINOR, THE INDIVIDUAL MAY INCLUDE PROPOSED
9 CONDITIONS IN A PETITION FOR REINSTATEMENT SUBMITTED UNDER THIS
10 SUBSECTION.

11 (6) A SCHOOL BOARD OR SCHOOL ADMINISTRATOR THAT COMPLIES
12 WITH THIS SECTION IS NOT LIABLE FOR DAMAGES FOR EXPELLING A PUPIL
13 PURSUANT TO THIS SECTION, AND THE AUTHORIZING BODY OF A PUBLIC
14 SCHOOL ACADEMY IS NOT LIABLE FOR DAMAGES FOR EXPULSION OF A PUPIL
15 BY THE PUBLIC SCHOOL ACADEMY PURSUANT TO THIS SECTION.

16 (7) THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE TO ALL
17 SCHOOL DISTRICTS A FORM FOR A PETITION FOR REINSTATEMENT TO BE
18 USED UNDER SUBSECTION (5). THE DEPARTMENT MAY DESIGNATE THE FORM
19 USED FOR A PETITION FOR REINSTATEMENT UNDER SECTION 1311 AS A
20 FORM THAT MAY BE USED UNDER THIS SECTION.

21 (8) THIS SECTION DOES NOT DIMINISH THE DUE PROCESS RIGHTS
22 UNDER FEDERAL LAW OF A PUPIL WHO HAS BEEN DETERMINED TO BE ELIGI-
23 BLE FOR SPECIAL EDUCATION PROGRAMS AND SERVICES.

24 (9) IF A PUPIL EXPELLED FROM A SCHOOL DISTRICT PURSUANT TO
25 THIS SECTION IS ENROLLED BY A PUBLIC SCHOOL DISTRICT SPONSORED
26 ALTERNATIVE EDUCATION PROGRAM OR A PUBLIC SCHOOL ACADEMY DURING
27 THE PERIOD OF EXPULSION, THE PUBLIC SCHOOL ACADEMY OR THE

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1 ALTERNATIVE EDUCATION PROGRAM IS IMMEDIATELY ELIGIBLE FOR THE
2 PRORATED SHARE OF EITHER THE PUBLIC SCHOOL ACADEMY'S OR OPERATING
3 SCHOOL DISTRICT'S FOUNDATION ALLOWANCE OR THE EXPELLING SCHOOL
4 DISTRICT'S FOUNDATION ALLOWANCE, WHICHEVER IS HIGHER.

5 (10) A SCHOOL BOARD OR ITS DESIGNEE SHALL REPORT ALL
6 ASSAULTS DESCRIBED IN SUBSECTION (1) OR (2) TO APPROPRIATE STATE
7 OR LOCAL LAW ENFORCEMENT OFFICIALS AND PROSECUTORS AS PROVIDED IN
8 THE STATEWIDE SCHOOL SAFETY INFORMATION POLICY UNDER SECTION
9 1308.

10 (11) IF AN INDIVIDUAL IS EXPELLED PURSUANT TO THIS SECTION,
11 IT IS THE RESPONSIBILITY OF THAT INDIVIDUAL AND OF HIS OR HER
12 PARENT OR LEGAL GUARDIAN TO LOCATE A SUITABLE EDUCATIONAL PROGRAM
13 AND TO ENROLL THE INDIVIDUAL IN SUCH A PROGRAM DURING THE
14 EXPULSION. THE OFFICE OF SAFE SCHOOLS IN THE DEPARTMENT SHALL
15 COMPILE INFORMATION ON AND CATALOG EXISTING ALTERNATIVE EDUCATION
16 PROGRAMS OR SCHOOLS AND NONPUBLIC SCHOOLS THAT MAY BE OPEN TO
17 ENROLLMENT OF INDIVIDUALS EXPELLED PURSUANT TO THIS SECTION AND
18 PURSUANT TO SECTION 1311(2), AND SHALL PERIODICALLY DISTRIBUTE
19 THIS INFORMATION TO SCHOOL DISTRICTS FOR DISTRIBUTION TO EXPELLED
20 INDIVIDUALS. A SCHOOL BOARD THAT ESTABLISHES AN ALTERNATIVE EDU-
21 CATION PROGRAM OR SCHOOL DESCRIBED IN THIS SUBSECTION SHALL
22 NOTIFY THE OFFICE OF SAFE SCHOOLS ABOUT THE PROGRAM OR SCHOOL AND
23 THE TYPES OF PUPILS IT SERVES. THE OFFICE OF SAFE SCHOOLS ALSO
24 SHALL WORK WITH AND PROVIDE TECHNICAL ASSISTANCE TO SCHOOL DIS-
25 TRICTS, AUTHORIZING BODIES FOR PUBLIC SCHOOL ACADEMIES, AND OTHER
26 INTERESTED PARTIES IN DEVELOPING THESE TYPES OF ALTERNATIVE

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1 EDUCATION PROGRAMS OR SCHOOLS IN GEOGRAPHIC AREAS THAT ARE NOT
2 BEING SERVED.

3 (12) AS USED IN THIS SECTION:

4 (A) "AT SCHOOL" MEANS IN A CLASSROOM, ELSEWHERE ON SCHOOL
5 PREMISES, ON A SCHOOL BUS OR OTHER SCHOOL-RELATED VEHICLE, OR AT
6 A SCHOOL-SPONSORED ACTIVITY OR EVENT WHETHER OR NOT IT IS HELD ON
7 SCHOOL PREMISES.

8 (B) "PHYSICAL ASSAULT" MEANS INTENTIONALLY CAUSING OR
9 ATTEMPTING TO CAUSE PHYSICAL HARM TO ANOTHER THROUGH FORCE OR
10 VIOLENCE.

11 (C) "SCHOOL BOARD" MEANS A SCHOOL BOARD, INTERMEDIATE SCHOOL
12 BOARD, OR THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY.

13 (D) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, A LOCAL ACT
14 SCHOOL DISTRICT, AN INTERMEDIATE SCHOOL DISTRICT, OR A PUBLIC
15 SCHOOL ACADEMY.

16 Enacting section 1. This amendatory act does not take
17 effect unless all of the following bills of the 90th Legislature
18 are enacted into law:

19 (a) Senate Bill No. 183.

20 (b) House Bill No. 4240.

21 (c) House Bill No. 4241.