

SENATE BILL NO. 634

September 14, 2021, Introduced by Senators IRWIN, HOLLIER, GEISS, CHANG and BAYER and referred to the Committee on Education and Career Readiness.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1310, 1310a, 1311, and 1311a (MCL 380.1310, 380.1310a, 380.1311, and 380.1311a), section 1310 as amended by 2016 PA 365, section 1310a as amended by 2016 PA 532, section 1311 as amended by 2018 PA 145, and section 1311a as amended by 2016 PA 366, and by adding section 1310f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1310. (1) Subject to section 1310d, if a pupil enrolled
2 in grade 6 or above commits a physical assault at school against
3 another pupil and the physical assault is reported to the school

1 board, school district superintendent, or building principal, then
2 the school board or the designee of the school board as described
3 in section 1311(1) on behalf of the school board shall suspend or
4 expel the pupil from the school district for up to 180 school days.
5 A district superintendent or building principal who receives a
6 report described in this subsection shall forward the report to the
7 school board. Notwithstanding section 1147, a school district is
8 not required to allow an individual expelled from another school
9 district under this section to attend school in the school district
10 during the expulsion.

11 (2) ~~If~~ **Subject to section 1310f, if** an individual is expelled
12 ~~pursuant to~~ **under** this section, it is the responsibility of that
13 individual and of his or her parent or legal guardian to locate a
14 suitable educational program and to enroll the individual in such a
15 program during the expulsion. The office for safe schools in the
16 department shall compile information on and catalog existing
17 alternative education programs or schools and nonpublic schools
18 that may be open to enrollment of individuals expelled under this
19 section and ~~pursuant to~~ **under** section 1311(2) or 1311a, and shall
20 periodically distribute this information to school districts for
21 distribution to expelled individuals. A school board that
22 establishes an alternative education program or school described in
23 this subsection shall notify the office for safe schools about the
24 program or school and the types of pupils it serves. The office for
25 safe schools also shall work with and provide technical assistance
26 to school districts, authorizing bodies for public school
27 academies, and other interested parties in developing these types
28 of alternative education programs or schools in geographic areas
29 that are not being served.

1 (3) As used in this section:

2 (a) "At school" means in a classroom, elsewhere on school
3 premises, on a school bus or other school-related vehicle, or at a
4 school-sponsored activity or event whether or not it is held on
5 school premises.

6 (b) "Physical assault" means intentionally causing or
7 attempting to cause physical harm to another through force or
8 violence.

9 (c) "School board" means a school board, intermediate school
10 board, or the board of directors of a public school academy.

11 (d) "School district" means a school district, intermediate
12 school district, or public school academy.

13 Sec. 1310a. (1) At least annually, each school board shall
14 prepare and submit to the superintendent of public instruction, in
15 the form and manner prescribed by the superintendent of public
16 instruction, a report stating the number of pupils expelled from
17 the school district during the immediately preceding school year,
18 with a brief description of the incident that caused each
19 expulsion. **Subject to state and federal privacy laws, the report**
20 **described in this subsection must also include the number of days**
21 **for which each pupil described in this subsection was suspended and**
22 **the race, ethnicity, and gender of each pupil and the number of**
23 **pupils described in this subsection to which the following apply:**

24 (a) The pupil is a student with a disability. As used in this
25 subdivision, "student with a disability" means a student who has 1
26 or more impairments that require special education or related
27 services and who has an individualized education program.

28 (b) The pupil is economically disadvantaged. As used in this
29 subdivision, "economically disadvantaged" means a pupil who has

1 been determined eligible for free or reduced-price meals as
2 determined under the Richard B. Russell national school lunch act,
3 42 USC 1751 to 1769j; who is in a household receiving supplemental
4 nutrition assistance program or temporary assistance for needy
5 families assistance; who is homeless, a migrant, or in foster care,
6 as reported to the center; or who is eligible for Medicaid.

7 (c) The pupil has had foster-care exposure during the school
8 year.

9 (d) The pupil is an English language learner as that term is
10 defined in section 31a of the state school aid act of 1979, MCL
11 388.1631a.

12 (e) The pupil is a homeless child or youth. As used in this
13 subdivision, "homeless child or youth" means a child or youth who
14 meets the definition of homeless children or youth as that term is
15 defined in 42 USC 11434a.

16 (f) The pupil is a migrant student. As used in this
17 subdivision, "migrant student" means a student whose family has
18 moved within the immediately preceding 36 months to obtain
19 temporary or seasonal work in agriculture or fishing or a student
20 who identified as migrant eligible for the school year in the
21 Migrant Education Data System.

22 (2) In order to obtain an accurate local picture of school
23 crime and to develop the partnerships necessary to plan and
24 implement school safety programs, at least annually, each school
25 board shall post on its website, in the form and manner prescribed
26 by the superintendent of public instruction, incidents of crime
27 occurring at school within the school district. In determining the
28 form and manner of this report, the superintendent of public
29 instruction shall consult with local and intermediate school

1 districts and law enforcement officials. The reporting ~~shall~~**must**
2 include at least crimes involving physical violence, gang-related
3 activity, illegal possession of a controlled substance or
4 controlled substance analogue, or other intoxicant, trespassing,
5 and property crimes including, but not limited to, theft and
6 vandalism. For a property crime, the report ~~shall~~**must** include an
7 estimate of the cost to the school district resulting from the
8 property crime. The school crime reporting requirements of this
9 subsection are intended to do all of the following:

10 (a) Help policymakers and program designers develop
11 appropriate prevention and intervention programs.

12 (b) Provide the continuous assessment tools needed for
13 revising and refining school safety programs.

14 (c) Assist schools and school districts to identify the most
15 pressing safety issues confronting their school communities, to
16 direct resources appropriately, and to enhance campus safety
17 through prevention and intervention strategies.

18 (d) Foster the creation of partnerships among schools, school
19 districts, state agencies, communities, law enforcement, and the
20 media to prevent further crime and violence and to assure a safe
21 learning environment for every pupil.

22 (3) Each school building shall collect and keep current on a
23 weekly basis the information required for the report under
24 subsection (2) and must provide that information, within 7 days,
25 upon request. At least annually, each school board shall make a
26 copy disaggregated by school building, of the most recent report
27 for the school district under subsection (2) available to the
28 parent or legal guardian of each pupil enrolled in the school
29 district.

1 (4) As used in this section, "at school", "school board", and
2 "school district" mean those terms as defined in section 1310.

3 Sec. 1310f. (1) The board of a school district or intermediate
4 school district or board of directors of a public school academy,
5 or its designee, shall develop an appeal process for a pupil to
6 appeal a decision of an independent decision maker or independent
7 decision makers under section 1310e or a decision concerning the
8 reinstatement of an expelled pupil under this act by the expelling
9 school district, intermediate school district, or public school
10 academy, to the board of the intermediate school district in which
11 the school district or public school academy in which the pupil is
12 enrolled is located if the decision was not made by the
13 intermediate school district or to an appeal panel as described in
14 subsection (4). The process described in the immediately preceding
15 sentence must include the appointment of an appeal panel as
16 described in subsection (4). Except for the decision of an
17 intermediate school district board or appeal panel upholding an
18 expulsion, the decision of an intermediate school district board or
19 appeal panel under this subsection is a final decision subject to
20 judicial review under the administrative procedures act of 1969,
21 1969 PA 306, MCL 24.201 to 24.328. An appeal process under this
22 subsection must satisfy all of the following requirements:

23 (a) Be conducted in writing.

24 (b) Require the pupil seeking to appeal to file the appeal no
25 later than 30 days after the pupil receives notification of the
26 decision of an independent decision maker or independent decision
27 makers under section 1310e or decision concerning reinstatement as
28 described in this subsection.

29 (c) Require the pupil to give notice of the appeal by mail,

1 email, or facsimile to the pupil's school district or intermediate
2 school district, or public school academy, or its designee, within
3 5 days after filing the appeal.

4 (d) Allow the pupil's school district or intermediate school
5 district, or public school academy, or its designee, to file a
6 written response to the appeal with the intermediate school board
7 or appeal panel, as applicable, within 5 days after receiving
8 notice of the appeal.

9 (e) Require the appeal to be decided by the board of the
10 intermediate school district described in this subsection or an
11 appeal panel as described in subsection (4). The intermediate
12 school board or appeal panel shall review the written submissions
13 of the parties to the appeal and the evidence that was the basis of
14 the decision of an independent decision maker or independent
15 decision makers under section 1310e or the decision concerning
16 reinstatement, and correct any procedural errors made in the
17 decision of an independent decision maker or independent decision
18 makers under section 1310e or the decision concerning
19 reinstatement.

20 (f) Require the intermediate school board described in this
21 subsection or the appeal panel to submit its decision in writing to
22 the parties to the appeal no later than 14 days after the pupil
23 files the appeal.

24 (2) The department and intermediate school districts shall
25 develop a coordinated appeal process for a pupil to appeal the
26 decision of an intermediate school board or appeal panel under
27 subsection (1) upholding the pupil's expulsion, that must include
28 the appointment of an appeal panel as described in subsection (4).
29 The decision of an appeal panel under this subsection is a final

1 decision subject to judicial review under the administrative
2 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An
3 appeal process under this subsection must satisfy all of the
4 following requirements:

5 (a) Be conducted in writing.

6 (b) Require the pupil seeking to appeal to file the appeal no
7 later than 30 days after the pupil receives the written decision of
8 the intermediate school board or the appeal panel under subsection
9 (1).

10 (c) Require the pupil to give notice of the appeal by mail,
11 email, or facsimile to the pupil's school district or intermediate
12 school district, or public school academy, or its designee, within
13 5 days after filing the appeal.

14 (d) Allow the pupil's school district or intermediate school
15 district, or public school academy, or its designee, to file a
16 written response to the appeal with the appeal panel within 5 days
17 after receiving notice of the appeal.

18 (e) Require the appeal to be decided by an appeal panel as
19 described in subsection (4). The appeal panel shall review the
20 written submissions of the parties to the appeal and the evidence
21 that was the basis of the decision of the appeal panel under
22 subsection (1), and correct any procedural errors made in the
23 decision.

24 (f) Require the appeal panel to submit its decision in writing
25 to the parties to the appeal no later than 14 days after the pupil
26 files the appeal.

27 (3) The department shall develop an appeal process for a
28 school district or a public school academy, or its designee, to
29 appeal a decision of an independent decision maker or independent

1 decision makers under section 1310e to the board of the
2 intermediate school district in which the school district or public
3 school academy is located or to an appeal panel described in
4 subsection (4) and an appeal process for an intermediate school
5 district, or its designee, to appeal a decision described in this
6 sentence to an appeal panel described in subsection (4). The
7 process described in the immediately preceding sentence must
8 include the appointment of an appeal panel as described in
9 subsection (4). The decision of an intermediate school district
10 board or appeal panel under this subsection is a final decision
11 subject to judicial review under the administrative procedures act
12 of 1969, 1969 PA 306, MCL 24.201 to 24.328. An appeal process under
13 this subsection must satisfy all of the following requirements:

14 (a) Be conducted in writing.

15 (b) Require the school district or intermediate school
16 district, or a public school academy, or its designee, seeking to
17 appeal to file the appeal no later than 14 days after the school
18 district or intermediate school district, or a public school
19 academy, or its designee, receives notification of the decision of
20 the independent decision maker or independent decision makers under
21 section 1310e.

22 (c) Require the school district or intermediate school
23 district, or public school academy, or its designee, to give notice
24 of the appeal by mail, email, or facsimile to, subject to state and
25 federal privacy laws, the pupil and the pupil's parent or legal
26 guardian within 5 days after filing the appeal.

27 (d) Allow the pupil to file a written response to the appeal
28 with the intermediate school board or appeal panel, as applicable,
29 within 10 days after receiving notice of the appeal.

1 (e) Require the appeal to be decided by the intermediate
2 school board or an appeal panel as described in subsection (4) if
3 the appeal was filed by a school district or public school academy
4 or by an appeal panel described in subsection (4) if the appeal was
5 filed by an intermediate school district. The intermediate school
6 board or appeal panel, as applicable, shall review the written
7 submissions of the parties to the appeal and the evidence that was
8 the basis of the decision of the independent decision maker or
9 independent decision makers under section 1310e, and correct any
10 procedural errors made in the decision.

11 (f) Require the intermediate school board or appeal panel, as
12 applicable, to submit its decision in writing to the parties to the
13 appeal no later than 14 days after the school district or
14 intermediate school district, or a public school academy, or its
15 designee, files the appeal.

16 (4) An appeal to an appeal panel under this section must be
17 decided by an appeal panel of no less than 3 individuals, who may
18 include a superintendent or members of a board of a school district
19 or intermediate school district, or a chief administrator or
20 members of a board of directors of a public school academy. An
21 appeal panel under this section must not include an individual who
22 meets either of the following conditions:

23 (a) Was previously involved in the decision being appealed,
24 including an individual who did any of the following:

25 (i) Investigated the disciplinary incident that is the subject
26 of the appeal.

27 (ii) Made a disciplinary decision or referral related to the
28 appeal.

29 (iii) Appointed or served as an independent decision maker under

1 section 1310e for the decision being appealed.

2 (b) Has a personal interest in the outcome of the appeal.

3 (5) Notwithstanding any provision of this act to the contrary,
4 except for a pupil who is enrolled in a school district,
5 intermediate school district, or public school academy other than
6 the school district, intermediate school district, or public school
7 academy from which he or she was removed, during the pendency of an
8 appeal under this section, the school district, intermediate school
9 district, or public school academy in which the pupil was enrolled
10 immediately preceding an appeal under this section that removed the
11 pupil shall determine and provide available and appropriate
12 educational services to the pupil who is a party to the appeal,
13 including, but not limited to, all of the following:

14 (a) Any applicable plans in place for excusing assignments, as
15 needed.

16 (b) Information concerning how the pupil may access upcoming
17 assignments and instructional materials.

18 (c) Information concerning how the pupil may access in-person
19 or virtual tutoring, instructors, home or community-based
20 instruction, alternative instruction or testing opportunities,
21 transportation, social work support, and support from a homeless or
22 foster care liaison, as available.

23 (6) This section does not limit a pupil's right to seek relief
24 under other applicable law including, but not limited to, state and
25 federal civil rights laws.

26 (7) As used in this section:

27 (a) "Disciplinary decision" means any of the following actions
28 against a pupil:

29 (i) Alternative placement for more than 10 days.

1 (ii) **Expulsion.**

2 (iii) **Suspension for more than 10 days.**

3 (b) **"Expulsion" means the exclusion of a pupil from school for**
4 **disciplinary reasons for a period of 60 or more school days.**

5 (c) **"Suspension" means the exclusion of a pupil from school**
6 **for disciplinary reasons for a period of fewer than 60 school days.**

7 Sec. 1311. (1) Subject to subsection (2) **and section 1310d,**
8 the school board, or the school district superintendent, a school
9 building principal, or another school district official if
10 designated by the school board, may authorize or order the
11 suspension or expulsion from school of a pupil who commits criminal
12 sexual conduct against another pupil enrolled in the same school
13 district or a pupil guilty of gross misdemeanor or persistent
14 disobedience if, in the judgment of the school board or its
15 designee, as applicable, the interest of the school is served by
16 the authorization or order. If there is reasonable cause to believe
17 that the pupil is a student with a disability, and the school
18 district has not evaluated the pupil in accordance with rules of
19 the superintendent of public instruction to determine if the pupil
20 is a student with a disability, the pupil ~~shall~~**must** be evaluated
21 immediately by the intermediate school district of which the school
22 district is constituent in accordance with section 1711.

23 (2) Subject to subsection (3) and section 1310d, if a pupil
24 possesses in a weapon free school zone a weapon that constitutes a
25 dangerous weapon, commits arson in a school building or on school
26 grounds, commits criminal sexual conduct in a school building or on
27 school grounds, or pleads to, is convicted of, or is adjudicated
28 for criminal sexual conduct against another pupil enrolled in the
29 same school district, the school board, or the designee of the

1 school board as described in subsection (1) on behalf of the school
2 board, shall expel the pupil from the school district permanently,
3 subject to possible reinstatement under subsection (6). However, a
4 school board is not required to expel a pupil for possessing a
5 weapon if the pupil establishes in a clear and convincing manner at
6 least 1 of the following:

7 (a) The object or instrument possessed by the pupil was not
8 possessed by the pupil for use as a weapon, or for direct or
9 indirect delivery to another individual for use as a weapon.

10 (b) The weapon was not knowingly possessed by the pupil.

11 (c) The pupil did not know or have reason to know that the
12 object or instrument possessed by the pupil constituted a dangerous
13 weapon.

14 (d) The weapon was possessed by the pupil at the suggestion,
15 request, or direction of, or with the express permission of, school
16 or police authorities.

17 (3) There is a rebuttable presumption that expulsion under
18 subsection (2) for possession of a weapon is not justified if both
19 of the following are met:

20 (a) The school board or its designee determines in writing
21 that at least 1 of the factors listed in subsection (2)(a) to (d)
22 has been established in a clear and convincing manner.

23 (b) The pupil has no history of suspension or expulsion.

24 (4) If an individual is expelled under subsection (2), the
25 expelling school district shall enter on the individual's permanent
26 record that he or she has been expelled under subsection (2).
27 Except if a school district operates or participates cooperatively
28 in an alternative education program appropriate for individuals
29 expelled under subsection (2) and in its discretion admits the

1 individual to that program, and except for a strict discipline
2 academy established under sections 1311b to 1311m or a cyber
3 school, as **that term is** defined in section 551, an individual
4 expelled under subsection (2) is expelled from all public schools
5 in this state and the officials of a school district shall not
6 allow the individual to enroll in the school district unless the
7 individual has been reinstated under subsection (6). Except as
8 otherwise provided by law, a program operated for individuals
9 expelled under subsection (2) shall ensure that those individuals
10 are physically separated at all times during the school day from
11 the general pupil population. If an individual expelled from a
12 school district under subsection (2) is not placed in an
13 alternative education program, strict discipline academy, or cyber
14 school, the school district may provide, or may arrange for the
15 intermediate school district to provide, appropriate instructional
16 services to the individual at home. The type of services provided
17 ~~shall~~**must** meet the requirements of section 6(4)(u) of the state
18 school aid act of 1979, MCL 388.1606, and the services may be
19 contracted for in the same manner as services for homebound pupils
20 under section 109 of the state school aid act of 1979, MCL
21 388.1709. This subsection does not require a school district to
22 expend more money for providing services for a pupil expelled under
23 subsection (2) than the amount of the foundation allowance the
24 school district receives for the pupil as calculated under section
25 20 of the state school aid act of 1979, MCL 388.1620.

26 (5) If a school board expels an individual under subsection
27 (2), the school board shall ensure that, within 3 days after ~~the~~**an**
28 expulsion **is first decided**, an official of the school district
29 refers the individual to the appropriate county department of

1 social services or county community mental health agency and
2 notifies the individual's parent or legal guardian or, if the
3 individual is at least age 18 or is an emancipated minor, notifies
4 the individual of the referral.

5 (6) The parent or legal guardian of an individual expelled
6 under subsection (2) or, if the individual is at least age 18 or is
7 an emancipated minor, the individual may petition the expelling
8 school board for reinstatement of the individual to public
9 education in the school district. If the expelling school board
10 denies a petition for reinstatement, the parent or legal guardian
11 or, if the individual is at least age 18 or is an emancipated
12 minor, the individual may petition another school board for
13 reinstatement of the individual in that other school district. All
14 of the following apply to reinstatement under this subsection:

15 (a) For an individual who was enrolled in grade 5 or below at
16 the time of the expulsion and who has been expelled for possessing
17 a firearm or threatening another person with a dangerous weapon,
18 the parent or legal guardian or, if the individual is at least age
19 18 or is an emancipated minor, the individual may initiate a
20 petition for reinstatement at any time after the expiration of 60
21 school days after the date of expulsion. For an individual who was
22 enrolled in grade 5 or below at the time of the expulsion and who
23 has been expelled under subsection (2) for a reason other than
24 possessing a firearm or threatening another person with a dangerous
25 weapon, the parent or legal guardian or, if the individual is at
26 least age 18 or is an emancipated minor, the individual may
27 initiate a petition for reinstatement at any time. For an
28 individual who was in grade 6 or above at the time of expulsion,
29 the parent or legal guardian or, if the individual is at least age

1 18 or is an emancipated minor, the individual may initiate a
2 petition for reinstatement at any time after the expiration of 150
3 school days after the date of expulsion.

4 (b) An individual who was in grade 5 or below at the time of
5 the expulsion and who has been expelled for possessing a firearm or
6 threatening another person with a dangerous weapon ~~shall~~**must** not
7 be reinstated before the expiration of 90 school days after the
8 date of expulsion. An individual who was in grade 5 or below at the
9 time of the expulsion and who has been expelled under subsection
10 (2) for a reason other than possessing a firearm or threatening
11 another person with a dangerous weapon ~~shall~~**must** not be reinstated
12 before the expiration of 10 school days after the date of the
13 expulsion. An individual who was in grade 6 or above at the time of
14 the expulsion ~~shall~~**must** not be reinstated before the expiration of
15 180 school days after the date of expulsion.

16 (c) It is the responsibility of the parent or legal guardian
17 or, if the individual is at least age 18 or is an emancipated
18 minor, of the individual to prepare and submit the petition. A
19 school board is not required to provide any assistance in preparing
20 the petition. Upon request by a parent or legal guardian or, if the
21 individual is at least age 18 or is an emancipated minor, by the
22 individual, a school board shall make available a form for a
23 petition.

24 (d) Not later than 10 school days after receiving a petition
25 for reinstatement under this subsection, a school board shall
26 appoint a committee to review the petition and any supporting
27 information submitted by the parent or legal guardian or, if the
28 individual is at least age 18 or is an emancipated minor, by the
29 individual. The committee shall consist of 2 school board members,

1 1 school administrator, 1 teacher, and 1 parent of a pupil in the
2 school district. During this time the superintendent of the school
3 district may prepare and submit for consideration by the committee
4 information concerning the circumstances of the expulsion and any
5 factors mitigating for or against reinstatement.

6 (e) Not later than 10 school days after all members are
7 appointed, the committee described in subdivision (d) shall review
8 the petition and any supporting information and information
9 provided by the school district and shall submit a recommendation
10 to the school board on the issue of reinstatement. The
11 recommendation ~~shall~~**must** be for unconditional reinstatement, for
12 conditional reinstatement, or against reinstatement, and ~~shall~~**must**
13 be accompanied by an explanation of the reasons for the
14 recommendation and of any recommended conditions for reinstatement.
15 The recommendation ~~shall~~**must** be based on consideration of all of
16 the following factors:

17 (i) The extent to which reinstatement of the individual would
18 create a risk of harm to pupils or school personnel.

19 (ii) The extent to which reinstatement of the individual would
20 create a risk of school district liability or individual liability
21 for the school board or school district personnel.

22 (iii) The age and maturity of the individual.

23 (iv) The individual's school record before the incident that
24 caused the expulsion.

25 (v) The individual's attitude concerning the incident that
26 caused the expulsion.

27 (vi) The individual's behavior since the expulsion and the
28 prospects for remediation of the individual.

29 (vii) If the petition was filed by a parent or legal guardian,

1 the degree of cooperation and support that has been provided by the
2 parent or legal guardian and that can be expected if the individual
3 is reinstated, including, but not limited to, receptiveness toward
4 possible conditions placed on the reinstatement.

5 (f) Not later than the next regularly scheduled board meeting
6 after receiving the recommendation of the committee under
7 subdivision (e), a school board shall make a decision to
8 unconditionally reinstate the individual, conditionally reinstate
9 the individual, or deny reinstatement of the individual. ~~The~~
10 **Subject to section 1310f, the** decision of the school board is
11 final.

12 (g) A school board may require an individual and, if the
13 petition was filed by a parent or legal guardian, his or her parent
14 or legal guardian to agree in writing to specific conditions before
15 reinstating the individual in a conditional reinstatement. The
16 conditions may include, but are not limited to, agreement to a
17 behavior contract, which may involve the individual, parent or
18 legal guardian, and an outside agency; participation in or
19 completion of an anger management program or other appropriate
20 counseling; periodic progress reviews; and specified immediate
21 consequences for failure to abide by a condition. A parent or legal
22 guardian or, if the individual is at least age 18 or is an
23 emancipated minor, the individual may include proposed conditions
24 in a petition for reinstatement submitted under this subsection.

25 (7) A school board or school administrator that complies with
26 subsection (2) is not liable for damages for expelling a pupil
27 under subsection (2), and the authorizing body of a public school
28 academy is not liable for damages for expulsion of a pupil by the
29 public school academy under subsection (2).

1 (8) The department shall develop and distribute to all school
2 districts a form for a petition for reinstatement to be used under
3 subsection (6).

4 (9) This section does not diminish any rights under federal
5 law of a pupil who has been determined to be eligible for special
6 education programs and services.

7 (10) If a pupil expelled from a ~~public~~-school district under
8 subsection (2) is enrolled by a ~~public~~-school district sponsored
9 alternative education program or a public school academy during the
10 period of expulsion, the public school academy or alternative
11 education program ~~shall immediately become~~**becomes** eligible for the
12 prorated share of either the public school academy or operating
13 school district's foundation allowance or the expelling school
14 district's foundation allowance, whichever is higher.

15 (11) ~~¶~~**Subject to section 1310f, if** an individual is expelled
16 under subsection (2), it is the responsibility of that individual
17 and of his or her parent or legal guardian to locate a suitable
18 alternative educational program and to enroll the individual in
19 such a program during the expulsion. The office of safe schools in
20 the department shall compile information on and catalog existing
21 alternative education programs or schools and nonpublic schools
22 that may be open to enrollment of individuals expelled under
23 subsection (2) and under section 1311a, and shall periodically
24 distribute this information to school districts for distribution to
25 expelled individuals. A school board that establishes an
26 alternative education program or school described in this
27 subsection shall notify the office of safe schools about the
28 program or school and the types of pupils it serves. The office of
29 safe schools also shall work with and provide technical assistance

1 to school districts, authorizing bodies for public school
2 academies, and other interested parties in developing these types
3 of alternative education programs or schools in geographic areas
4 that are not being served.

5 (12) As used in this section:

6 (a) "Arson" means a felony violation of chapter X of the
7 Michigan penal code, 1931 PA 328, MCL 750.71 to 750.79.

8 (b) "Criminal sexual conduct" means a violation of section
9 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
10 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

11 (c) "Dangerous weapon" means that term as defined in section
12 1313.

13 (d) "Firearm" means that term as defined in section 921 of
14 title 18 of the United States Code, 18 USC 921.

15 (e) "School board" means a school board, intermediate school
16 board, or the board of directors of a public school academy.

17 (f) "School district" means a school district, intermediate
18 school district, or public school academy.

19 (g) "Weapon free school zone" means that term as defined in
20 section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

21 Sec. 1311a. (1) Subject to section 1310d, if a pupil enrolled
22 in grade 6 or above commits a physical assault at school against a
23 person employed by or engaged as a volunteer or contractor by the
24 school board and the physical assault is reported to the school
25 board, school district superintendent, or building principal by the
26 victim or, if the victim is unable to report the assault, by
27 another person on the victim's behalf, then the school board, or
28 the designee of the school board as described in section 1311(1) on
29 behalf of the school board, shall expel the pupil from the school

1 district permanently, subject to possible reinstatement under
 2 subsection (5). A district superintendent or building principal who
 3 receives a report described in this subsection shall forward the
 4 report to the school board.

5 (2) Subject to section 1310d, if a pupil enrolled in grade 6
 6 or above commits a verbal assault, as defined by school board
 7 policy, at school against a person employed by or engaged as a
 8 volunteer or contractor by the school board and the verbal assault
 9 is reported to the school board, school district superintendent, or
 10 building principal by the victim or, if the victim is unable to
 11 report the verbal assault, by another person on the victim's
 12 behalf, or if a pupil enrolled in grade 6 or above makes a bomb
 13 threat or similar threat directed at a school building, other
 14 school property, or a school-related event, then the school board,
 15 or the designee of the school board as described in section 1311(1)
 16 on behalf of the school board, shall suspend or expel the pupil
 17 from the school district for a period of time as determined in the
 18 discretion of the school board or its designee. A district
 19 superintendent or building principal who receives a report
 20 described in this subsection shall forward the report to the school
 21 board. Notwithstanding section 1147, a school district is not
 22 required to allow an individual expelled from another school
 23 district under this subsection to attend school in the school
 24 district during the expulsion.

25 (3) If an individual is permanently expelled ~~pursuant to~~**under**
 26 this section, the expelling school district shall enter on the
 27 individual's permanent record that he or she has been permanently
 28 expelled ~~pursuant to~~**under** this section. Except if a school
 29 district operates or participates cooperatively in an alternative

1 education program appropriate for individuals expelled ~~pursuant to~~
2 **under** this section and section 1311(2) and in its discretion admits
3 the individual to that program, and except for a strict discipline
4 academy established under sections 1311b to 1311m, an individual
5 permanently expelled ~~pursuant to~~**under** this section is expelled
6 from all public schools in this state and the officials of a school
7 district shall not allow the individual to enroll in the school
8 district unless the individual has been reinstated under subsection
9 (5). Except as otherwise provided by law, a program operated for
10 individuals expelled ~~pursuant to~~**under** this section and section
11 1311(2) shall ensure that those individuals are physically
12 separated at all times during the school day from the general pupil
13 population. If an individual permanently expelled from a school
14 district ~~pursuant to~~**under** this section is not placed in an
15 alternative education program or strict discipline academy, the
16 school district may provide, or may arrange for the intermediate
17 school district to provide, appropriate instructional services to
18 the individual at home. The type of services provided ~~shall~~**must**
19 meet the requirements of section 6(4)(u) of the state school aid
20 act of 1979, MCL 388.1606, and the services may be contracted for
21 in the same manner as services for homebound pupils under section
22 109 of the state school aid act of 1979, MCL 388.1709. This
23 subsection does not require a school district to expend more money
24 for providing services for a pupil permanently expelled ~~pursuant to~~
25 **under** this section than the amount of the foundation allowance the
26 school district receives for the pupil under section 20 of the
27 state school aid act of 1979, MCL 388.1620.

28 (4) If a school board permanently expels an individual
29 ~~pursuant to~~**under** this section, the school board shall ensure that,

1 within 3 days after ~~the~~**an** expulsion **is first decided**, an official
 2 of the school district refers the individual to the appropriate
 3 county department of social services or county community mental
 4 health agency and notifies the individual's parent or legal
 5 guardian or, if the individual is at least age 18 or is an
 6 emancipated minor, notifies the individual of the referral.

7 (5) The parent or legal guardian of an individual permanently
 8 expelled ~~pursuant to~~**under** this section or, if the individual is at
 9 least age 18 or is an emancipated minor, the individual may
 10 petition the expelling school board for reinstatement of the
 11 individual to public education in the school district. If the
 12 expelling school board denies a petition for reinstatement, the
 13 parent or legal guardian or, if the individual is at least age 18
 14 or is an emancipated minor, the individual may petition another
 15 school board for reinstatement of the individual in that other
 16 school district. All of the following apply to reinstatement under
 17 this subsection:

18 (a) The individual's parent or legal guardian or, if the
 19 individual is at least age 18 or is an emancipated minor, the
 20 individual may initiate a petition for reinstatement at any time
 21 after the expiration of 150 school days after the date of
 22 expulsion.

23 (b) The individual ~~shall~~**must** not be reinstated before the
 24 expiration of 180 school days after the date of expulsion.

25 (c) It is the responsibility of the parent or legal guardian
 26 or, if the individual is at least age 18 or is an emancipated
 27 minor, of the individual to prepare and submit the petition. A
 28 school board is not required to provide any assistance in preparing
 29 the petition. Upon request by a parent or legal guardian or, if the

1 individual is at least age 18 or is an emancipated minor, by the
 2 individual, a school board shall make available a form for a
 3 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 members,
 10 1 school administrator, 1 teacher, and 1 parent of a pupil in the
 11 school district. During this time the superintendent of the school
 12 district may prepare and submit for consideration by the committee
 13 information concerning the circumstances of the expulsion and any
 14 factors mitigating for or against reinstatement.

15 (e) Not later than 10 school days after all members are
 16 appointed, the committee described in subdivision (d) shall review
 17 the petition and any supporting information and information
 18 provided by the school district and shall submit a recommendation
 19 to the school board on the issue of reinstatement. The
 20 recommendation ~~shall~~**must** be for unconditional reinstatement, for
 21 conditional reinstatement, or against reinstatement, and ~~shall~~**must**
 22 be accompanied by an explanation of the reasons for the
 23 recommendation and of any recommended conditions for reinstatement.
 24 The recommendation ~~shall~~**must** be based on consideration of all of
 25 the following factors:

26 (i) The extent to which reinstatement of the individual would
 27 create a risk of harm to pupils or school personnel.

28 (ii) The extent to which reinstatement of the individual would
 29 create a risk of school district or individual liability for the

1 school board or school district personnel.

2 (iii) The age and maturity of the individual.

3 (iv) The individual's school record before the incident that
4 caused the expulsion.

5 (v) The individual's attitude concerning the incident that
6 caused the expulsion.

7 (vi) The individual's behavior since the expulsion and the
8 prospects for remediation of the individual.

9 (vii) If the petition was filed by a parent or legal guardian,
10 the degree of cooperation and support that has been provided by the
11 parent or legal guardian and that can be expected if the individual
12 is reinstated, including, but not limited to, receptiveness toward
13 possible conditions placed on the reinstatement.

14 (f) Not later than the next regularly scheduled board meeting
15 after receiving the recommendation of the committee under
16 subdivision (e), a school board shall make a decision to
17 unconditionally reinstate the individual, conditionally reinstate
18 the individual, or deny reinstatement of the individual. ~~The~~
19 **Subject to section 1310f, the** decision of the school board is
20 final.

21 (g) A school board may require an individual and, if the
22 petition was filed by a parent or legal guardian, his or her parent
23 or legal guardian to agree in writing to specific conditions before
24 reinstating the individual in a conditional reinstatement. The
25 conditions may include, but are not limited to, agreement to a
26 behavior contract ~~, which that~~ may involve the individual, parent
27 or legal guardian, and an outside agency; participation in or
28 completion of an anger management program or other appropriate
29 counseling; periodic progress reviews; and specified immediate

1 consequences for failure to abide by a condition. A parent or legal
2 guardian or, if the individual is at least age 18 or is an
3 emancipated minor, the individual may include proposed conditions
4 in a petition for reinstatement submitted under this subsection.

5 (6) A school board or school administrator that complies with
6 this section is not liable for damages for suspending or expelling
7 a pupil ~~pursuant to~~**under** this section, and the authorizing body of
8 a public school academy is not liable for damages for suspension or
9 expulsion of a pupil by the public school academy ~~pursuant to~~**under**
10 this section.

11 (7) The department shall develop and distribute to all school
12 districts a form for a petition for reinstatement to be used under
13 subsection (5). The department may designate the form used for a
14 petition for reinstatement under section 1311 as a form that may be
15 used under this section.

16 (8) This section does not diminish any rights under federal
17 law of a pupil who has been determined to be eligible for special
18 education programs and services.

19 (9) If a pupil expelled from a school district ~~pursuant to~~
20 **under** this section is enrolled by a ~~public~~-school district
21 sponsored alternative education program or a public school academy
22 during the period of expulsion, the public school academy or the
23 alternative education program is immediately eligible for the
24 prorated share of either the public school academy's or operating
25 school district's foundation allowance or the expelling school
26 district's foundation allowance, whichever is higher.

27 (10) A school board or its designee shall report all assaults
28 described in subsection (1) or (2) to appropriate state or local
29 law enforcement officials and prosecutors as provided in the

1 statewide school safety information policy under section 1308.

2 (11) ~~If~~ **Subject to section 1310f, if** an individual is expelled
3 ~~pursuant to~~ **under** this section, it is the responsibility of that
4 individual and of his or her parent or legal guardian to locate a
5 suitable educational program and to enroll the individual in such a
6 program during the expulsion. The office for safe schools in the
7 department shall compile information on and catalog existing
8 alternative education programs or schools and nonpublic schools
9 that may be open to enrollment of individuals expelled ~~pursuant to~~
10 **under** this section and ~~pursuant to~~ **under** section 1311(2), and shall
11 periodically distribute this information to school districts for
12 distribution to expelled individuals. A school board that
13 establishes an alternative education program or school described in
14 this subsection shall notify the office of safe schools about the
15 program or school and the types of pupils it serves. The office for
16 safe schools also shall work with and provide technical assistance
17 to school districts, authorizing bodies for public school
18 academies, and other interested parties in developing these types
19 of alternative education programs or schools in geographic areas
20 that are not being served.

21 (12) As used in this section:

22 (a) "At school" means in a classroom, elsewhere on school
23 premises, on a school bus or other school-related vehicle, or at a
24 school-sponsored activity or event whether or not it is held on
25 school premises.

26 (b) "Physical assault" means intentionally causing or
27 attempting to cause physical harm to another through force or
28 violence.

29 (c) "School board" means a school board, intermediate school

1 board, or the board of directors of a public school academy.

2 (d) "School district" means a school district, intermediate
3 school district, or public school academy.

4 Enacting section 1. This amendatory act does not take effect
5 unless all of the following bills of the 101st Legislature are
6 enacted into law:

7 (a) Senate Bill No. 635.

8

9 (b) Senate Bill No. 636.

10