

REPRINT

HOUSE SUBSTITUTE FOR

SENATE BILL NO. 313

(As passed the House, May 13, 1998)

(As amended by the Senate, June 4, 1998)

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 A PUBLIC SCHOOL IN
2 GRADE 6 OR ABOVE COMMITS A PHYSICAL ASSAULT AT SCHOOL OR COMMITS
3 ANOTHER INTENTIONAL ACT AT SCHOOL THAT RESULTS IN VIOLENCE TO
4 ANOTHER'S PERSON OR PROPERTY OR POSES A DIRECT THREAT TO THE SAFETY
5 OF OTHERS; IF THE ASSAULT OR OTHER ACT IS REPORTED TO THE SCHOOL
6 BOARD BY THE VICTIM OR, IF THE VICTIM IS UNABLE TO REPORT THE
7 ASSAULT, BY ANOTHER PERSON ON THE VICTIM'S BEHALF; AND IF THE SCHOOL
8 BOARD DETERMINES THAT AN ASSAULT OR OTHER ACT DESCRIBED IN THIS
9 SUBSECTION DID IN FACT OCCUR AND WAS COMMITTED BY THE PUPIL, THE
10 SCHOOL BOARD SHALL EXPEL THE PUPIL FROM THE SCHOOL DISTRICT. THE
11 EXPULSION SHALL BE PERMANENT, SUBJECT TO POSSIBLE REINSTATEMENT

1 UNDER SUBSECTION (4). HOWEVER, IF A SCHOOL DISTRICT INCLUDES GRADE
2 6 IN ITS ELEMENTARY SCHOOLS SO THAT THOSE SCHOOLS ARE OPERATED AS
3 GRADE K-6 SCHOOLS, WITHIN THAT SCHOOL DISTRICT THE REQUIREMENTS OF
4 THIS SUBSECTION APPLY ONLY TO PUPILS ENROLLED IN GRADE 7 OR ABOVE.

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12 (2) IF AN INDIVIDUAL IS EXPELLED PURSUANT TO THIS SECTION,
13 THE EXPELLING SCHOOL DISTRICT SHALL ENTER ON THE INDIVIDUAL'S
14 PERMANENT RECORD THAT HE OR SHE HAS BEEN EXPELLED PURSUANT TO
15 THIS SECTION AND THE REASON FOR THE EXPULSION. EXCEPT IF A SCHOOL
16 DISTRICT OPERATES OR PARTICIPATES COOPERATIVELY IN AN ALTERNATIVE
17 EDUCATION PROGRAM APPROPRIATE FOR INDIVIDUALS EXPELLED PURSUANT TO
THIS SECTION OR SECTION 1311(2) AND IN ITS DISCRETION ADMITS THE
INDIVIDUAL TO THAT PROGRAM, AN INDIVIDUAL EXPELLED PURSUANT TO THIS
SECTION IS EXPELLED FROM ALL PUBLIC SCHOOLS IN THIS STATE AND THE
OFFICIALS OF A SCHOOL DISTRICT SHALL NOT ALLOW THE INDIVIDUAL TO
ENROLL IN THE SCHOOL DISTRICT UNLESS THE INDIVIDUAL HAS BEEN
REINSTATED UNDER SUBSECTION (4). EXCEPT AS OTHERWISE PROVIDED BY
LAW, A PROGRAM OPERATED FOR INDIVIDUALS EXPELLED PURSUANT TO THIS
SECTION OR SECTION 1311(2) SHALL ENSURE THAT THOSE INDIVIDUALS ARE
PHYSICALLY SEPARATED AT ALL TIMES DURING THE SCHOOL DAY FROM THE
GENERAL PUPIL POPULATION. IF AN INDIVIDUAL EXPELLED FROM A SCHOOL
DISTRICT PURSUANT TO THIS SECTION IS NOT PLACED IN AN ALTERNATIVE
EDUCATION PROGRAM, THE SCHOOL DISTRICT MAY PROVIDE, OR MAY ARRANGE
FOR THE INTERMEDIATE SCHOOL DISTRICT TO PROVIDE, APPROPRIATE
INSTRUCTIONAL SERVICES TO THE INDIVIDUAL AT HOME. THE TYPE OF
SERVICES PROVIDED SHALL BE SIMILAR TO THOSE PROVIDED TO HOMEBOUND OR
HOSPITALIZED PUPILS UNDER SECTION 109 OF THE STATE SCHOOL AID ACT OF
1979, MCL 388.1709, AND THE SERVICES MAY BE CONTRACTED FOR IN THE
SAME MANNER AS UNDER THAT SECTION. THIS SUBSECTION DOES NOT REQUIRE
A SCHOOL DISTRICT TO EXPEND MORE MONEY FOR PROVIDING SERVICES FOR A
PUPIL EXPELLED PURSUANT TO THIS SECTION THAN THE AMOUNT OF THE
FOUNDATION ALLOWANCE THE SCHOOL DISTRICT RECEIVES FOR THE PUPIL
UNDER SECTION 20 OF THE STATE SCHOOL AID ACT OF 1979, MCL 388.1620.

18 (3) IF A SCHOOL BOARD EXPELS AN INDIVIDUAL PURSUANT TO THIS

19 SECTION, THE SCHOOL BOARD SHALL ENSURE THAT, WITHIN 3 DAYS AFTER

20 THE EXPULSION, AN OFFICIAL OF THE SCHOOL DISTRICT REFERS THE

21 INDIVIDUAL TO THE APPROPRIATE COUNTY COMMUNITY MENTAL HEALTH

22 AGENCY OR OTHER APPROPRIATE HUMAN SERVICES AGENCY AND NOTIFIES

23 THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL

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24 IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, NOTIFIES THE INDI-
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25 VIDUAL OF THE REFERRAL. [REDACTED]

26 [REDACTED]

27 [REDACTED]

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1 (4) IF A PUPIL IS PERMANENTLY EXPELLED UNDER THIS SECTION
2 [REDACTED]
3 [REDACTED], THE PARENT OR LEGAL GUARDIAN OF
4 THE INDIVIDUAL OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN
5 EMANCIPATED MINOR, THE INDIVIDUAL MAY PETITION THE EXPELLING
6 SCHOOL BOARD FOR REINSTATEMENT OF THE INDIVIDUAL TO PUBLIC
7 EDUCATION [REDACTED] IN THE SCHOOL DISTRICT. IF THE EXPELLING SCHOOL
8 BOARD DENIES A PETITION FOR REINSTATEMENT, THE PARENT OR LEGAL
GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN
EMANCIPATED MINOR, THE INDIVIDUAL MAY PETITION ANOTHER SCHOOL BOARD
FOR REINSTATEMENT OF THE INDIVIDUAL IN THAT OTHER SCHOOL DISTRICT.
ALL OF THE FOLLOWING APPLY TO REINSTATEMENT UNDER
9 THIS SUBSECTION:

10 (A) [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED] THE PARENT OR LEGAL
16 GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMAN-
17 CIPATED MINOR, THE INDIVIDUAL MAY INITIATE A PETITION FOR REIN-
18 STATEMENT AT ANY TIME AFTER THE EXPIRATION OF 150 SCHOOL DAYS
19 AFTER THE DATE OF EXPULSION.

20 (B) THE INDIVIDUAL [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED] SHALL NOT BE REINSTATED BEFORE THE EXPIRATION OF
25 180 SCHOOL DAYS AFTER THE DATE OF EXPULSION.

26 (C) IT IS THE RESPONSIBILITY OF THE PARENT OR LEGAL GUARDIAN
27 OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED

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1 MINOR, OF THE INDIVIDUAL TO PREPARE AND SUBMIT THE PETITION. A
2 SCHOOL BOARD IS NOT REQUIRED TO PROVIDE ANY ASSISTANCE IN PREPAR-
3 ING THE PETITION. UPON REQUEST BY A PARENT OR LEGAL GUARDIAN OR,
4 IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR,
5 BY THE INDIVIDUAL, A SCHOOL BOARD SHALL MAKE AVAILABLE A FORM FOR
6 A PETITION.

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

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

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1 REINSTATEMENT. THE RECOMMENDATION SHALL BE BASED ON

2 CONSIDERATION OF ALL OF THE FOLLOWING FACTORS:

3 (i) THE EXTENT TO WHICH REINSTATEMENT OF THE INDIVIDUAL
4 [REDACTED] WOULD
5 CREATE A RISK OF HARM TO PUPILS OR SCHOOL PERSONNEL.

6 (ii) THE EXTENT TO WHICH REINSTATEMENT OF THE INDIVIDUAL
7 [REDACTED] WOULD
8 CREATE A RISK OF SCHOOL DISTRICT OR INDIVIDUAL LIABILITY FOR THE
9 SCHOOL BOARD OR SCHOOL DISTRICT PERSONNEL.

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

11 (iv) THE INDIVIDUAL'S SCHOOL RECORD BEFORE THE INCIDENT THAT
12 CAUSED THE PERMANENT EXPULSION.

13 (v) THE INDIVIDUAL'S ATTITUDE CONCERNING THE INCIDENT THAT
14 CAUSED THE PERMANENT EXPULSION.

15 (vi) THE INDIVIDUAL'S BEHAVIOR SINCE THE PERMANENT EXPULSION
16 AND THE PROSPECTS FOR REMEDIATION OF THE INDIVIDUAL.

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

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

1 (G) A SCHOOL BOARD MAY REQUIRE AN INDIVIDUAL AND, IF THE
2 PETITION WAS FILED BY A PARENT OR LEGAL GUARDIAN, HIS OR HER
3 PARENT OR LEGAL GUARDIAN TO AGREE IN WRITING TO SPECIFIC CONDI-
4 TIONS BEFORE REINSTATING THE INDIVIDUAL IN A CONDITIONAL
5 REINSTATEMENT. THE CONDITIONS SHALL INCLUDE SPECIFIC REQUIRE-
6 MENTS FOR PARENTAL INVOLVEMENT AND MAY INCLUDE, BUT ARE NOT
7 LIMITED TO, AGREEMENT TO A BEHAVIOR CONTRACT, WHICH MAY INVOLVE
8 THE INDIVIDUAL, PARENT OR LEGAL GUARDIAN, AND AN OUTSIDE AGENCY;
9 PARTICIPATION IN OR COMPLETION OF AN ANGER MANAGEMENT PROGRAM OR
10 OTHER APPROPRIATE COUNSELING; PERIODIC PROGRESS REVIEWS; AND
11 SPECIFIED IMMEDIATE CONSEQUENCES FOR FAILURE TO ABIDE BY A
12 CONDITION. A PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS
13 AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, THE INDIVIDUAL MAY
14 INCLUDE PROPOSED CONDITIONS IN A PETITION FOR REINSTATEMENT SUB-
15 MITTED UNDER THIS SUBSECTION.

16 (5) A SCHOOL BOARD OR SCHOOL ADMINISTRATOR THAT COMPLIES
17 WITH THIS SECTION IS NOT LIABLE FOR DAMAGES FOR
18 EXPELLING A PUPIL PURSUANT TO THIS SECTION, AND THE AUTHORIZING
19 BODY OF A PUBLIC SCHOOL ACADEMY ESTABLISHED UNDER THIS ACT IS NOT
20 LIABLE FOR DAMAGES FOR EXPULSION OF A PUPIL BY
21 THE PUBLIC SCHOOL ACADEMY PURSUANT TO THIS SECTION.

22 (6) THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE TO ALL
23 SCHOOL DISTRICTS A FORM FOR A PETITION TO BE USED UNDER SUBSEC-
24 TION (4). THE DEPARTMENT MAY DESIGNATE THE FORM USED FOR A PETI-
25 TION FOR REINSTATEMENT UNDER SECTION 1311 AS A FORM THAT MAY BE
26 USED UNDER SUBSECTION (4).

1 (7) THE BOARD OF A SCHOOL DISTRICT SHALL USE THE
2 LOCALLY-ADOPTED DUE PROCESS POLICY [REDACTED] IN
3 EXPULSION PROCEEDINGS UNDER THIS SECTION. THE DEPARTMENT SHALL
4 DEVELOP AND DISTRIBUTE TO SCHOOL DISTRICTS A MODEL DUE PROCESS
5 POLICY THAT SCHOOL DISTRICTS MAY ADOPT FOR USE IN REINSTATEMENT
6 PROCEEDINGS UNDER THIS SECTION AND SIMILAR PROCEEDINGS.

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

10 (9) A SCHOOL BOARD OR ITS DESIGNEE SHALL REPORT ALL PHYSICAL
11 ASSAULTS OCCURRING AT SCHOOL TO APPROPRIATE STATE OR LOCAL LAW
12 ENFORCEMENT OFFICIALS AND PROSECUTORS WITHIN THREE SCHOOL DAYS.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

(10) IN ORDER TO OBTAIN AN ACCURATE LOCAL AND STATEWIDE PICTURE
OF SCHOOL CRIME AND TO DEVELOP THE PARTNERSHIPS NECESSARY TO PLAN
AND IMPLEMENT SCHOOL SAFETY PROGRAMS, AT LEAST ANNUALLY, EACH SCHOOL
BOARD SHALL REPORT TO THE DEPARTMENT, IN THE FORM AND MANNER
PRESCRIBED BY THE DEPARTMENT, INCIDENTS OF CRIME OCCURRING AT SCHOOL
WITHIN THE SCHOOL DISTRICT. THE REPORTING SHALL INCLUDE AT LEAST
CRIMES INVOLVING PHYSICAL VIOLENCE, GANG-RELATED ACTIVITY, ILLEGAL
POSSESSION OF A CONTROLLED SUBSTANCE OR CONTROLLED SUBSTANCE
ANALOGUE, OR OTHER INTOXICANT, TRESPASSING, AND PROPERTY CRIMES
INCLUDING, BUT NOT LIMITED TO, THEFT AND VANDALISM. FOR A PROPERTY
CRIME, THE REPORT SHALL INCLUDE AN ESTIMATE OF THE COST TO THE
SCHOOL DISTRICT RESULTING FROM THE PROPERTY CRIME. THE SCHOOL CRIME
REPORTING REQUIREMENTS OF THIS SUBSECTION ARE INTENDED TO DO ALL OF
THE FOLLOWING:

(A) HELP POLICY MAKERS AND PROGRAM DESIGNERS AT THE LOCAL AND
STATE LEVELS DEVELOP APPROPRIATE PREVENTION AND INTERVENTION
PROGRAMS.

(B) PROVIDE THE CONTINUOUS ASSESSMENT TOOLS NEEDED FOR REVISING
AND REFINING SCHOOL SAFETY PROGRAMS.

(C) ASSIST SCHOOLS AND SCHOOL DISTRICTS TO IDENTIFY THE MOST
PRESSING SAFETY ISSUES CONFRONTING THEIR SCHOOL COMMUNITIES, TO
DIRECT RESOURCES APPROPRIATELY, AND TO ENHANCE CAMPUS SAFETY THROUGH
PREVENTION AND INTERVENTION STRATEGIES.

(D) FOSTER THE CREATION OF PARTNERSHIPS AMONG SCHOOLS, SCHOOL
DISTRICTS, STATE AGENCIES, COMMUNITIES, LAW ENFORCEMENT, AND THE
MEDIA TO PREVENT FURTHER CRIME AND VIOLENCE AND TO ASSURE A SAFE
LEARNING ENVIRONMENT FOR EVERY PUPIL.

(11) IF A PUPIL EXPELLED FROM A SCHOOL DISTRICT PURSUANT TO
THIS SECTION IS ENROLLED BY A PUBLIC SCHOOL SPONSORED ALTERNATIVE
EDUCATION PROGRAM OR A PUBLIC SCHOOL ACADEMY DURING THE PERIOD OF
EXPULSION, THE PUBLIC SCHOOL ACADEMY OR THE ALTERNATIVE EDUCATION
PROGRAM IS IMMEDIATELY ELIGIBLE FOR THE PRORATED SHARE OF EITHER THE
PUBLIC SCHOOL ACADEMY'S FOUNDATION ALLOWANCE OR THE EXPELLING SCHOOL
DISTRICT'S FOUNDATION ALLOWANCE, WHICHEVER IS HIGHER.

(12) AT LEAST ANNUALLY, EACH SCHOOL DISTRICT SHALL PREPARE AND
SUBMIT TO THE DEPARTMENT, IN THE FORM AND MANNER PRESCRIBED BY THE
DEPARTMENT, A REPORT STATING THE NUMBER OF PUPILS EXPELLED PURSUANT
TO THIS SECTION DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR, WITH A
BRIEF DESCRIPTION OF THE INCIDENT THAT CAUSED EACH EXPULSION.

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16 (13) AS USED IN THIS SECTION:

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17 (A) "AT SCHOOL" MEANS IN A CLASSROOM, ELSEWHERE ON SCHOOL

18 PREMISES, ON A SCHOOL BUS OR OTHER SCHOOL-RELATED VEHICLE, OR AT

19 A SCHOOL-SPONSORED ACTIVITY OR EVENT WHETHER OR NOT IT IS HELD ON

20 SCHOOL PREMISES.

(B) "CONTROLLED SUBSTANCE" AND "CONTROLLED SUBSTANCE ANALOGUE" MEAN THOSE TERMS AS DEFINED IN SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

21 (C) "PHYSICAL ASSAULT" MEANS INTENTIONALLY CAUSING OR

22 ATTEMPTING TO CAUSE PHYSICAL HARM TO ANOTHER THROUGH FORCE OR

23 VIOLENCE.

24 (D) "SCHOOL BOARD" MEANS A SCHOOL BOARD, INTERMEDIATE SCHOOL

25 BOARD, OR THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY

26 ESTABLISHED UNDER THIS ACT.

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1 (E) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, A LOCAL ACT
2 SCHOOL DISTRICT, AN INTERMEDIATE SCHOOL DISTRICT, OR A PUBLIC
3 SCHOOL ACADEMY ESTABLISHED UNDER THIS ACT.

4 (F) "SCHOOL PRINCIPAL" MEANS THE CHIEF BUILDING-LEVEL ADMIN-
5 ISTRATOR OF A PARTICULAR SCHOOL.

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]