

HOUSE BILL No. 5192

October 11, 2001, Introduced by Reps. Raczkowski, Richardville, Neumann, Vander Veen, Kooiman, Ruth Johnson, Pappageorge, George and Lemmons and referred to the Committee on Transportation.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1311a (MCL 380.1311a), as amended by 2000
PA 230.

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

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1 subsection (5). A district superintendent or building principal
2 who receives a report described in this subsection shall forward
3 the report to the school board.

4 (2) If a pupil enrolled in grade 6 or above commits a verbal
5 assault, as defined by school board policy, at school against a
6 person employed by or engaged as a volunteer or contractor by the
7 school board and the verbal assault is reported to the school
8 board, school district superintendent, or building principal by
9 the victim or, if the victim is unable to report the verbal
10 assault, by another person on the victim's behalf, or if a pupil
11 enrolled in grade 6 or above makes a bomb threat or similar
12 threat directed at a school building, other school property, or a
13 school-related event, then the school board, or the designee of
14 the school board as described in section 1311(1) on behalf of the
15 school board, shall suspend or expel the pupil from the school
16 district for a period of time as determined in the discretion of
17 the school board or its designee. IF THE SCHOOL BOARD OR THE
18 DESIGNEE OF THE SCHOOL BOARD SUSPENDS OR EXPELS A PUPIL UNDER
19 THIS SUBSECTION FOR MAKING A BOMB THREAT OR SIMILAR THREAT, THE
20 SCHOOL BOARD SHALL IMMEDIATELY NOTIFY THE SECRETARY OF STATE IN
21 WRITING OF THE DATE OF THE SUSPENSION OR EXPULSION. A district
22 superintendent or building principal who receives a report
23 described in this subsection shall forward the report to the
24 school board. Notwithstanding section 1147, a school district is
25 not required to allow an individual expelled from another school
26 district under this subsection to attend school in the school
27 district during the expulsion.

1 (3) If an individual is permanently expelled pursuant to
2 this section, the expelling school district shall enter on the
3 individual's permanent record that he or she has been permanently
4 expelled pursuant to this section. Except if a school district
5 operates or participates cooperatively in an alternative educa-
6 tion program appropriate for individuals expelled pursuant to
7 this section and section 1311(2) and in its discretion admits the
8 individual to that program, and except for a strict discipline
9 academy established under sections 1311b to 1311l, an individual
10 permanently expelled pursuant to this section is expelled from
11 all public schools in this state and the officials of a school
12 district shall not allow the individual to enroll in the school
13 district unless the individual has been reinstated under subsec-
14 tion (5). Except as otherwise provided by law, a program oper-
15 ated for individuals expelled pursuant to this section and sec-
16 tion 1311(2) shall ensure that those individuals are physically
17 separated at all times during the school day from the general
18 pupil population. If an individual permanently expelled from a
19 school district pursuant to this section is not placed in an
20 alternative education program or strict discipline academy, the
21 school district may provide, or may arrange for the intermediate
22 school district to provide, appropriate instructional services to
23 the individual at home. The type of services provided shall meet
24 the requirements of section ~~6(4)(v)~~ 6(4)(V) of the state school
25 aid act of 1979, MCL 388.1606, and the services may be contracted
26 for in the same manner as services for homebound pupils under
27 section 109 of the state school aid act of 1979, MCL 388.1709.

1 This subsection does not require a school district to expend more
2 money for providing services for a pupil permanently expelled
3 pursuant to this section than the amount of the foundation allow-
4 ance the school district receives for the pupil under section 20
5 of the state school aid act of 1979, MCL 388.1620.

6 (4) If a school board permanently expels an individual pur-
7 suant to this section, the school board shall ensure that, within
8 3 days after the expulsion, an official of the school district
9 refers the individual to the appropriate county department of
10 social services or county community mental health agency and
11 notifies the individual's parent or legal guardian or, if the
12 individual is at least age 18 or is an emancipated minor, noti-
13 fies the individual of the referral.

14 (5) The parent or legal guardian of an individual per-
15 manently expelled pursuant to this section or, if the individual
16 is at least age 18 or is an emancipated minor, the individual may
17 petition the expelling school board for reinstatement of the
18 individual to public education in the school district. If the
19 expelling school board denies a petition for reinstatement, the
20 parent or legal guardian or, if the individual is at least age 18
21 or is an emancipated minor, the individual may petition another
22 school board for reinstatement of the individual in that other
23 school district. All of the following apply to reinstatement
24 under this subsection:

25 (a) The individual's parent or legal guardian or, if the
26 individual is at least age 18 or is an emancipated minor, the
27 individual may initiate a petition for reinstatement at any time

1 after the expiration of 150 school days after the date of
2 expulsion.

3 (b) The individual shall not be reinstated before the expi-
4 ration of 180 school days after the date of expulsion.

5 (c) It is the responsibility of the parent or legal guardian
6 or, if the individual is at least age 18 or is an emancipated
7 minor, of the individual to prepare and submit the petition. A
8 school board is not required to provide any assistance in prepar-
9 ing the petition. Upon request by a parent or legal guardian or,
10 if the individual is at least age 18 or is an emancipated minor,
11 by the individual, a school board shall make available a form for
12 a petition.

13 (d) Not later than 10 school days after receiving a petition
14 for reinstatement under this subsection, a school board shall
15 appoint a committee to review the petition and any supporting
16 information submitted by the parent or legal guardian or, if the
17 individual is at least age 18 or is an emancipated minor, by the
18 individual. The committee shall consist of 2 school board mem-
19 bers, 1 school administrator, 1 teacher, and 1 parent of a pupil
20 in the school district. During this time the superintendent of
21 the school district may prepare and submit for consideration by
22 the committee information concerning the circumstances of the
23 expulsion and any factors mitigating for or against
24 reinstatement.

25 (e) Not later than 10 school days after all members are
26 appointed, the committee described in subdivision (d) shall
27 review the petition and any supporting information and

1 information provided by the school district and shall submit a
2 recommendation to the school board on the issue of
3 reinstatement. The recommendation shall be for unconditional
4 reinstatement, for conditional reinstatement, or against rein-
5 statement, and shall be accompanied by an explanation of the rea-
6 sons for the recommendation and of any recommended conditions for
7 reinstatement. The recommendation shall be based on considera-
8 tion of all of the following factors:

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

11 (ii) The extent to which reinstatement of the individual
12 would create a risk of school district or individual liability
13 for the school board or school district personnel.

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

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

17 (v) The individual's attitude concerning the incident that
18 caused the expulsion.

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

21 (vii) If the petition was filed by a parent or legal guardi-
22 an, the degree of cooperation and support that has been provided
23 by the parent or legal guardian and that can be expected if the
24 individual is reinstated, including, but not limited to, recep-
25 tiveness toward possible conditions placed on the reinstatement.

26 (f) Not later than the next regularly scheduled board
27 meeting after receiving the recommendation of the committee under

1 subdivision (e), a school board shall make a decision to
2 unconditionally reinstate the individual, conditionally reinstate
3 the individual, or deny reinstatement of the individual. The
4 decision of the school board is final.

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

19 (6) A school board or school administrator that complies
20 with this section is not liable for damages for suspending or
21 expelling a pupil pursuant to this section, and the authorizing
22 body of a public school academy is not liable for damages for
23 suspension or expulsion of a pupil by the public school academy
24 pursuant to this section.

25 (7) The department shall develop and distribute to all
26 school districts a form for a petition for reinstatement to be
27 used under subsection (5). The department may designate the form

1 used for a petition for reinstatement under section 1311 as a
2 form that may be used under this section.

3 (8) This section does not diminish the due process rights
4 under federal law of a pupil who has been determined to be eligi-
5 ble for special education programs and services.

6 (9) If a pupil expelled from a school district pursuant to
7 this section is enrolled by a public school district sponsored
8 alternative education program or a public school academy during
9 the period of expulsion, the public school academy or the alter-
10 native education program is immediately eligible for the prorated
11 share of either the public school academy's or operating school
12 district's foundation allowance or the expelling school
13 district's foundation allowance, whichever is higher.

14 (10) A school board or its designee shall report all
15 assaults described in subsection (1) or (2) to appropriate state
16 or local law enforcement officials and prosecutors as provided in
17 the statewide school safety information policy under section
18 1308.

19 (11) If an individual is expelled pursuant to this section,
20 it is the responsibility of that individual and of his or her
21 parent or legal guardian to locate a suitable educational program
22 and to enroll the individual in such a program during the
23 expulsion. The office for safe schools in the department shall
24 compile information on and catalog existing alternative education
25 programs or schools and nonpublic schools that may be open to
26 enrollment of individuals expelled pursuant to this section and
27 pursuant to section 1311(2), and shall periodically distribute

1 this information to school districts for distribution to expelled
2 individuals. A school board that establishes an alternative edu-
3 cation program or school described in this subsection shall
4 notify the office of safe schools about the program or school and
5 the types of pupils it serves. The office for safe schools also
6 shall work with and provide technical assistance to school dis-
7 tricts, authorizing bodies for public school academies, and other
8 interested parties in developing these types of alternative edu-
9 cation programs or schools in geographic areas that are not being
10 served.

11 (12) As used in this section:

12 (a) "At school" means in a classroom, elsewhere on school
13 premises, on a school bus or other school-related vehicle, or at
14 a school-sponsored activity or event whether or not it is held on
15 school premises.

16 (b) "Physical assault" means intentionally causing or
17 attempting to cause physical harm to another through force or
18 violence.

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

21 (d) "School district" means a school district, a local act
22 school district, an intermediate school district, or a public
23 school academy.

24 Enacting section 1. This amendatory act does not take
25 effect unless Senate Bill No. _____ or House Bill No. 5191
26 (request no. 04260'01) of the 91st Legislature is enacted into
27 law.