

## SPECIAL EDUCATION STUDENTS' RIGHTS

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**Senate Bill 571 as passed the Senate**

**Sponsor: Sen. Wayne Kuipers**

**House Committee: Education**

**Senate Committee: Education**

**Complete to 10-15-07**

### A SUMMARY OF SENATE BILL 571 AS PASSED BY THE SENATE 6-14-07

The bill would amend the Revised School Code to say that certain sections of the law concerning student expulsion or suspension would not diminish "any" rights (rather than "the due process rights," as currently provided) of a special education student under federal law.

The bill also would replace the term "handicapped" with the phrase "eligible for special education programs and services."

MCL 380.1311 & 380.1311a

### BACKGROUND:

Under Section 1311 of the Revised School Code, a student who is guilty of gross misdemeanor or persistent disobedience may be suspended or expelled from school if, in the judgment of the school board or its designee, that suspension or expulsion serves the interest of the school. If there is reason to believe that the student is "handicapped," and the school district has not evaluated the student to determine if he or she is handicapped, then the pupil must be evaluated immediately. (As noted above, Senate Bill 571 would replace the term *handicapped* with *eligible for special education programs and services*.)

Section 1311 requires a student to be expelled permanently from a school district if he or she possesses a dangerous weapon in a weapon-free school zone, commits arson in a school building or on school grounds, or commits criminal sexual conduct in a school building or on school grounds.

Under Section 1311a, a student in sixth grade or above who *physically* assaults a school employee, contract employee, or volunteer engaged by the school board must be expelled permanently. A student in sixth grade or above who *verbally* assaults a school employee, contract employee, or volunteer is subject to suspension or expulsion from the school district for a period of time determined by the school board or its designee.

When a student is expelled under Section 1311 or 1311a, the school district may provide, or arrange for the intermediate school district to provide, appropriate instructional services at home. If the district operates or cooperates in an alternative education program

appropriate for expelled individuals, the district may admit the individual into that program. Alternatively, the student may be enrolled in a strict discipline academy. It is the responsibility of the individual and the parent or legal guardian to locate a suitable alternative education program and to enroll the individual in such a program during the expulsion.

The parent or legal guardian of an individual expelled under Section 1311 or 1311a (or the individual, if at least 18 or an emancipated minor) may initiate a petition for reinstatement, to be reviewed by a designated committee consisting of two school board members, a school administrator, a teacher, and a parent of a student in the district. Based on certain factors, the committee must review the petition for reinstatement and submit a recommendation for unconditional reinstatement, for conditional reinstatement, or against reinstatement.

The Revised School Code specifies that Sections 1311 and 1311a do not diminish *the due process rights* under federal law of a student who has been determined to be eligible for special education programs and services. If this bill were enacted into law, these sections would not diminish *any rights* under federal law of such a student.

#### **FISCAL IMPACT:**

The bill would appear to have no fiscal impact on the state or on local government.

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