

SENATE BILL No. 571

June 7, 2007, Introduced by Senator KUIPERS and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1311 and 1311a (MCL 380.1311 and 380.1311a),
section 1311 as amended by 1999 PA 23 and section 1311a as amended
by 2000 PA 230.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1311. (1) Subject to subsection (2), the school board, or
2 the school district superintendent, a school building principal, or
3 another school district official if designated by the school board,
4 may authorize or order the suspension or expulsion from school of a
5 pupil guilty of gross misdemeanor or persistent disobedience if, in
6 the judgment of the school board or its designee, as applicable,
7 the interest of the school is served by the authorization or order.

1 If there is reasonable cause to believe that the pupil is
2 handicapped, and the school district has not evaluated the pupil in
3 accordance with rules of the state board to determine if the
4 student is handicapped, the pupil shall be evaluated immediately by
5 the intermediate school district of which the school district is
6 constituent in accordance with section 1711.

7 (2) If a pupil possesses in a weapon free school zone a weapon
8 that constitutes a dangerous weapon, commits arson in a school
9 building or on school grounds, or commits criminal sexual conduct
10 in a school building or on school grounds, the school board, or the
11 designee of the school board as described in subsection (1) on
12 behalf of the school board, shall expel the pupil from the school
13 district permanently, subject to possible reinstatement under
14 subsection (5). However, a school board is not required to expel a
15 pupil for possessing a weapon if the pupil establishes in a clear
16 and convincing manner at least 1 of the following:

17 (a) The object or instrument possessed by the pupil was not
18 possessed by the pupil for use as a weapon, or for direct or
19 indirect delivery to another person for use as a weapon.

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

21 (c) The pupil did not know or have reason to know that the
22 object or instrument possessed by the pupil constituted a dangerous
23 weapon.

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

27 (3) If an individual is expelled pursuant to subsection (2),

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

1 allowance the school district receives for the pupil under section
2 20 of the state school aid act of 1979, MCL 388.1620.

3 (4) If a school board expels an individual pursuant to
4 subsection (2), the school board shall ensure that, within 3 days
5 after the expulsion, an official of the school district refers the
6 individual to the appropriate county department of social services
7 or county community mental health agency and notifies the
8 individual's parent or legal guardian or, if the individual is at
9 least age 18 or is an emancipated minor, notifies the individual of
10 the referral.

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

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

1 enrolled in grade 5 or below at the time of the expulsion and who
2 has been expelled pursuant to subsection (2) for a reason other
3 than possessing a firearm or threatening another person with a
4 dangerous weapon, the parent or legal guardian or, if the
5 individual is at least age 18 or is an emancipated minor, the
6 individual may initiate a petition for reinstatement at any time.
7 For an individual who was in grade 6 or above at the time of
8 expulsion, the parent or legal guardian or, if the individual is at
9 least age 18 or is an emancipated minor, the individual may
10 initiate a petition for reinstatement at any time after the
11 expiration of 150 school days after the date of expulsion.

12 (b) An individual who was in grade 5 or below at the time of
13 the expulsion and who has been expelled for possessing a firearm or
14 threatening another person with a dangerous weapon shall not be
15 reinstated before the expiration of 90 school days after the date
16 of expulsion. An individual who was in grade 5 or below at the time
17 of the expulsion and who has been expelled pursuant to subsection
18 (2) for a reason other than possessing a firearm or threatening
19 another person with a dangerous weapon shall not be reinstated
20 before the expiration of 10 school days after the date of the
21 expulsion. An individual who was in grade 6 or above at the time of
22 the expulsion shall not be reinstated before the expiration of 180
23 school days after the date of expulsion.

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

1 the petition. Upon request by a parent or legal guardian or, if the
2 individual is at least age 18 or is an emancipated minor, by the
3 individual, a school board shall make available a form for a
4 petition.

5 (d) Not later than 10 school days after receiving a petition
6 for reinstatement under this subsection, a school board shall
7 appoint a committee to review the petition and any supporting
8 information submitted by the parent or legal guardian or, if the
9 individual is at least age 18 or is an emancipated minor, by the
10 individual. The committee shall consist of 2 school board members,
11 1 school administrator, 1 teacher, and 1 parent of a pupil in the
12 school district. During this time the superintendent of the school
13 district may prepare and submit for consideration by the committee
14 information concerning the circumstances of the expulsion and any
15 factors mitigating for or against reinstatement.

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

27 (i) The extent to which reinstatement of the individual would

1 create a risk of harm to pupils or school personnel.

2 (ii) The extent to which reinstatement of the individual would
3 create a risk of school district liability or individual liability
4 for the school board or school district personnel.

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

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

8 (v) The individual's attitude concerning the incident that
9 caused the expulsion.

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

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

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

23 (g) A school board may require an individual and, if the
24 petition was filed by a parent or legal guardian, his or her parent
25 or legal guardian to agree in writing to specific conditions before
26 reinstating the individual in a conditional reinstatement. The
27 conditions may include, but are not limited to, agreement to a

1 behavior contract, which may involve the individual, parent or
2 legal guardian, and an outside agency; participation in or
3 completion of an anger management program or other appropriate
4 counseling; periodic progress reviews; and specified immediate
5 consequences for failure to abide by a condition. A parent or legal
6 guardian or, if the individual is at least age 18 or is an
7 emancipated minor, the individual may include proposed conditions
8 in a petition for reinstatement submitted under this subsection.

9 (6) A school board or school administrator that complies with
10 subsection (2) is not liable for damages for expelling a pupil
11 pursuant to subsection (2), and the authorizing body of a public
12 school academy is not liable for damages for expulsion of a pupil
13 by the public school academy pursuant to subsection (2).

14 (7) The department shall develop and distribute to all school
15 districts a form for a petition for reinstatement to be used under
16 subsection (5).

17 (8) This section does not diminish ~~the due process~~ **ANY** rights
18 under federal law of a pupil who has been determined to be eligible
19 for special education programs and services.

20 (9) If a pupil expelled from a public school district pursuant
21 to subsection (2) is enrolled by a public school district sponsored
22 alternative education program or a public school academy during the
23 period of expulsion, the public school academy or alternative
24 education program shall immediately become eligible for the
25 prorated share of either the public school academy or operating
26 school district's foundation allowance or the expelling school
27 district's foundation allowance, whichever is higher.

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

20 (11) As used in this section:

21 (a) "Arson" means a felony violation of chapter X of the
22 Michigan penal code, 1931 PA 328, MCL 750.71 to 750.80.

23 (b) "Criminal sexual conduct" means a violation of section
24 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
25 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

26 (c) "Dangerous weapon" means that term as defined in section
27 1313.

1 (d) "Firearm" means that term as defined in section 921 of
2 title 18 of the United States Code, 18 ~~U.S.C.~~ **USC** 921.

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

5 (f) "School district" means a school district, a local act
6 school district, an intermediate school district, or a public
7 school academy.

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

10 Sec. 1311a. (1) If a pupil enrolled in grade 6 or above
11 commits a physical assault at school against a person employed by
12 or engaged as a volunteer or contractor by the school board and the
13 physical assault is reported to the school board, school district
14 superintendent, or building principal by the victim or, if the
15 victim is unable to report the assault, by another person on the
16 victim's behalf, then the school board, or the designee of the
17 school board as described in section 1311(1) on behalf of the
18 school board, shall expel the pupil from the school district
19 permanently, subject to possible reinstatement under subsection
20 (5). A district superintendent or building principal who receives a
21 report described in this subsection shall forward the report to the
22 school board.

23 (2) If a pupil enrolled in grade 6 or above commits a verbal
24 assault, as defined by school board policy, at school against a
25 person employed by or engaged as a volunteer or contractor by the
26 school board and the verbal assault is reported to the school
27 board, school district superintendent, or building principal by the

1 victim or, if the victim is unable to report the verbal assault, by
2 another person on the victim's behalf, or if a pupil enrolled in
3 grade 6 or above makes a bomb threat or similar threat directed at
4 a school building, other school property, or a school-related
5 event, then the school board, or the designee of the school board
6 as described in section 1311(1) on behalf of the school board,
7 shall suspend or expel the pupil from the school district for a
8 period of time as determined in the discretion of the school board
9 or its designee. A district superintendent or building principal
10 who receives a report described in this subsection shall forward
11 the report to the school board. Notwithstanding section 1147, a
12 school district is not required to allow an individual expelled
13 from another school district under this subsection to attend school
14 in the school district during the expulsion.

15 (3) If an individual is permanently expelled pursuant to this
16 section, the expelling school district shall enter on the
17 individual's permanent record that he or she has been permanently
18 expelled pursuant to this section. Except if a school district
19 operates or participates cooperatively in an alternative education
20 program appropriate for individuals expelled pursuant to this
21 section and section 1311(2) and in its discretion admits the
22 individual to that program, and except for a strict discipline
23 academy established under sections 1311b to 1311l, an individual
24 permanently expelled pursuant to this section is expelled from all
25 public schools in this state and the officials of a school district
26 shall not allow the individual to enroll in the school district
27 unless the individual has been reinstated under subsection (5).

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

20 (4) If a school board permanently expels an individual
21 pursuant to this section, the school board shall ensure that,
22 within 3 days after the expulsion, an official of the school
23 district refers the individual to the appropriate county department
24 of social services or county community mental health agency and
25 notifies the individual's parent or legal guardian or, if the
26 individual is at least age 18 or is an emancipated minor, notifies
27 the individual of the referral.

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

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

16 (b) The individual shall not be reinstated before the
17 expiration of 180 school days after the date of expulsion.

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

26 (d) Not later than 10 school days after receiving a petition
27 for reinstatement under this subsection, a school board shall

1 appoint a committee to review the petition and any supporting
2 information submitted by the parent or legal guardian or, if the
3 individual is at least age 18 or is an emancipated minor, by the
4 individual. The committee shall consist of 2 school board members,
5 1 school administrator, 1 teacher, and 1 parent of a pupil in the
6 school district. During this time the superintendent of the school
7 district may prepare and submit for consideration by the committee
8 information concerning the circumstances of the expulsion and any
9 factors mitigating for or against reinstatement.

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

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

23 (ii) The extent to which reinstatement of the individual would
24 create a risk of school district or individual liability for the
25 school board or school district personnel.

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

27 (iv) The individual's school record before the incident that

1 caused the expulsion.

2 (v) The individual's attitude concerning the incident that
3 caused the expulsion.

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

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

11 (f) Not later than the next regularly scheduled board meeting
12 after receiving the recommendation of the committee under
13 subdivision (e), a school board shall make a decision to
14 unconditionally reinstate the individual, conditionally reinstate
15 the individual, or deny reinstatement of the individual. The
16 decision of the school board is final.

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

1 emancipated minor, the individual may include proposed conditions
2 in a petition for reinstatement submitted under this subsection.

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

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

14 (8) This section does not diminish ~~the due process~~ **ANY** rights
15 under federal law of a pupil who has been determined to be eligible
16 for special education programs and services.

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

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

1 statewide school safety information policy under section 1308.

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

20 (12) As used in this section:

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

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

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

3 (d) "School district" means a school district, a local act
4 school district, an intermediate school district, or a public
5 school academy.