

HOUSE BILL No. 5783

July 18, 2012, Introduced by Reps. Talabi, Bledsoe, Slavens, Darany, Tlaib, Stanley, Greimel, Cavanagh, Liss, Stapleton, Townsend, Rutledge, Stallworth, Howze, Womack, Santana and Oakes and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1310b and 1311 (MCL 380.1310b and 380.1311), section 1310b as added by 2011 PA 241 and section 1311 as amended by 2008 PA 1.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1310b. (1) Subject to subsection (3), not later than 6
2 ~~months after the effective date of this section, JUNE 6, 2012,~~ the
3 board of a school district or intermediate school district or board
4 of directors of a public school academy shall adopt and implement a
5 policy prohibiting bullying at school, as defined in this section.

6 (2) Subject to subsection (3), before adopting the policy
7 required under subsection (1), the board or board of directors
8 shall hold at least 1 public hearing on the proposed policy. This
9 public hearing may be held as part of a regular board meeting.

1 Subject to subsection (3), not later than 30 days after adopting
2 the policy, the board or board of directors shall submit a copy of
3 its policy to the department.

4 (3) If, as of ~~the effective date of this section,~~ **DECEMBER 6,**
5 **2011,** a school district, intermediate school district, or public
6 school academy has already adopted and implemented an existing
7 policy prohibiting bullying at school and that policy is in
8 compliance with subsection (5), the board of the school district or
9 intermediate school district or board of directors of the public
10 school academy is not required to adopt and implement a new policy
11 under subsection (1). However, this subsection applies to a school
12 district, intermediate school district, or public school academy
13 described in this subsection only if the board or board of
14 directors submits a copy of its policy to the department not later
15 than ~~60 days after the effective date of this section.~~ **FEBRUARY 4,**
16 **2012.**

17 (4) Not later than 1 year after the deadline under subsection
18 (2) for districts and public school academies to submit copies of
19 their policies to the department, the department shall submit a
20 report to the senate and house standing committees on education
21 summarizing the status of the implementation of policies under this
22 section.

23 (5) A policy adopted pursuant to subsection (1) shall include
24 at least all of the following:

25 (a) A statement prohibiting bullying of a pupil.

26 (b) A statement prohibiting retaliation or false accusation
27 against a target of bullying, a witness, or another person with

1 reliable information about an act of bullying.

2 (c) A provision indicating that all pupils are protected under
3 the policy and that bullying is equally prohibited without regard
4 to its subject matter or motivating animus.

5 (d) The identification by job title of school officials
6 responsible for ensuring that the policy is implemented.

7 (e) A statement describing how the policy is to be publicized.

8 (f) A procedure for providing notification to the parent or
9 legal guardian of a victim of bullying and the parent or legal
10 guardian of a perpetrator of the bullying.

11 (g) A procedure for reporting an act of bullying.

12 (h) A procedure for prompt investigation of a report of
13 violation of the policy or a related complaint, identifying either
14 the principal or the principal's designee as the person responsible
15 for the investigation.

16 (i) A procedure for each public school to document any
17 prohibited incident that is reported and a procedure to report all
18 verified incidents of bullying and the resulting consequences,
19 including discipline and referrals, to the board of the school
20 district or intermediate school district or board of directors of
21 the public school academy on an annual basis.

22 (6) The legislature encourages a board or board of directors
23 to include all of the following in the policy required under this
24 section:

25 (a) Provisions to form bullying prevention task forces,
26 programs, teen courts, and other initiatives involving school
27 staff, pupils, school clubs or other student groups,

1 administrators, volunteers, parents, law enforcement, community
2 members, and other stakeholders.

3 (b) A requirement for annual training for administrators,
4 school employees, and volunteers who have significant contact with
5 pupils on preventing, identifying, responding to, and reporting
6 incidents of bullying.

7 (c) A requirement for educational programs for pupils and
8 parents on preventing, identifying, responding to, and reporting
9 incidents of bullying and cyberbullying.

10 (7) A school employee, school volunteer, pupil, or parent or
11 guardian who promptly reports in good faith an act of bullying to
12 the appropriate school official designated in the school district's
13 or public school academy's policy and who makes this report in
14 compliance with the procedures set forth in the policy is immune
15 from a cause of action for damages arising out of the reporting
16 itself or any failure to remedy the reported incident. However,
17 this immunity does not apply to a school official who is designated
18 under subsection (5)(d), or who is responsible for remedying the
19 bullying, when acting in that capacity.

20 (8) IF THE BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL
21 DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY, OR ITS
22 DESIGNEE UNDER THE POLICY, RECEIVES A REPORT FROM A PUPIL OR A
23 PUPIL'S PARENT OR GUARDIAN THAT THE PUPIL IS BEING BULLIED AT
24 SCHOOL BY 1 OR MORE OTHER PUPILS, THE BOARD OR BOARD OF DIRECTORS,
25 OR THE DESIGNEE, SHALL RESPOND TO THE PUPIL AND HIS OR HER PARENT
26 OR GUARDIAN WITHIN 48 HOURS WITH A PLAN TO ADDRESS THE ACTIVITY IN
27 THE REPORT. THIS PLAN SHALL INCLUDE THE SPECIFIC INTERVENTION THAT

1 WILL BE UNDERTAKEN TO ADDRESS THE ACTIVITY IN THE REPORT. THIS
2 INTERVENTION SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE
3 FOLLOWING:

4 (A) DIRECT INTERVENTION IN THE FORM OF A MEETING TO PROVIDE
5 CONFLICT RESOLUTION BETWEEN THE PUPIL REPORTING THE BULLYING AND
6 THE PUPIL OR PUPILS BEING REPORTED.

7 (B) DIRECT INTERVENTION WITH THE FAMILIES OF THE PUPIL
8 REPORTING THE BULLYING AND THE PUPIL OR PUPILS BEING REPORTED TO
9 PROVIDE RECOMMENDATIONS OF APPROPRIATE FAMILY INTERVENTION WITH THE
10 PUPILS.

11 (C) IF APPROPRIATE, REFERRAL TO INDIVIDUAL COUNSELING FOR THE
12 PUPILS OR FAMILY COUNSELING FOR THE FAMILIES, OR BOTH.

13 (9) IF EITHER THE PUPIL REPORTING THE BULLYING AS DESCRIBED IN
14 SUBSECTION (8) OR THE PUPIL OR PUPILS BEING REPORTED FAIL TO
15 PARTICIPATE IN THE DESIGNATED INTERVENTIONS UNDER SUBSECTION (8),
16 THE BOARD OF THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT OR
17 BOARD OF DIRECTORS OF THE PUBLIC SCHOOL ACADEMY SHALL ISSUE A
18 FORMAL STATEMENT TO THE PARTIES THAT THE INTERVENTION WAS NOT
19 ACCEPTED AND STATING THE ACTIONS CONSIDERED NECESSARY AND
20 APPROPRIATE BY THE BOARD OR BOARD OF DIRECTORS TO PROTECT THE PUPIL
21 FILING THE REPORT.

22 (10) ~~(8)~~—As used in this section:

23 (a) "At school" means in a classroom, elsewhere on school
24 premises, on a school bus or other school-related vehicle, or at a
25 school-sponsored activity or event whether or not it is held on
26 school premises. "At school" includes conduct using a
27 telecommunications access device or telecommunications service

1 provider that occurs off school premises if the telecommunications
2 access device or the telecommunications service provider is owned
3 by or under the control of the school district or public school
4 academy.

5 (b) "Bullying" means any written, verbal, or physical act, or
6 any electronic communication, that is intended or that a reasonable
7 person would know is likely to harm 1 or more pupils either
8 directly or indirectly by doing any of the following:

9 (i) Substantially interfering with educational opportunities,
10 benefits, or programs of 1 or more pupils.

11 (ii) Adversely affecting the ability of a pupil to participate
12 in or benefit from the school district's or public school's
13 educational programs or activities by placing the pupil in
14 reasonable fear of physical harm or by causing substantial
15 emotional distress.

16 (iii) Having an actual and substantial detrimental effect on a
17 pupil's physical or mental health.

18 (iv) Causing substantial disruption in, or substantial
19 interference with, the orderly operation of the school.

20 (c) "Telecommunications access device" and "telecommunications
21 service provider" mean those terms as defined in section 219a of
22 the Michigan penal code, 1931 PA 328, MCL 750.219a.

23 (11) ~~(9)~~—This section shall be known as "Matt's Safe School
24 Law".

25 Sec. 1311. (1) Subject to subsection (2), the school board, or
26 the school district superintendent, a school building principal, or
27 another school district official if designated by the school board,

1 may authorize or order the suspension or expulsion from school of a
2 pupil guilty of gross misdemeanor or persistent disobedience if, in
3 the judgment of the school board or its designee, as applicable,
4 the interest of the school is served by the authorization or order.
5 If there is reasonable cause to believe that the pupil is a student
6 with a disability, and the school district has not evaluated the
7 pupil in accordance with rules of the superintendent of public
8 instruction to determine if the pupil is a student with a
9 disability, the pupil shall be evaluated immediately by the
10 intermediate school district of which the school district is
11 constituent in accordance with section 1711.

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

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

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

26 (c) The pupil did not know or have reason to know that the
27 object or instrument possessed by the pupil constituted a dangerous

1 weapon.

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

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

1 and the services may be contracted for in the same manner as
2 services for homebound pupils under section 109 of the state school
3 aid act of 1979, MCL 388.1709. This subsection does not require a
4 school district to expend more money for providing services for a
5 pupil expelled pursuant to subsection (2) than the amount of the
6 foundation allowance the school district receives for the pupil as
7 calculated under section 20 of the state school aid act of 1979,
8 MCL 388.1620.

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

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

27 (a) For an individual who was enrolled in grade 5 or below at

1 the time of the expulsion and who has been expelled for possessing
2 a firearm or threatening another person with a dangerous weapon,
3 the parent or legal guardian or, if the individual is at least age
4 18 or is an emancipated minor, the individual may initiate a
5 petition for reinstatement at any time after the expiration of 60
6 school days after the date of expulsion. For an individual who was
7 enrolled in grade 5 or below at the time of the expulsion and who
8 has been expelled pursuant to subsection (2) for a reason other
9 than possessing a firearm or threatening another person with a
10 dangerous weapon, the parent or legal guardian or, if the
11 individual is at least age 18 or is an emancipated minor, the
12 individual may initiate a petition for reinstatement at any time.
13 For an individual who was in grade 6 or above at the time of
14 expulsion, the parent or legal guardian or, if the individual is at
15 least age 18 or is an emancipated minor, the individual may
16 initiate a petition for reinstatement at any time after the
17 expiration of 150 school days after the date of expulsion.

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

1 the expulsion shall not be reinstated before the expiration of 180
2 school days after the date of expulsion.

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

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

22 (e) Not later than 10 school days after all members are
23 appointed, the committee described in subdivision (d) shall review
24 the petition and any supporting information and information
25 provided by the school district and shall submit a recommendation
26 to the school board on the issue of reinstatement. The
27 recommendation shall be for unconditional reinstatement, for

1 conditional reinstatement, or against reinstatement, and shall be
2 accompanied by an explanation of the reasons for the recommendation
3 and of any recommended conditions for reinstatement. The
4 recommendation shall be based on consideration of all of the
5 following factors:

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

8 (ii) The extent to which reinstatement of the individual would
9 create a risk of school district liability or individual liability
10 for the school board or school district personnel.

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

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

14 (v) The individual's attitude concerning the incident that
15 caused the expulsion.

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

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

23 (f) Not later than the next regularly scheduled board meeting
24 after receiving the recommendation of the committee under
25 subdivision (e), a school board shall make a decision to
26 unconditionally reinstate the individual, conditionally reinstate
27 the individual, or deny reinstatement of the individual. The

1 decision of the school board is final.

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

15 (H) IF THE SCHOOL BOARD DECIDES TO DENY REINSTATEMENT OF THE
16 INDIVIDUAL, THE REASONS FOR DENIAL SHALL BE MADE IN WRITING AND
17 PLACED INTO THE INDIVIDUAL'S PERMANENT RECORD. THE SCHOOL BOARD
18 SHALL ALSO NOTIFY THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OF ITS
19 DECISION. THE DECISION OF THE SCHOOL BOARD DOES NOT PRECLUDE THE
20 PARENT OR LEGAL GUARDIAN FROM SEEKING LEGAL ACTION IF THE
21 INDIVIDUAL'S SCHOOL OR SCHOOL DISTRICT FAILED TO REMEDY ANY AND ALL
22 SITUATIONS INVOLVING BULLYING.

23 (6) A school board or school administrator that complies with
24 subsection (2) is not liable for damages for expelling a pupil
25 pursuant to subsection (2), and the authorizing body of a public
26 school academy is not liable for damages for expulsion of a pupil
27 by the public school academy pursuant to subsection (2).

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

4 (8) 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 (9) If a pupil expelled from a public school district pursuant
8 to 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 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 (10) If an individual is expelled pursuant to subsection (2),
16 it is the responsibility of that individual and of his or her
17 parent or legal guardian to locate a suitable alternative
18 educational program and to enroll the individual in such a program
19 during the expulsion. The office of safe schools in the department
20 shall compile information on and catalog existing alternative
21 education programs or schools and nonpublic schools that may be
22 open to enrollment of individuals expelled pursuant to subsection
23 (2) and pursuant to 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

1 program or school and the types of pupils it serves. The office of
2 safe schools also shall work with and provide technical assistance
3 to school districts, authorizing bodies for public school
4 academies, and other interested parties in developing these types
5 of alternative education programs or schools in geographic areas
6 that are not being served.

7 (11) IF A PUPIL IS SUBJECT TO EXPULSION UNDER SUBSECTION (2)
8 BUT THE EVENTS THAT ARE THE BASIS FOR AN EXPULSION WERE
9 PRECIPITATED BY THE PUPIL BEING BULLIED, THEN ALL OF THE FOLLOWING
10 APPLY:

11 (A) THE PUPIL SHALL NOT BE EXPELLED FROM ALL PUBLIC SCHOOLS IN
12 THIS STATE BUT INSTEAD SHALL BE SUSPENDED FOR A PERIOD OF NOT MORE
13 THAN 90 DAYS. DURING THE SUSPENSION, THE PUPIL SHALL BE ENROLLED IN
14 AN ALTERNATIVE EDUCATION PROGRAM APPROPRIATE FOR PUPILS IN SIMILAR
15 SITUATIONS.

16 (B) THE SCHOOL BOARD SHALL INVESTIGATE ANY AND ALL ALLEGATIONS
17 OF BULLYING OF THE PUPIL AND, IF THERE IS EVIDENCE OF BULLYING,
18 SHALL SUSPEND OR EXPEL THE PERPETRATOR OF THE ALLEGED BULLYING
19 AFTER A FORMAL HEARING ACCORDING TO THIS ACT. A HEARING CONCERNING
20 THE SUSPENSION OR EXPULSION OF THE PERPETRATOR OF THE ALLEGED
21 BULLYING SHALL NOT COINCIDE WITH ANY FORMAL HEARING CONCERNING THE
22 SUSPENSION OF THE ALLEGED VICTIM OF THE BULLYING.

23 (C) IF THE SCHOOL BOARD CONCLUDES THE ALLEGED PERPETRATOR OF
24 THE BULLYING WAS THE CAUSE OF THE INCIDENT, THEN THE ALLEGED
25 PERPETRATOR SHALL BE EXPELLED FROM THE SCHOOL FOR A PERIOD OF NOT
26 MORE THAN 90 DAYS AND SHALL BE ENROLLED IN AN ALTERNATIVE EDUCATION
27 PROGRAM THAT OPERATES COOPERATIVELY WITH THE SCHOOL DISTRICT FROM

1 WHICH THE ALLEGED PERPETRATOR WAS EXPELLED.

2 (D) ALL PROCEEDINGS SHALL BE RECORDED IN EACH AFFECTED PUPIL'S
3 OFFICIAL SCHOOL RECORD MAINTAINED BY THE SCHOOL DISTRICT.

4 (E) THE 2 INDIVIDUALS INVOLVED IN THE INCIDENT SHALL BE
5 PHYSICALLY SEPARATED FROM EACH OTHER FOR AT LEAST THE REMAINDER OF
6 THE SCHOOL YEAR.

7 (12) ~~(11)~~—As used in this section:

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

10 (B) "BULLYING" MEANS THAT TERM AS DEFINED IN SECTION 1310B.

11 (C) ~~(b)~~—"Criminal sexual conduct" means a violation of section
12 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
13 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

14 (D) ~~(e)~~—"Dangerous weapon" means that term as defined in
15 section 1313.

16 (E) ~~(d)~~—"Firearm" means that term as defined in section 921 of
17 title 18 of the United States Code, 18 USC 921.

18 (F) ~~(e)~~—"School board" means a school board, intermediate
19 school board, or the board of directors of a public school academy.

20 (G) ~~(f)~~—"School district" means a school district, a local act
21 school district, an intermediate school district, or a public
22 school academy.

23 (H) ~~(g)~~—"Weapon free school zone" means that term as defined
24 in section 237a of the Michigan penal code, 1931 PA 328, MCL
25 750.237a.