

# SENATE BILL No. 1182

June 14, 2012, Introduced by Senators BIEDA, KOWALL, JONES, NOFS, MARLEAU, COLBECK, EMMONS, HOPGOOD, CASPERSON and YOUNG and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending sections 1310 and 1311a (MCL 380.1310 and 380.1311a),  
section 1310 as amended by 2000 PA 230 and section 1311a as amended  
by 2007 PA 138.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1310. (1) If a pupil enrolled in grade 6 or above commits  
2 a physical assault at school against another pupil and the physical  
3 assault is reported to the school board, school district  
4 superintendent, or building principal, then the school board or the  
5 designee of the school board as described in section 1311(1) on  
6 behalf of the school board ~~shall~~ **MAY** suspend or expel the pupil  
7 from the school district for up to 180 school days. A district  
8 superintendent or building principal who receives a report

1 described in this subsection shall forward the report to the school  
2 board. Notwithstanding section 1147, a school district is not  
3 required to allow an individual **SUSPENDED OR** expelled from another  
4 school district under this section to attend school in the school  
5 district during the expulsion.

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

25 (3) As used in this section:

26 (a) "At school" means in a classroom, elsewhere on school  
27 premises, on a school bus or other school-related vehicle, or at a

1 school-sponsored activity or event whether or not it is held on  
2 school premises.

3 (b) "Physical assault" means intentionally causing or  
4 attempting to cause physical harm to another through force or  
5 violence.

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

8 (d) "School district" means a school district, a local act  
9 school district, an intermediate school district, or a public  
10 school academy.

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

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

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

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

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