

# SENATE BILL No. 208

March 17, 2015, Introduced by Senator HILDENBRAND and referred to the Committee on Education.

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

**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~~**AN INDIVIDUAL**  
3       employed by or engaged as a volunteer or contractor by the school  
4       board ~~board~~**DISTRICT OR MAKES A THREAT AT SCHOOL TO KILL AN INDIVIDUAL**  
5       **EMPLOYED BY OR ENGAGED AS A VOLUNTEER OR CONTRACTOR BY THE SCHOOL**  
6       **DISTRICT** and the physical assault **OR THREAT TO KILL** is reported to  
7       the school board, school district superintendent, or building  
8       principal by the victim or, if the victim is unable to report the  
9       assault **OR THREAT TO KILL**, by another person on the victim's  
10       behalf, then the school board, or the designee of the school board

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1 as described in section 1311(1) on behalf of the school board,  
2 shall expel the pupil from the school district permanently, subject  
3 to possible reinstatement under subsection (5). A district  
4 superintendent or building principal who receives a report  
5 described in this subsection shall forward the report to the school  
6 board.

7 (2) If a pupil enrolled in grade 6 or above commits a verbal  
8 assault **OTHER THAN A THREAT TO KILL**, as defined by school board  
9 policy, at school against ~~a person~~**AN INDIVIDUAL** employed by or  
10 engaged as a volunteer or contractor by the school ~~board~~**DISTRICT**  
11 and the verbal assault is reported to the school board, school  
12 district superintendent, or building principal by the victim or, if  
13 the victim is unable to report the verbal assault, by another  
14 person on the victim's behalf, or if a pupil enrolled in grade 6 or  
15 above makes a bomb threat or similar threat directed at a school  
16 building, other school property, or a school-related event, then  
17 the school board, or the designee of the school board as described  
18 in section 1311(1) on behalf of the school board, shall suspend or  
19 expel the pupil from the school district for a period of time as  
20 determined in the discretion of the school board or its designee. A  
21 district superintendent or building principal who receives a report  
22 described in this subsection shall forward the report to the school  
23 board. Notwithstanding section 1147, a school district is not  
24 required to allow an individual expelled from another school  
25 district under this subsection to attend school in the school  
26 district during the expulsion.

27 (3) If an individual is permanently expelled pursuant to this

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

1 pupil permanently expelled pursuant to this section than the amount  
2 of the foundation allowance **OR PER-PUPIL PAYMENT** the school  
3 district receives for the pupil **AS CALCULATED** under section 20 of  
4 the state school aid act of 1979, MCL 388.1620.

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

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

23 (a) The individual's parent or legal guardian or, if the  
24 individual is at least age 18 or is an emancipated minor, the  
25 individual may initiate a petition for reinstatement at any time  
26 after the expiration of 150 school days after the date of  
27 expulsion.

1 (b) The individual shall not be reinstated before the  
2 expiration of 180 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 or individual liability for the  
10 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 (6) A school board or school administrator that complies with  
16 this section is not liable for damages for suspending or expelling  
17 a pupil pursuant to this section, and the authorizing body of a  
18 public school academy is not liable for damages for suspension or  
19 expulsion of a pupil by the public school academy pursuant to this  
20 section.

21 (7) The department shall develop and distribute to all school  
22 districts a form for a petition for reinstatement to be used under  
23 subsection (5). The department may designate the form used for a  
24 petition for reinstatement under section 1311 as a form that may be  
25 used under this section.

26 (8) This section does not diminish any rights under federal  
27 law of a pupil who has been determined to be eligible for special

1 education programs and services.

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

10 (10) A school board or its designee shall report all assaults  
11 **AND THREATS** described in subsection (1) or (2) to appropriate state  
12 or local law enforcement officials and prosecutors as provided in  
13 the statewide school safety information policy under section 1308.

14 (11) If an individual is expelled pursuant to this section, it  
15 is the responsibility of that individual and of his or her parent  
16 or legal guardian to locate a suitable educational program and to  
17 enroll the individual in such a program during the expulsion. The  
18 office for safe schools in the department shall compile information  
19 on and catalog existing alternative education programs or schools  
20 and nonpublic schools that may be open to enrollment of individuals  
21 expelled pursuant to this section and pursuant to section 1311(2),  
22 and shall periodically distribute this information to school  
23 districts for distribution to expelled individuals. A school board  
24 that establishes an alternative education program or school  
25 described in this subsection shall notify the office ~~of~~ **FOR** safe  
26 schools about the program or school and the types of pupils it  
27 serves. The office for safe schools also shall work with and



1 provide technical assistance to school districts, authorizing  
2 bodies for public school academies, and other interested parties in  
3 developing these types of alternative education programs or schools  
4 in geographic areas that are not being served.

5 (12) As used in this section:

6 (a) "At school" means in a classroom, elsewhere on school  
7 premises, on a school bus or other school-related vehicle, or at a  
8 school-sponsored activity or event whether or not it is held on  
9 school premises.

10 (b) "Physical assault" means intentionally causing or  
11 attempting to cause physical harm to another through force or  
12 violence.

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

15 (d) "School district" means a school district, ~~a local act~~  
16 ~~school district~~, an intermediate school district, or a public  
17 school academy.