

SENATE BILL NO. 68

February 02, 2021, Introduced by Senators MCCANN, IRWIN, SANTANA, BRINKS, WOJNO, BULLOCK, CHANG, BAYER and HOLLIER and referred to the Committee on Education and Career Readiness.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1310a, 1311, and 1561 (MCL 380.1310a, 380.1311, and 380.1561), sections 1310a and 1561 as amended by 2016 PA 532 and section 1311 as amended by 2018 PA 145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1310a. (1) At least annually, each school board shall
- 2 prepare and submit to the superintendent of public instruction, in

1 the form and manner prescribed by the superintendent of public
2 instruction, a report ~~stating the number of pupils expelled from~~
3 ~~the school district during the immediately preceding school year,~~
4 ~~with a brief description of the incident that caused each~~
5 ~~expulsion.~~ **that includes all of the following:**

6 (a) **The number of pupils expelled or suspended from the school**
7 **district during the immediately preceding school year.**

8 (b) **The number of pupils who were truant, chronically absent,**
9 **or disciplinary absent during the immediately preceding school**
10 **year.**

11 (c) **For each expulsion or suspension, a brief written**
12 **description of the incident that caused the expulsion or suspension**
13 **and the disciplinary outcomes.**

14 (d) **For each incident of a pupil who was truant, chronically**
15 **absent, or disciplinary absent, a brief written description of the**
16 **incident and the identification of the race, gender, and ethnicity**
17 **of the pupil.**

18 (e) **For the immediately preceding school year, a breakdown of**
19 **the number of pupils by race, gender, and ethnicity who were**
20 **expelled, suspended, truant, chronically absent, or disciplinary**
21 **absent.**

22 (2) In order to obtain an accurate local picture of school
23 crime and to develop the partnerships necessary to plan and
24 implement school safety programs, at least annually, each school
25 board shall post on its website, in the form and manner prescribed
26 by the superintendent of public instruction, incidents of crime
27 occurring at school within the school district. In determining the
28 form and manner of this report, the superintendent of public
29 instruction shall consult with ~~local and intermediate school~~

1 districts and law enforcement officials. The reporting ~~shall~~**must**
2 include at least ~~crimes~~**all incidents** involving physical violence,
3 gang-related activity, illegal possession of a controlled substance
4 or controlled substance analogue, or other intoxicant, trespassing,
5 and property crimes including, but not limited to, theft and
6 vandalism. For a property crime, the report ~~shall~~**must** include an
7 estimate of the cost to the school district resulting from the
8 property crime. The school crime reporting requirements of this
9 subsection are intended to do all of the following:

10 (a) Help policymakers and program designers develop
11 appropriate prevention and intervention programs.

12 (b) Provide the continuous assessment tools needed for
13 revising and refining school safety programs.

14 (c) Assist schools and school districts to identify the most
15 pressing safety issues confronting their school communities, to
16 direct resources appropriately, and to enhance campus safety
17 through prevention and intervention strategies.

18 (d) Foster the creation of partnerships among schools, school
19 districts, state agencies, communities, law enforcement, and the
20 media to prevent further crime and violence and to assure a safe
21 learning environment for every pupil.

22 (3) Each school building ~~shall~~**must** collect and keep current
23 on a weekly basis the information required for the report under
24 subsection (2) and must provide that information, within 7 days,
25 upon request. At least annually, each school board shall make a
26 copy, disaggregated by school building, of the most recent report
27 for the school district under subsection (2) available to the
28 parent or legal guardian of each pupil enrolled in the school
29 district.

1 (4) As used in this section: ~~,"at~~

2 (a) **"At school"** ~~,"school board", and "school district" mean~~
 3 ~~those terms means that term~~ as defined in section 1310.

4 (b) **"Chronically absent"** means that term as defined in section
 5 1561.

6 (c) **"Disciplinary absent"** means a pupil is absent as a result
 7 of disciplinary action imposed by school officials and the absence
 8 is neither an unexcused or excused absence.

9 (d) **"Excused absence"** means that term as defined in section
 10 1561.

11 (e) **"School board"** and **"school district"** mean those terms as
 12 defined in section 1310.

13 (f) **"Truant"** and **"unexcused absence"** mean those terms as
 14 defined in section 1561.

15 Sec. 1311. (1) Subject to subsection (2), the school board, or
 16 the school district superintendent, a school building principal, or
 17 another school district official if designated by the school board,
 18 may authorize or order the suspension or expulsion from school of a
 19 pupil who commits criminal sexual conduct against another pupil
 20 enrolled in the same school district or a pupil guilty of gross
 21 misdemeanor or persistent disobedience if, in the judgment of the
 22 school board or its designee, as applicable, the interest of the
 23 school is served by the authorization or order. If there is
 24 reasonable cause to believe that the pupil is a student with a
 25 disability, and the school district has not evaluated the pupil in
 26 accordance with rules of the superintendent of public instruction
 27 to determine if the pupil is a student with a disability, the pupil
 28 ~~shall~~**must** be evaluated immediately by the intermediate school
 29 district of which the school district is constituent in accordance

1 with section 1711. **A pupil must not be suspended or expelled solely**
2 **for being truant or chronically absent.**

3 (2) Subject to subsection (3) and section 1310d, if a pupil
4 possesses in a weapon free school zone a weapon that constitutes a
5 dangerous weapon, commits arson in a school building or on school
6 grounds, commits criminal sexual conduct in a school building or on
7 school grounds, or pleads to, is convicted of, or is adjudicated
8 for criminal sexual conduct against another pupil enrolled in the
9 same school district, the school board, or the designee of the
10 school board as described in subsection (1) on behalf of the school
11 board, shall expel the pupil from the school district permanently,
12 subject to possible reinstatement under subsection (6). However, a
13 school board is not required to expel a pupil for possessing a
14 weapon if the pupil establishes in a clear and convincing manner at
15 least 1 of the following:

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

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

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

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

26 (3) There is a rebuttable presumption that expulsion under
27 subsection (2) for possession of a weapon is not justified if both
28 of the following are met:

29 (a) The school board or its designee determines in writing

1 that at least 1 of the factors listed in subsection (2)(a) to (d)
2 has been established in a clear and convincing manner.

3 (b) The pupil has no history of suspension or expulsion.

4 (4) If an individual is expelled under subsection (2), the
5 expelling school district shall enter on the individual's permanent
6 record that he or she has been expelled under subsection (2).
7 Except if a school district operates or participates cooperatively
8 in an alternative education program appropriate for individuals
9 expelled under subsection (2) and in its discretion admits the
10 individual to that program, and except for a strict discipline
11 academy established under sections 1311b to 1311m or a cyber school
12 as **that term is** defined in section 551, an individual expelled
13 under subsection (2) is expelled from all public schools in this
14 state and the officials of a school district shall not allow the
15 individual to enroll in the school district unless the individual
16 has been reinstated under subsection (6). Except as otherwise
17 provided by law, a program operated for individuals expelled under
18 subsection (2) ~~shall~~**must** ensure that those individuals are
19 physically separated at all times during the school day from the
20 general pupil population. If an individual expelled from a school
21 district under subsection (2) is not placed in an alternative
22 education program, strict discipline academy, or cyber school, the
23 school district may provide, or may arrange for the intermediate
24 school district to provide, appropriate instructional services to
25 the individual at home. The type of services provided ~~shall~~**must**
26 meet the requirements of section 6(4)(u) of the state school aid
27 act of 1979, MCL 388.1606, and the services may be contracted for
28 in the same manner as services for homebound pupils under section
29 109 of the state school aid act of 1979, MCL 388.1709. This

1 subsection does not require a school district to expend more money
2 for providing services for a pupil expelled under subsection (2)
3 than the amount of the foundation allowance the school district
4 receives for the pupil as calculated under section 20 of the state
5 school aid act of 1979, MCL 388.1620.

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

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

24 (a) For an individual who was enrolled in grade 5 or below at
25 the time of the expulsion and who has been expelled for possessing
26 a firearm or threatening another person with a dangerous weapon,
27 the parent or legal guardian or, if the individual is at least age
28 18 or is an emancipated minor, the individual may initiate a
29 petition for reinstatement at any time after the expiration of 60

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

13 (b) An individual who was in grade 5 or below at the time of
14 the expulsion and who has been expelled for possessing a firearm or
15 threatening another person with a dangerous weapon ~~shall~~**must** not
16 be reinstated before the expiration of 90 school days after the
17 date of expulsion. An individual who was in grade 5 or below at the
18 time of the expulsion and who has been expelled under subsection
19 (2) for a reason other than possessing a firearm or threatening
20 another person with a dangerous weapon ~~shall~~**must** not be reinstated
21 before the expiration of 10 school days after the date of the
22 expulsion. An individual who was in grade 6 or above at the time of
23 the expulsion ~~shall~~**must** not be reinstated before the expiration of
24 180 school days after the date of expulsion.

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

1 individual is at least age 18 or is an emancipated minor, by the
2 individual, a school board shall make available a form for a
3 petition.

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

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

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

28 (ii) The extent to which reinstatement of the individual would
29 create a risk of school district liability or individual liability

1 for the school board or school district personnel.

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

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

5 (v) The individual's attitude concerning the incident that
6 caused the expulsion.

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

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

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

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

1 guardian or, if the individual is at least age 18 or is an
2 emancipated minor, the individual may include proposed conditions
3 in a petition for reinstatement submitted under this subsection.

4 (7) A school board or school administrator that complies with
5 subsection (2) is not liable for damages for expelling a pupil
6 under subsection (2), and the authorizing body of a public school
7 academy is not liable for damages for expulsion of a pupil by the
8 public school academy under subsection (2).

9 (8) The department shall develop and distribute to all school
10 districts a form for a petition for reinstatement to be used under
11 subsection (6).

12 (9) This section does not diminish any rights under federal
13 law of a pupil who has been determined to be eligible for special
14 education programs and services.

15 (10) If a pupil expelled from a public school district under
16 subsection (2) is enrolled by a public school district sponsored
17 alternative education program or a public school academy during the
18 period of expulsion, the public school academy or alternative
19 education program ~~shall immediately become~~ **becomes** eligible for the
20 prorated share of either the public school academy or operating
21 school district's foundation allowance or the expelling school
22 district's foundation allowance, whichever is higher.

23 (11) If an individual is expelled under subsection (2), it is
24 the responsibility of that individual and of his or her parent or
25 legal guardian to locate a suitable alternative educational program
26 and to enroll the individual in such a program during the
27 expulsion. The office of safe schools in the department shall
28 compile information on and catalog existing alternative education
29 programs or schools and nonpublic schools that may be open to

1 enrollment of individuals expelled under subsection (2) and under
 2 section 1311a, and shall periodically distribute this information
 3 to school districts for distribution to expelled individuals. A
 4 school board that establishes an alternative education program or
 5 school described in this subsection shall notify the office of safe
 6 schools about the program or school and the types of pupils it
 7 serves. The office of safe schools also shall work with and provide
 8 technical assistance to school districts, authorizing bodies for
 9 public school academies, and other interested parties in developing
 10 these types of alternative education programs or schools in
 11 geographic areas that are not being served.

12 (12) As used in this section:

13 (a) "Arson" means a felony violation of chapter X of the
 14 Michigan penal code, 1931 PA 328, MCL 750.71 to 750.79.

15 (b) **"Chronically absent" means that term as defined in section**
 16 **1561.**

17 (c) ~~(b)~~ "Criminal sexual conduct" means a violation of section
 18 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
 19 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

20 (d) ~~(e)~~ "Dangerous weapon" means that term as defined in
 21 section 1313.

22 (e) ~~(d)~~ "Firearm" means that term as defined in ~~section 921 of~~
 23 ~~title 18 of the United States Code,~~ 18 USC 921.

24 (f) ~~(e)~~ "School board" means a school board, intermediate
 25 school board, or the board of directors of a public school academy.

26 (g) ~~(f)~~ "School district" means a school district,
 27 intermediate school district, or public school academy.

28 (h) **"Truant" means that term as defined in section 1561.**

29 (i) ~~(g)~~ "Weapon free school zone" means that term as defined

1 in section 237a of the Michigan penal code, 1931 PA 328, MCL
2 750.237a.

3 Sec. 1561. (1) Except as otherwise provided in this section,
4 for a child who turned age 11 before December 1, 2009 or who
5 entered grade 6 before 2009, the child's parent, **legal** guardian, or
6 other person in this state having control and charge of the child
7 shall send that child to a public school during the entire school
8 year from the age of 6 to the child's sixteenth birthday. Except as
9 otherwise provided in this section, for a child who turns age 11 on
10 or after December 1, 2009 or a child who was age 11 before that
11 date and enters grade 6 in 2009 or later, the child's parent, **legal**
12 guardian, or other person in this state having control and charge
13 of the child shall send the child to a public school during the
14 entire school year from the age of 6 to the child's eighteenth
15 birthday. ~~The child's attendance shall be continuous and
16 consecutive for the school year fixed by the school district in
17 which the child is enrolled. In a school district that maintains
18 school during the entire calendar year and in which the school year
19 is divided into quarters, a child is not required to attend the
20 public school more than 3 quarters in 1 calendar year, but a child
21 shall not be absent for 2 or more consecutive quarters.~~

22 (2) A child becoming 6 years of age before December 1 ~~shall~~
23 **must** be enrolled on the first school day of the school year in
24 which the child's sixth birthday occurs **and must be in attendance**
25 **after enrollment**, and a child becoming 6 years of age on or after
26 December 1 ~~shall~~**must** be enrolled on the first school day of the
27 school year following the school year in which the child's sixth
28 birthday occurs **and must be in attendance after enrollment. If a**
29 **child is truant or chronically absent, the public school in which**

1 **the child is enrolled shall take the measures required under**
2 **section 1586.**

3 (3) A child is not required to ~~attend~~ **be in attendance** in a
4 public school in any of the following cases:

5 (a) The child is attending regularly and is being taught in a
6 state approved nonpublic school, which teaches subjects comparable
7 to those taught in the public schools to children of corresponding
8 age and grade, as determined by the course of study for the public
9 schools of the district within which the nonpublic school is
10 located.

11 (b) The child is less than 9 years of age and does not reside
12 within 2-1/2 miles by the nearest traveled road of a public school.
13 If transportation is furnished for pupils in the school district of
14 the child's residence, this subdivision does not apply.

15 (c) The child is age 12 or 13 and is ~~in attendance at~~
16 **attending** confirmation classes conducted for a period of 5 months
17 or less.

18 (d) The child is regularly enrolled in a public school while
19 ~~in attendance at~~ **attending** religious instruction classes for not
20 more than 2 class hours per week, off public school property during
21 public school hours, upon written request of the parent, **legal**
22 guardian, or person in loco parentis.

23 (e) The child has graduated from high school or has fulfilled
24 all requirements for high school graduation.

25 (f) The child is being educated at the child's home by his or
26 her parent or legal guardian in an organized educational program in
27 the subject areas of reading, spelling, mathematics, science,
28 history, civics, literature, writing, and English grammar.

29 (4) For a child being educated at the child's home by his or

1 her parent or legal guardian, exemption from the requirement to
2 attend ~~be in attendance in~~ public school may exist under either
3 subsection (3) (a) or (3) (f), or both.

4 (5) For a child who turns age 11 on or after December 1, 2009
5 or who was age 11 before that date and enters grade 6 in 2009 or
6 later, this section does not apply to the child if the child is at
7 least age 16 and the child's parent or legal guardian has provided
8 to school officials of the school district in which the child
9 resides a written notice that the child has the permission of the
10 parent or legal guardian to stop attending school.

11 (6) For the purposes of requiring a pupil's parent or legal
12 guardian to provide documentation for an excused absence under this
13 section, a school district, intermediate school district, or public
14 school academy shall take steps to provide appropriate assistance
15 for illiteracy and shall allow a non-English-speaking parent or
16 legal guardian to submit documentation in his or her native
17 language.

18 (7) For purposes of data collection, a disciplinary absence of
19 1 to 5 consecutive days must be labeled and tracked as short-term
20 and a disciplinary absence of 6 or more consecutive days must be
21 labeled and tracked as long-term.

22 (8) For an absence due to illness or medical condition of a
23 pupil, documentation by a licensed medical professional or an
24 individual described in section 16171 of the public health code,
25 1978 PA 368, MCL 333.16171, is required if the pupil's illness- or
26 medical-condition-related absence lasts for 5 or more consecutive
27 school days in the same school year.

28 (9) As used in this section:

29 (a) "Chronically absent" means a pupil is absent for 10% or

1 more of the days school is in session in a school year for which
2 the pupil is enrolled in school.

3 (b) "Disciplinary absence" means an absence that is the result
4 of disciplinary action imposed by school officials and is neither
5 an unexcused or excused absence.

6 (c) "Documentation" means a written document that includes a
7 signed note from a pupil's parent or legal guardian, a signed note
8 from a school employee or official who spoke in person to a pupil's
9 parent or legal guardian regarding the pupil's absence, or a note
10 confirming a pupil's absence by a school nurse, a licensed medical
11 professional, or an individual described in section 16171 of the
12 public health code, 1978 PA 368, MCL 333.16171.

13 (d) "Excused absence" means either of the following, as
14 applicable:

15 (i) An absence for a reason determined by the advisory
16 committee described under section 1578a, to constitute a sufficient
17 reason for an excused absence under this subparagraph and for which
18 documentation of the reason for the absence has been submitted to
19 the pupil's school and approved by the pupil's school.

20 (ii) An absence for 1 of the following reasons if documentation
21 has been submitted to the pupil's school and approved by the
22 pupil's school:

23 (A) Illness or medical condition of the pupil.

24 (B) Medical appointment of the pupil, including, but not
25 limited to, a counseling appointment, dental appointment, or
26 optometry appointment.

27 (C) The pupil's observance of a religious holiday.

28 (D) Death in the pupil's family.

29 (E) Other emergency beyond the control of the pupil or the

1 pupil's family.

2 (F) A mandated court appearance for the pupil.

3 (G) An educational opportunity that is pre-approved by school
4 officials in accordance with department guidelines.

5 (H) Military service of the pupil's parent or legal guardian.

6 (I) Incidents of trauma, including, but not limited to,
7 homelessness, sexual or physical abuse, thoughts of or witness to
8 suicide, and harassment.

9 (e) "In attendance" means, for a school day, that a pupil is
10 present at his or her assigned school or school activity as defined
11 by the department in its pupil accounting manual.

12 (f) "Late arrival" means arriving for class or a school
13 activity after the established commencement time, unless excused.

14 (g) "School activity" means an activity sponsored by a school
15 at which attendance by the pupil is mandatory.

16 (h) "Truant" means a child who has 10 or more unexcused
17 absences per school year.

18 (i) "Unexcused absence" means any absence that is neither an
19 excused absence or a disciplinary absence. Also, the accumulation
20 of 10 late arrivals equals 1 unexcused absence.

21 Enacting section 1. This amendatory act does not take effect
22 unless Senate Bill No. 69 of the 101st Legislature is enacted into
23 law.