



# HOUSE BILL No. 5695

May 25, 2016, Introduced by Rep. Lucido 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~~ **SUBJECT TO SECTION 1310D, IF** a pupil  
2 enrolled in grade 6 or above commits a physical assault at school  
3 against a person employed by or engaged as a volunteer or  
4 contractor by the school board and the physical assault is reported  
5 to the school board, school district superintendent, or building  
6 principal by the victim or, if the victim is unable to report the  
7 assault, by another person on the victim's behalf, then the school  
8 board, or the designee of the school board as described in section  
9 1311(1) on behalf of the school board, shall expel the pupil from  
10 the school district permanently, subject to possible reinstatement

1 under subsection (5). A district superintendent or building  
2 principal who receives a report described in this subsection shall  
3 forward the report to the school board.

4 (2) ~~IF~~ **SUBJECT TO SECTION 1310D, IF** a pupil enrolled in grade  
5 6 or above commits a verbal assault, as defined by school board  
6 policy, at school against a person employed by or engaged as a  
7 volunteer or contractor by the school board and the verbal assault  
8 is reported to the school board, school district superintendent, or  
9 building principal by the victim or, if the victim is unable to  
10 report the verbal assault, by another person on the victim's  
11 behalf, or if a pupil enrolled in grade 6 or above makes a bomb  
12 threat or similar threat directed at a school building, other  
13 school property, or a school-related event, then the school board,  
14 or the designee of the school board as described in section 1311(1)  
15 on behalf of the school board, shall suspend or expel the pupil  
16 from the school district for a period of time as determined in the  
17 discretion of the school board or its designee. A district  
18 superintendent or building principal who receives a report  
19 described in this subsection shall forward the report to the school  
20 board. Notwithstanding section 1147, a school district is not  
21 required to allow an individual expelled from another school  
22 district under this subsection to attend school in the school  
23 district during the expulsion.

24 (3) If an individual is permanently expelled pursuant to this  
25 section, the expelling school district shall enter on the  
26 individual's permanent record that he or she has been permanently  
27 expelled pursuant to this section. Except if a school district

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

1 388.1620.

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

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

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

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

27 (c) It is the responsibility of the parent or legal guardian

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

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

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

1 recommendation shall be based on consideration of all of the  
2 following factors:

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

5 (ii) The extent to which reinstatement of the individual would  
6 create a risk of school district or individual liability for the  
7 school board or school district personnel.

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

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

11 (v) The individual's attitude concerning the incident that  
12 caused the expulsion.

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

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

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

26 (g) A school board may require an individual and, if the  
27 petition was filed by a parent or legal guardian, his or her parent

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

12 (6) A school board or school administrator that complies with  
13 this section is not liable for damages for suspending or expelling  
14 a pupil pursuant to this section, and the authorizing body of a  
15 public school academy is not liable for damages for suspension or  
16 expulsion of a pupil by the public school academy pursuant to this  
17 section.

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

23 (8) This section does not diminish any rights under federal  
24 law of a pupil who has been determined to be eligible for special  
25 education programs and services.

26 (9) If a pupil expelled from a school district pursuant to  
27 this section is enrolled by a public school district sponsored

1 alternative education program or a public school academy during the  
2 period of expulsion, the public school academy or the alternative  
3 education program is immediately eligible for the prorated share of  
4 either the public school academy's or operating school district's  
5 foundation allowance or the expelling school district's foundation  
6 allowance, whichever is higher.

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

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



House Bill No. 5695 as amended June 1, 2016

1 in geographic areas that are not being served.

2 (12) As used in this section:

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

7 (b) "Physical assault" means intentionally causing or  
8 attempting to cause physical harm to another through force or  
9 violence.

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

12 (d) "School district" means a school district, ~~a local act~~  
13 ~~school district, an intermediate school district, or a public~~  
14 school academy.

15 Enacting section 1. This amendatory act takes effect August 1,  
16 [2016]

17 Enacting section 2. This amendatory act does not take effect  
18 unless House Bill No. 5618 of the 98th Legislature is enacted into  
19 law.