

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

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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.