

SENATE BILL No. 103

February 7, 2017, Introduced by Senators SCHUITMAKER and EMMONS and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1311 and 1561 (MCL 380.1311 and 380.1561),
section 1311 as amended by 2016 PA 364 and section 1561 as amended
by 2009 PA 204.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1311. (1) Subject to subsection (2), the school board, or
2 the school district superintendent, a school building principal, or
3 another school district official if designated by the school board,
4 may authorize or order the suspension or expulsion from school of a
5 pupil guilty of gross misdemeanor or persistent disobedience if, in
6 the judgment of the school board or its designee, as applicable,
7 the interest of the school is served by the authorization or order.
8 If there is reasonable cause to believe that the pupil is a student
9 with a disability, and the school district has not evaluated the

1 pupil in accordance with rules of the superintendent of public
2 instruction to determine if the pupil is a student with a
3 disability, the pupil shall be evaluated immediately by the
4 intermediate school district of which the school district is
5 constituent in accordance with section 1711. **A CHILD SHALL NOT BE**
6 **SUSPENDED OR EXPELLED SOLELY FOR BEING TRUANT OR CHRONICALLY**
7 **ABSENT.**

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

19 (a) The object or instrument possessed by the pupil was not
20 possessed by the pupil for use as a weapon, or for direct or
21 indirect delivery to another person for use as a weapon.

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

23 (c) The pupil did not know or have reason to know that the
24 object or instrument possessed by the pupil constituted a dangerous
25 weapon.

26 (d) The weapon was possessed by the pupil at the suggestion,
27 request, or direction of, or with the express permission of, school

1 or police authorities.

2 (3) ~~There~~ **BEGINNING AUGUST 1, 2017, THERE** is a rebuttable
3 presumption that expulsion under subsection (2) for possession of a
4 weapon is not justified if both of the following are met:

5 (a) The school board or its designee determines in writing
6 that at least 1 of the factors listed in subsection (2)(a) to (d)
7 has been established in a clear and convincing manner.

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

9 (4) If an individual is expelled pursuant to subsection (2),
10 the expelling school district shall enter on the individual's
11 permanent record that he or she has been expelled pursuant to
12 subsection (2). Except if a school district operates or
13 participates cooperatively in an alternative education program
14 appropriate for individuals expelled pursuant to subsection (2) and
15 in its discretion admits the individual to that program, and except
16 for a strict discipline academy established under sections 1311b to
17 1311m, an individual expelled pursuant to subsection (2) is
18 expelled from all public schools in this state and the officials of
19 a school district shall not allow the individual to enroll in the
20 school district unless the individual has been reinstated under
21 subsection (6). Except as otherwise provided by law, a program
22 operated for individuals expelled pursuant to subsection (2) shall
23 ensure that those individuals are physically separated at all times
24 during the school day from the general pupil population. If an
25 individual expelled from a school district pursuant to subsection
26 (2) is not placed in an alternative education program or strict
27 discipline academy, the school district may provide, or may arrange

1 for the intermediate school district to provide, appropriate
2 instructional services to the individual at home. The type of
3 services provided shall meet the requirements of section 6(4)(u) of
4 the state school aid act of 1979, MCL 388.1606, and the services
5 may be contracted for in the same manner as services for homebound
6 pupils under section 109 of the state school aid act of 1979, MCL
7 388.1709. This subsection does not require a school district to
8 expend more money for providing services for a pupil expelled
9 pursuant to subsection (2) than the amount of the foundation
10 allowance the school district receives for the pupil as calculated
11 under section 20 of the state school aid act of 1979, MCL 388.1620.

12 (5) If a school board expels an individual pursuant to
13 subsection (2), the school board shall ensure that, within 3 days
14 after the expulsion, an official of the school district refers the
15 individual to the appropriate county department of ~~social~~**HUMAN**
16 services or county community mental health ~~agency~~**SERVICES PROGRAM**
17 and notifies the individual's parent or legal guardian or, if the
18 individual is at least age 18 or is an emancipated minor, notifies
19 the individual of the referral.

20 (6) The parent or legal guardian of an individual expelled
21 pursuant to subsection (2) or, if the individual is at least age 18
22 or is an emancipated minor, the individual may petition the
23 expelling school board for reinstatement of the individual to
24 public education in the school district. If the expelling school
25 board denies a petition for reinstatement, the parent or legal
26 guardian or, if the individual is at least age 18 or is an
27 emancipated minor, the individual may petition another school board

1 for reinstatement of the individual in that other school district.
2 All of the following apply to reinstatement under this subsection:

3 (a) For an individual who was enrolled in grade 5 or below at
4 the time of the expulsion and who has been expelled for possessing
5 a firearm or threatening another person with a dangerous weapon,
6 the parent or legal guardian or, if the individual is at least age
7 18 or is an emancipated minor, the individual may initiate a
8 petition for reinstatement at any time after the expiration of 60
9 school days after the date of expulsion. For an individual who was
10 enrolled in grade 5 or below at the time of the expulsion and who
11 has been expelled pursuant to subsection (2) for a reason other
12 than possessing a firearm or threatening another person with a
13 dangerous weapon, the parent or legal guardian or, if the
14 individual is at least age 18 or is an emancipated minor, the
15 individual may initiate a petition for reinstatement at any time.
16 For an individual who was in grade 6 or above at the time of
17 expulsion, the parent or legal guardian or, if the individual is at
18 least age 18 or is an emancipated minor, the individual may
19 initiate a petition for reinstatement at any time after the
20 expiration of 150 school days after the date of expulsion.

21 (b) An individual who was in grade 5 or below at the time of
22 the expulsion and who has been expelled for possessing a firearm or
23 threatening another person with a dangerous weapon shall not be
24 reinstated before the expiration of 90 school days after the date
25 of expulsion. An individual who was in grade 5 or below at the time
26 of the expulsion and who has been expelled pursuant to subsection
27 (2) for a reason other than possessing a firearm or threatening

1 another person with a dangerous weapon shall not be reinstated
2 before the expiration of 10 school days after the date of the
3 expulsion. An individual who was in grade 6 or above at the time of
4 the expulsion shall not be reinstated before the expiration of 180
5 school days after the date of expulsion.

6 (c) It is the responsibility of the parent or legal guardian
7 or, if the individual is at least age 18 or is an emancipated
8 minor, of the individual to prepare and submit the petition. A
9 school board is not required to provide any assistance in preparing
10 the petition. Upon request by a parent or legal guardian or, if the
11 individual is at least age 18 or is an emancipated minor, by the
12 individual, a school board shall make available a form for a
13 petition.

14 (d) Not later than 10 school days after receiving a petition
15 for reinstatement under this subsection, a school board shall
16 appoint a committee to review the petition and any supporting
17 information submitted by the parent or legal guardian or, if the
18 individual is at least age 18 or is an emancipated minor, by the
19 individual. The committee shall consist of 2 school board members,
20 1 school administrator, 1 teacher, and 1 parent of a pupil in the
21 school district. During this time the superintendent of the school
22 district may prepare and submit for consideration by the committee
23 information concerning the circumstances of the expulsion and any
24 factors mitigating for or against reinstatement.

25 (e) Not later than 10 school days after all members are
26 appointed, the committee described in subdivision (d) shall review
27 the petition and any supporting information and information

1 provided by the school district and shall submit a recommendation
2 to the school board on the issue of reinstatement. The
3 recommendation shall be for unconditional reinstatement, for
4 conditional reinstatement, or against reinstatement, and shall be
5 accompanied by an explanation of the reasons for the recommendation
6 and of any recommended conditions for reinstatement. The
7 recommendation shall be based on consideration of all of the
8 following factors:

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

11 (ii) The extent to which reinstatement of the individual would
12 create a risk of school district liability or individual liability
13 for the school board or school district personnel.

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

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

17 (v) The individual's attitude concerning the incident that
18 caused the expulsion.

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

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

26 (f) Not later than the next regularly scheduled board meeting
27 after receiving the recommendation of the committee under

1 subdivision (e), a school board shall make a decision to
2 unconditionally reinstate the individual, conditionally reinstate
3 the individual, or deny reinstatement of the individual. The
4 decision of the school board is final.

5 (g) A school board may require an individual and, if the
6 petition was filed by a parent or legal guardian, his or her parent
7 or legal guardian to agree in writing to specific conditions before
8 reinstating the individual in a conditional reinstatement. The
9 conditions may include, but are not limited to, agreement to a
10 behavior contract, which may involve the individual, parent or
11 legal guardian, and an outside agency; participation in or
12 completion of an anger management program or other appropriate
13 counseling; periodic progress reviews; and specified immediate
14 consequences for failure to abide by a condition. A parent or legal
15 guardian or, if the individual is at least age 18 or is an
16 emancipated minor, the individual may include proposed conditions
17 in a petition for reinstatement submitted under this subsection.

18 (7) A school board or school administrator that complies with
19 subsection (2) is not liable for damages for expelling a pupil
20 pursuant to subsection (2), and the authorizing body of a public
21 school academy is not liable for damages for expulsion of a pupil
22 by the public school academy pursuant to subsection (2).

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

26 (9) 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 (10) If a pupil expelled from a public school district
3 pursuant to subsection (2) is enrolled by a public school district
4 sponsored alternative education program or a public school academy
5 during the period of expulsion, the public school academy or
6 alternative education program shall immediately become eligible for
7 the prorated share of either the public school academy or operating
8 school district's foundation allowance or the expelling school
9 district's foundation allowance, whichever is higher.

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

1 that are not being served.

2 (12) As used in this section:

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

5 **(B) "CHRONICALLY ABSENT" MEANS THAT TERM AS DEFINED IN SECTION**
6 **1561.**

7 (C) ~~(b)~~ "Criminal sexual conduct" means a violation of section
8 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
9 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

10 (D) ~~(e)~~ "Dangerous weapon" means that term as defined in
11 section 1313.

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

14 (F) ~~(e)~~ "School board" means a school board, intermediate
15 school board, or the board of directors of a public school academy.

16 (G) ~~(f)~~ "School district" means a school district,
17 intermediate school district, or public school academy.

18 **(H) "TRUANT" MEANS THAT TERM AS DEFINED IN SECTION 1561.**

19 (I) ~~(g)~~ "Weapon free school zone" means that term as defined
20 in section 237a of the Michigan penal code, 1931 PA 328, MCL
21 750.237a.

22 Sec. 1561. (1) Except as otherwise provided in this section,
23 for a child who turned age 11 before December 1, 2009 or who
24 entered grade 6 before 2009, the child's parent, guardian, or other
25 person in this state having control and charge of the child shall
26 send that child to a public school during the entire school year
27 from the age of 6 to the child's sixteenth birthday. Except as

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

14 (2) A child becoming 6 years of age before December 1 shall be
15 enrolled on the first school day of the school year in which the
16 child's sixth birthday occurs **AND SHALL BE IN ATTENDANCE AFTER**
17 **ENROLLMENT**, and a child becoming 6 years of age on or after
18 December 1 shall be enrolled on the first school day of the school
19 year following the school year in which the child's sixth birthday
20 occurs **AND SHALL BE IN ATTENDANCE AFTER ENROLLMENT. IF A CHILD IS**
21 **TRUANT OR CHRONICALLY ABSENT, THE PUBLIC SCHOOL IN WHICH THE CHILD**
22 **IS ENROLLED SHALL TAKE THE MEASURES REQUIRED UNDER SECTION 1586.**

23 (3) A child is not required to attend ~~BE IN ATTENDANCE IN~~ a
24 public school in any of the following cases:

25 (a) The child is attending regularly and is being taught in a
26 state approved nonpublic school, which teaches subjects comparable
27 to those taught in the public schools to children of corresponding

1 age and grade, as determined by the course of study for the public
2 schools of the district within which the nonpublic school is
3 located.

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

8 (c) The child is age 12 or 13 and is ~~in attendance at~~
9 **ATTENDING** confirmation classes conducted for a period of 5 months
10 or less.

11 (d) The child is regularly enrolled in a public school while
12 ~~in attendance at~~ **ATTENDING** religious instruction classes for not
13 more than 2 class hours per week, off public school property during
14 public school hours, upon written request of the parent, guardian,
15 or person in loco parentis under rules promulgated by the state
16 board.

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

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

23 (4) For a child being educated at the child's home by his or
24 her parent or legal guardian, exemption from the requirement to
25 ~~attend~~ **BE IN ATTENDANCE IN** public school may exist under either
26 subsection (3)(a) or (3)(f), or both.

27 (5) For a child who turns age 11 on or after December 1, 2009

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

7 (6) FOR THE PURPOSES OF REQUIRING A PUPIL'S PARENT OR LEGAL
8 GUARDIAN TO PROVIDE DOCUMENTATION FOR AN EXCUSED ABSENCE UNDER THIS
9 SECTION, A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC
10 SCHOOL ACADEMY SHALL TAKE STEPS TO PROVIDE APPROPRIATE ASSISTANCE
11 FOR ILLITERACY AND SHALL ALLOW A NON-ENGLISH-SPEAKING PARENT OR
12 LEGAL GUARDIAN TO SUBMIT DOCUMENTATION IN HIS OR HER NATIVE
13 LANGUAGE.

14 (7) FOR PURPOSES OF DATA COLLECTION, A DISCIPLINARY ABSENCE OF
15 1 TO 5 CONSECUTIVE DAYS SHALL BE LABELED AND TRACKED AS SHORT-TERM
16 AND A DISCIPLINARY ABSENCE OF 6 OR MORE CONSECUTIVE DAYS SHALL BE
17 LABELED AND TRACKED AS LONG-TERM.

18 (8) AS USED IN THIS SECTION:

19 (A) "CHRONICALLY ABSENT" MEANS A PUPIL IS ABSENT FOR 10% OR
20 MORE OF THE SCHEDULED SCHOOL DAYS IN A SCHOOL YEAR FOR WHICH THE
21 PUPIL IS ENROLLED IN SCHOOL, WHETHER THE ABSENTEEISM IS DUE TO
22 UNEXCUSED, EXCUSED, OR DISCIPLINARY ABSENCES.

23 (B) "DISCIPLINARY ABSENCE" MEANS AN ABSENCE THAT IS THE RESULT
24 OF DISCIPLINARY ACTION IMPOSED BY SCHOOL OFFICIALS AND IS NEITHER
25 AN UNEXCUSED NOR EXCUSED ABSENCE.

26 (C) "DOCUMENTATION" MEANS A WRITTEN DOCUMENT THAT MAY INCLUDE
27 A SIGNED NOTE FROM A PUPIL'S PARENT OR LEGAL GUARDIAN, A SIGNED

1 NOTE FROM A SCHOOL EMPLOYEE OR OFFICIAL WHO SPOKE IN PERSON TO A
2 PUPIL'S PARENT OR LEGAL GUARDIAN REGARDING THE PUPIL'S ABSENCE, OR
3 A NOTE CONFIRMING A PUPIL'S ABSENCE BY A SCHOOL NURSE OR A LICENSED
4 MEDICAL PROFESSIONAL. FOR AN ABSENCE DUE TO ILLNESS OR MEDICAL
5 CONDITION OF THE PUPIL, DOCUMENTATION FROM A LICENSED MEDICAL
6 PROFESSIONAL IS REQUIRED ONLY IF THE PUPIL'S ILLNESS- OR MEDICAL-
7 CONDITION-RELATED ABSENCE LASTS FOR 5 OR MORE CONSECUTIVE SCHOOL
8 DAYS IN THE SAME SCHOOL YEAR.

9 (D) "EXCUSED ABSENCE" MEANS, FOR A PUPIL'S FIRST 5 ABSENCES
10 FROM SCHOOL FOR A SCHOOL YEAR, AN ABSENCE FOR WHICH DOCUMENTATION
11 OF THE REASON FOR THE ABSENCE HAS BEEN SUBMITTED AND APPROVED. FOR
12 A PUPIL'S SIXTH OR SUBSEQUENT ABSENCE FROM SCHOOL FOR A SCHOOL
13 YEAR, AN ABSENCE IS CONSIDERED EXCUSED ONLY FOR 1 OF THE FOLLOWING
14 REASONS AND ONLY WHEN DOCUMENTATION HAS BEEN SUBMITTED AND
15 APPROVED:

16 (i) ILLNESS OR MEDICAL CONDITION OF THE PUPIL.

17 (ii) MEDICAL APPOINTMENT OF THE PUPIL, INCLUDING, BUT NOT
18 LIMITED TO, MEDICAL, COUNSELING, DENTAL, OR OPTOMETRY.

19 (iii) THE PUPIL'S OBSERVANCE OF A RELIGIOUS HOLIDAY.

20 (iv) DEATH IN THE PUPIL'S FAMILY.

21 (v) OTHER EMERGENCY BEYOND THE CONTROL OF THE PUPIL OR THE
22 PUPIL'S FAMILY.

23 (vi) A MANDATED COURT APPEARANCE FOR THE PUPIL.

24 (vii) AN EXTRAORDINARY EDUCATIONAL OPPORTUNITY THAT IS PRE-
25 APPROVED BY SCHOOL OFFICIALS IN ACCORDANCE WITH DEPARTMENT
26 GUIDELINES.

27 (viii) MILITARY SERVICE OF THE PUPIL'S PARENT OR LEGAL

1 GUARDIAN.

2 (ix) HOMELESSNESS.

3 (E) "IN ATTENDANCE" MEANS, FOR A SCHOOL DAY, THAT A PUPIL IS
4 PRESENT AT HIS OR HER ASSIGNED SCHOOL OR SCHOOL ACTIVITY FOR AT
5 LEAST 90% OF THE SCHOOL DAY.

6 (F) "LATE ARRIVAL" OR "TARDY" MEANS ARRIVING FOR CLASS OR
7 SCHOOL ACTIVITY AFTER THE ESTABLISHED COMMENCEMENT TIME, UNLESS
8 EXCUSED.

9 (G) "SCHOOL ACTIVITY" MEANS AN ACTIVITY SPONSORED BY A SCHOOL
10 AT WHICH ATTENDANCE BY THE PUPIL IS MANDATORY.

11 (H) "TRUANT" MEANS A CHILD WHO HAS 10 OR MORE UNEXCUSED
12 ABSENCES PER SCHOOL YEAR. A PUPIL MAY BE CONSIDERED TO BE TRUANT
13 ONLY ONCE IN A PARTICULAR SCHOOL YEAR.

14 (I) "UNEXCUSED ABSENCE" MEANS ANY ABSENCE THAT IS NEITHER AN
15 EXCUSED ABSENCE NOR A DISCIPLINARY ABSENCE. ALSO, THE ACCUMULATION
16 OF 10 LATE ARRIVALS EQUALS 1 UNEXCUSED ABSENCE.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.