

HOUSE BILL No. 5229

January 22, 2014, Introduced by Rep. Lamonte and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1311 and 1311a (MCL 380.1311 and 380.1311a),
section 1311 as amended by 2008 PA 1 and section 1311a as amended
by 2007 PA 138.

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,

1 the interest of the school is served by the authorization or order.
2 If there is reasonable cause to believe that the pupil is a student
3 with a disability, and the school district has not evaluated the
4 pupil in accordance with rules of the superintendent of public
5 instruction to determine if the pupil is a student with a
6 disability, the pupil shall be evaluated immediately by the
7 intermediate school district of which the school district is
8 constituent in accordance with section 1711.

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

1 expend more money for providing services for a pupil expelled
2 pursuant to subsection (2) than the amount of the foundation
3 allowance the school district receives for the pupil as calculated
4 under section 20 of the state school aid act of 1979, MCL 388.1620.

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

13 (5) The parent or legal guardian of an individual expelled
14 pursuant to subsection (2) or, if the individual is at least age 18
15 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) For an individual who was enrolled in grade 5 or below at
24 the time of the expulsion and who has been expelled for possessing
25 a firearm or threatening another person with a dangerous weapon,
26 the parent or legal guardian or, if the individual is at least age
27 18 or is an emancipated minor, the individual may initiate a

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

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

26 (c) It is the responsibility of the parent or legal guardian
27 or, if the individual is at least age 18 or is an emancipated

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

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

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

1 following factors:

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

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

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

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

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

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

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

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

25 (g) A school board may require an individual and, if the
26 petition was filed by a parent or legal guardian, his or her parent
27 or legal guardian to agree in writing to specific conditions before

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

11 (6) A school board or school administrator that complies with
12 subsection (2) is not liable for damages for expelling a pupil
13 pursuant to subsection (2), and the authorizing body of a public
14 school academy is not liable for damages for expulsion of a pupil
15 by the public school academy pursuant to subsection (2).

16 (7) The department shall develop and distribute to all school
17 districts a form for a petition for reinstatement to be used under
18 subsection (5).

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

22 (9) If a pupil expelled from a public school district pursuant
23 to subsection (2) is enrolled by a public school district sponsored
24 alternative education program or a public school academy during the
25 period of expulsion, the public school academy or alternative
26 education program shall immediately become eligible for the
27 prorated share of either the public school academy or operating

1 school district's foundation allowance or the expelling school
2 district's foundation allowance, whichever is higher.

3 (10) If an individual is expelled pursuant to subsection (2),
4 it is the responsibility of that individual and of his or her
5 parent or legal guardian to locate a suitable alternative
6 educational program and to enroll the individual in such a program
7 during the expulsion. The office of safe schools in the department
8 shall compile information on and catalog existing alternative
9 education programs or schools and nonpublic schools that may be
10 open to enrollment of individuals expelled pursuant to subsection
11 (2) and pursuant to section 1311a, and shall periodically
12 distribute this information to school districts for distribution to
13 expelled individuals. A school board that establishes an
14 alternative education program or school described in this
15 subsection shall notify the office of safe schools about the
16 program or school and the types of pupils it serves. The office of
17 safe schools also shall work with and provide technical assistance
18 to school districts, authorizing bodies for public school
19 academies, and other interested parties in developing these types
20 of alternative education programs or schools in geographic areas
21 that are not being served.

22 (11) As used in this section:

23 (a) "Arson" means a felony violation of chapter X of the
24 Michigan penal code, 1931 PA 328, MCL 750.71 to 750.80.

25 (b) "Criminal sexual conduct" means a violation of section
26 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
27 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

1 (c) "Dangerous weapon" means that term as defined in section
2 1313.

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

5 (e) "School board" means a school board, intermediate school
6 board, or the board of directors of a public school academy.

7 (f) "School district" means a school district, ~~a local act~~
8 ~~school district,~~ an intermediate school district, or a public
9 school academy.

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

12 Sec. 1311a. (1) If a pupil enrolled in grade 6 or above
13 commits a physical assault at school against ~~a person~~ **AN INDIVIDUAL**
14 employed by or engaged as a volunteer or contractor by the school
15 board and the physical assault is reported to the school board,
16 school district superintendent, or building principal by the victim
17 or, if the victim is unable to report the assault, by another
18 person on the victim's behalf, then the school board, or the
19 designee of the school board as described in section 1311(1) on
20 behalf of the school board, shall expel the pupil from the school
21 district permanently, subject to possible reinstatement under
22 subsection (5). A district superintendent or building principal who
23 receives a report described in this subsection shall forward the
24 report to the school board.

25 (2) If a pupil enrolled in grade 6 or above commits a verbal
26 assault, as defined by school board policy, at school against a
27 ~~person~~ **AN INDIVIDUAL** employed by or engaged as a volunteer or

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

18 (3) If an individual is permanently expelled pursuant to this
19 section, the expelling school district shall enter on the
20 individual's permanent record that he or she has been permanently
21 expelled pursuant to this section. Except if a school district
22 operates or participates cooperatively in an alternative education
23 program appropriate for individuals expelled pursuant to this
24 section and section 1311(2) and in its discretion admits the
25 individual to that program, and except for a strict discipline
26 academy established under sections 1311b to ~~1311f~~, **1311M**, an
27 individual permanently expelled pursuant to this section is

1 expelled from all public schools in this state and the officials of
2 a school district shall not allow the individual to enroll in the
3 school district unless the individual has been reinstated under
4 subsection (5). Except as otherwise provided by law, a program
5 operated for individuals expelled pursuant to this section and
6 section 1311(2) shall ensure that those individuals are physically
7 separated at all times during the school day from the general pupil
8 population. If an individual permanently expelled from a school
9 district pursuant to this section is not placed in an alternative
10 education program or strict discipline academy, the school district
11 may provide, or may arrange for the intermediate school district to
12 provide, appropriate instructional services to the individual at
13 home. The type of services provided shall meet the requirements of
14 section 6(4)(u) of the state school aid act of 1979, MCL 388.1606,
15 and the services may be contracted for in the same manner as
16 services for homebound pupils under section 109 of the state school
17 aid act of 1979, MCL 388.1709. This subsection does not require a
18 school district to expend more money for providing services for a
19 pupil permanently expelled pursuant to this section than the amount
20 of the foundation allowance the school district receives for the
21 pupil **AS CALCULATED** under section 20 of the state school aid act of
22 1979, MCL 388.1620.

23 (4) If a school board permanently expels an individual
24 pursuant to this section, the school board shall ensure that,
25 within 3 days after the expulsion, an official of the school
26 district refers the individual to the appropriate county department
27 of social services or county community mental health agency and

1 notifies the individual's parent or legal guardian or, if the
2 individual is at least age 18 or is an emancipated minor, notifies
3 the individual of the referral.

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

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

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

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

1 petition.

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

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

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

26 (ii) The extent to which reinstatement of the individual would
27 create a risk of school district or individual liability for the

1 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

1 counseling; periodic progress reviews; and specified immediate
2 consequences for failure to abide by a condition. A parent or legal
3 guardian or, if the individual is at least age 18 or is an
4 emancipated minor, the individual may include proposed conditions
5 in a petition for reinstatement submitted under this subsection.

6 (6) A school board or school administrator that complies with
7 this section is not liable for damages for suspending or expelling
8 a pupil pursuant to this section, and the authorizing body of a
9 public school academy is not liable for damages for suspension or
10 expulsion of a pupil by the public school academy pursuant to this
11 section.

12 (7) The department shall develop and distribute to all school
13 districts a form for a petition for reinstatement to be used under
14 subsection (5). The department may designate the form used for a
15 petition for reinstatement under section 1311 as a form that may be
16 used under this section.

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

20 (9) If a pupil expelled from a school district pursuant to
21 this section is enrolled by a public school district sponsored
22 alternative education program or a public school academy during the
23 period of expulsion, the public school academy or the alternative
24 education program is immediately eligible for the prorated share of
25 either the public school academy's or operating school district's
26 foundation allowance or the expelling school district's foundation
27 allowance, whichever is higher.

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

5 (11) If an individual is expelled pursuant to this section, it
6 is the responsibility of that individual and of his or her parent
7 or legal guardian to locate a suitable educational program and to
8 enroll the individual in such a program during the expulsion. The
9 office for safe schools in the department shall compile information
10 on and catalog existing alternative education programs or schools
11 and nonpublic schools that may be open to enrollment of individuals
12 expelled pursuant to this section and pursuant to section 1311(2),
13 and shall periodically distribute this information to school
14 districts for distribution to expelled individuals. A school board
15 that establishes an alternative education program or school
16 described in this subsection shall notify the office of safe
17 schools about the program or school and the types of pupils it
18 serves. The office for safe schools also shall work with and
19 provide technical assistance to school districts, authorizing
20 bodies for public school academies, and other interested parties in
21 developing these types of alternative education programs or schools
22 in geographic areas that are not being served.

23 (12) As used in this section:

24 (a) "At school" means in a classroom, elsewhere on school
25 premises, on a school bus or other school-related vehicle, or at a
26 school-sponsored activity or event whether or not it is held on
27 school premises.

1 (b) "Physical assault" means intentionally causing or
2 attempting to cause physical harm to another through force or
3 violence.

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

6 (d) "School district" means a school district, ~~a local act~~
7 ~~school district~~, an intermediate school district, or a public
8 school academy.