

SENATE BILL No. 405

June 18, 2015, Introduced by Senators SCHUITMAKER and EMMONS and referred to the Committee on Education.

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 2008 PA 1 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) If a pupil possesses in a weapon free school zone a weapon
9 that constitutes a dangerous weapon, commits arson in a school
10 building or on school grounds, or commits criminal sexual conduct
11 in a school building or on school grounds, the school board, or the
12 designee of the school board as described in subsection (1) on
13 behalf of the school board, shall expel the pupil from the school
14 district permanently, subject to possible reinstatement under
15 subsection (5). However, a school board is not required to expel a
16 pupil for possessing a weapon if the pupil establishes in a clear
17 and convincing manner at least 1 of the following:

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

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

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

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

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

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

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

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

22 (a) For an individual who was enrolled in grade 5 or below at
23 the time of the expulsion and who has been expelled for possessing
24 a firearm or threatening another person with a dangerous weapon,
25 the parent or legal guardian or, if the individual is at least age
26 18 or is an emancipated minor, the individual may initiate a
27 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 pursuant to subsection (2) for a reason other
4 than possessing a firearm or threatening another person with a
5 dangerous weapon, the parent or legal guardian or, if the
6 individual is at least age 18 or is an emancipated minor, the
7 individual may initiate a petition for reinstatement at any time.
8 For an individual who was in grade 6 or above at the time of
9 expulsion, the parent or legal guardian or, if the individual is at
10 least age 18 or is an emancipated minor, the individual may
11 initiate a petition for reinstatement at any time after the
12 expiration of 150 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 not be
16 reinstated before the expiration of 90 school days after the date
17 of expulsion. An individual who was in grade 5 or below at the time
18 of the expulsion and who has been expelled pursuant to subsection
19 (2) for a reason other than possessing a firearm or threatening
20 another person with a dangerous weapon shall 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 not be reinstated before the expiration of 180
24 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 district's foundation allowance, whichever is higher.

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

21 (11) As used in this section:

22 (a) "Arson" means a felony violation of chapter X of the
23 Michigan penal code, 1931 PA 328, MCL 750.71 to ~~750.80~~ 750.79.

24 (B) "CHRONICALLY ABSENT" MEANS THAT TERM AS DEFINED IN SECTION
25 1561.

26 (C) ~~(b)~~ "Criminal sexual conduct" means a violation of section
27 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA

1 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

2 (D) ~~(e)~~—"Dangerous weapon" means that term as defined in
3 section 1313.

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

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

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

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

12 (I) ~~(g)~~—"Weapon free school zone" means that term as defined
13 in section 237a of the Michigan penal code, 1931 PA 328, MCL
14 750.237a.

15 Sec. 1561. (1) Except as otherwise provided in this section,
16 for a child who turned age 11 before December 1, 2009 or who
17 entered grade 6 before 2009, the child's parent, guardian, or other
18 person in this state having control and charge of the child shall
19 send that child to a public school during the entire school year
20 from the age of 6 to the child's sixteenth birthday. Except as
21 otherwise provided in this section, for a child who turns age 11 on
22 or after December 1, 2009 or a child who was age 11 before that
23 date and enters grade 6 in 2009 or later, the child's parent,
24 guardian, or other person in this state having control and charge
25 of the child shall send the child to a public school during the
26 entire school year from the age of 6 to the child's eighteenth
27 birthday. ~~The child's attendance shall be continuous and~~

~~consecutive for the school year fixed by the school district in which the child is enrolled. In a school district that maintains school during the entire calendar year and in which the school year is divided into quarters, a child is not required to attend the public school more than 3 quarters in 1 calendar year, but a child shall not be absent for 2 or more consecutive quarters.~~

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

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

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

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

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

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

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

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

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

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

27 (6) **FOR THE PURPOSES OF REQUIRING A PUPIL'S PARENT OR LEGAL**

1 GUARDIAN TO PROVIDE DOCUMENTATION FOR AN EXCUSED ABSENCE UNDER THIS
2 SECTION, A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC
3 SCHOOL ACADEMY SHALL TAKE STEPS TO PROVIDE APPROPRIATE ASSISTANCE
4 FOR ILLITERACY AND SHALL ALLOW A NON-ENGLISH-SPEAKING PARENT OR
5 LEGAL GUARDIAN TO SUBMIT DOCUMENTATION IN HIS OR HER NATIVE
6 LANGUAGE.

7 (7) FOR PURPOSES OF DATA COLLECTION, A DISCIPLINARY ABSENCE OF
8 1 TO 5 CONSECUTIVE DAYS SHALL BE LABELED AND TRACKED AS SHORT-TERM
9 AND A DISCIPLINARY ABSENCE OF 6 OR MORE CONSECUTIVE DAYS SHALL BE
10 LABELED AND TRACKED AS LONG-TERM.

11 (8) AS USED IN THIS SECTION:

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

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

19 (C) "DOCUMENTATION" MEANS A WRITTEN DOCUMENT THAT MAY INCLUDE
20 A SIGNED NOTE FROM A PUPIL'S PARENT OR LEGAL GUARDIAN, A SIGNED
21 NOTE FROM A SCHOOL EMPLOYEE OR OFFICIAL WHO SPOKE IN PERSON TO A
22 PUPIL'S PARENT OR LEGAL GUARDIAN REGARDING THE PUPIL'S ABSENCE, OR
23 A NOTE CONFIRMING A PUPIL'S ABSENCE BY A SCHOOL NURSE OR A LICENSED
24 MEDICAL PROFESSIONAL. FOR AN ABSENCE DUE TO ILLNESS OR MEDICAL
25 CONDITION OF THE PUPIL, DOCUMENTATION FROM A LICENSED MEDICAL
26 PROFESSIONAL IS REQUIRED ONLY IF THE PUPIL'S ILLNESS- OR MEDICAL-
27 CONDITION-RELATED ABSENCE LASTS FOR 5 OR MORE CONSECUTIVE SCHOOL

1 DAYS IN THE SAME SCHOOL YEAR.

2 (D) "EXCUSED ABSENCE" MEANS, FOR A PUPIL'S FIRST 5 ABSENCES
3 FROM SCHOOL FOR A SCHOOL YEAR, AN ABSENCE FOR WHICH DOCUMENTATION
4 OF THE REASON FOR THE ABSENCE HAS BEEN SUBMITTED AND APPROVED. FOR
5 A PUPIL'S SIXTH OR SUBSEQUENT ABSENCE FROM SCHOOL FOR A SCHOOL
6 YEAR, AN ABSENCE IS CONSIDERED EXCUSED ONLY FOR 1 OF THE FOLLOWING
7 REASONS AND ONLY WHEN DOCUMENTATION HAS BEEN SUBMITTED AND
8 APPROVED:

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

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

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

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

14 (v) OTHER EMERGENCY BEYOND THE CONTROL OF THE PUPIL OR THE
15 PUPIL'S FAMILY.

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

17 (vii) AN EXTRAORDINARY EDUCATIONAL OPPORTUNITY THAT IS PRE-
18 APPROVED BY SCHOOL OFFICIALS IN ACCORDANCE WITH DEPARTMENT
19 GUIDELINES.

20 (viii) MILITARY SERVICE OF THE PUPIL'S PARENT OR LEGAL GUARDIAN.

21 (ix) HOMELESSNESS.

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

25 (F) "LATE ARRIVAL" OR "TARDY" MEANS ARRIVING FOR CLASS OR
26 SCHOOL ACTIVITY AFTER THE ESTABLISHED COMMENCEMENT TIME, UNLESS
27 EXCUSED.

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

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

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