



SENATE BILL No. 527

May 11, 1995, Introduced by Senators STILLE, GEAKE, ROGERS, MC MANUS, STEIL, GAST, NORTH, BENNETT and STALLINGS and referred to the Committee on Education.

A bill to amend section 1311 of Act No. 451 of the Public Acts of 1976, entitled as amended

"The school code of 1976,"

as amended by Act No. 328 of the Public Acts of 1994, being section 380.1311 of the Michigan Compiled Laws; and to add sections 1311a, 1311b, 1311c, and 1311d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1311 of Act No. 451 of the Public Acts
2 of 1976, as amended by Act No. 328 of the Public Acts of 1994,
3 being section 380.1311 of the Michigan Compiled Laws, is amended
4 and sections 1311a, 1311b, 1311c, and 1311d are added to read as
5 follows:

6 Sec. 1311. (1) ~~Subject to subsection (2), the~~ A school
7 board, or the school district superintendent, a school building
8 principal, or another school district official if designated by

1 the school board, may authorize or order the suspension or
2 expulsion from school of a pupil guilty of gross misdemeanor or
3 persistent disobedience if, in the judgment of the school board
4 or its designee, as applicable, the interest of the school is
5 served by the authorization or order. If there is reasonable
6 cause to believe that the pupil is handicapped, and the school
7 district has not evaluated the pupil in accordance with rules of
8 the state board to determine if the student is handicapped, the
9 pupil shall be evaluated immediately by the intermediate school
10 district of which the school district is constituent in accord-
11 ance with section 1711.

12 (2) ~~If a pupil possesses in a weapon free school zone a~~
13 ~~weapon that constitutes a dangerous weapon, or commits arson in~~
14 ~~the school building or on the school grounds, or rapes someone in~~
15 ~~the building or on school grounds, the school board, or the des-~~
16 ~~ignee of the school board as described in subsection (1) on~~
17 ~~behalf of the school board, shall expel the pupil from the school~~
18 ~~district permanently, subject to possible reinstatement under~~
19 ~~subsection (5), unless the pupil establishes in a clear and con-~~
20 ~~vincing manner at least 1 of the following:~~ IN ADDITION TO THE
21 GENERAL SUSPENSION AND EXPULSION POWERS OF A SCHOOL BOARD UNDER
22 THIS SECTION, A SCHOOL BOARD SHALL COMPLY WITH THE REQUIREMENTS
23 OF SECTIONS 1311A TO 1311C.

24 ~~(a) The object or instrument possessed by the pupil was not~~
25 ~~possessed by the pupil for use as a weapon, or for direct or~~
26 ~~indirect delivery to another person for use as a weapon.~~

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

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

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

~~(3) If an individual is expelled pursuant to subsection (2), the expelling school district shall enter on the individual's permanent record that he or she has been expelled pursuant to subsection (2). Except if a school district operates or participates in a program appropriate for individuals expelled pursuant to subsection (2) and in its discretion admits the individual to that program, an individual expelled pursuant to subsection (2) is expelled from all public schools in this state and the officials of a school district shall not allow the individual to enroll in the school district unless the individual has been reinstated under subsection (5). Except as otherwise provided by law, a program operated for individuals expelled pursuant to subsection (2) shall be operated in facilities or at times separate from those used for the general pupil population.~~

~~(4) If a school board expels an individual pursuant to subsection (2), the school board shall ensure that, within 3 days after the expulsion, an official of the school district refers the individual to the appropriate county department of social services or county community mental health agency and notifies the individual's parent or legal guardian or, if the individual~~

1 ~~is at least age 18 or is an emancipated minor, notifies the~~
2 ~~individual of the referral.~~

3 ~~(5) The parent or legal guardian of an individual expelled~~
4 ~~pursuant to subsection (2) or, if the individual is at least age~~
5 ~~18 or is an emancipated minor, the individual may petition the~~
6 ~~expelling school board for reinstatement of the individual to~~
7 ~~public education in the school district. If the expelling school~~
8 ~~board denies a petition for reinstatement, the parent or legal~~
9 ~~guardian or, if the individual is at least age 18 or is an eman-~~
10 ~~cipated minor, the individual may petition another school board~~
11 ~~for reinstatement of the individual in that other school~~
12 ~~district. All of the following apply to reinstatement under this~~
13 ~~subsection:~~

14 ~~(a) For an individual who was enrolled in grade 5 or below~~
15 ~~at the time of the expulsion, the parent or legal guardian or, if~~
16 ~~the individual is at least age 18 or is an emancipated minor, the~~
17 ~~individual may initiate a petition for reinstatement at any time~~
18 ~~after the expiration of 60 school days after the date of~~
19 ~~expulsion. For an individual who was in grade 6 or above at the~~
20 ~~time of expulsion, the parent or legal guardian or, if the indi-~~
21 ~~vidual is at least age 18 or is an emancipated minor, the indi-~~
22 ~~vidual 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) An individual who was in grade 5 or below at the time of~~
26 ~~the expulsion shall not be reinstated before the expiration of 90~~
27 ~~school days after the date of expulsion. An individual who was~~

~~1 in grade 6 or above at the time of the expulsion shall not be~~
~~2 reinstated before the expiration of 180 school days after the~~
~~3 date of expulsion.~~

~~4 (c) It is the responsibility of the parent or legal guardian~~
~~5 or, if the individual is at least age 18 or is an emancipated~~
~~6 minor, of the individual to prepare and submit the petition. A~~
~~7 school board is not required to provide any assistance in prepar-~~
~~8 ing the petition. Upon request by a parent or legal guardian or,~~
~~9 if the individual is at least age 18 or is an emancipated minor,~~
~~10 by the individual, a school board shall make available a form for~~
~~11 a petition.~~

~~12 (d) Not later than 10 school days after receiving a petition~~
~~13 for reinstatement under this subsection, a school board shall~~
~~14 appoint a committee to review the petition and any supporting~~
~~15 information submitted by the parent or legal guardian or, if the~~
~~16 individual is at least age 18 or is an emancipated minor, by the~~
~~17 individual. The committee shall consist of 2 school board mem-~~
~~18 bers, 1 school administrator, 1 teacher, and 1 parent of a pupil~~
~~19 in the school district. During this time the superintendent of~~
~~20 the school district may prepare and submit for consideration by~~
~~21 the committee information concerning the circumstances of the~~
~~22 expulsion and any factors mitigating for or against~~
~~23 reinstatement.~~

~~24 (e) Not later than 10 school days after all members are~~
~~25 appointed, the committee described in subdivision (d) shall~~
~~26 review the petition and any supporting information and~~
~~27 information provided by the school district and shall submit a~~

1 ~~recommendation to the school board on the issue of~~
2 ~~reinstatement. The recommendation shall be for unconditional~~
3 ~~reinstatement, for conditional reinstatement, or against rein-~~
4 ~~statement, and shall be accompanied by an explanation of the rea-~~
5 ~~sons for the recommendation and of any recommended conditions for~~
6 ~~reinstatement. The recommendation shall be based on considera-~~
7 ~~tion of all of the following factors:~~

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

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

13 ~~(iii) The age and maturity of the individual.~~

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

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

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

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

25 ~~(f) Not later than the next regularly scheduled board meet-~~
26 ~~ing after receiving the recommendation of the committee under~~
27 ~~subdivision (e), a school board shall make a decision to~~

~~1 unconditionally reinstate the individual, conditionally reinstate
2 the individual, or deny reinstatement of the individual. The
3 decision of the school board is final.~~

~~4 (g) A school board may require an individual and, if the
5 petition was filed by a parent or legal guardian, his or her
6 parent or legal guardian to agree in writing to specific condi-
7 tions before reinstating the individual in a conditional
8 reinstatement. The conditions may include, but are not limited
9 to, agreement to a behavior contract, which may involve the indi-
10 vidual, parent or legal guardian, and an outside agency, partici-
11 pation in or completion of an anger management program or other
12 appropriate counseling, periodic progress reviews, and specified
13 immediate consequences for failure to abide by a condition. A
14 parent or legal guardian or, if the individual is at least age 18
15 or is an emancipated minor, the individual may include proposed
16 conditions in a petition for reinstatement submitted under this
17 subsection.~~

~~18 (6) A school board or school administrator that complies
19 with subsection (2) is not liable for damages for expelling a
20 pupil pursuant to subsection (2), and the authorizing body of a
21 public school academy established under part 6a is not liable for
22 damages for expulsion of a pupil by the public school academy
23 pursuant to subsection (2).~~

~~24 (7) Not later than 90 days after the effective date of the
25 amendatory act that added this subsection, the department shall
26 develop and distribute to all school districts a form for a
27 petition to be used under subsection (5).~~

1 ~~(8) Subsections (2) to (7) do not diminish the due process~~
2 ~~rights under federal law of a pupil who has been determined to be~~
3 ~~eligible for special education programs and services.~~

4 (3) ~~(9)~~ As used in this section AND IN SECTIONS 1311A TO
5 1311D:

6 (A) "CLASSROOM" MEANS 1 OR MORE COURSES OR PROGRAMS TAUGHT
7 BY THE TEACHER INDIVIDUALLY OR AS PART OF A TEAM.

8 (B) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN
9 SECTION 7104 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
10 ACTS OF 1978, BEING SECTION 333.7104 OF THE MICHIGAN COMPILED
11 LAWS.

12 (C) ~~(a)~~ "Dangerous weapon" means ~~that term as defined in~~
13 ~~section 13+3~~ A DAGGER, DIRK, STILETTO, KNIFE WITH A BLADE OVER 3
14 INCHES IN LENGTH, RAZOR BLADE INTENDED FOR USE AS A WEAPON,
15 POCKET KNIFE OPENED BY A MECHANICAL DEVICE, OR BRASS KNUCKLES.

16 (D) "FIREARM" MEANS THAT TERM AS DEFINED IN THE GUN-FREE
17 SCHOOLS ACT OF 1994, PUBLIC LAW 103-227, 20 U.S.C. 3351.

18 (E) ~~(b)~~ "School board" ~~means~~ INCLUDES a school board,
19 intermediate school board, or the board of directors of a public
20 school academy established under part 6a OR 6B.

21 (F) ~~(c)~~ "School district" ~~means~~ INCLUDES a school dis-
22 trict, a local act school district, an intermediate school dis-
23 trict, or a public school academy established under part 6a OR
24 6B.

25 (G) ~~(d)~~ "Weapon free school zone" means that term as
26 defined in section 237a of the Michigan penal code, Act No. 328

1 of the Public Acts of 1931, being section 750.237a of the
2 Michigan Compiled Laws.

3 SEC. 1311A. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
4 (2), THE SCHOOL BOARD, OR ITS DESIGNEE ON BEHALF OF THE SCHOOL
5 BOARD, SHALL EXPEL A PUPIL PERMANENTLY, SUBJECT TO POSSIBLE REIN-
6 STATEMENT UNDER SUBSECTION (5), IF THE PUPIL IS DETERMINED TO
7 HAVE DONE ANY OF THE FOLLOWING IN A WEAPON FREE SCHOOL ZONE:

8 (A) USED OR KNOWINGLY POSSESSED A FIREARM.

9 (B) ENGAGED IN CONDUCT THAT CONSTITUTES 1 OR MORE OF THE
10 FOLLOWING, WHETHER OR NOT THE PUPIL IS CHARGED OR CONVICTED:

11 (i) MURDER UNDER SECTION 316 OR 317 OF THE MICHIGAN PENAL
12 CODE, ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING
13 SECTIONS 750.316 AND 750.317 OF THE MICHIGAN COMPILED LAWS, OR
14 ATTEMPTED MURDER UNDER SECTION 91 OF ACT NO. 328 OF THE PUBLIC
15 ACTS OF 1931, BEING SECTION 750.91 OF THE MICHIGAN COMPILED
16 LAWS.

17 (ii) A FELONY INVOLVING A FIREARM OR OTHER WEAPON.

18 (iii) ANY FELONIOUS ASSAULT.

19 (iv) ARSON UNDER SECTION 72, 73, OR 75 OF ACT NO. 328 OF THE
20 PUBLIC ACTS OF 1931, BEING SECTIONS 750.72, 750.73, AND 750.75 OF
21 THE MICHIGAN COMPILED LAWS, OR A FELONY VIOLATION OF SECTION 74
22 OF ACT NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.74
23 OF THE MICHIGAN COMPILED LAWS.

24 (v) CRIMINAL SEXUAL CONDUCT IN THE FIRST, SECOND, OR THIRD
25 DEGREE UNDER SECTION 520B, 520C, OR 520D OF ACT NO. 328 OF THE
26 PUBLIC ACTS OF 1931, BEING SECTIONS 750.520B, 750.520C, AND
27 750.530D OF THE MICHIGAN COMPILED LAWS, OR AN ATTEMPT TO COMMIT

1 CRIMINAL SEXUAL CONDUCT IN ANY DEGREE UNDER SECTION 520G OF ACT
2 NO. 328 OF THE PUBLIC ACTS OF 1931, BEING SECTION 750.520G OF THE
3 MICHIGAN COMPILED LAWS.

4 (vi) KIDNAPPING UNDER SECTION 349 OR 350 OF ACT NO. 328 OF
5 THE PUBLIC ACTS OF 1931, BEING SECTIONS 750.349 AND 750.350 OF
6 THE MICHIGAN COMPILED LAWS.

7 (vii) A FELONY INVOLVING A CONTROLLED SUBSTANCE UNDER
8 PART 74 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS
9 OF 1978, BEING SECTIONS 333.7401 TO 333.7416 OF THE MICHIGAN
10 COMPILED LAWS.

11 (C) USED OR KNOWINGLY POSSESSED A DANGEROUS WEAPON.

12 (D) USED A DANGEROUS WEAPON TO THREATEN ANOTHER PERSON WITH
13 SERIOUS BODILY HARM.

14 (2) A SCHOOL BOARD OR ITS DESIGNEE IS NOT REQUIRED TO EXPEL
15 A PUPIL UNDER SUBSECTION (1)(C) FOR POSSESSING A DANGEROUS WEAPON
16 IF THE SCHOOL BOARD OR ITS DESIGNEE DETERMINES, ON A CASE-BY-CASE
17 BASIS, THAT THE PUPIL HAS ESTABLISHED IN A CLEAR AND CONVINCING
18 MANNER AT LEAST 1 OF THE FOLLOWING:

19 (A) THE DANGEROUS WEAPON POSSESSED BY THE PUPIL WAS NOT POS-
20 SSESSED BY THE PUPIL FOR USE AS A WEAPON, OR FOR DIRECT OR INDI-
21 RECT DELIVERY TO ANOTHER PERSON FOR USE AS A WEAPON.

22 (B) THE PUPIL DID NOT KNOW OR HAVE REASON TO KNOW THAT THE
23 OBJECT POSSESSED BY THE PUPIL CONSTITUTED A DANGEROUS WEAPON.

24 (C) THE DANGEROUS WEAPON POSSESSED BY THE PUPIL WAS POS-
25 SSESSED BY THE PUPIL AT THE SUGGESTION, REQUEST, OR DIRECTION OF,
26 OR WITH THE EXPRESS PERMISSION OF, SCHOOL OR POLICE AUTHORITIES.

1 (3) IF AN INDIVIDUAL IS EXPELLED UNDER THIS SECTION, THE
2 EXPELLING SCHOOL DISTRICT SHALL ENTER ON THE INDIVIDUAL'S
3 OFFICIAL PERMANENT RECORD THAT HE OR SHE HAS BEEN EXPELLED UNDER
4 THIS SECTION. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6), AN
5 INDIVIDUAL EXPELLED UNDER THIS SECTION IS EXPELLED FROM ALL
6 PUBLIC SCHOOLS IN THIS STATE AND THE OFFICIALS OF A SCHOOL DIS-
7 TRICT SHALL NOT ALLOW THE INDIVIDUAL TO ENROLL IN THE SCHOOL DIS-
8 TRICT UNLESS THE INDIVIDUAL HAS BEEN REINSTATED UNDER SUBSECTION
9 (5).

10 (4) IF A SCHOOL BOARD EXPELS AN INDIVIDUAL UNDER THIS SEC-
11 TION, THE SCHOOL BOARD SHALL ENSURE THAT, WITHIN 3 DAYS AFTER THE
12 EXPULSION, AN OFFICIAL OF THE SCHOOL DISTRICT REFERS THE INDIVID-
13 UAL TO THE APPROPRIATE COUNTY DEPARTMENT OF SOCIAL SERVICES OR
14 COUNTY COMMUNITY MENTAL HEALTH AGENCY AND NOTIFIES THE
15 INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS AT
16 LEAST AGE 18 OR IS AN EMANCIPATED MINOR, NOTIFIES THE INDIVIDUAL
17 OF THE REFERRAL.

18 (5) THE PARENT OR LEGAL GUARDIAN OF AN INDIVIDUAL EXPELLED
19 UNDER THIS SECTION OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS
20 AN EMANCIPATED MINOR, THE INDIVIDUAL MAY PETITION THE EXPELLING
21 SCHOOL BOARD FOR REINSTATEMENT OF THE INDIVIDUAL TO PUBLIC EDUCA-
22 TION IN THE SCHOOL DISTRICT. IF THE EXPELLING SCHOOL BOARD
23 DENIES A PETITION FOR REINSTATEMENT, THE PARENT OR LEGAL GUARDIAN
24 OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED
25 MINOR, THE INDIVIDUAL MAY PETITION ANOTHER SCHOOL BOARD FOR REIN-
26 STATEMENT OF THE INDIVIDUAL IN THAT OTHER SCHOOL DISTRICT. ALL
27 OF THE FOLLOWING APPLY TO REINSTATEMENT UNDER THIS SUBSECTION:

1 (A) FOR AN INDIVIDUAL ENROLLED IN GRADE 5 OR BELOW AT THE
2 TIME OF THE EXPULSION WHO IS EXPELLED UNDER THIS SECTION FOR A
3 REASON SPECIFIED IN SUBSECTION (1)(C) OR (D) ONLY, THE PARENT OR
4 LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN
5 EMANCIPATED MINOR, THE INDIVIDUAL MAY PETITION FOR REINSTATEMENT
6 AT ANY TIME AFTER THE DATE OF EXPULSION OR WHILE THE EXPULSION IS
7 PENDING. AN INDIVIDUAL DESCRIBED IN THIS SUBDIVISION SHALL NOT
8 BE REINSTATED BEFORE THE EXPIRATION OF 10 SCHOOL DAYS AFTER THE
9 DATE OF EXPULSION.

10 (B) FOR AN INDIVIDUAL ENROLLED IN GRADE 5 OR BELOW AT THE
11 TIME OF THE EXPULSION WHO IS EXPELLED UNDER THIS SECTION FOR A
12 REASON SPECIFIED IN SUBSECTION (1)(A) OR (B), THE PARENT OR LEGAL
13 GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMAN-
14 CIPATED MINOR, THE INDIVIDUAL MAY INITIATE A PETITION FOR REIN-
15 STATEMENT AT ANY TIME AFTER THE EXPIRATION OF 60 SCHOOL DAYS
16 AFTER THE DATE OF EXPULSION. AN INDIVIDUAL DESCRIBED IN THIS
17 SUBDIVISION SHALL NOT BE REINSTATED BEFORE THE EXPIRATION OF 90
18 SCHOOL DAYS AFTER THE DATE OF THE EXPULSION.

19 (C) FOR AN INDIVIDUAL ENROLLED IN GRADE 6 OR ABOVE AT THE
20 TIME OF EXPULSION, THE PARENT OR LEGAL GUARDIAN OR, IF THE INDI-
21 VIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, THE INDI-
22 VIDUAL MAY INITIATE A PETITION FOR REINSTATEMENT AT ANY TIME
23 AFTER THE EXPIRATION OF 150 SCHOOL DAYS AFTER THE DATE OF
24 EXPULSION. THE INDIVIDUAL SHALL NOT BE REINSTATED BEFORE THE
25 EXPIRATION OF 180 SCHOOL DAYS AFTER THE DATE OF EXPULSION.

26 (D) 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 FOR
2 REINSTATEMENT. A SCHOOL BOARD IS NOT REQUIRED TO PROVIDE ANY
3 ASSISTANCE IN PREPARING THE PETITION. UPON REQUEST BY A PARENT
4 OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS
5 AN EMANCIPATED MINOR, BY THE INDIVIDUAL, A SCHOOL BOARD SHALL
6 MAKE AVAILABLE A FORM FOR A PETITION.

7 (E) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING A PETITION
8 FOR REINSTATEMENT UNDER THIS SUBSECTION, A SCHOOL BOARD SHALL
9 APPOINT A COMMITTEE TO REVIEW THE PETITION AND ANY SUPPORTING
10 INFORMATION SUBMITTED BY THE PARENT OR LEGAL GUARDIAN OR, IF THE
11 INDIVIDUAL IS A LEAST AGE 18 OR IS AN EMANCIPATED MINOR, BY THE
12 INDIVIDUAL. THE COMMITTEE SHALL CONSIST OF 2 SCHOOL BOARD MEM-
13 BERS, 1 SCHOOL ADMINISTRATOR, 1 TEACHER, AND 1 PARENT OF A PUPIL
14 IN THE SCHOOL DISTRICT. DURING THIS TIME THE SUPERINTENDENT OF
15 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
18 REINSTATEMENT.

19 (F) NOT LATER THAN 10 SCHOOL DAYS AFTER ALL MEMBERS ARE
20 APPOINTED, THE COMMITTEE DESCRIBED IN SUBDIVISION (E) SHALL
21 REVIEW THE PETITION AND ANY SUPPORTING INFORMATION AND INFORMA-
22 TION PROVIDED BY THE SCHOOL DISTRICT AND SHALL SUBMIT A RECOMMEN-
23 DATION TO THE SCHOOL BOARD ON THE ISSUE OF REINSTATEMENT. THE
24 RECOMMENDATION SHALL BE FOR UNCONDITIONAL REINSTATEMENT, FOR CON-
25 DITIONAL REINSTATEMENT, OR FOR DENIAL OF REINSTATEMENT, AND SHALL
26 BE ACCOMPANIED BY AN EXPLANATION OF THE REASONS FOR THE
27 RECOMMENDATION AND OF ANY RECOMMENDED CONDITIONS FOR

1 REINSTATEMENT. THE RECOMMENDATION SHALL BE BASED ON
2 CONSIDERATION OF ALL OF THE FOLLOWING FACTORS:

3 (i) THE EXTENT TO WHICH REINSTATEMENT OF THE INDIVIDUAL
4 WOULD CREATE A RISK OF HARM TO PUPILS OR SCHOOL PERSONNEL.

5 (ii) THE AGE AND MATURITY OF THE INDIVIDUAL.

6 (iii) THE INDIVIDUAL'S SCHOOL DISCIPLINARY RECORD BEFORE THE
7 INCIDENT THAT CAUSED THE EXPULSION.

8 (iv) THE INDIVIDUAL'S ATTITUDE CONCERNING THE INCIDENT THAT
9 CAUSED THE EXPULSION.

10 (v) THE INDIVIDUAL'S BEHAVIOR SINCE THE EXPULSION AND THE
11 PROSPECTS FOR REMEDIATION OF THE INDIVIDUAL.

12 (vi) IF THE PETITION WAS FILED BY A PARENT OR LEGAL GUARDI-
13 AN, THE DEGREE OF COOPERATION AND SUPPORT THAT HAS BEEN PROVIDED
14 BY THE PARENT OR LEGAL GUARDIAN AND THAT CAN BE EXPECTED IF THE
15 INDIVIDUAL IS REINSTATED, INCLUDING, BUT NOT LIMITED TO, RECEP-
16 TIVENESS TOWARD POSSIBLE CONDITIONS PLACED ON THE REINSTATEMENT.

17 (G) NOT LATER THAN THE NEXT REGULARLY SCHEDULED BOARD MEET-
18 ING AFTER RECEIVING THE RECOMMENDATION OF THE COMMITTEE UNDER
19 SUBDIVISION (F), A SCHOOL BOARD SHALL MAKE A DECISION TO UNCONDI-
20 TIONALLY REINSTATE THE INDIVIDUAL ON A SPECIFIC DATE, TO CONDI-
21 TIONALLY REINSTATE THE INDIVIDUAL ON A SPECIFIC DATE, OR TO DENY
22 REINSTATEMENT OF THE INDIVIDUAL. THE DECISION OF THE SCHOOL
23 BOARD IS FINAL.

24 (H) A SCHOOL BOARD MAY REQUIRE AN INDIVIDUAL AND, IF THE
25 PETITION WAS FILED BY A PARENT OR LEGAL GUARDIAN, HIS OR HER
26 PARENT OR LEGAL GUARDIAN TO AGREE IN WRITING TO SPECIFIC
27 CONDITIONS BEFORE REINSTATING THE INDIVIDUAL IN A CONDITIONAL

1 REINSTATEMENT. THE CONDITIONS MAY INCLUDE, BUT ARE NOT LIMITED
2 TO, AGREEMENT TO A BEHAVIOR CONTRACT, WHICH MAY INVOLVE THE INDIVIDUAL,
3 PARENT OR LEGAL GUARDIAN, AND AN OUTSIDE AGENCY; PARTICIPATION
4 IN OR COMPLETION OF AN ANGER MANAGEMENT PROGRAM OR OTHER
5 APPROPRIATE COUNSELING; PERIODIC PROGRESS REVIEWS; AND SPECIFIED
6 IMMEDIATE CONSEQUENCES FOR FAILURE TO ABIDE BY A CONDITION. A
7 PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18
8 OR IS AN EMANCIPATED MINOR, THE INDIVIDUAL MAY INCLUDE PROPOSED
9 CONDITIONS IN A PETITION FOR REINSTATEMENT SUBMITTED UNDER THIS
10 SUBSECTION.

11 (1) TO THE EXTENT THAT THE ALTERNATIVE EDUCATION IS AVAILABLE,
12 IF AN INDIVIDUAL IN GRADE 6 OR ABOVE IS REINSTATED UNDER
13 THIS SUBSECTION, THE INDIVIDUAL SHALL BE EDUCATED ONLY IN AN
14 ALTERNATIVE EDUCATION PROGRAM UNDER SECTION 1311D FOR A PERIOD OF
15 AT LEAST 1 FULL SCHOOL YEAR.

16 (6) A SCHOOL DISTRICT MAY OPERATE OR PARTICIPATE IN A PROGRAM
17 FOR PROVIDING APPROPRIATE EDUCATIONAL SERVICES DURING THE
18 EXPULSION FOR INDIVIDUALS WHO ARE EXPELLED UNDER THIS SECTION,
19 AND MAY IN ITS DISCRETION ADMIT AN INDIVIDUAL EXPELLED UNDER THIS
20 SECTION TO THE PROGRAM IF THE DURATION OF THE INDIVIDUAL'S EXPULSION
21 IS MORE THAN 10 DAYS. EXCEPT AS OTHERWISE PROVIDED BY LAW,
22 A PROGRAM DESCRIBED IN THIS SUBSECTION SHALL BE OPERATED IN
23 FACILITIES OR AT TIMES SEPARATE FROM THOSE USED FOR THE GENERAL
24 PUPIL POPULATION.

25 (7) A SCHOOL BOARD OR SCHOOL ADMINISTRATOR THAT COMPLIES
26 WITH SUBSECTION (1) IS NOT LIABLE FOR DAMAGES FOR EXPELLING A
27 PUPIL UNDER THIS SECTION, AND THE AUTHORIZING BODY OF A PUBLIC

1 SCHOOL ACADEMY ESTABLISHED UNDER PART 6A OR 6B IS NOT LIABLE FOR
2 DAMAGES FOR EXPULSION OF A PUPIL BY THE PUBLIC SCHOOL ACADEMY
3 UNDER THIS SECTION.

4 (8) NOT LATER THAN 90 DAYS AFTER THE EFFECTIVE DATE OF THIS
5 SECTION, THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE TO ALL
6 SCHOOL DISTRICTS A FORM FOR A PETITION TO BE USED UNDER SUBSEC-
7 TION (5). THE DEPARTMENT MAY USE A FORM DEVELOPED UNDER FORMER
8 SECTION 1311(7).

9 (9) THIS SECTION DOES NOT DIMINISH THE DUE PROCESS RIGHTS
10 UNDER FEDERAL LAW OF A PUPIL WHO HAS BEEN DETERMINED TO BE ELIGI-
11 BLE FOR SPECIAL EDUCATION PROGRAMS AND SERVICES.

12 (10) THIS SECTION DOES NOT DIMINISH THE GENERAL SUSPENSION
13 AND EXPULSION POWERS OF A SCHOOL BOARD UNDER SECTION 1311.

14 SEC. 1311B. (1). TO THE EXTENT THAT THE ALTERNATIVE EDUCA-
15 TION IS AVAILABLE, THE SCHOOL BOARD, OR ITS DESIGNEE ON BEHALF OF
16 THE SCHOOL BOARD, SHALL PLACE A PUPIL IN ALTERNATIVE EDUCATION
17 UNDER SECTION 1311D FOR A PERIOD OF AT LEAST 1 FULL SCHOOL YEAR
18 IF THE PUPIL IS DETERMINED TO HAVE DONE ANY OF THE FOLLOWING IN A
19 WEAPON FREE SCHOOL ZONE:

20 (A) THREATENED ANOTHER PERSON WITH SERIOUS BODILY HARM.

21 (B) ENGAGED IN CONDUCT THAT CONSTITUTES ASSAULT UNDER
22 SECTION 81 OR 81A OF THE MICHIGAN PENAL CODE, ACT NO. 328 OF THE
23 PUBLIC ACTS OF 1931, BEING SECTIONS 750.81 AND 750.81A OF THE
24 MICHIGAN COMPILED LAWS, OR THAT CONSTITUTES CRIMINAL SEXUAL CON-
25 DUCT IN THE FOURTH DEGREE UNDER SECTION 520E OF ACT NO. 328 OF
26 THE PUBLIC ACTS OF 1931, BEING SECTION 750.520E OF THE MICHIGAN
27 COMPILED LAWS, WHETHER OR NOT THE PUPIL IS CHARGED OR CONVICTED.

(C) USED AS A WEAPON AN OBJECT OTHER THAN A FIREARM OR DANGEROUS WEAPON.

(D) SOLD, DELIVERED, POSSESSED, USED, OR WAS UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE OR ALCOHOLIC BEVERAGE.

(2) IF AN INDIVIDUAL IS PLACED IN ALTERNATIVE EDUCATION UNDER THIS SECTION, THE SCHOOL DISTRICT SHALL ENTER ON THE INDIVIDUAL'S PERMANENT RECORD THAT HE OR SHE HAS BEEN PLACED IN ALTERNATIVE EDUCATION UNDER THIS SECTION AND THE DATE OF THE PLACEMENT. IF A PUPIL PLACED IN ALTERNATIVE EDUCATION UNDER THIS SECTION TRANSFERS TO ANOTHER SCHOOL DISTRICT BEFORE THE EXPIRATION OF 1 YEAR AFTER THE DATE OF THE PLACEMENT, THAT SCHOOL DISTRICT, TO THE EXTENT THAT THE ALTERNATIVE EDUCATION IS AVAILABLE, SHALL PLACE THE PUPIL IN ALTERNATIVE EDUCATION UNDER SECTION 1311D UNTIL AT LEAST THE EXPIRATION OF 1 YEAR AFTER THE DATE OF THE PLACEMENT.

(3) A SCHOOL BOARD OR SCHOOL ADMINISTRATOR THAT COMPLIES WITH SUBSECTION (1) IS NOT LIABLE FOR DAMAGES FOR PLACING A PUPIL IN ALTERNATIVE EDUCATION UNDER THIS SECTION, AND THE AUTHORIZING BODY OF A PUBLIC SCHOOL ACADEMY ESTABLISHED UNDER PART 6A OR 6B IS NOT LIABLE FOR DAMAGES FOR PLACEMENT OF THE PUPIL BY THE PUBLIC SCHOOL ACADEMY IN ALTERNATIVE EDUCATION UNDER THIS SECTION.

(4) THIS SECTION DOES NOT DIMINISH THE DUE PROCESS RIGHTS UNDER FEDERAL LAW OF A PUPIL WHO HAS BEEN DETERMINED TO BE ELIGIBLE FOR SPECIAL EDUCATION PROGRAMS AND SERVICES.

(5) THIS SECTION DOES NOT DIMINISH THE GENERAL POWERS OF A SCHOOL BOARD UNDER SECTION 1311 TO SUSPEND OR EXPEL A PUPIL

1 DESCRIBED IN SUBSECTION (1) OR AFFECT THE ABILITY OF A SCHOOL
2 BOARD TO PROVIDE OTHER FORMS OF ALTERNATIVE EDUCATION TO OTHER
3 PUPILS OR TO INCLUDE OTHER PUPILS IN THE ALTERNATIVE EDUCATION
4 DESCRIBED IN SECTION 1311D.

5 SEC. 1311C. (1) IF A PUPIL ENGAGES IN CONDUCT THAT IS SO
6 DISRUPTIVE OR ABUSIVE AS TO SERIOUSLY INTERFERE WITH THE ABILITY
7 OF OTHER PUPILS IN THE CLASS TO LEARN OR THE ABILITY OF THE
8 TEACHER TO TEACH, THE TEACHER MAY REMOVE THE PUPIL PERMANENTLY
9 FROM THE TEACHER'S CLASSROOM.

10 (2) THE PARENT OR LEGAL GUARDIAN OF A PUPIL REMOVED FROM A
11 CLASSROOM UNDER THIS SECTION OR, IF THE PUPIL IS AT LEAST AGE 18
12 OR IS AN EMANCIPATED MINOR, THE PUPIL MAY APPEAL THE TEACHER'S
13 ACTION TO THE CHIEF SCHOOL BUILDING ADMINISTRATOR IN CHARGE OF
14 THE CLASSROOM FROM WHICH THE PUPIL WAS REMOVED. THE ADMINISTRA-
15 TOR MAY AFFIRM THE REMOVAL OR PLACE THE PUPIL BACK IN THE
16 CLASSROOM. IF THE ADMINISTRATOR AFFIRMS THE REMOVAL, THE PARENT
17 OR LEGAL GUARDIAN OF THE PUPIL OR, IF THE PUPIL IS AT LEAST AGE
18 18 OR IS AN EMANCIPATED MINOR, THE PUPIL MAY APPEAL TO THE SCHOOL
19 BOARD. IF THE ADMINISTRATOR PLACES THE PUPIL BACK IN THE CLASS-
20 ROOM, THE TEACHER MAY APPEAL TO THE SCHOOL BOARD. THE SCHOOL
21 BOARD MAY AFFIRM THE REMOVAL OR PLACE THE PUPIL BACK IN THE
22 CLASSROOM. THE DECISION OF THE SCHOOL BOARD IS FINAL.

23 (3) IF A PUPIL IS REMOVED BY A TEACHER FROM A CLASSROOM
24 UNDER THIS SECTION, AND IF THE REMOVAL IS AFFIRMED BY THE SCHOOL
25 BOARD OR THERE IS NO APPEAL TO THE SCHOOL BOARD, ALL OF THE FOL-
26 LOWING APPLY:

1 (A) THE SCHOOL BOARD OR A SCHOOL ADMINISTRATOR SHALL NOT
2 PLACE THE PUPIL BACK IN THAT TEACHER'S CLASSROOM UNLESS 1 OF THE
3 FOLLOWING OCCURS:

4 (i) THE TEACHER CONSENTS TO HAVING THE PUPIL PLACED BACK IN
5 THE TEACHER'S CLASSROOM.

6 (ii) THE PUPIL'S PARENT OR LEGAL GUARDIAN OR, IF THE PUPIL
7 IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, THE PUPIL PETI-
8 TIONS THE SCHOOL BOARD TO PLACE THE PUPIL BACK IN THAT TEACHER'S
9 CLASSROOM AND DEMONSTRATES TO THE SATISFACTION OF THE SCHOOL
10 BOARD THAT THE PUPIL'S BEHAVIOR PROBLEMS HAVE BEEN ADEQUATELY
11 ADDRESSED, AND THE SCHOOL BOARD GRANTS THE PETITION AND ORDERS
12 THE PUPIL PLACED BACK IN THE TEACHER'S CLASSROOM. A TEACHER MAY
13 SUBMIT A WRITTEN OR ORAL RESPONSE TO A PETITION. IF A SCHOOL
14 BOARD DENIES A PETITION UNDER THIS SUBPARAGRAPH, THE PUPIL'S
15 PARENT OR LEGAL GUARDIAN OR, IF THE PUPIL IS AT LEAST AGE 18 OR
16 IS AN EMANCIPATED MINOR, THE PUPIL SHALL NOT PETITION THE SCHOOL
17 BOARD UNDER THIS SUBPARAGRAPH AGAIN UNTIL THE NEXT SCHOOL
18 SEMESTER. A SCHOOL BOARD IS NOT REQUIRED TO HOLD A SPECIAL MEET-
19 ING TO ACT ON A PETITION RECEIVED UNDER THIS SUBPARAGRAPH.

20 (B) THE SCHOOL BOARD OR A SCHOOL ADMINISTRATOR SHALL NOT
21 PLACE THE PUPIL IN ANOTHER TEACHER'S CLASSROOM WITHOUT THE CON-
22 SENT OF THE OTHER TEACHER.

23 (4) IF A PUPIL IN AN ELEMENTARY SCHOOL IS REMOVED FROM A
24 CLASSROOM UNDER THIS SECTION, AND IF THERE IS NO OTHER TEACHER OF
25 THE APPROPRIATE ELEMENTARY GRADE IN THE SCHOOL DISTRICT WHO CON-
26 SENTS TO HAVE THE PUPIL PLACED IN HIS OR HER CLASSROOM, THE
27 SCHOOL BOARD SHALL PROVIDE SOME TYPE OF REASONABLE ALTERNATIVE

1 EDUCATION THAT IS APPROVED BY THE PUPIL'S PARENT OR LEGAL
2 GUARDIAN OR SHALL ALLOW THE PUPIL TO TRANSFER TO ANY OTHER SCHOOL
3 DISTRICT AND GIVE ANY APPROVAL THAT IS NECESSARY FOR THE OTHER
4 SCHOOL DISTRICT TO COUNT THE PUPIL IN MEMBERSHIP FOR PURPOSES OF
5 STATE SCHOOL AID.

6 (5) IF A PUPIL IN MIDDLE SCHOOL OR ABOVE IS REMOVED UNDER
7 THIS SECTION FROM A COURSE OR PROGRAM, AND IF THERE IS NO OTHER
8 TEACHER OF THAT COURSE OR PROGRAM WHO CONSENTS TO HAVE THE PUPIL
9 PLACED IN HIS OR HER CLASSROOM, THE SCHOOL BOARD, TO THE EXTENT
10 THAT THE ALTERNATIVE EDUCATION IS AVAILABLE AND TO THE EXTENT
11 NECESSARY TO PROVIDE THE PUPIL WITH A FULL EDUCATIONAL PROGRAM,
12 SHALL PLACE THE PUPIL IN ALTERNATIVE EDUCATION UNDER
13 SECTION 1311D UNTIL THERE IS THE NECESSARY CONSENT TO PLACE THE
14 PUPIL IN A REGULAR CLASSROOM.

15 (6) A SCHOOL BOARD OR SCHOOL ADMINISTRATOR THAT COMPLIES
16 WITH THIS SECTION IS NOT LIABLE FOR DAMAGES FOR COMPLYING WITH
17 THIS SECTION, AND THE AUTHORIZING BODY OF A PUBLIC SCHOOL ACADEMY
18 ESTABLISHED UNDER PART 6A OR 6B IS NOT LIABLE FOR DAMAGES FOR
19 COMPLIANCE WITH THIS SECTION BY THE PUBLIC SCHOOL ACADEMY.

20 (7) THIS SECTION DOES NOT DIMINISH THE DUE PROCESS RIGHTS
21 UNDER FEDERAL LAW OF A PUPIL WHO HAS BEEN DETERMINED TO BE ELIGI-
22 BLE FOR SPECIAL EDUCATION PROGRAMS AND SERVICES.

23 (8) THIS SECTION DOES NOT DIMINISH THE GENERAL POWERS OF A
24 SCHOOL BOARD UNDER SECTION 1311 TO SUSPEND OR EXPEL A PUPIL
25 DESCRIBED IN SUBSECTION (1) OR AFFECT THE ABILITY OF A SCHOOL
26 BOARD TO PROVIDE OTHER FORMS OF ALTERNATIVE EDUCATION TO OTHER

1 PUPILS OR TO INCLUDE OTHER PUPILS IN THE ALTERNATIVE EDUCATION
2 DESCRIBED IN SECTION 1311D.

3 SEC. 1311D. (1) A SCHOOL DISTRICT SHALL PROVIDE ALTERNATIVE
4 EDUCATION UNDER THIS SECTION AS REQUIRED UNDER SECTIONS 1311A TO
5 1311C, AND MAY PROVIDE OTHER FORMS OF ALTERNATIVE EDUCATION TO
6 OTHER PUPILS OR INCLUDE OTHER PUPILS IN ALTERNATIVE EDUCATION
7 UNDER THIS SECTION. THE SCHOOL DISTRICT SHALL PROVIDE ALTERNA-
8 TIVE EDUCATION UNDER THIS SECTION BY OPERATING THE PROGRAM ITSELF
9 OR BY ENTERING INTO A COOPERATIVE PROGRAM WITH 1 OR MORE OTHER
10 SCHOOL DISTRICTS, PUBLIC SCHOOL ACADEMIES, OR INTERMEDIATE SCHOOL
11 DISTRICTS.

12 (2) ALTERNATIVE EDUCATION UNDER THIS SECTION MAY TAKE PLACE
13 IN THE SAME BUILDING AND AT THE SAME TIME AS REGULAR EDUCATION
14 PROGRAMS, BUT SHALL BE SITUATED SO THAT CONTACT IS AVOIDED
15 BETWEEN ALTERNATIVE EDUCATION PUPILS AND REGULAR EDUCATION PUPILS
16 DURING THE NORMAL COURSE OF THE SCHOOL DAY.

17 (3) ALTERNATIVE EDUCATION PROVIDED UNDER THIS SECTION SHALL
18 BE AGE AND GRADE LEVEL APPROPRIATE FOR THE PUPIL AND SHALL STRESS
19 DISCIPLINE AND PERSONAL RESPONSIBILITY. THE ALTERNATIVE EDUCA-
20 TION MAY USE A BEHAVIOR CONTRACT OR SIMILAR INCENTIVES.
21 CONSISTENT WITH ITS GENERAL POWERS UNDER SECTION 1311, A SCHOOL
22 BOARD MAY SUSPEND OR EXPEL A PUPIL FROM THE ALTERNATIVE
23 EDUCATION.

24 (4) A SCHOOL DISTRICT MAY EXCLUDE A PUPIL PLACED UNDER SEC-
25 TION 1311A, 1311B, OR 1311C IN ALTERNATIVE EDUCATION UNDER THIS
26 SECTION FROM PARTICIPATION IN ANY EXTRACURRICULAR ACTIVITY OF THE
27 SCHOOL DISTRICT, INCLUDING, BUT NOT LIMITED TO, STUDENT CLUBS,

1 INTERSCHOLASTIC ATHLETICS, AND DRIVER EDUCATION. IN ADDITION, A
2 SCHOOL DISTRICT MAY EXCLUDE THE PUPIL FROM PUPIL TRANSPORTATION.
3 A SCHOOL DISTRICT THAT EXCLUDES A PUPIL FROM AN EXTRACURRICULAR
4 ACTIVITY OR FROM PUPIL TRANSPORTATION UNDER THIS SUBSECTION, OR
5 THE AUTHORIZING BODY OF A PUBLIC SCHOOL ACADEMY THAT EXCLUDES A
6 PUPIL FROM AN EXTRACURRICULAR ACTIVITY OR FROM PUPIL TRANSPORTA-
7 TION UNDER THIS SUBSECTION, IS NOT LIABLE FOR DAMAGES FOR THE
8 EXCLUSION.