

SENATE BILL NO. 206

February 2, 1999, Introduced by Senators STILLE, HAMMERSTROM, DUNASKISS, GOSCHKA, GOUGEON, STEIL, BULLARD, SHUGARS, JAYE, HOFFMAN, SIKKEMA, MC MANUS and NORTH and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1311a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1311A. (1) IF A PUPIL ENROLLED IN GRADE 6 OR ABOVE
2 COMMITS AN ASSAULT IN A SCHOOL BUILDING OR ON SCHOOL GROUNDS
3 AGAINST A PERSON EMPLOYED BY OR ENGAGED AS A VOLUNTEER OR CON-
4 TRACTOR BY THE SCHOOL BOARD AND THE ASSAULT IS REPORTED TO THE
5 SCHOOL BOARD BY THE VICTIM OR, IF THE VICTIM IS UNABLE TO REPORT
6 THE ASSAULT, BY ANOTHER PERSON ON THE VICTIM'S BEHALF, THE SCHOOL
7 BOARD, OR THE DESIGNEE OF THE SCHOOL BOARD AS DESCRIBED IN SEC-
8 TION 1311(1) ON BEHALF OF THE SCHOOL BOARD, SHALL EXPEL THE PUPIL
9 FROM THE SCHOOL DISTRICT PERMANENTLY, SUBJECT TO POSSIBLE
10 REINSTATEMENT UNDER SUBSECTION (4).

1 (2) IF AN INDIVIDUAL IS EXPELLED PURSUANT TO SUBSECTION (1),
2 THE EXPELLING SCHOOL DISTRICT SHALL ENTER ON THE INDIVIDUAL'S
3 PERMANENT RECORD THAT HE OR SHE HAS BEEN EXPELLED PURSUANT TO
4 THIS SECTION. EXCEPT IF A SCHOOL DISTRICT OPERATES OR PARTICI-
5 PATES COOPERATIVELY IN AN ALTERNATIVE EDUCATION PROGRAM APPROPRI-
6 ATE FOR INDIVIDUALS EXPELLED PURSUANT TO THIS SECTION AND SECTION
7 1311(2) AND IN ITS DISCRETION ADMITS THE INDIVIDUAL TO THAT PRO-
8 GRAM, AN INDIVIDUAL EXPELLED PURSUANT TO THIS SECTION IS EXPELLED
9 FROM ALL PUBLIC SCHOOLS IN THIS STATE AND THE OFFICIALS OF A
10 SCHOOL DISTRICT SHALL NOT ALLOW THE INDIVIDUAL TO ENROLL IN THE
11 SCHOOL DISTRICT UNLESS THE INDIVIDUAL HAS BEEN REINSTATED UNDER
12 SUBSECTION (4). EXCEPT AS OTHERWISE PROVIDED BY LAW, A PROGRAM
13 OPERATED FOR INDIVIDUALS EXPELLED PURSUANT TO THIS SECTION AND
14 SECTION 1311(2) SHALL ENSURE THAT THOSE INDIVIDUALS ARE PHYSI-
15 CALLY SEPARATED AT ALL TIMES DURING THE SCHOOL DAY FROM THE GEN-
16 ERAL PUPIL POPULATION. IF AN INDIVIDUAL EXPELLED FROM A SCHOOL
17 DISTRICT PURSUANT TO THIS SECTION IS NOT PLACED IN AN ALTERNATIVE
18 EDUCATION PROGRAM, THE SCHOOL DISTRICT MAY PROVIDE, OR MAY
19 ARRANGE FOR THE INTERMEDIATE SCHOOL DISTRICT TO PROVIDE, APPRO-
20 PRIATE INSTRUCTIONAL SERVICES TO THE INDIVIDUAL AT HOME. THE
21 TYPE OF SERVICES PROVIDED SHALL BE SIMILAR TO THOSE PROVIDED TO
22 HOMEBOUND OR HOSPITALIZED PUPILS UNDER SECTION 109 OF THE STATE
23 SCHOOL AID ACT OF 1979, MCL 388.1709, AND THE SERVICES MAY BE
24 CONTRACTED FOR IN THE SAME MANNER AS UNDER THAT SECTION. THIS
25 SUBSECTION DOES NOT REQUIRE A SCHOOL DISTRICT TO EXPEND MORE
26 MONEY FOR PROVIDING SERVICES FOR A PUPIL EXPELLED PURSUANT TO
27 THIS SECTION THAN THE AMOUNT OF THE FOUNDATION ALLOWANCE THE

1 SCHOOL DISTRICT RECEIVES FOR THE PUPIL UNDER SECTION 20 OF THE
2 STATE SCHOOL AID ACT OF 1979, MCL 388.1620.

3 (3) IF A SCHOOL BOARD EXPELS AN INDIVIDUAL PURSUANT TO THIS
4 SECTION, THE SCHOOL BOARD SHALL ENSURE THAT, WITHIN 3 DAYS AFTER
5 THE EXPULSION, AN OFFICIAL OF THE SCHOOL DISTRICT REFERS THE
6 INDIVIDUAL TO THE APPROPRIATE COUNTY DEPARTMENT OF SOCIAL SERV-
7 ICES OR COUNTY COMMUNITY MENTAL HEALTH AGENCY AND NOTIFIES THE
8 INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS AT
9 LEAST AGE 18 OR IS AN EMANCIPATED MINOR, NOTIFIES THE INDIVIDUAL
10 OF THE REFERRAL.

11 (4) THE PARENT OR LEGAL GUARDIAN OF AN INDIVIDUAL EXPELLED
12 PURSUANT TO THIS SECTION OR, IF THE INDIVIDUAL IS AT LEAST AGE 18
13 OR IS AN EMANCIPATED MINOR, THE INDIVIDUAL MAY PETITION THE
14 EXPELLING SCHOOL BOARD FOR REINSTATEMENT OF THE INDIVIDUAL TO
15 PUBLIC EDUCATION IN THE SCHOOL DISTRICT. IF THE EXPELLING SCHOOL
16 BOARD DENIES A PETITION FOR REINSTATEMENT, THE PARENT OR LEGAL
17 GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMAN-
18 CIPATED MINOR, THE INDIVIDUAL MAY PETITION ANOTHER SCHOOL BOARD
19 FOR REINSTATEMENT OF THE INDIVIDUAL IN THAT OTHER SCHOOL
20 DISTRICT. ALL OF THE FOLLOWING APPLY TO REINSTATEMENT UNDER THIS
21 SUBSECTION:

22 (A) THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OR, IF THE
23 INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, THE
24 INDIVIDUAL MAY INITIATE A PETITION FOR REINSTATEMENT AT ANY TIME
25 AFTER THE EXPIRATION OF 150 SCHOOL DAYS AFTER THE DATE OF
26 EXPULSION.

1 (B) THE INDIVIDUAL SHALL NOT BE REINSTATED BEFORE THE
2 EXPIRATION OF 180 SCHOOL DAYS AFTER THE DATE OF EXPULSION.

3 (C) IT IS THE RESPONSIBILITY OF THE PARENT OR LEGAL GUARDIAN
4 OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED
5 MINOR, OF THE INDIVIDUAL TO PREPARE AND SUBMIT THE PETITION. A
6 SCHOOL BOARD IS NOT REQUIRED TO PROVIDE ANY ASSISTANCE IN PREPAR-
7 ING THE PETITION. UPON REQUEST BY A PARENT OR LEGAL GUARDIAN OR,
8 IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR,
9 BY THE INDIVIDUAL, A SCHOOL BOARD SHALL MAKE AVAILABLE A FORM FOR
10 A PETITION.

11 (D) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING A PETITION
12 FOR REINSTATEMENT UNDER THIS SUBSECTION, A SCHOOL BOARD SHALL
13 APPOINT A COMMITTEE TO REVIEW THE PETITION AND ANY SUPPORTING
14 INFORMATION SUBMITTED BY THE PARENT OR LEGAL GUARDIAN OR, IF THE
15 INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, BY THE
16 INDIVIDUAL. THE COMMITTEE SHALL CONSIST OF 2 SCHOOL BOARD MEM-
17 BERS, 1 SCHOOL ADMINISTRATOR, 1 TEACHER, AND 1 PARENT OF A PUPIL
18 IN THE SCHOOL DISTRICT. DURING THIS TIME THE SUPERINTENDENT OF
19 THE SCHOOL DISTRICT MAY PREPARE AND SUBMIT FOR CONSIDERATION BY
20 THE COMMITTEE INFORMATION CONCERNING THE CIRCUMSTANCES OF THE
21 EXPULSION AND ANY FACTORS MITIGATING FOR OR AGAINST
22 REINSTATEMENT.

23 (E) NOT LATER THAN 10 SCHOOL DAYS AFTER ALL MEMBERS ARE
24 APPOINTED, THE COMMITTEE DESCRIBED IN SUBDIVISION (D) SHALL
25 REVIEW THE PETITION AND ANY SUPPORTING INFORMATION AND INFORMA-
26 TION PROVIDED BY THE SCHOOL DISTRICT AND SHALL SUBMIT A
27 RECOMMENDATION TO THE SCHOOL BOARD ON THE ISSUE OF

1 REINSTATEMENT. THE RECOMMENDATION SHALL BE FOR UNCONDITIONAL
2 REINSTATEMENT, FOR CONDITIONAL REINSTATEMENT, OR AGAINST REIN-
3 STATEMENT, AND SHALL BE ACCOMPANIED BY AN EXPLANATION OF THE REA-
4 SONS FOR THE RECOMMENDATION AND OF ANY RECOMMENDED CONDITIONS FOR
5 REINSTATEMENT. THE RECOMMENDATION SHALL BE BASED ON CONSIDERA-
6 TION OF ALL OF THE FOLLOWING FACTORS:

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

9 (ii) THE EXTENT TO WHICH REINSTATEMENT OF THE INDIVIDUAL
10 WOULD CREATE A RISK OF SCHOOL DISTRICT OR INDIVIDUAL LIABILITY
11 FOR THE SCHOOL BOARD OR SCHOOL DISTRICT PERSONNEL.

12 (iii) THE AGE AND MATURITY OF THE INDIVIDUAL.

13 (iv) THE INDIVIDUAL'S SCHOOL RECORD BEFORE THE INCIDENT THAT
14 CAUSED THE EXPULSION.

15 (v) THE INDIVIDUAL'S ATTITUDE CONCERNING THE INCIDENT THAT
16 CAUSED THE EXPULSION.

17 (vi) THE INDIVIDUAL'S BEHAVIOR SINCE THE EXPULSION AND THE
18 PROSPECTS FOR REMEDIATION OF THE INDIVIDUAL.

19 (vii) IF THE PETITION WAS FILED BY A PARENT OR LEGAL GUARDI-
20 AN, THE DEGREE OF COOPERATION AND SUPPORT THAT HAS BEEN PROVIDED
21 BY THE PARENT OR LEGAL GUARDIAN AND THAT CAN BE EXPECTED IF THE
22 INDIVIDUAL IS REINSTATED, INCLUDING, BUT NOT LIMITED TO, RECEP-
23 TIVENESS TOWARD POSSIBLE CONDITIONS PLACED ON THE REINSTATEMENT.

24 (F) NOT LATER THAN THE NEXT REGULARLY SCHEDULED BOARD MEET-
25 ING AFTER RECEIVING THE RECOMMENDATION OF THE COMMITTEE UNDER
26 SUBDIVISION (E), A SCHOOL BOARD SHALL MAKE A DECISION TO
27 UNCONDITIONALLY REINSTATE THE INDIVIDUAL, CONDITIONALLY REINSTATE

1 THE INDIVIDUAL, OR DENY REINSTATEMENT OF THE INDIVIDUAL. THE
2 DECISION OF THE SCHOOL BOARD IS FINAL.

3 (G) A SCHOOL BOARD MAY REQUIRE AN INDIVIDUAL AND, IF THE
4 PETITION WAS FILED BY A PARENT OR LEGAL GUARDIAN, HIS OR HER
5 PARENT OR LEGAL GUARDIAN TO AGREE IN WRITING TO SPECIFIC CONDI-
6 TIONS BEFORE REINSTATING THE INDIVIDUAL IN A CONDITIONAL
7 REINSTATEMENT. THE CONDITIONS MAY INCLUDE, BUT ARE NOT LIMITED
8 TO, AGREEMENT TO A BEHAVIOR CONTRACT, WHICH MAY INVOLVE THE INDI-
9 VIDUAL, PARENT OR LEGAL GUARDIAN, AND AN OUTSIDE AGENCY; PARTICI-
10 PATION IN OR COMPLETION OF AN ANGER MANAGEMENT PROGRAM OR OTHER
11 APPROPRIATE COUNSELING; PERIODIC PROGRESS REVIEWS; AND SPECIFIED
12 IMMEDIATE CONSEQUENCES FOR FAILURE TO ABIDE BY A CONDITION. A
13 PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18
14 OR IS AN EMANCIPATED MINOR, THE INDIVIDUAL MAY INCLUDE PROPOSED
15 CONDITIONS IN A PETITION FOR REINSTATEMENT SUBMITTED UNDER THIS
16 SUBSECTION.

17 (5) A SCHOOL BOARD OR SCHOOL ADMINISTRATOR THAT COMPLIES
18 WITH THIS SECTION IS NOT LIABLE FOR DAMAGES FOR EXPELLING A PUPIL
19 PURSUANT TO THIS SECTION, AND THE AUTHORIZING BODY OF A PUBLIC
20 SCHOOL ACADEMY ESTABLISHED UNDER PART 6A IS NOT LIABLE FOR DAM-
21 AGES FOR EXPULSION OF A PUPIL BY THE PUBLIC SCHOOL ACADEMY PURSU-
22 ANT TO THIS SECTION.

23 (6) THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE TO ALL
24 SCHOOL DISTRICTS A FORM FOR A PETITION FOR REINSTATEMENT TO BE
25 USED UNDER SUBSECTION (4). THE DEPARTMENT MAY DESIGNATE THE FORM
26 USED FOR A PETITION FOR REINSTATEMENT UNDER SECTION 1311 AS A
27 FORM THAT MAY BE USED UNDER THIS SUBSECTION.

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

4 (8) IF A PUPIL EXPELLED FROM A SCHOOL DISTRICT PURSUANT TO
5 THIS SECTION IS ENROLLED BY A PUBLIC SCHOOL SPONSORED ALTERNATIVE
6 EDUCATION PROGRAM OR A PUBLIC SCHOOL ACADEMY DURING THE PERIOD OF
7 EXPULSION, THE PUBLIC SCHOOL ACADEMY OR THE ALTERNATIVE EDUCATION
8 PROGRAM IS IMMEDIATELY ELIGIBLE FOR THE PRORATED SHARE OF EITHER
9 THE PUBLIC SCHOOL ACADEMY'S FOUNDATION ALLOWANCE OR THE EXPELLING
10 SCHOOL DISTRICT'S FOUNDATION ALLOWANCE, WHICHEVER IS HIGHER.

11 (9) AS USED IN THIS SECTION:

12 (A) "ASSAULT" MEANS A VIOLATION OF CHAPTER XI OF THE
13 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81 TO 750.90F.

14 (B) "SCHOOL BOARD" MEANS A SCHOOL BOARD, INTERMEDIATE SCHOOL
15 BOARD, OR THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY
16 ESTABLISHED UNDER PART 6A.

17 (C) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, A LOCAL ACT
18 SCHOOL DISTRICT, AN INTERMEDIATE SCHOOL DISTRICT, OR A PUBLIC
19 SCHOOL ACADEMY ESTABLISHED UNDER PART 6A.