

SENATE BILL No. 943

January 26, 2000, Introduced by Senators STILLE and GAST and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1310a and 1311a (MCL 380.1310a and
380.1311a), section 1310a as added by 1999 PA 102 and
section 1311a as added by 1999 PA 104.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1310a. (1) At least annually, each school board shall
2 prepare and submit to the superintendent of public instruction,
3 in the form and manner prescribed by the superintendent of public
4 instruction, a report stating the number of pupils expelled from
5 the school district during the immediately preceding school year,
6 with a brief description of the incident that caused each
7 expulsion.

8 (2) In order to obtain an accurate local and statewide
9 picture of school crime and to develop the partnerships necessary

1 to plan and implement school safety programs, at least annually,
2 each school board shall report to the superintendent of public
3 instruction, in the form and manner prescribed by the superinten-
4 dent of public instruction, incidents of crime occurring at
5 school within the school district. In determining the form and
6 manner of this report, the superintendent of public instruction
7 shall consult with local and intermediate school districts and
8 law enforcement officials. The reporting shall include at least
9 crimes involving physical violence, gang-related activity, ille-
10 gal possession of a controlled substance or controlled substance
11 analogue, or other intoxicant, trespassing, and property crimes
12 including, but not limited to, theft and vandalism. For a prop-
13 erty crime, the report shall include an estimate of the cost to
14 the school district resulting from the property crime. The
15 school crime reporting requirements of this subsection are
16 intended to do all of the following:

17 (a) Help policymakers and program designers at the local and
18 state levels develop appropriate prevention and intervention
19 programs.

20 (b) Provide the continuous assessment tools needed for
21 revising and refining school safety programs.

22 (c) Assist schools and school districts to identify the most
23 pressing safety issues confronting their school communities, to
24 direct resources appropriately, and to enhance campus safety
25 through prevention and intervention strategies.

26 (d) Foster the creation of partnerships among schools,
27 school districts, state agencies, communities, law enforcement,

1 and the media to prevent further crime and violence and to assure
2 a safe learning environment for every pupil.

3 (3) At least ~~once each semester~~ ANNUALLY, each school
4 board shall ~~provide~~ MAKE a copy of the most recent report
5 ~~under subsection (2) available~~ for the school district UNDER
6 SUBSECTION (2) AVAILABLE to the parent or legal guardian of each
7 pupil enrolled in the school district.

8 (4) As used in this section, "school board" and "school
9 district" mean those terms as defined in section 1310.

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

23 (2) If a pupil enrolled in grade 6 or above commits a verbal
24 assault, as defined by school board policy, at school against a
25 person employed by or engaged as a volunteer or contractor by the
26 school board and the verbal assault is reported to the school
27 board, school district superintendent, or building principal by

1 the victim or, if the victim is unable to report the verbal
2 assault, by another person on the victim's behalf, or if a pupil
3 enrolled in grade 6 or above makes a bomb threat or similar
4 threat directed at a school building, other school property, or a
5 school-related event, then the school board, or the designee of
6 the school board as described in section 1311(1) on behalf of the
7 school board, shall SUSPEND OR expel the pupil from the school
8 district for ~~up to 180 school days~~ A PERIOD OF TIME AS DETER-
9 MINED IN THE DISCRETION OF THE SCHOOL BOARD OR ITS DESIGNEE. A
10 district superintendent or building principal who receives a
11 report described in this subsection shall forward the report to
12 the school board. Notwithstanding section 1147, a school dis-
13 trict is not required to allow an individual expelled from
14 another school district under this subsection to attend school in
15 the school district during the expulsion.

16 (3) If an individual is permanently expelled pursuant to
17 ~~subsection (1)~~ THIS SECTION, the expelling school district
18 shall enter on the individual's permanent record that he or she
19 has been permanently expelled pursuant to ~~subsection (1)~~ THIS
20 SECTION. Except if a school district operates or participates
21 cooperatively in an alternative education program appropriate for
22 individuals expelled pursuant to ~~subsection (1)~~ THIS SECTION
23 and section 1311(2) and in its discretion admits the individual
24 to that program, and except for a strict discipline academy
25 established under sections 1311b to 1311l, an individual per-
26 manently expelled pursuant to ~~subsection (1)~~ THIS SECTION is
27 expelled from all public schools in this state and the officials

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

23 (4) If a school board PERMANENTLY expels an individual pur-
24 suant to this section, the school board shall ensure that, within
25 3 days after the expulsion, an official of the school district
26 refers the individual to the appropriate county department of
27 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, noti-
3 fies the individual of the referral.

4 (5) The parent or legal guardian of an individual per-
5 manently expelled pursuant to ~~subsection (1)~~ THIS SECTION or,
6 if the individual is at least age 18 or is an emancipated minor,
7 the individual may petition the expelling school board for rein-
8 statement of the individual to public education in the school
9 district. If the expelling school board denies a petition for
10 reinstatement, the parent or legal guardian or, if the individual
11 is at least age 18 or is an emancipated minor, the individual may
12 petition another school board for reinstatement of the individual
13 in that other school district. All of the following apply to
14 reinstatement under this subsection:

15 (a) The individual's parent or legal guardian or, if the
16 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 150 school days after the date of
19 expulsion.

20 (b) The individual shall not be reinstated before the expi-
21 ration of 180 school days after the date of expulsion.

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

1 by the individual, a school board shall make available a form for
2 a petition.

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

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

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

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

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

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

7 (v) The individual's attitude concerning the incident that
8 caused the expulsion.

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

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

16 (f) Not later than the next regularly scheduled board meet-
17 ing after receiving the recommendation of the committee under
18 subdivision (e), a school board shall make a decision to uncondi-
19 tionally reinstate the individual, conditionally reinstate the
20 individual, or deny reinstatement of the individual. The deci-
21 sion of the school board is final.

22 (g) A school board may require an individual and, if the
23 petition was filed by a parent or legal guardian, his or her
24 parent or legal guardian to agree in writing to specific condi-
25 tions before reinstating the individual in a conditional
26 reinstatement. The conditions may include, but are not limited
27 to, agreement to a behavior contract, which may involve the

1 individual, parent or legal guardian, and an outside agency;
2 participation in or completion of an anger management program or
3 other appropriate counseling; periodic progress reviews; and
4 specified immediate consequences for failure to abide by a
5 condition. A parent or legal guardian or, if the individual is
6 at least age 18 or is an emancipated minor, the individual may
7 include proposed conditions in a petition for reinstatement sub-
8 mitted under this subsection.

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

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

20 (8) 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 (9) If a pupil expelled from a school district pursuant to
24 this section is enrolled by a public school district sponsored
25 alternative education program or a public school academy during
26 the period of expulsion, the public school academy or the
27 alternative education program is immediately eligible for the

1 prorated share of either the public school academy's or operating
2 school district's foundation allowance or the expelling school
3 district's foundation allowance, whichever is higher.

4 (10) A school board or its designee shall report all
5 assaults described in subsection (1) or (2) to appropriate state
6 or local law enforcement officials and prosecutors as provided in
7 the statewide school safety information policy under section
8 1308.

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

1 (12) As used in this section:

2 (a) "At school" means in a classroom, elsewhere on school
3 premises, on a school bus or other school-related vehicle, or at
4 a school-sponsored activity or event whether or not it is held on
5 school premises.

6 (b) "Physical assault" means intentionally causing or
7 attempting to cause physical harm to another through force or
8 violence.

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

11 (d) "School district" means a school district, a local act
12 school district, an intermediate school district, or a public
13 school academy.