

Act No. 104
Public Acts of 1999
Approved by the Governor
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STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 1999

**Introduced by Senators Stille, Hammerstrom, Dunaskiss, Goschka, Gougeon, Steil, Bullard, Shugars,
Jaye, Hoffman, Sikkema, McManus and North**

ENROLLED SENATE BILL No. 206

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1311a.

The People of the State of Michigan enact:

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

(2) If a pupil enrolled in grade 6 or above commits a verbal assault, as defined by school board policy, at school against a person employed by or engaged as a volunteer or contractor by the school board and the verbal assault is reported to the school board, school district superintendent, or building principal by the victim or, if the victim is unable to report the verbal assault, by another person on the victim's behalf, or if a pupil enrolled in grade 6 or above makes a bomb threat or similar threat directed at a school building, other school property, or a school-related event, then the

school board, or the designee of the school board as described in section 1311(1) on behalf of the school board, shall expel the pupil from the school district for up to 180 school days. A district superintendent or building principal who receives a report described in this subsection shall forward the report to the school board. Notwithstanding section 1147, a school district is not required to allow an individual expelled from another school district under this subsection to attend school in the school district during the expulsion.

(3) If an individual is permanently expelled pursuant to subsection (1), the expelling school district shall enter on the individual's permanent record that he or she has been permanently expelled pursuant to subsection (1). Except if a school district operates or participates cooperatively in an alternative education program appropriate for individuals expelled pursuant to subsection (1) and section 1311(2) and in its discretion admits the individual to that program, and except for a strict discipline academy established under sections 1311b to 1311l, an individual permanently expelled pursuant to subsection (1) 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 (1) and section 1311(2) shall ensure that those individuals are physically separated at all times during the school day from the general pupil population. If an individual permanently expelled from a school district pursuant to subsection (1) is not placed in an alternative education program or strict discipline academy, the school district may provide, or may arrange for the intermediate school district to provide, appropriate instructional services to the individual at home. The type of services provided shall meet the requirements of section 6(4)(v) of the state school aid act of 1979, MCL 388.1606, and the services may be contracted for in the same manner as services for homebound pupils under section 109 of the state school aid act of 1979, MCL 388.1709. This subsection does not require a school district to expend more money for providing services for a pupil permanently expelled pursuant to subsection (1) than the amount of the foundation allowance the school district receives for the pupil under section 20 of the state school aid act of 1979, MCL 388.1620.

(4) If a school board expels an individual pursuant to this section, 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 is at least age 18 or is an emancipated minor, notifies the individual of the referral.

(5) The parent or legal guardian of an individual permanently expelled pursuant to subsection (1) or, if the individual is at least age 18 or is an emancipated minor, the individual may petition the expelling school board for reinstatement of the individual to public education in the school district. If the expelling school board denies a petition for reinstatement, the parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may petition another school board for reinstatement of the individual in that other school district. All of the following apply to reinstatement under this subsection:

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

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

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

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

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

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

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

(iii) The age and maturity of the individual.

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

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

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

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

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

(g) A school board may require an individual and, if the petition was filed by a parent or legal guardian, his or her parent or legal guardian to agree in writing to specific conditions before reinstating the individual in a conditional reinstatement. The conditions may include, but are not limited to, agreement to a behavior contract, which may involve the individual, parent or legal guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, the individual may include proposed conditions in a petition for reinstatement submitted under this subsection.

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

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

(8) 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.

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

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

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

(12) As used in this section:

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

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

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

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

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 90th Legislature are enacted into law:

(a) Senate Bill No. 183.

(b) House Bill No. 4240.

(c) House Bill No. 4241.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Jay E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.