

SENATE BILL No. 1025

August 13, 2014, Introduced by Senator HILDENBRAND and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1311a (MCL 380.1311a), as amended by 2007 PA
138.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1311a. (1) If a pupil enrolled in grade 6 or above
2 commits a physical assault at school against a person employed by
3 or engaged as a volunteer or contractor by the school board
4 **DISTRICT OR MAKES A THREAT AT SCHOOL TO KILL A PERSON EMPLOYED BY**
5 **OR ENGAGED AS A VOLUNTEER OR CONTRACTOR BY THE SCHOOL DISTRICT** and
6 the physical assault **OR THREAT TO KILL** is reported to the school
7 board, school district superintendent, or building principal by the

1 victim or, if the victim is unable to report the assault **OR THREAT**
2 **TO KILL**, by another person on the victim's behalf, then the school
3 board, or the designee of the school board as described in section
4 1311(1) on behalf of the school board, shall expel the pupil from
5 the school district permanently, subject to possible reinstatement
6 under subsection (5). A district superintendent or building
7 principal who receives a report described in this subsection shall
8 forward the report to the school board.

9 (2) If a pupil enrolled in grade 6 or above commits a verbal
10 assault **OTHER THAN A THREAT TO KILL**, as defined by school board
11 policy, at school against a person employed by or engaged as a
12 volunteer or contractor by the school ~~board~~**DISTRICT** and the verbal
13 assault is reported to the school board, school district
14 superintendent, or building principal by the victim or, if the
15 victim is unable to report the verbal assault, by another person on
16 the victim's behalf, or if a pupil enrolled in grade 6 or above
17 makes a bomb threat or similar threat directed at a school
18 building, other school property, or a school-related event, then
19 the school board, or the designee of the school board as described
20 in section 1311(1) on behalf of the school board, shall suspend or
21 expel the pupil from the school district for a period of time as
22 determined in the discretion of the school board or its designee. A
23 district superintendent or building principal who receives a report
24 described in this subsection shall forward the report to the school
25 board. Notwithstanding section 1147, a school district is not
26 required to allow an individual expelled from another school
27 district under this subsection to attend school in the school

1 district during the expulsion.

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

1 aid act of 1979, MCL 388.1709. This subsection does not require a
2 school district to expend more money for providing services for a
3 pupil permanently expelled pursuant to this section than the amount
4 of the foundation allowance **OR PER PUPIL PAYMENT** the school
5 district receives for the pupil **AS CALCULATED** under section 20 of
6 the state school aid act of 1979, MCL 388.1620.

7 (4) If a school board permanently expels an individual
8 pursuant to this section, the school board shall ensure that,
9 within 3 days after the expulsion, an official of the school
10 district refers the individual to the appropriate county department
11 of social services or county community mental health agency and
12 notifies the individual's parent or legal guardian or, if the
13 individual is at least age 18 or is an emancipated minor, notifies
14 the individual of the referral.

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

25 (a) The individual's parent or legal guardian or, if the
26 individual is at least age 18 or is an emancipated minor, the
27 individual may initiate a petition for reinstatement at any time

1 after the expiration of 150 school days after the date of
2 expulsion.

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

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

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

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

1 to the school board on the issue of reinstatement. The
2 recommendation shall be for unconditional reinstatement, for
3 conditional reinstatement, or against reinstatement, and shall be
4 accompanied by an explanation of the reasons for the recommendation
5 and of any recommended conditions for reinstatement. The
6 recommendation shall be based on consideration of all of the
7 following factors:

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

10 (ii) The extent to which reinstatement of the individual would
11 create a risk of school district or individual liability for the
12 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 guardian,
21 the degree of cooperation and support that has been provided by the
22 parent or legal guardian and that can be expected if the individual
23 is reinstated, including, but not limited to, receptiveness toward
24 possible conditions placed on the reinstatement.

25 (f) Not later than the next regularly scheduled board meeting
26 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 parent
6 or legal guardian to agree in writing to specific conditions before
7 reinstating the individual in a conditional reinstatement. The
8 conditions may include, but are not limited to, agreement to a
9 behavior contract, which may involve the individual, parent or
10 legal guardian, and an outside agency; participation in or
11 completion of an anger management program or other appropriate
12 counseling; periodic progress reviews; and specified immediate
13 consequences for failure to abide by a condition. A parent or legal
14 guardian or, if the individual is at least age 18 or is an
15 emancipated minor, the individual may include proposed conditions
16 in a petition for reinstatement submitted under this subsection.

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

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

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

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

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

16 (11) If an individual is expelled pursuant to this section, it
17 is the responsibility of that individual and of his or her parent
18 or legal guardian to locate a suitable educational program and to
19 enroll the individual in such a program during the expulsion. The
20 office for safe schools in the department shall compile information
21 on and catalog existing alternative education programs or schools
22 and nonpublic schools that may be open to enrollment of individuals
23 expelled pursuant to this section and pursuant to section 1311(2),
24 and shall periodically distribute this information to school
25 districts for distribution to expelled individuals. A school board
26 that establishes an alternative education program or school
27 described in this subsection shall notify the office ~~of~~ **FOR** safe

1 schools about the program or school and the types of pupils it
2 serves. The office for safe schools also shall work with and
3 provide technical assistance to school districts, authorizing
4 bodies for public school academies, and other interested parties in
5 developing these types of alternative education programs or schools
6 in geographic areas that are not being served.

7 (12) As used in this section:

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

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

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

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