

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5693**

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1311 (MCL 380.1311), as amended by 2008 PA 1.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1311. (1) Subject to subsection (2), the school board, or
2 the school district superintendent, a school building principal, or
3 another school district official if designated by the school board,
4 may authorize or order the suspension or expulsion from school of a
5 pupil guilty of gross misdemeanor or persistent disobedience if, in
6 the judgment of the school board or its designee, as applicable,
7 the interest of the school is served by the authorization or order.
8 If there is reasonable cause to believe that the pupil is a student
9 with a disability, and the school district has not evaluated the

pupil in accordance with rules of the superintendent of public instruction to determine if the pupil is a student with a disability, the pupil shall be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711.

(2) ~~IF~~ **SUBJECT TO SUBSECTION (3) AND SECTION 1310D, IF** a pupil possesses in a weapon free school zone a weapon that constitutes a dangerous weapon, commits arson in a school building or on school grounds, or commits criminal sexual conduct in a school building or on school grounds, the school board, or the designee of the school board as described in subsection (1) on behalf of the school board, shall expel the pupil from the school district permanently, subject to possible reinstatement under subsection ~~(5)~~ **—(6)**. However, a school board is not required to expel a pupil for possessing a weapon if the pupil establishes in a clear and convincing manner at least 1 of the following:

(a) The object or instrument possessed by the pupil was not possessed by the pupil for use as a weapon, or for direct or 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) THERE IS A REBUTTABLE PRESUMPTION THAT EXPULSION UNDER

1 SUBSECTION (2) FOR POSSESSION OF A WEAPON IS NOT JUSTIFIED IF BOTH
2 OF THE FOLLOWING ARE MET:

3 (A) THE SCHOOL BOARD OR ITS DESIGNEE DETERMINES IN WRITING
4 THAT AT LEAST 1 OF THE FACTORS LISTED IN SUBSECTION (2) (A) TO (D)
5 HAS BEEN ESTABLISHED IN A CLEAR AND CONVINCING MANNER.

6 (B) THE PUPIL HAS NO HISTORY OF SUSPENSION OR EXPULSION.

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

1 services provided shall meet the requirements of section 6(4)(u) of
2 the state school aid act of 1979, MCL 388.1606, and the services
3 may be contracted for in the same manner as services for homebound
4 pupils under section 109 of the state school aid act of 1979, MCL
5 388.1709. This subsection does not require a school district to
6 expend more money for providing services for a pupil expelled
7 pursuant to subsection (2) than the amount of the foundation
8 allowance the school district receives for the pupil as calculated
9 under section 20 of the state school aid act of 1979, MCL 388.1620.

10 (5) ~~(4)~~—If a school board expels an individual pursuant to
11 subsection (2), the school board shall ensure that, within 3 days
12 after the expulsion, an official of the school district refers the
13 individual to the appropriate county department of social services
14 or 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 of
17 the referral.

18 (6) ~~(5)~~—The parent or legal guardian of an individual expelled
19 pursuant to subsection (2) or, if the individual is at least age 18
20 or is an emancipated minor, the individual may petition the
21 expelling school board for reinstatement of the individual to
22 public education in the school district. If the expelling school
23 board denies a petition for reinstatement, the parent or legal
24 guardian or, if the individual is at least age 18 or is an
25 emancipated minor, the individual may petition another school board
26 for reinstatement of the individual in that other school district.
27 All of the following apply to reinstatement under this subsection:

1 (a) For an individual who was enrolled in grade 5 or below at
2 the time of the expulsion and who has been expelled for possessing
3 a firearm or threatening another person with a dangerous weapon,
4 the parent or legal guardian or, if the individual is at least age
5 18 or is an emancipated minor, the individual may initiate a
6 petition for reinstatement at any time after the expiration of 60
7 school days after the date of expulsion. For an individual who was
8 enrolled in grade 5 or below at the time of the expulsion and who
9 has been expelled pursuant to subsection (2) for a reason other
10 than possessing a firearm or threatening another person with a
11 dangerous weapon, the parent or legal guardian or, if the
12 individual is at least age 18 or is an emancipated minor, the
13 individual may initiate a petition for reinstatement at any time.
14 For an individual who was in grade 6 or above at the time of
15 expulsion, the parent or legal guardian or, if the individual is at
16 least age 18 or is an emancipated minor, the individual may
17 initiate a petition for reinstatement at any time after the
18 expiration of 150 school days after the date of expulsion.

19 (b) An individual who was in grade 5 or below at the time of
20 the expulsion and who has been expelled for possessing a firearm or
21 threatening another person with a dangerous weapon shall not be
22 reinstated before the expiration of 90 school days after the date
23 of expulsion. An individual who was in grade 5 or below at the time
24 of the expulsion and who has been expelled pursuant to subsection
25 (2) for a reason other than possessing a firearm or threatening
26 another person with a dangerous weapon shall not be reinstated
27 before the expiration of 10 school days after the date of the

1 expulsion. An individual who was in grade 6 or above at the time of
2 the expulsion shall not be reinstated before the expiration of 180
3 school days after the 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 preparing
8 the petition. Upon request by a parent or legal guardian or, if the
9 individual is at least age 18 or is an emancipated minor, by the
10 individual, a school board shall make available a form for a
11 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 members,
18 1 school administrator, 1 teacher, and 1 parent of a pupil in the
19 school district. During this time the superintendent of the school
20 district may prepare and submit for consideration by the committee
21 information concerning the circumstances of the expulsion and any
22 factors mitigating for or against reinstatement.

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

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

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

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

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

16 (7) ~~(6)~~—A school board or school administrator that complies
17 with subsection (2) is not liable for damages for expelling a pupil
18 pursuant to subsection (2), and the authorizing body of a public
19 school academy is not liable for damages for expulsion of a pupil
20 by the public school academy pursuant to subsection (2).

21 (8) ~~(7)~~—The department shall develop and distribute to all
22 school districts a form for a petition for reinstatement to be used
23 under subsection ~~(5)~~ **(6)**.

24 (9) ~~(8)~~—This section does not diminish any rights under
25 federal law of a pupil who has been determined to be eligible for
26 special education programs and services.

27 (10) ~~(9)~~—If a pupil expelled from a public school district

1 pursuant to subsection (2) is enrolled by a public school district
2 sponsored alternative education program or a public school academy
3 during the period of expulsion, the public school academy or
4 alternative education program shall immediately become eligible for
5 the prorated share of either the public school academy or operating
6 school district's foundation allowance or the expelling school
7 district's foundation allowance, whichever is higher.

8 **(11)** ~~(10)~~—If an individual is expelled pursuant to subsection
9 (2), it is the responsibility of that individual and of his or her
10 parent or legal guardian to locate a suitable alternative
11 educational program and to enroll the individual in such a program
12 during the expulsion. The office of safe schools in the department
13 shall compile information on and catalog existing alternative
14 education programs or schools and nonpublic schools that may be
15 open to enrollment of individuals expelled pursuant to subsection
16 (2) and pursuant to section 1311a, and shall periodically
17 distribute this information to school districts for distribution to
18 expelled individuals. A school board that establishes an
19 alternative education program or school described in this
20 subsection shall notify the office of safe schools about the
21 program or school and the types of pupils it serves. The office of
22 safe schools also shall work with and provide technical assistance
23 to school districts, authorizing bodies for public school
24 academies, and other interested parties in developing these types
25 of alternative education programs or schools in geographic areas
26 that are not being served.

27 **(12)** ~~(11)~~—As used in this section:

1 (a) "Arson" means a felony violation of chapter X of the
2 Michigan penal code, 1931 PA 328, MCL 750.71 to ~~750.80~~ **750.79**.

3 (b) "Criminal sexual conduct" means a violation of section
4 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
5 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

6 (c) "Dangerous weapon" means that term as defined in section
7 1313.

8 (d) "Firearm" means that term as defined in section 921 of
9 title 18 of the United States Code, 18 USC 921.

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

12 (f) "School district" means a school district, ~~a local act~~
13 ~~school district, an intermediate school district, or a public~~
14 school academy.

15 (g) "Weapon free school zone" means that term as defined in
16 section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

17 Enacting section 1. This amendatory act takes effect August 1,
18 2017.

19 Enacting section 2. This amendatory act does not take effect
20 unless House Bill No. 5618 of the 98th Legislature is enacted into
21 law.