

# HOUSE BILL NO. 5557

February 26, 2020, Introduced by Reps. Camilleri, Brenda Carter, Anthony, Hammoud, Koleszar, Clemente, Cynthia Johnson, Kennedy, Manoogian, Miller, Hood, Tyrone Carter, Stone, LaGrand and Shannon and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending section 1311 (MCL 380.1311), as amended by 2018 PA 145.

**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 who commits criminal sexual conduct against another pupil



1 enrolled in the same school district or a pupil guilty of gross  
 2 misdemeanor or persistent disobedience if, in the judgment of the  
 3 school board or its designee, as applicable, the interest of the  
 4 school is served by the authorization or order. If there is  
 5 reasonable cause to believe that the pupil is a student with a  
 6 disability, and the school district has not evaluated the pupil in  
 7 accordance with rules of the superintendent of public instruction  
 8 to determine if the pupil is a student with a disability, the ~~pupil~~  
 9 **intermediate school district of which the school district is**  
 10 **constituent** shall ~~be evaluated~~ **evaluate the pupil** immediately by  
 11 ~~the intermediate school district of which the school district is~~  
 12 ~~constituent~~ in accordance with section 1711. **A pupil must not be**  
 13 **suspended or expelled solely based on the pupil's school**  
 14 **attendance.**

15 (2) Subject to subsection (3) and section 1310d, if a pupil  
 16 possesses in a weapon free school zone a weapon that constitutes a  
 17 dangerous weapon, commits arson in a school building or on school  
 18 grounds, commits criminal sexual conduct in a school building or on  
 19 school grounds, or pleads to, is convicted of, or is adjudicated  
 20 for criminal sexual conduct against another pupil enrolled in the  
 21 same school district, the school board, or the designee of the  
 22 school board as described in subsection (1) on behalf of the school  
 23 board, shall expel the pupil from the school district permanently,  
 24 subject to possible reinstatement under subsection (6). However, a  
 25 school board is not required to expel a pupil for possessing a  
 26 weapon if the pupil establishes in a clear and convincing manner at  
 27 least 1 of the following:

28 (a) The object or instrument possessed by the pupil was not  
 29 possessed by the pupil for use as a weapon, or for direct or



1 indirect delivery to another individual for use as a weapon.

2 (b) The weapon was not knowingly possessed by the pupil.

3 (c) The pupil did not know or have reason to know that the  
4 object or instrument possessed by the pupil constituted a dangerous  
5 weapon.

6 (d) The weapon was possessed by the pupil at the suggestion,  
7 request, or direction of, or with the express permission of, school  
8 or police authorities.

9 (3) There is a rebuttable presumption that expulsion under  
10 subsection (2) for possession of a weapon is not justified if both  
11 of the following are met:

12 (a) The school board or its designee determines in writing  
13 that at least 1 of the factors listed in subsection (2)(a) to (d)  
14 has been established in a clear and convincing manner.

15 (b) The pupil has no history of suspension or expulsion.

16 (4) If an individual is expelled under subsection (2), the  
17 expelling school district shall enter on the individual's permanent  
18 record that he or she has been expelled under subsection (2).  
19 Except if a school district operates or participates cooperatively  
20 in an alternative education program appropriate for individuals  
21 expelled under subsection (2) and in its discretion admits the  
22 individual to that program, and except for a strict discipline  
23 academy established under sections 1311b to 1311m or a cyber school  
24 as **that term is** defined in section 551, an individual expelled  
25 under subsection (2) is expelled from all public schools in this  
26 state and the officials of a school district shall not allow the  
27 individual to enroll in the school district unless the individual  
28 has been reinstated under subsection (6). Except as otherwise  
29 provided by law, a program operated for individuals expelled under



1 subsection (2) shall ensure that those individuals are physically  
2 separated at all times during the school day from the general pupil  
3 population. If an individual expelled from a school district under  
4 subsection (2) is not placed in an alternative education program,  
5 strict discipline academy, or cyber school, the school district may  
6 provide, or may arrange for the intermediate school district to  
7 provide, appropriate instructional services to the individual at  
8 home. The type of services provided ~~shall~~**must** meet the  
9 requirements of section 6(4)(u) of the state school aid act of  
10 1979, MCL 388.1606, and the services may be contracted for in the  
11 same manner as services for homebound pupils under section 109 of  
12 the state school aid act of 1979, MCL 388.1709. This subsection  
13 does not require a school district to expend more money for  
14 providing services for a pupil expelled under subsection (2) than  
15 the amount of the foundation allowance the school district receives  
16 for the pupil as calculated under section 20 of the state school  
17 aid act of 1979, MCL 388.1620.

18 (5) If a school board expels an individual under subsection  
19 (2), the school board shall ensure that, within 3 days after the  
20 expulsion, an official of the school district refers the individual  
21 to the appropriate county department of social services or county  
22 community mental health agency and notifies the individual's parent  
23 or legal guardian or, if the individual is at least age 18 or is an  
24 emancipated minor, notifies the individual of the referral.

25 (6) The parent or legal guardian of an individual expelled  
26 under subsection (2) or, if the individual is at least age 18 or is  
27 an emancipated minor, the individual may petition the expelling  
28 school board for reinstatement of the individual to public  
29 education in the school district. If the expelling school board



1 denies a petition for reinstatement, the parent or legal guardian  
2 or, if the individual is at least age 18 or is an emancipated  
3 minor, the individual may petition another school board for  
4 reinstatement of the individual in that other school district. All  
5 of the following apply to reinstatement under this subsection:

6 (a) For an individual who was enrolled in grade 5 or below at  
7 the time of the expulsion and who has been expelled for possessing  
8 a firearm or threatening another person with a dangerous weapon,  
9 the parent or legal guardian or, if the individual is at least age  
10 18 or is an emancipated minor, the individual may initiate a  
11 petition for reinstatement at any time after the expiration of 60  
12 school days after the date of expulsion. For an individual who was  
13 enrolled in grade 5 or below at the time of the expulsion and who  
14 has been expelled under subsection (2) for a reason other than  
15 possessing a firearm or threatening another person with a dangerous  
16 weapon, the parent or legal guardian or, if the individual is at  
17 least age 18 or is an emancipated minor, the individual may  
18 initiate a petition for reinstatement at any time. For an  
19 individual who was in grade 6 or above at the time of expulsion,  
20 the parent or legal guardian or, if the individual is at least age  
21 18 or is an emancipated minor, the individual may initiate a  
22 petition for reinstatement at any time after the expiration of 150  
23 school days after the date of expulsion.

24 (b) An individual who was in grade 5 or below at the time of  
25 the expulsion and who has been expelled for possessing a firearm or  
26 threatening another person with a dangerous weapon ~~shall~~**must** not  
27 be reinstated before the expiration of 90 school days after the  
28 date of expulsion. An individual who was in grade 5 or below at the  
29 time of the expulsion and who has been expelled under subsection



1 (2) for a reason other than possessing a firearm or threatening  
2 another person with a dangerous weapon ~~shall~~**must** not be reinstated  
3 before the expiration of 10 school days after the date of the  
4 expulsion. An individual who was in grade 6 or above at the time of  
5 the expulsion ~~shall~~**must** not be reinstated before the expiration of  
6 180 school days after the date of expulsion.

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

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

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



1 to the school board on the issue of reinstatement. The  
2 recommendation ~~shall~~**must** be for unconditional reinstatement, for  
3 conditional reinstatement, or against reinstatement, and ~~shall~~**must**  
4 be accompanied by an explanation of the reasons for the  
5 recommendation and of any recommended conditions for reinstatement.  
6 The recommendation ~~shall~~**must** be based on consideration of all of  
7 the 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 liability or individual liability  
12 for the 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  
28 unconditionally reinstate the individual, conditionally reinstate  
29 the individual, or deny reinstatement of the individual. The



1 decision of the school board is final.

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

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

20 (8) The department shall develop and distribute to all school  
21 districts a form for a petition for reinstatement to be used under  
22 subsection (6).

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

26 (10) If a pupil expelled from a public school district under  
27 subsection (2) is enrolled by a public school district sponsored  
28 alternative education program or a public school academy during the  
29 period of expulsion, the public school academy or alternative



1 education program ~~shall immediately become~~**becomes** eligible for the  
2 prorated share of either the public school academy or operating  
3 school district's foundation allowance or the expelling school  
4 district's foundation allowance, whichever is higher.

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

23 (12) As used in this section:

24 (a) "Arson" means a felony violation of chapter X of the  
25 Michigan penal code, 1931 PA 328, MCL 750.71 to 750.79.

26 (b) "Criminal sexual conduct" means a violation of section  
27 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA  
28 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

29 (c) "Dangerous weapon" means that term as defined in section



1 1313.

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

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

6 (f) "School district" means a school district, intermediate  
7 school district, or public school academy.

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

