

SENATE BILL NO. 1028

July 23, 2020, Introduced by Senators MCCANN, CHANG, BULLOCK, BRINKS, BAYER, ALEXANDER, GEISS, POLEHANKI and MCMORROW and referred to the Committee on Education and Career Readiness.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1310a, 1311, and 1561 (MCL 380.1310a,
380.1311, and 380.1561), sections 1310a and 1561 as amended by 2016
PA 532 and section 1311 as amended by 2018 PA 145.

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, in

1 the form and manner prescribed by the superintendent of public
2 instruction, a report ~~stating the number of pupils expelled from~~
3 ~~the school district during the immediately preceding school year,~~
4 ~~with a brief description of the incident that caused each~~
5 ~~expulsion.~~ **that includes all of the following:**

6 (a) **The number of pupils expelled or suspended from the school**
7 **district during the immediately preceding school year.**

8 (b) **The number of pupils who were truant, chronically absent,**
9 **or disciplinary absent during the immediately preceding school**
10 **year.**

11 (c) **For each expulsion or suspension, a brief written**
12 **description of the incident that caused the expulsion or suspension**
13 **and the disciplinary outcomes.**

14 (d) **For each incident of a pupil who was truant, chronically**
15 **absent, or disciplinary absent, a brief written description of the**
16 **incident and the identification of the race, gender, and ethnicity**
17 **of the pupil.**

18 (e) **For the immediately preceding school year, a breakdown of**
19 **the number of pupils by race, gender, and ethnicity who were**
20 **expelled, suspended, truant, chronically absent, or disciplinary**
21 **absent.**

22 (2) In order to obtain an accurate local picture of school
23 crime and to develop the partnerships necessary to plan and
24 implement school safety programs, at least annually, each school
25 board shall post on its website, in the form and manner prescribed
26 by the superintendent of public instruction, incidents of crime
27 occurring at school within the school district. In determining the
28 form and manner of this report, the superintendent of public
29 instruction shall consult with ~~local and intermediate school~~

1 districts and law enforcement officials. The reporting ~~shall~~**must**
2 include at least ~~crimes~~**all incidents** involving physical violence,
3 gang-related activity, illegal possession of a controlled substance
4 or controlled substance analogue, or other intoxicant, trespassing,
5 and property crimes including, but not limited to, theft and
6 vandalism. For a property crime, the report ~~shall~~**must** include an
7 estimate of the cost to the school district resulting from the
8 property crime. The school crime reporting requirements of this
9 subsection are intended to do all of the following:

10 (a) Help policymakers and program designers develop
11 appropriate prevention and intervention programs.

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

14 (c) Assist schools and school districts to identify the most
15 pressing safety issues confronting their school communities, to
16 direct resources appropriately, and to enhance campus safety
17 through prevention and intervention strategies.

18 (d) Foster the creation of partnerships among schools, school
19 districts, state agencies, communities, law enforcement, and the
20 media to prevent further crime and violence and to assure a safe
21 learning environment for every pupil.

22 (3) Each school building ~~shall~~**must** collect and keep current
23 on a weekly basis the information required for the report under
24 subsection (2) and must provide that information, within 7 days,
25 upon request. At least annually, each school board shall make a
26 copy disaggregated by school building, of the most recent report
27 for the school district under subsection (2) available to the
28 parent or legal guardian of each pupil enrolled in the school
29 district.

(4) As used in this section: ~~at~~

(a) **"At school", "school board", and "school district"** mean those terms as defined in section 1310.

(b) **"Chronically absent" and "truant",** mean those terms as defined in section 1561.

(c) **"Disciplinary absent"** means a pupil is absent as a result of disciplinary action imposed by school officials and the absence is neither an unexcused or excused absence.

(d) **"Excused absence"** means that term as defined in section 1561.

(e) **"Unexcused absence"** means that term as defined in section 1561.

Sec. 1311. (1) Subject to subsection (2), the school board, or the school district superintendent, a school building principal, or another school district official if designated by the school board, may authorize or order the suspension or expulsion from school of a pupil who commits criminal sexual conduct against another pupil enrolled in the same school district or a pupil guilty of gross misdemeanor or persistent disobedience if, in the judgment of the school board or its designee, as applicable, the interest of the school is served by the authorization or order. If there is reasonable cause to believe that the pupil is a student 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~~**must** be evaluated immediately by the intermediate school district of which the school district is constituent in accordance with section 1711. **A pupil must not be suspended or expelled solely for being truant or chronically absent.**

(2) 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, commits criminal sexual conduct in a school building or on school grounds, or pleads to, is convicted of, or is adjudicated for criminal sexual conduct against another pupil enrolled in the same school district, 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 (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 individual 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 subsection (2) for possession of a weapon is not justified if both of the following are met:

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

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

2 (4) If an individual is expelled under subsection (2), the
3 expelling school district shall enter on the individual's permanent
4 record that he or she has been expelled under subsection (2).

5 Except if a school district operates or participates cooperatively
6 in an alternative education program appropriate for individuals
7 expelled under subsection (2) and in its discretion admits the
8 individual to that program, and except for a strict discipline
9 academy established under sections 1311b to 1311m or a cyber school
10 as defined in section 551, an individual expelled under subsection
11 (2) is expelled from all public schools in this state and the
12 officials of a school district shall not allow the individual to
13 enroll in the school district unless the individual has been
14 reinstated under subsection (6). Except as otherwise provided by
15 law, a program operated for individuals expelled under subsection
16 (2) ~~shall~~**must** ensure that those individuals are physically
17 separated at all times during the school day from the general pupil
18 population. If an individual expelled from a school district under
19 subsection (2) is not placed in an alternative education program,
20 strict discipline academy, or cyber school, the school district may
21 provide, or may arrange for the intermediate school district to
22 provide, appropriate instructional services to the individual at
23 home. The type of services provided ~~shall~~**must** meet the
24 requirements of section 6(4)(u) of the state school aid act of
25 1979, MCL 388.1606, and the services may be contracted for in the
26 same manner as services for homebound pupils under section 109 of
27 the state school aid act of 1979, MCL 388.1709. This subsection
28 does not require a school district to expend more money for
29 providing services for a pupil expelled under subsection (2) than

1 the amount of the foundation allowance the school district receives
2 for the pupil as calculated under section 20 of the state school
3 aid act of 1979, MCL 388.1620.

4 (5) If a school board expels an individual under subsection
5 (2), the school board shall ensure that, within 3 days after the
6 expulsion, an official of the school district refers the individual
7 to the appropriate county department of ~~social~~**health and human**
8 services or county community mental health ~~agency~~**services program**
9 and notifies the individual's parent or legal guardian or, if the
10 individual is at least age 18 or is an emancipated minor, notifies
11 the individual of the referral.

12 (6) The parent or legal guardian of an individual expelled
13 under subsection (2) or, if the individual is at least age 18 or is
14 an emancipated minor, the individual may petition the expelling
15 school board for reinstatement of the individual to public
16 education in the school district. If the expelling school board
17 denies a petition for reinstatement, the parent or legal guardian
18 or, if the individual is at least age 18 or is an emancipated
19 minor, the individual may petition another school board for
20 reinstatement of the individual in that other school district. All
21 of the following apply to reinstatement under this subsection:

22 (a) For an individual who was enrolled in grade 5 or below at
23 the time of the expulsion and who has been expelled for possessing
24 a firearm or threatening another person with a dangerous weapon,
25 the parent or legal guardian or, if the individual is at least age
26 18 or is an emancipated minor, the individual may initiate a
27 petition for reinstatement at any time after the expiration of 60
28 school days after the date of expulsion. For an individual who was
29 enrolled in grade 5 or below at the time of the expulsion and who

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

11 (b) An individual who was in grade 5 or below at the time of
12 the expulsion and who has been expelled for possessing a firearm or
13 threatening another person with a dangerous weapon ~~shall~~**must** not
14 be reinstated before the expiration of 90 school days after the
15 date of expulsion. An individual who was in grade 5 or below at the
16 time of the expulsion and who has been expelled under subsection
17 (2) for a reason other than possessing a firearm or threatening
18 another person with a dangerous weapon ~~shall~~**must** not be reinstated
19 before the expiration of 10 school days after the date of the
20 expulsion. An individual who was in grade 6 or above at the time of
21 the expulsion ~~shall~~**must** not be reinstated before the expiration of
22 180 school days after the date of expulsion.

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

1 petition.

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

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

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

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

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

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

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

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

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

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

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

1 in a petition for reinstatement submitted under this subsection.

2 (7) A school board or school administrator that complies with
3 subsection (2) is not liable for damages for expelling a pupil
4 under subsection (2), and the authorizing body of a public school
5 academy is not liable for damages for expulsion of a pupil by the
6 public school academy under subsection (2).

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

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

13 (10) If a pupil expelled from a public school district under
14 subsection (2) is enrolled by a public school district sponsored
15 alternative education program or a public school academy during the
16 period of expulsion, the public school academy or alternative
17 education program ~~shall immediately become~~ **becomes** eligible for the
18 prorated share of either the public school academy or operating
19 school district's foundation allowance or the expelling school
20 district's foundation allowance, whichever is higher.

21 (11) If an individual is expelled under subsection (2), it is
22 the responsibility of that individual and of his or her parent or
23 legal guardian to locate a suitable alternative educational program
24 and to enroll the individual in such a program during the
25 expulsion. The office of safe schools in the department shall
26 compile information on and catalog existing alternative education
27 programs or schools and nonpublic schools that may be open to
28 enrollment of individuals expelled under subsection (2) and under
29 section 1311a, 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 of safe schools about the program or school and the types of pupils it serves. The office of 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) "Arson" means a felony violation of chapter X of the Michigan penal code, 1931 PA 328, MCL 750.71 to 750.79.

(b) "Chronically absent" means that term as defined in section 1561.

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

(d) ~~(e)~~ "Dangerous weapon" means that term as defined in section 1313.

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

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

(g) ~~(f)~~ "School district" means a school district, intermediate school district, or public school academy.

(h) "Truant" means that term as defined in section 1561.

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

1 Sec. 1561. (1) Except as otherwise provided in this section,
 2 for a child who turned age 11 before December 1, 2009 or who
 3 entered grade 6 before 2009, the child's parent, **legal** guardian, or
 4 other person in this state having control and charge of the child
 5 shall send that child to a public school during the entire school
 6 year from the age of 6 to the child's sixteenth birthday. Except as
 7 otherwise provided in this section, for a child who turns age 11 on
 8 or after December 1, 2009 or a child who was age 11 before that
 9 date and enters grade 6 in 2009 or later, the child's parent, **legal**
 10 guardian, or other person in this state having control and charge
 11 of the child shall send the child to a public school during the
 12 entire school year from the age of 6 to the child's eighteenth
 13 birthday. ~~The child's attendance shall be continuous and~~
 14 ~~consecutive for the school year fixed by the school district in~~
 15 ~~which the child is enrolled. In a school district that maintains~~
 16 ~~school during the entire calendar year and in which the school year~~
 17 ~~is divided into quarters, a child is not required to attend the~~
 18 ~~public school more than 3 quarters in 1 calendar year, but a child~~
 19 ~~shall not be absent for 2 or more consecutive quarters.~~

20 (2) A child becoming 6 years of age before December 1 ~~shall~~
 21 **must** be enrolled on the first school day of the school year in
 22 which the child's sixth birthday occurs **and must be in attendance**
 23 **after enrollment**, and a child becoming 6 years of age on or after
 24 December 1 ~~shall~~ **must** be enrolled on the first school day of the
 25 school year following the school year in which the child's sixth
 26 birthday occurs **and must be in attendance after enrollment. If a**
 27 **child is truant or chronically absent, the public school in which**
 28 **the child is enrolled shall take the measures required under**
 29 **section 1586.**

1 (3) A child is not required to ~~attend-be in attendance in~~ a
2 public school in any of the following cases:

3 (a) The child is attending regularly and is being taught in a
4 state approved nonpublic school, which teaches subjects comparable
5 to those taught in the public schools to children of corresponding
6 age and grade, as determined by the course of study for the public
7 schools of the district within which the nonpublic school is
8 located.

9 (b) The child is less than 9 years of age and does not reside
10 within 2-1/2 miles by the nearest traveled road of a public school.
11 If transportation is furnished for pupils in the school district of
12 the child's residence, this subdivision does not apply.

13 (c) The child is age 12 or 13 and is ~~in-attendance-at~~
14 **attending** confirmation classes conducted for a period of 5 months
15 or less.

16 (d) The child is regularly enrolled in a public school while
17 ~~in-attendance-at~~**attending** religious instruction classes for not
18 more than 2 class hours per week, off public school property during
19 public school hours, upon written request of the parent, **legal**
20 guardian, or person in loco parentis.

21 (e) The child has graduated from high school or has fulfilled
22 all requirements for high school graduation.

23 (f) The child is being educated at the child's home by his or
24 her parent or legal guardian in an organized educational program in
25 the subject areas of reading, spelling, mathematics, science,
26 history, civics, literature, writing, and English grammar.

27 (4) For a child being educated at the child's home by his or
28 her parent or legal guardian, exemption from the requirement to
29 ~~attend-be in attendance in~~ public school may exist under either

1 subsection (3)(a) or (3)(f), or both.

2 (5) For a child who turns age 11 on or after December 1, 2009
3 or who was age 11 before that date and enters grade 6 in 2009 or
4 later, this section does not apply to the child if the child is at
5 least age 16 and the child's parent or legal guardian has provided
6 to school officials of the school district in which the child
7 resides a written notice that the child has the permission of the
8 parent or legal guardian to stop attending school.

9 (6) For the purposes of requiring a pupil's parent or legal
10 guardian to provide documentation for an excused absence under this
11 section, a school district, intermediate school district, or public
12 school academy shall take steps to provide appropriate assistance
13 for illiteracy and shall allow a non-English-speaking parent or
14 legal guardian to submit documentation in his or her native
15 language.

16 (7) For purposes of data collection, a disciplinary absence of
17 1 to 5 consecutive days must be labeled and tracked as short-term
18 and a disciplinary absence of 6 or more consecutive days must be
19 labeled and tracked as long-term.

20 (8) For an absence due to illness or medical condition of a
21 pupil, documentation by a licensed medical professional or an
22 individual described in section 16171 of the public health code,
23 1978 PA 368, MCL 333.16171, is required if the pupil's illness- or
24 medical-condition-related absence lasts for 5 or more consecutive
25 school days in the same school year.

26 (9) As used in this section:

27 (a) "Chronically absent" means a pupil is absent for 10% or
28 more of the days school is in session in a school year for which
29 the pupil is enrolled in school.

1 (b) "Disciplinary absence" means an absence that is the result
2 of disciplinary action imposed by school officials and is neither
3 an unexcused or excused absence.

4 (c) "Documentation" means a written document that includes a
5 signed note from a pupil's parent or legal guardian, a signed note
6 from a school employee or official who spoke in person to a pupil's
7 parent or legal guardian regarding the pupil's absence, or a note
8 confirming a pupil's absence by a school nurse, a licensed medical
9 professional, or an individual described in section 16171 of the
10 public health code, 1978 PA 368, MCL 333.16171.

11 (d) "Excused absence" means either of the following, as
12 applicable:

13 (i) An absence for a reason determined by the advisory
14 committee described under section 1578a, to constitute a sufficient
15 reason for an excused absence under this subparagraph and for which
16 documentation of the reason for the absence has been submitted to
17 the pupil's school and approved by the pupil's school.

18 (ii) An absence for 1 of the following reasons if documentation
19 has been submitted to the pupil's school and approved by the
20 pupil's school:

21 (A) Illness or medical condition of the pupil.

22 (B) Medical appointment of the pupil, including, but not
23 limited to, a counseling appointment, dental appointment, or
24 optometry appointment.

25 (C) The pupil's observance of a religious holiday.

26 (D) Death in the pupil's family.

27 (E) Other emergency beyond the control of the pupil or the
28 pupil's family.

29 (F) A mandated court appearance for the pupil.

1 (G) An educational opportunity that is pre-approved by school
2 officials in accordance with department guidelines.

3 (H) Military service of the pupil's parent or legal guardian.

4 (I) Incidents of trauma, including, but not limited to,
5 homelessness, sexual or physical abuse, thoughts of or witness to
6 suicide, and harassment.

7 (e) "In attendance" means, for a school day, that a pupil is
8 present at his or her assigned school or school activity as defined
9 by the department in its pupil accounting manual.

10 (f) "Late arrival" means arriving for class or a school
11 activity after the established commencement time, unless excused.

12 (g) "School activity" means an activity sponsored by a school
13 at which attendance by the pupil is mandatory.

14 (h) "Truant" means a child who has 10 or more unexcused
15 absences per school year.

16 (i) "Unexcused absence" means any absence that is neither an
17 excused absence or a disciplinary absence. Also, the accumulation
18 of 10 late arrivals equals 1 unexcused absence.

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No. 1037 of the 100th Legislature is enacted
21 into law.