

HOUSE BILL NO. 5298

September 14, 2021, Introduced by Reps. Brabec, Camilleri, Aiyash and Cavanagh and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1310, 1310a, 1311, and 1311a (MCL 380.1310, 380.1310a, 380.1311, and 380.1311a), section 1310 as amended by 2016 PA 365, section 1310a as amended by 2016 PA 532, section 1311 as amended by 2018 PA 145, and section 1311a as amended by 2016 PA 366, and by adding section 1310f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1310. (1) Subject to section 1310d, if a pupil enrolled

1 in grade 6 or above commits a physical assault at school against
2 another pupil and the physical assault is reported to the school
3 board, school district superintendent, or building principal, then
4 the school board or the designee of the school board as described
5 in section 1311(1) on behalf of the school board shall suspend or
6 expel the pupil from the school district for up to 180 school days.
7 A district superintendent or building principal who receives a
8 report described in this subsection shall forward the report to the
9 school board. Notwithstanding section 1147, a school district is
10 not required to allow an individual expelled from another school
11 district under this section to attend school in the school district
12 during the expulsion.

13 (2) ~~If~~ **Subject to section 1310f**, if an individual is expelled
14 ~~pursuant to~~ **under** this section, it is the responsibility of that
15 individual and of his or her parent or legal guardian to locate a
16 suitable educational program and to enroll the individual in such a
17 program during the expulsion. The office for safe schools in the
18 department shall compile information on and catalog existing
19 alternative education programs or schools and nonpublic schools
20 that may be open to enrollment of individuals expelled under this
21 section and ~~pursuant to~~ **under** section 1311(2) or 1311a, and shall
22 periodically distribute this information to school districts for
23 distribution to expelled individuals. A school board that
24 establishes an alternative education program or school described in
25 this subsection shall notify the office for safe schools about the
26 program or school and the types of pupils it serves. The office for
27 safe schools also shall work with and provide technical assistance
28 to school districts, authorizing bodies for public school
29 academies, and other interested parties in developing these types

1 of alternative education programs or schools in geographic areas
2 that are not being served.

3 (3) As used in this section:

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

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

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

13 (d) "School district" means a school district, intermediate
14 school district, or public school academy.

15 Sec. 1310a. (1) At least annually, each school board shall
16 prepare and submit to the superintendent of public instruction, in
17 the form and manner prescribed by the superintendent of public
18 instruction, a report stating the number of pupils expelled from
19 the school district during the immediately preceding school year,
20 with a brief description of the incident that caused each
21 expulsion. **Subject to state and federal privacy laws, the report**
22 **described in this subsection must also include the number of days**
23 **for which each pupil described in this subsection was suspended and**
24 **the race, ethnicity, and gender of each pupil and the number of**
25 **pupils described in this subsection to which the following apply:**

26 (a) **The pupil is a student with a disability. As used in this**
27 **subdivision, "student with a disability" means a student who has 1**
28 **or more impairments that require special education or related**
29 **services and who has an individualized education program.**

1 (b) The pupil is economically disadvantaged. As used in this
2 subdivision, "economically disadvantaged" means a pupil who has
3 been determined eligible for free or reduced-price meals as
4 determined under the Richard B. Russell national school lunch act,
5 42 USC 1751 to 1769j; who is in a household receiving supplemental
6 nutrition assistance program or temporary assistance for needy
7 families assistance; who is homeless, a migrant, or in foster care,
8 as reported to the center; or who is eligible for Medicaid.

9 (c) The pupil has had foster-care exposure during the school
10 year.

11 (d) The pupil is an English language learner as that term is
12 defined in section 31a of the state school aid act of 1979, MCL
13 388.1631a.

14 (e) The pupil is a homeless child or youth. As used in this
15 subdivision, "homeless child or youth" means a child or youth who
16 meets the definition of homeless children or youth as that term is
17 defined in 42 USC 11434a.

18 (f) The pupil is a migrant student. As used in this
19 subdivision, "migrant student" means a student whose family has
20 moved within the immediately preceding 36 months to obtain
21 temporary or seasonal work in agriculture or fishing or a student
22 who identified as migrant eligible for the school year in the
23 Migrant Education Data System.

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

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

12 (a) Help policymakers and program designers develop
13 appropriate prevention and intervention programs.

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

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

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

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

1 parent or legal guardian of each pupil enrolled in the school
2 district.

3 (4) As used in this section, "at school", "school board", and
4 "school district" mean those terms as defined in section 1310.

5 **Sec. 1310f. (1) The board of a school district or intermediate**
6 **school district or board of directors of a public school academy,**
7 **or its designee, shall develop an appeal process for a pupil to**
8 **appeal a decision of an independent decision maker or independent**
9 **decision makers under section 1310e or a decision concerning the**
10 **reinstatement of an expelled pupil under this act by the expelling**
11 **school district, intermediate school district, or public school**
12 **academy, to the board of the intermediate school district in which**
13 **the school district or public school academy in which the pupil is**
14 **enrolled is located if the decision was not made by the**
15 **intermediate school district or to an appeal panel as described in**
16 **subsection (4). The process described in the immediately preceding**
17 **sentence must include the appointment of an appeal panel as**
18 **described in subsection (4). Except for the decision of an**
19 **intermediate school district board or appeal panel upholding an**
20 **expulsion, the decision of an intermediate school district board or**
21 **appeal panel under this subsection is a final decision subject to**
22 **judicial review under the administrative procedures act of 1969,**
23 **1969 PA 306, MCL 24.201 to 24.328. An appeal process under this**
24 **subsection must satisfy all of the following requirements:**

25 (a) Be conducted in writing.

26 (b) Require the pupil seeking to appeal to file the appeal no
27 later than 30 days after the pupil receives notification of the
28 decision of an independent decision maker or independent decision
29 makers under section 1310e or decision concerning reinstatement as

1 described in this subsection.

2 (c) Require the pupil to give notice of the appeal by mail,
3 email, or facsimile to the pupil's school district or intermediate
4 school district, or public school academy, or its designee, within
5 5 days after filing the appeal.

6 (d) Allow the pupil's school district or intermediate school
7 district, or public school academy, or its designee, to file a
8 written response to the appeal with the intermediate school board
9 or appeal panel, as applicable, within 5 days after receiving
10 notice of the appeal.

11 (e) Require the appeal to be decided by the board of the
12 intermediate school district described in this subsection or an
13 appeal panel as described in subsection (4). The intermediate
14 school board or appeal panel shall review the written submissions
15 of the parties to the appeal and the evidence that was the basis of
16 the decision of an independent decision maker or independent
17 decision makers under section 1310e or the decision concerning
18 reinstatement, and correct any procedural errors made in the
19 decision of an independent decision maker or independent decision
20 makers under section 1310e or the decision concerning
21 reinstatement.

22 (f) Require the intermediate school board described in this
23 subsection or the appeal panel to submit its decision in writing to
24 the parties to the appeal no later than 14 days after the pupil
25 files the appeal.

26 (2) The department and intermediate school districts shall
27 develop a coordinated appeal process for a pupil to appeal the
28 decision of an intermediate school board or appeal panel under
29 subsection (1) upholding the pupil's expulsion, that must include

1 the appointment of an appeal panel as described in subsection (4) .
2 The decision of an appeal panel under this subsection is a final
3 decision subject to judicial review under the administrative
4 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An
5 appeal process under this subsection must satisfy all of the
6 following requirements:

7 (a) Be conducted in writing.

8 (b) Require the pupil seeking to appeal to file the appeal no
9 later than 30 days after the pupil receives the written decision of
10 the intermediate school board or the appeal panel under subsection
11 (1) .

12 (c) Require the pupil to give notice of the appeal by mail,
13 email, or facsimile to the pupil's school district or intermediate
14 school district, or public school academy, or its designee, within
15 5 days after filing the appeal.

16 (d) Allow the pupil's school district or intermediate school
17 district, or public school academy, or its designee, to file a
18 written response to the appeal with the appeal panel within 5 days
19 after receiving notice of the appeal.

20 (e) Require the appeal to be decided by an appeal panel as
21 described in subsection (4) . The appeal panel shall review the
22 written submissions of the parties to the appeal and the evidence
23 that was the basis of the decision of the appeal panel under
24 subsection (1) , and correct any procedural errors made in the
25 decision.

26 (f) Require the appeal panel to submit its decision in writing
27 to the parties to the appeal no later than 14 days after the pupil
28 files the appeal.

29 (3) The department shall develop an appeal process for a

1 school district or a public school academy, or its designee, to
2 appeal a decision of an independent decision maker or independent
3 decision makers under section 1310e to the board of the
4 intermediate school district in which the school district or public
5 school academy is located or to an appeal panel described in
6 subsection (4) and an appeal process for an intermediate school
7 district, or its designee, to appeal a decision described in this
8 sentence to an appeal panel described in subsection (4). The
9 process described in the immediately preceding sentence must
10 include the appointment of an appeal panel as described in
11 subsection (4). The decision of an intermediate school district
12 board or appeal panel under this subsection is a final decision
13 subject to judicial review under the administrative procedures act
14 of 1969, 1969 PA 306, MCL 24.201 to 24.328. An appeal process under
15 this subsection must satisfy all of the following requirements:

16 (a) Be conducted in writing.

17 (b) Require the school district or intermediate school
18 district, or a public school academy, or its designee, seeking to
19 appeal to file the appeal no later than 14 days after the school
20 district or intermediate school district, or a public school
21 academy, or its designee, receives notification of the decision of
22 the independent decision maker or independent decision makers under
23 section 1310e.

24 (c) Require the school district or intermediate school
25 district, or public school academy, or its designee, to give notice
26 of the appeal by mail, email, or facsimile to, subject to state and
27 federal privacy laws, the pupil and the pupil's parent or legal
28 guardian within 5 days after filing the appeal.

29 (d) Allow the pupil to file a written response to the appeal

1 with the intermediate school board or appeal panel, as applicable,
2 within 10 days after receiving notice of the appeal.

3 (e) Require the appeal to be decided by the intermediate
4 school board or an appeal panel as described in subsection (4) if
5 the appeal was filed by a school district or public school academy
6 or by an appeal panel described in subsection (4) if the appeal was
7 filed by an intermediate school district. The intermediate school
8 board or appeal panel, as applicable, shall review the written
9 submissions of the parties to the appeal and the evidence that was
10 the basis of the decision of the independent decision maker or
11 independent decision makers under section 1310e, and correct any
12 procedural errors made in the decision.

13 (f) Require the intermediate school board or appeal panel, as
14 applicable, to submit its decision in writing to the parties to the
15 appeal no later than 14 days after the school district or
16 intermediate school district, or a public school academy, or its
17 designee, files the appeal.

18 (4) An appeal to an appeal panel under this section must be
19 decided by an appeal panel of no less than 3 individuals, who may
20 include a superintendent or members of a board of a school district
21 or intermediate school district, or a chief administrator or
22 members of a board of directors of a public school academy. An
23 appeal panel under this section must not include an individual who
24 meets either of the following conditions:

25 (a) Was previously involved in the decision being appealed,
26 including an individual who did any of the following:

27 (i) Investigated the disciplinary incident that is the subject
28 of the appeal.

29 (ii) Made a disciplinary decision or referral related to the

1 appeal.

2 (iii) Appointed or served as an independent decision maker under
3 section 1310e for the decision being appealed.

4 (b) Has a personal interest in the outcome of the appeal.

5 (5) Notwithstanding any provision of this act to the contrary,
6 except for a pupil who is enrolled in a school district,
7 intermediate school district, or public school academy other than
8 the school district, intermediate school district, or public school
9 academy from which he or she was removed, during the pendency of an
10 appeal under this section, the school district, intermediate school
11 district, or public school academy in which the pupil was enrolled
12 immediately preceding an appeal under this section that removed the
13 pupil shall determine and provide available and appropriate
14 educational services to the pupil who is a party to the appeal,
15 including, but not limited to, all of the following:

16 (a) Any applicable plans in place for excusing assignments, as
17 needed.

18 (b) Information concerning how the pupil may access upcoming
19 assignments and instructional materials.

20 (c) Information concerning how the pupil may access in-person
21 or virtual tutoring, instructors, home or community-based
22 instruction, alternative instruction or testing opportunities,
23 transportation, social work support, and support from a homeless or
24 foster care liaison, as available.

25 (6) This section does not limit a pupil's right to seek relief
26 under other applicable law including, but not limited to, state and
27 federal civil rights laws.

28 (7) As used in this section:

29 (a) "Disciplinary decision" means any of the following actions

1 against a pupil:

2 (i) Alternative placement for more than 10 days.

3 (ii) Expulsion.

4 (iii) Suspension for more than 10 days.

5 (b) "Expulsion" means the exclusion of a pupil from school for
6 disciplinary reasons for a period of 60 or more school days.

7 (c) "Suspension" means the exclusion of a pupil from school
8 for disciplinary reasons for a period of fewer than 60 school days.

9 Sec. 1311. (1) Subject to subsection (2) and section 1310d,
10 the school board, or the school district superintendent, a school
11 building principal, or another school district official if
12 designated by the school board, may authorize or order the
13 suspension or expulsion from school of a pupil who commits criminal
14 sexual conduct against another pupil enrolled in the same school
15 district or a pupil guilty of gross misdemeanor or persistent
16 disobedience if, in the judgment of the school board or its
17 designee, as applicable, the interest of the school is served by
18 the authorization or order. If there is reasonable cause to believe
19 that the pupil is a student with a disability, and the school
20 district has not evaluated the pupil in accordance with rules of
21 the superintendent of public instruction to determine if the pupil
22 is a student with a disability, the pupil ~~shall~~**must** be evaluated
23 immediately by the intermediate school district of which the school
24 district is constituent in accordance with section 1711.

25 (2) Subject to subsection (3) and section 1310d, if a pupil
26 possesses in a weapon free school zone a weapon that constitutes a
27 dangerous weapon, commits arson in a school building or on school
28 grounds, commits criminal sexual conduct in a school building or on
29 school grounds, or pleads to, is convicted of, or is adjudicated

1 for criminal sexual conduct against another pupil enrolled in the
2 same school district, the school board, or the designee of the
3 school board as described in subsection (1) on behalf of the school
4 board, shall expel the pupil from the school district permanently,
5 subject to possible reinstatement under subsection (6). However, a
6 school board is not required to expel a pupil for possessing a
7 weapon if the pupil establishes in a clear and convincing manner at
8 least 1 of the following:

9 (a) The object or instrument possessed by the pupil was not
10 possessed by the pupil for use as a weapon, or for direct or
11 indirect delivery to another individual for use as a weapon.

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

13 (c) The pupil did not know or have reason to know that the
14 object or instrument possessed by the pupil constituted a dangerous
15 weapon.

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

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

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

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

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

29 Except if a school district operates or participates cooperatively

1 in an alternative education program appropriate for individuals
2 expelled under subsection (2) and in its discretion admits the
3 individual to that program, and except for a strict discipline
4 academy established under sections 1311b to 1311m or a cyber
5 school, as **that term is** defined in section 551, an individual
6 expelled under subsection (2) is expelled from all public schools
7 in this state and the officials of a school district shall not
8 allow the individual to enroll in the school district unless the
9 individual has been reinstated under subsection (6). Except as
10 otherwise provided by law, a program operated for individuals
11 expelled under subsection (2) shall ensure that those individuals
12 are physically separated at all times during the school day from
13 the general pupil population. If an individual expelled from a
14 school district under subsection (2) is not placed in an
15 alternative education program, strict discipline academy, or cyber
16 school, the school district may provide, or may arrange for the
17 intermediate school district to provide, appropriate instructional
18 services to the individual at home. The type of services provided
19 ~~shall~~**must** meet the requirements of section 6(4)(u) of the state
20 school aid act of 1979, MCL 388.1606, and the services may be
21 contracted for in the same manner as services for homebound pupils
22 under section 109 of the state school aid act of 1979, MCL
23 388.1709. This subsection does not require a school district to
24 expend more money for providing services for a pupil expelled under
25 subsection (2) than the amount of the foundation allowance the
26 school district receives for the pupil as calculated under section
27 20 of the state school aid act of 1979, MCL 388.1620.

28 (5) If a school board expels an individual under subsection
29 (2), the school board shall ensure that, within 3 days after ~~the~~**an**

1 expulsion **is first decided**, an official of the school district
2 refers the individual to the appropriate county department of
3 social services or county community mental health agency and
4 notifies the individual's parent or legal guardian or, if the
5 individual is at least age 18 or is an emancipated minor, notifies
6 the individual of the referral.

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

17 (a) For an individual who was enrolled in grade 5 or below at
18 the time of the expulsion and who has been expelled for possessing
19 a firearm or threatening another person with a dangerous weapon,
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 60
23 school days after the date of expulsion. For an individual who was
24 enrolled in grade 5 or below at the time of the expulsion and who
25 has been expelled under subsection (2) for a reason other than
26 possessing a firearm or threatening another person with a dangerous
27 weapon, the parent or legal guardian or, if the individual is at
28 least age 18 or is an emancipated minor, the individual may
29 initiate a petition for reinstatement at any time. For an

1 individual who was in grade 6 or above at the time of expulsion,
2 the parent or legal guardian or, if the individual is at least age
3 18 or is an emancipated minor, the individual may initiate a
4 petition for reinstatement at any time after the expiration of 150
5 school days after the date of expulsion.

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

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

26 (d) Not later than 10 school days after receiving a petition
27 for reinstatement under this subsection, a school board shall
28 appoint a committee to review the petition and any supporting
29 information submitted by the parent or legal guardian or, if the

1 individual is at least age 18 or is an emancipated minor, by the
2 individual. The committee shall consist of 2 school board members,
3 1 school administrator, 1 teacher, and 1 parent of a pupil in the
4 school district. During this time the superintendent of the school
5 district may prepare and submit for consideration by the committee
6 information concerning the circumstances of the expulsion and any
7 factors mitigating for or against reinstatement.

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

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

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

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

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

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

29 (vi) The individual's behavior since the expulsion and the

1 prospects for remediation of the individual.

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

7 (f) Not later than the next regularly scheduled board meeting
8 after receiving the recommendation of the committee under
9 subdivision (e), a school board shall make a decision to
10 unconditionally reinstate the individual, conditionally reinstate
11 the individual, or deny reinstatement of the individual. ~~The~~
12 **Subject to section 1310f, the** decision of the school board is
13 final.

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

27 (7) A school board or school administrator that complies with
28 subsection (2) is not liable for damages for expelling a pupil
29 under subsection (2), and the authorizing body of a public school

academy is not liable for damages for expulsion of a pupil by the public school academy under subsection (2).

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

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

(10) If a pupil expelled from a ~~public~~ school district under subsection (2) 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 alternative education program ~~shall immediately become~~ **becomes** eligible for the prorated share of either the public school academy or operating school district's foundation allowance or the expelling school district's foundation allowance, whichever is higher.

(11) ~~If~~ **Subject to section 1310f, if** an individual is expelled under subsection (2), it is the responsibility of that individual and of his or her parent or legal guardian to locate a suitable alternative educational program and to enroll the individual in such a program during the expulsion. The office of 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 under subsection (2) and under 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

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

7 (12) As used in this section:

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

10 (b) "Criminal sexual conduct" means a violation of section
11 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA
12 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

13 (c) "Dangerous weapon" means that term as defined in section
14 1313.

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

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

19 (f) "School district" means a school district, intermediate
20 school district, or public school academy.

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

23 Sec. 1311a. (1) Subject to section 1310d, if a pupil enrolled
24 in grade 6 or above commits a physical assault at school against a
25 person employed by or engaged as a volunteer or contractor by the
26 school board and the physical assault is reported to the school
27 board, school district superintendent, or building principal by the
28 victim or, if the victim is unable to report the assault, by
29 another person on the victim's behalf, then the school board, or

1 the designee of the school board as described in section 1311(1) on
2 behalf of the school board, shall expel the pupil from the school
3 district permanently, subject to possible reinstatement under
4 subsection (5). A district superintendent or building principal who
5 receives a report described in this subsection shall forward the
6 report to the school board.

7 (2) Subject to section 1310d, if a pupil enrolled in grade 6
8 or above commits a verbal assault, as defined by school board
9 policy, at school against a person employed by or engaged as a
10 volunteer or contractor by the school board and the verbal assault
11 is reported to the school board, school district superintendent, or
12 building principal by the victim or, if the victim is unable to
13 report the verbal assault, by another person on the victim's
14 behalf, or if a pupil enrolled in grade 6 or above makes a bomb
15 threat or similar threat directed at a school building, other
16 school property, or a school-related event, then the school board,
17 or the designee of the school board as described in section 1311(1)
18 on behalf of the school board, shall suspend or expel the pupil
19 from the school district for a period of time as determined in the
20 discretion of the school board or its designee. A district
21 superintendent or building principal who receives a report
22 described in this subsection shall forward the report to the school
23 board. Notwithstanding section 1147, a school district is not
24 required to allow an individual expelled from another school
25 district under this subsection to attend school in the school
26 district during the expulsion.

27 (3) If an individual is permanently expelled ~~pursuant to~~ **under**
28 this section, the expelling school district shall enter on the
29 individual's permanent record that he or she has been permanently

1 expelled ~~pursuant to~~**under** this section. Except if a school
2 district operates or participates cooperatively in an alternative
3 education program appropriate for individuals expelled ~~pursuant to~~
4 **under** this section and section 1311(2) and in its discretion admits
5 the individual to that program, and except for a strict discipline
6 academy established under sections 1311b to 1311m, an individual
7 permanently expelled ~~pursuant to~~**under** this section is expelled
8 from all public schools in this state and the officials of a school
9 district shall not allow the individual to enroll in the school
10 district unless the individual has been reinstated under subsection
11 (5). Except as otherwise provided by law, a program operated for
12 individuals expelled ~~pursuant to~~**under** this section and section
13 1311(2) shall ensure that those individuals are physically
14 separated at all times during the school day from the general pupil
15 population. If an individual permanently expelled from a school
16 district ~~pursuant to~~**under** this section is not placed in an
17 alternative education program or strict discipline academy, the
18 school district may provide, or may arrange for the intermediate
19 school district to provide, appropriate instructional services to
20 the individual at home. The type of services provided ~~shall~~**must**
21 meet the requirements of section 6(4)(u) of the state school aid
22 act of 1979, MCL 388.1606, and the services may be contracted for
23 in the same manner as services for homebound pupils under section
24 109 of the state school aid act of 1979, MCL 388.1709. This
25 subsection does not require a school district to expend more money
26 for providing services for a pupil permanently expelled ~~pursuant to~~
27 **under** this section than the amount of the foundation allowance the
28 school district receives for the pupil under section 20 of the
29 state school aid act of 1979, MCL 388.1620.

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

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

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

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

27 (c) It is the responsibility of the parent or legal guardian
28 or, if the individual is at least age 18 or is an emancipated
29 minor, of the individual to prepare and submit the petition. A

1 school board is not required to provide any assistance in preparing
2 the petition. Upon request by a parent or legal guardian or, if the
3 individual is at least age 18 or is an emancipated minor, by the
4 individual, a school board shall make available a form for a
5 petition.

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

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

28 (i) The extent to which reinstatement of the individual would
29 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~~ **Subject to section 1310f, 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~~ **that** may involve the individual, parent or legal guardian, and an outside agency; participation in or

1 completion of an anger management program or other appropriate
2 counseling; periodic progress reviews; and specified immediate
3 consequences for failure to abide by a condition. A parent or legal
4 guardian or, if the individual is at least age 18 or is an
5 emancipated minor, the individual may include proposed conditions
6 in a petition for reinstatement submitted under this subsection.

7 (6) A school board or school administrator that complies with
8 this section is not liable for damages for suspending or expelling
9 a pupil ~~pursuant to~~**under** this section, and the authorizing body of
10 a public school academy is not liable for damages for suspension or
11 expulsion of a pupil by the public school academy ~~pursuant to~~**under**
12 this section.

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

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

21 (9) If a pupil expelled from a school district ~~pursuant to~~
22 **under** this section is enrolled by a ~~public~~-school district
23 sponsored alternative education program or a public school academy
24 during the period of expulsion, the public school academy or the
25 alternative education program is immediately eligible for the
26 prorated share of either the public school academy's or operating
27 school district's foundation allowance or the expelling school
28 district's foundation allowance, whichever is higher.

29 (10) A school board or its designee shall report all assaults

1 described in subsection (1) or (2) to appropriate state or local
2 law enforcement officials and prosecutors as provided in the
3 statewide school safety information policy under section 1308.

4 (11) ~~If~~ **Subject to section 1310f, if** an individual is expelled
5 ~~pursuant to~~ **under** this section, it is the responsibility of that
6 individual and of his or her parent or legal guardian to locate a
7 suitable educational program and to enroll the individual in such a
8 program during the expulsion. The office for safe schools in the
9 department shall compile information on and catalog existing
10 alternative education programs or schools and nonpublic schools
11 that may be open to enrollment of individuals expelled ~~pursuant to~~
12 **under** this section and ~~pursuant to~~ **under** section 1311(2), and shall
13 periodically distribute this information to school districts for
14 distribution to expelled individuals. A school board that
15 establishes an alternative education program or school described in
16 this subsection shall notify the office of safe schools about the
17 program or school and the types of pupils it serves. The office for
18 safe schools also shall work with and provide technical assistance
19 to school districts, authorizing bodies for public school
20 academies, and other interested parties in developing these types
21 of alternative education programs or schools in geographic areas
22 that are not being served.

23 (12) As used in this section:

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

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

1 violence.

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

4 (d) "School district" means a school district, intermediate
5 school district, or public school academy.

6 Enacting section 1. This amendatory act does not take effect
7 unless all of the following bills of the 101st Legislature are
8 enacted into law:

9 (a) Senate Bill No. ____ or House Bill No. 5297.

10 (b) Senate Bill No. ____ or House Bill No. 5299.