



# HOUSE BILL No. 5349

February 15, 2000, Introduced by Reps. Geiger, Garcia, DeVuyst, Koetje, Law and Jellema and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending section 1311a (MCL 380.1311a), as added by 1999 PA  
104.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1311a. (1) If a pupil enrolled in grade 6 or above  
2 commits a physical assault at school against a person employed by  
3 or engaged as a volunteer or contractor by the school board and  
4 the physical assault is reported to the school board, school dis-  
5 trict superintendent, or building principal by the victim or, if  
6 the victim is unable to report the assault, by another person on  
7 the victim's behalf, then the school board, or the designee of  
8 the school board as described in section 1311(1) on behalf of the  
9 school board, shall expel the pupil from the school district  
10 permanently, subject to possible reinstatement under

1 subsection (5). A district superintendent or building principal  
2 who receives a report described in this subsection shall forward  
3 the report to the school board.

4 (2) If a pupil enrolled in grade 6 or above commits a verbal  
5 assault, as defined by school board policy, at school against a  
6 person employed by or engaged as a volunteer or contractor by the  
7 school board and the verbal assault is reported to the school  
8 board, school district superintendent, or building principal by  
9 the victim or, if the victim is unable to report the verbal  
10 assault, by another person on the victim's behalf, or if a pupil  
11 enrolled in grade 6 or above makes a bomb threat or similar  
12 threat directed at a school building, other school property, or a  
13 school-related event, then the school board, or the designee of  
14 the school board as described in section 1311(1) on behalf of the  
15 school board, shall SUSPEND OR expel the pupil from the school  
16 district for ~~up to 180 school days~~ A PERIOD OF TIME AS DETER-  
17 MINED IN THE DISCRETION OF THE SCHOOL BOARD OR ITS DESIGNEE. A  
18 district superintendent or building principal who receives a  
19 report described in this subsection shall forward the report to  
20 the school board. Notwithstanding section 1147, a school dis-  
21 trict is not required to allow an individual expelled from  
22 another school district under this subsection to attend school in  
23 the school district during the expulsion.

24 (3) If an individual is permanently expelled pursuant to  
25 ~~subsection (1)~~ THIS SECTION, the expelling school district  
26 shall enter on the individual's permanent record that he or she  
27 has been permanently expelled pursuant to ~~subsection (1)~~ THIS

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

1 ~~subsection (1)~~ THIS SECTION than the amount of the foundation  
2 allowance the school district receives for the pupil under sec-  
3 tion 20 of the state school aid act of 1979, MCL 388.1620.

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

12 (5) The parent or legal guardian of an individual per-  
13 manently expelled pursuant to ~~subsection (1)~~ THIS SECTION or,  
14 if the individual is at least age 18 or is an emancipated minor,  
15 the individual may petition the expelling school board for rein-  
16 statement of the individual to public education in the school  
17 district. If the expelling school board denies a petition for  
18 reinstatement, the parent or legal guardian or, if the individual  
19 is at least age 18 or is an emancipated minor, the individual may  
20 petition another school board for reinstatement of the individual  
21 in that other school district. All of the following apply to  
22 reinstatement under this subsection:

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

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

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

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

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

1 reinstatement. The recommendation shall be for unconditional  
2 reinstatement, for conditional reinstatement, or against rein-  
3 statement, and shall be accompanied by an explanation of the rea-  
4 sons for the recommendation and of any recommended conditions for  
5 reinstatement. The recommendation shall be based on considera-  
6 tion of all of the following factors:

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

9 (ii) The extent to which reinstatement of the individual  
10 would create a risk of school district or individual liability  
11 for the school board or school district personnel.

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

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

15 (v) The individual's attitude concerning the incident that  
16 caused the expulsion.

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

19 (vii) If the petition was filed by a parent or legal guardi-  
20 an, the degree of cooperation and support that has been provided  
21 by the parent or legal guardian and that can be expected if the  
22 individual is reinstated, including, but not limited to, recep-  
23 tiveness toward possible conditions placed on the reinstatement.

24 (f) Not later than the next regularly scheduled board meet-  
25 ing after receiving the recommendation of the committee under  
26 subdivision (e), a school board shall make a decision to  
27 unconditionally reinstate the individual, conditionally reinstate

1 the individual, or deny reinstatement of the individual. The  
2 decision of the school board is final.

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

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

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

1 (8) This section does not diminish the due process rights  
2 under federal law of a pupil who has been determined to be eligi-  
3 ble for special education programs and services.

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

12 (10) A school board or its designee shall report all  
13 assaults described in subsection (1) or (2) to appropriate state  
14 or local law enforcement officials and prosecutors as provided in  
15 the statewide school safety information policy under section  
16 1308.

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



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

9 (12) As used in this section:

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

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

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

19 (d) "School district" means a school district, a local act  
20 school district, an intermediate school district, or a public  
21 school academy.