

# HOUSE BILL No. 6265

June 22, 2006, Introduced by Reps. David Law, Kahn, Tobocman and Nitz 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 1999 PA 23.

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

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

1 accordance with rules of the state board to determine if the  
2 student is handicapped, the pupil shall be evaluated immediately by  
3 the intermediate school district of which the school district is  
4 constituent in accordance with section 1711.

5 (2) If a pupil possesses in a weapon free school zone a weapon  
6 that constitutes a dangerous weapon, commits arson in a school  
7 building or on school grounds, or commits criminal sexual conduct  
8 in a school building or on school grounds, the school board, or the  
9 designee of the school board as described in subsection (1) on  
10 behalf of the school board, shall expel the pupil from the school  
11 district permanently, subject to possible reinstatement under  
12 subsection (5). However, a school board is not required to expel a  
13 pupil for possessing a weapon if the pupil establishes in a clear  
14 and convincing manner at least 1 of the following:

15 (a) The object or instrument possessed by the pupil was not  
16 possessed by the pupil for use as a weapon, or for direct or  
17 indirect delivery to another person for use as a weapon.

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

19 (c) The pupil did not know or have reason to know that the  
20 object or instrument possessed by the pupil constituted a dangerous  
21 weapon.

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

25 (3) If an individual is expelled pursuant to subsection (2),  
26 the expelling school district shall enter on the individual's  
27 permanent record that he or she has been expelled pursuant to

1 subsection (2). Except if a school district operates or  
2 participates cooperatively in an alternative education program  
3 appropriate for individuals expelled pursuant to subsection (2) and  
4 in its discretion admits the individual to that program, and except  
5 for a strict discipline academy established under sections 1311b to  
6 1311l, an individual expelled pursuant to subsection (2) is expelled  
7 from all public schools in this state and the officials of a school  
8 district shall not allow the individual to enroll in the school  
9 district unless the individual has been reinstated under subsection  
10 (5). Except as otherwise provided by law, a program operated for  
11 individuals expelled pursuant to subsection (2) shall ensure that  
12 those individuals are physically separated at all times during the  
13 school day from the general pupil population. If an individual  
14 expelled from a school district pursuant to subsection (2) is not  
15 placed in an alternative education program or strict discipline  
16 academy, 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 meet the requirements of section ~~6(4)(v)~~ **6(4)(U)** of the  
20 state 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  
25 pursuant to subsection (2) than the amount of the foundation  
26 allowance the school district receives for the pupil under ~~section~~  
27 ~~20 of~~ the state school aid act of 1979. ~~, MCL 388.1620.~~

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

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

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

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

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

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

1 individual, a school board shall make available a form for a  
2 petition.

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

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

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

27 (ii) The extent to which reinstatement of the individual would

1 create a risk of school district liability or individual liability  
2 for the school board or school district personnel.

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

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

6 (v) The individual's attitude concerning the incident that  
7 caused the expulsion.

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

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

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

21 (g) A school board may require an individual and, if the  
22 petition was filed by a parent or legal guardian, his or her parent  
23 or legal guardian to agree in writing to specific conditions before  
24 reinstating the individual in a conditional reinstatement. The  
25 conditions may include, but are not limited to, agreement to a  
26 behavior contract, which may involve the individual, parent or  
27 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 subsection (2) is not liable for damages for expelling a pupil  
9 pursuant to subsection (2), and the authorizing body of a public  
10 school academy is not liable for damages for expulsion of a pupil  
11 by the public school academy pursuant to subsection (2).

12 (7) The department shall develop and distribute to all school  
13 districts a form for a petition for reinstatement to be used under  
14 subsection (5).

15 (8) This section does not diminish the due process rights  
16 under federal law of a pupil who has been determined to be eligible  
17 for special education programs and services.

18 (9) If a pupil expelled from a public school district pursuant  
19 to subsection (2) is enrolled by a public school district sponsored  
20 alternative education program or a public school academy during the  
21 period of expulsion, the public school academy or alternative  
22 education program shall immediately become eligible for the  
23 prorated share of either the public school academy or operating  
24 school district's foundation allowance or the expelling school  
25 district's foundation allowance, whichever is higher.

26 (10) If an individual is expelled pursuant to subsection (2),  
27 it is the responsibility of that individual and of his or her



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

18       **(11) IF AN INDIVIDUAL SEEKS TO ENROLL IN A SCHOOL DISTRICT AND**  
19 **THE SCHOOL OFFICIALS OF THE SCHOOL DISTRICT HAVE REASON TO BELIEVE**  
20 **THAT THE INDIVIDUAL HAS BEEN EXPELLED FROM A NONPUBLIC SCHOOL FOR**  
21 **POSSESSING A DANGEROUS WEAPON IN A WEAPON FREE SCHOOL ZONE, ALL OF**  
22 **THE FOLLOWING APPLY:**

23       **(A) IF THE INDIVIDUAL IS NOT A RESIDENT OF THE SCHOOL**  
24 **DISTRICT, THE SCHOOL DISTRICT MAY REFUSE TO ALLOW THE INDIVIDUAL TO**  
25 **ENROLL IN THE SCHOOL DISTRICT.**

26       **(B) IF THE INDIVIDUAL IS A RESIDENT OF THE SCHOOL DISTRICT,**  
27 **THE SCHOOL DISTRICT MAY REFUSE TO ALLOW THE INDIVIDUAL TO ENROLL IN**

1 THE SCHOOL DISTRICT IF THE SCHOOL BOARD OF THE SCHOOL DISTRICT  
2 DETERMINES, AFTER GIVING THE INDIVIDUAL AN OPPORTUNITY FOR A  
3 HEARING, THAT THE INDIVIDUAL HAS BEEN EXPELLED FROM A NONPUBLIC  
4 SCHOOL FOR POSSESSING A DANGEROUS WEAPON IN A WEAPON FREE SCHOOL  
5 ZONE.

6 (C) IF THE SCHOOL DISTRICT IN WHICH THE INDIVIDUAL RESIDES HAS  
7 REFUSED TO ENROLL THE INDIVIDUAL UNDER SUBDIVISION (B), THE  
8 INDIVIDUAL MAY APPLY TO THE SCHOOL BOARD OF THAT SCHOOL DISTRICT OR  
9 TO ANOTHER SCHOOL DISTRICT FOR REINSTATEMENT IN THE SAME MANNER AS  
10 PROVIDED UNDER SUBSECTION (5). ALL OF THE SAME TIMELINES AND  
11 PROCEDURES THAT APPLY TO REINSTATEMENT UNDER SUBSECTION (5) APPLY  
12 TO REINSTATEMENT UNDER THIS SUBSECTION.

13 (12) ~~(11)~~ As used in this section:

14 (a) "Arson" means a felony violation of chapter X of the  
15 Michigan penal code, 1931 PA 328, MCL 750.71 to 750.80.

16 (b) "Criminal sexual conduct" means a violation of section  
17 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA  
18 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

19 (c) "Dangerous weapon" means that term as defined in section  
20 1313.

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

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

25 (f) "School district" means a school district, a local act  
26 school district, an intermediate school district, or a public  
27 school academy.

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