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SFA**BILL ANALYSIS**

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Senate Bill 313 (as introduced 3-19-97)

Sponsor: Senator Leon Stille

Committee: Education

Date Completed: 10-14-97

CONTENT

The bill would add Section 1311a to the Revised School Code to require the expulsion of a student, subject to possible reinstatement, if he or she were enrolled in grade six or above and assaulted a school employee, volunteer, or contractor, in a school building or on school grounds.

"School district" would mean a school district, a local act school district, an intermediate school district (ISD), or a public school academy established under Part 6a or 6b of the School Code. "Assault" would mean a violation of Chapter 11 of the Michigan Penal Code.

(Currently, Section 1311 of the Revised School Code provides for the expulsion of students for possessing a dangerous weapon or committing criminal sexual conduct or arson on school grounds.)

Expulsion Requirement

A school board, or the designee of a school board, would be required to expel a pupil permanently from the school district if he or she were enrolled in grade six or above and committed assault in a school building or on school grounds against a person employed by or engaged as a volunteer or contractor by the board, and the assault were reported to the board by the victim or, if he or she were unable to report the assault, by another person on the victim's behalf. The expulsion would be subject to possible reinstatement under the bill.

The expelling school district would have to enter on the expelled individual's permanent record that he or she had been expelled pursuant to these provisions. Unless a school operated or participated cooperatively in an alternative education program appropriate for individuals expelled under the bill and Section 1311 and in its discretion admitted the individual to that program, an individual expelled under the bill would be expelled from all public schools in this State and the officials of a school district could not allow the individual to enroll in the district unless he or she had been reinstated (as provided below). Except as provided by law, a program operated for expelled individuals would have to ensure that they were physically separated at all times during the school day from the general pupil population.

If an expelled individual were not placed in an alternative education program, the school district could provide, or could arrange for the ISD to provide, appropriate instructional services to the individual at home. The type of services provided would have to be similar to those provided to homebound or hospitalized pupils under Section 109 of the State School Aid Act, and the services could be contracted for in the same manner as under that section. (Section 109 requires each district or ISD to provide appropriate instructional services to an enrolled pupil who is certified by his or her

attending physician as having a medical condition that requires the pupil to be hospitalized or confined to his or her home during regular school hours for more than five school days.)

The bill specifies that these provisions would not require a school district to spend more money for providing services for a pupil expelled under the bill than the amount of the foundation allowance the district received for the pupil under the State School Aid Act.

If a school board expelled an individual under the bill, the board would have to ensure that, within three days after the expulsion, an official of the district referred the individual to the appropriate county department of social services or county community mental health agency, and notified his or her parent or legal guardian or, if the individual were at least 18 or an emancipated minor, notified him or her of the referral.

Reinstatement

The parent or legal guardian of an individual expelled under the bill or, if he or she were at least 18 or an emancipated minor, the individual could petition the expelling school board for reinstatement to public education in the district. If the board denied the petition, the parent or legal guardian or the individual could petition another school board for reinstatement in that other district. All of the following would apply to reinstatement under these provisions.

The individual's parent or legal guardian or, if the individual were at least 18 or emancipated, the individual could initiate a petition for reinstatement at any time after the expiration of 150 school days following the date of expulsion. The individual could not be reinstated before the expiration of 180 school days after the date of expulsion.

It would be the responsibility of the parent or legal guardian or, if the individual were at least 18 or emancipated, of the individual to prepare and submit the petition. A school board would not be required to provide any assistance in preparing the petition. Upon request by the parent, legal guardian, or individual, a school board would have to make a form available for a petition.

Within 10 school days after receiving the petition, the school board would have to appoint a committee to review the petition and any supporting information submitted by the parent, legal guardian, or individual. The committee would consist of two school board members, one school administrator, one teacher, and one parent of a pupil in the district. During this time, the district superintendent could prepare and submit for the committee's consideration information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.

Within 10 school days after all members were appointed, the committee would have to review the petition and any supporting information, and submit a recommendation to the school board on the issue of reinstatement. The recommendation would have to be for unconditional reinstatement, for conditional reinstatement, or against reinstatement, and would have to be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement. The recommendation would have to be based on consideration of all of the following factors:

- The extent to which reinstatement would create a risk of harm to pupils or school personnel.
- The extent to which reinstatement would create a risk of school district or individual liability for the school board or school district personnel.
- The age and maturity of the individual.
- The individual's school record before the incident that caused the expulsion.
- The individual's attitude concerning the incident.
- The individual's behavior since the expulsion and the prospects for his or her remediation.

- If the petition were filed by a parent or legal guardian, the degree of cooperation and support that had been provided by him or her and that could be expected if the individual were reinstated, including receptiveness toward possible conditions placed on the reinstatement.

By the next regularly scheduled board meeting after receiving the committee's recommendation, the school board would have to make a decision to reinstate the individual unconditionally, reinstate him or her conditionally, or deny reinstatement. The board's decision would be final.

A school board could require an individual and, if the petition were filed by a parent or legal guardian, his or her parent or guardian, to agree in writing to specific conditions before reinstating the individual conditionally. The conditions could include, but would not be limited to, agreement to a behavior contract, which could involve the individual, parent, or guardian, and an outside agency; participation in or completion of an anger management program or other appropriate counseling; periodic progress reviews; and specified immediate consequences for failure to abide by a condition. A parent of legal guardian or, if the individual were at least 18 or emancipated, the individual could include proposed conditions in a petition for reinstatement.

Other Provisions

A school board or school administrator that complied with the bill would not be liable for damages for expelling a pupil under the bill, and the authorizing body of a public school academy would not be liable for damages for expulsion of a pupil under the bill.

The Department of Education would have to develop and distribute to all school districts a form for a reinstatement petition. The Department could designate the form used for a petition under Section 1311 as a form that could be used under this provision.

The bill specifies that it would not diminish the due process rights under Federal law of a pupil who had been determined to be eligible for special education programs and services.

If a pupil expelled from a school district under the bill were enrolled by a public school sponsored alternative education program or a public school academy during the period of expulsion, the program or academy would be eligible immediately for the prorated share of either the academy's foundation allowance or the expelling school district's foundation allowance, whichever was higher.

Proposed MCL 380.1311a

Legislative Analyst: S. Lowe

FISCAL IMPACT

The fiscal impact of the bill is indeterminate. The fiscal impact would depend on the number of students expelled pursuant to the bill and the nature and cost of the educational or social services programs used by an expelled student.

Currently, all school districts receive a foundation allowance with State payments calculated on a per-pupil basis. A district expelling a student would lose the State payment for that pupil. An expelled student, however, possibly could become a student in another school district or in an institutional setting, requiring additional State support.

Fiscal Analyst: J. Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.