

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 313**

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1311a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1311A. (1) IF A PUPIL ENROLLED IN A PUBLIC SCHOOL COM-
2 MITS A PHYSICAL ASSAULT AT SCHOOL OR COMMITS ANOTHER INTENTIONAL
3 ACT AT SCHOOL THAT RESULTS IN VIOLENCE TO ANOTHER'S PERSON OR
4 PROPERTY OR POSES A DIRECT THREAT TO THE SAFETY OF OTHERS AND
5 THAT IS IDENTIFIED IN THE SCHOOL DISTRICT'S SUSPENSION/EXPULSION
6 POLICY UNDER SECTION 1310 AS A DISCIPLINARY VIOLATION THAT MAY
7 RESULT IN EXPULSION, IF THE ASSAULT OR OTHER ACT IS REPORTED TO
8 THE SCHOOL PRINCIPAL BY THE VICTIM OR, IF THE VICTIM IS UNABLE TO
9 REPORT THE ASSAULT, BY ANOTHER PERSON ON THE VICTIM'S BEHALF, THE
10 SCHOOL PRINCIPAL SHALL REVIEW THE CIRCUMSTANCES OF THE INCIDENT.
11 IF THE SCHOOL PRINCIPAL DETERMINES THAT AN ASSAULT OR OTHER ACT

1 DESCRIBED IN THIS SUBSECTION DID IN FACT OCCUR AND WAS COMMITTED
2 BY THE PUPIL, THE SCHOOL PRINCIPAL SHALL REPORT THAT DETERMINA-
3 TION TO THE SCHOOL BOARD OR ITS DESIGNEE AND THE SCHOOL BOARD
4 SHALL CONDUCT AN EXPULSION HEARING CONCERNING THE PUPIL, AFFORD-
5 ING THE REQUIRED DUE PROCESS ACCORDING TO THE DUE PROCESS POLICY
6 UNDER SECTION 1310. IF THE SCHOOL BOARD AGREES WITH THE SCHOOL
7 PRINCIPAL'S DETERMINATION, THE SCHOOL BOARD SHALL EXPEL THE PUPIL
8 FROM ANY EDUCATIONAL PLACEMENT IN THE SCHOOL DISTRICT OTHER THAN
9 A DISCIPLINARY EDUCATION PROGRAM. THE EXPULSION MAY BE PER-
10 MANENT, SUBJECT TO POSSIBLE REINSTATEMENT UNDER SUBSECTION (4),
11 OR MAY BE FOR A SPECIFIED NUMBER OF SCHOOL DAYS.

12 (2) IF AN INDIVIDUAL IS EXPELLED PURSUANT TO THIS SECTION,
13 THE EXPELLING SCHOOL DISTRICT SHALL ENTER ON THE INDIVIDUAL'S
14 PERMANENT RECORD THAT HE OR SHE HAS BEEN EXPELLED PURSUANT TO
15 THIS SECTION AND THE REASON FOR THE EXPULSION. THE PUPIL SHALL
16 BE PLACED IN AN APPROPRIATE DISCIPLINARY EDUCATION PROGRAM AS
17 PROVIDED UNDER SUBSECTION (3) AND SECTION 1311B.

18 (3) IF A SCHOOL BOARD EXPELS AN INDIVIDUAL PURSUANT TO THIS
19 SECTION, THE SCHOOL BOARD SHALL ENSURE THAT, WITHIN 3 DAYS AFTER
20 THE EXPULSION, AN OFFICIAL OF THE SCHOOL DISTRICT REFERS THE
21 INDIVIDUAL TO THE APPROPRIATE COUNTY COMMUNITY MENTAL HEALTH
22 AGENCY OR OTHER APPROPRIATE HUMAN SERVICES AGENCY AND NOTIFIES
23 THE INDIVIDUAL'S PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL
24 IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, NOTIFIES THE INDI-
25 VIDUAL OF THE REFERRAL. THE SCHOOL BOARD ALSO SHALL REFER THE
26 PUPIL FOR PLACEMENT IN A DISCIPLINARY EDUCATION PROGRAM UNDER
27 SECTION 1311B.

1 (4) IF A PUPIL IS PERMANENTLY EXPELLED UNDER THIS SECTION
2 FROM ANY EDUCATIONAL PLACEMENT IN THE SCHOOL DISTRICT OTHER THAN
3 A DISCIPLINARY EDUCATION PROGRAM, THE PARENT OR LEGAL GUARDIAN OF
4 THE INDIVIDUAL OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN
5 EMANCIPATED MINOR, THE INDIVIDUAL MAY PETITION THE EXPELLING
6 SCHOOL BOARD FOR REINSTATEMENT OF THE INDIVIDUAL TO AN EDUCA-
7 TIONAL PLACEMENT IN THE SCHOOL DISTRICT OTHER THAN DISCIPLINARY
8 EDUCATION. ALL OF THE FOLLOWING APPLY TO REINSTATEMENT UNDER
9 THIS SUBSECTION:

10 (A) FOR AN INDIVIDUAL WHO WAS ENROLLED IN GRADE 5 OR BELOW
11 AT THE TIME OF THE PERMANENT EXPULSION, THE PARENT OR LEGAL
12 GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMAN-
13 CIPATED MINOR, THE INDIVIDUAL MAY INITIATE A PETITION FOR REIN-
14 STATEMENT AT ANY TIME. FOR AN INDIVIDUAL WHO WAS IN GRADE 6 OR
15 ABOVE AT THE TIME OF THE PERMANENT EXPULSION, THE PARENT OR LEGAL
16 GUARDIAN OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMAN-
17 CIPATED MINOR, THE INDIVIDUAL MAY INITIATE A PETITION FOR REIN-
18 STATEMENT AT ANY TIME AFTER THE EXPIRATION OF 150 SCHOOL DAYS
19 AFTER THE DATE OF EXPULSION.

20 (B) AN INDIVIDUAL WHO WAS IN GRADE 5 OR BELOW AT THE TIME OF
21 THE PERMANENT EXPULSION SHALL NOT BE REINSTATED BEFORE THE EXPI-
22 RATION OF 10 SCHOOL DAYS AFTER THE DATE OF THE EXPULSION. AN
23 INDIVIDUAL WHO WAS IN GRADE 6 OR ABOVE AT THE TIME OF THE PER-
24 MANENT EXPULSION SHALL NOT BE REINSTATED BEFORE THE EXPIRATION OF
25 180 SCHOOL DAYS AFTER THE DATE OF EXPULSION.

26 (C) IT IS THE RESPONSIBILITY OF THE PARENT OR LEGAL GUARDIAN
27 OR, IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED

1 MINOR, OF THE INDIVIDUAL TO PREPARE AND SUBMIT THE PETITION. A
2 SCHOOL BOARD IS NOT REQUIRED TO PROVIDE ANY ASSISTANCE IN PREPAR-
3 ING THE PETITION. UPON REQUEST BY A PARENT OR LEGAL GUARDIAN OR,
4 IF THE INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR,
5 BY THE INDIVIDUAL, A SCHOOL BOARD SHALL MAKE AVAILABLE A FORM FOR
6 A PETITION.

7 (D) NOT LATER THAN 10 SCHOOL DAYS AFTER RECEIVING A PETITION
8 FOR REINSTATEMENT UNDER THIS SUBSECTION, A SCHOOL BOARD SHALL
9 APPOINT A COMMITTEE TO REVIEW THE PETITION AND ANY SUPPORTING
10 INFORMATION SUBMITTED BY THE PARENT OR LEGAL GUARDIAN OR, IF THE
11 INDIVIDUAL IS AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, BY THE
12 INDIVIDUAL. THE COMMITTEE SHALL CONSIST OF 2 SCHOOL BOARD MEM-
13 BERS, 1 SCHOOL ADMINISTRATOR, 1 TEACHER, AND 1 PARENT OF A PUPIL
14 IN THE SCHOOL DISTRICT. DURING THIS TIME THE SUPERINTENDENT OF
15 THE SCHOOL DISTRICT OR HIS OR HER DESIGNEE SHALL PREPARE AND
16 SUBMIT FOR CONSIDERATION BY THE COMMITTEE INFORMATION CONCERNING
17 THE CIRCUMSTANCES OF THE PERMANENT EXPULSION AND ANY FACTORS MIT-
18 IGATING FOR OR AGAINST REINSTATEMENT.

19 (E) NOT LATER THAN 10 SCHOOL DAYS AFTER ALL MEMBERS ARE
20 APPOINTED, THE COMMITTEE DESCRIBED IN SUBDIVISION (D) SHALL
21 REVIEW THE PETITION AND ANY SUPPORTING INFORMATION AND INFORMA-
22 TION PROVIDED BY THE SCHOOL DISTRICT AND SHALL SUBMIT A RECOMMEN-
23 DATION TO THE SCHOOL BOARD ON THE ISSUE OF REINSTATEMENT. THE
24 RECOMMENDATION SHALL BE FOR UNCONDITIONAL REINSTATEMENT, FOR CON-
25 DITIONAL REINSTATEMENT, OR AGAINST REINSTATEMENT, AND SHALL BE
26 ACCOMPANIED BY AN EXPLANATION OF THE REASONS FOR THE
27 RECOMMENDATION AND OF ANY RECOMMENDED CONDITIONS FOR

1 REINSTATEMENT. THE RECOMMENDATION SHALL BE BASED ON

2 CONSIDERATION OF ALL OF THE FOLLOWING FACTORS:

3 (i) THE EXTENT TO WHICH REINSTATEMENT OF THE INDIVIDUAL TO
4 AN EDUCATIONAL PLACEMENT OTHER THAN DISCIPLINARY EDUCATION WOULD
5 CREATE A RISK OF HARM TO PUPILS OR SCHOOL PERSONNEL.

6 (ii) THE EXTENT TO WHICH REINSTATEMENT OF THE INDIVIDUAL TO
7 AN EDUCATIONAL PLACEMENT OTHER THAN DISCIPLINARY EDUCATION WOULD
8 CREATE A RISK OF SCHOOL DISTRICT OR INDIVIDUAL LIABILITY FOR THE
9 SCHOOL BOARD OR SCHOOL DISTRICT PERSONNEL.

10 (iii) THE AGE AND MATURITY OF THE INDIVIDUAL.

11 (iv) THE INDIVIDUAL'S SCHOOL RECORD BEFORE THE INCIDENT THAT
12 CAUSED THE PERMANENT EXPULSION.

13 (v) THE INDIVIDUAL'S ATTITUDE CONCERNING THE INCIDENT THAT
14 CAUSED THE PERMANENT EXPULSION.

15 (vi) THE INDIVIDUAL'S BEHAVIOR SINCE THE PERMANENT EXPULSION
16 AND THE PROSPECTS FOR REMEDIATION OF THE INDIVIDUAL.

17 (vii) IF THE PETITION WAS FILED BY A PARENT OR LEGAL GUARDI-
18 AN, THE DEGREE OF COOPERATION AND SUPPORT THAT HAS BEEN PROVIDED
19 BY THE PARENT OR LEGAL GUARDIAN AND THAT CAN BE EXPECTED IF THE
20 INDIVIDUAL IS REINSTATED, INCLUDING, BUT NOT LIMITED TO, RECEP-
21 TIVENESS TOWARD POSSIBLE CONDITIONS PLACED ON THE REINSTATEMENT.

22 (F) NOT LATER THAN THE NEXT REGULARLY SCHEDULED BOARD MEET-
23 ING AFTER RECEIVING THE RECOMMENDATION OF THE COMMITTEE UNDER
24 SUBDIVISION (E), A SCHOOL BOARD SHALL MAKE A DECISION TO UNCONDI-
25 TIONALLY REINSTATE THE INDIVIDUAL, CONDITIONALLY REINSTATE THE
26 INDIVIDUAL, OR DENY REINSTATEMENT OF THE INDIVIDUAL. THE
27 DECISION OF THE SCHOOL BOARD IS FINAL.

1 (G) A SCHOOL BOARD MAY REQUIRE AN INDIVIDUAL AND, IF THE
2 PETITION WAS FILED BY A PARENT OR LEGAL GUARDIAN, HIS OR HER
3 PARENT OR LEGAL GUARDIAN TO AGREE IN WRITING TO SPECIFIC CONDI-
4 TIONS BEFORE REINSTATING THE INDIVIDUAL IN A CONDITIONAL
5 REINSTATEMENT. THE CONDITIONS SHALL INCLUDE SPECIFIC REQUIRE-
6 MENTS FOR PARENTAL INVOLVEMENT AND MAY INCLUDE, BUT ARE NOT
7 LIMITED TO, AGREEMENT TO A BEHAVIOR CONTRACT, WHICH MAY INVOLVE
8 THE INDIVIDUAL, PARENT OR LEGAL GUARDIAN, AND AN OUTSIDE AGENCY;
9 PARTICIPATION IN OR COMPLETION OF AN ANGER MANAGEMENT PROGRAM OR
10 OTHER APPROPRIATE COUNSELING; PERIODIC PROGRESS REVIEWS; AND
11 SPECIFIED IMMEDIATE CONSEQUENCES FOR FAILURE TO ABIDE BY A
12 CONDITION. A PARENT OR LEGAL GUARDIAN OR, IF THE INDIVIDUAL IS
13 AT LEAST AGE 18 OR IS AN EMANCIPATED MINOR, THE INDIVIDUAL MAY
14 INCLUDE PROPOSED CONDITIONS IN A PETITION FOR REINSTATEMENT SUB-
15 MITTED UNDER THIS SUBSECTION.

16 (5) A SCHOOL BOARD OR SCHOOL ADMINISTRATOR THAT COMPLIES
17 WITH THIS SECTION [] IS NOT LIABLE FOR DAMAGES FOR
18 EXPELLING A PUPIL PURSUANT TO THIS SECTION, AND THE AUTHORIZING
19 BODY OF A PUBLIC SCHOOL ACADEMY ESTABLISHED UNDER THIS ACT IS NOT
20 LIABLE FOR DAMAGES FOR EXPULSION OF A PUPIL MADE IN GOOD FAITH BY
21 THE PUBLIC SCHOOL ACADEMY PURSUANT TO THIS SECTION.

22 (6) THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE TO ALL
23 SCHOOL DISTRICTS A FORM FOR A PETITION TO BE USED UNDER SUBSEC-
24 TION (4). THE DEPARTMENT MAY DESIGNATE THE FORM USED FOR A PETI-
25 TION FOR REINSTATEMENT UNDER SECTION 1311 AS A FORM THAT MAY BE
26 USED UNDER SUBSECTION (4).

1 (7) THE BOARD OF A SCHOOL DISTRICT SHALL USE THE
2 LOCALLY-ADOPTED DUE PROCESS POLICY REQUIRED UNDER SECTION 1310 IN
3 EXPULSION PROCEEDINGS UNDER THIS SECTION. THE STATE BOARD SHALL
4 DEVELOP AND DISTRIBUTE TO SCHOOL DISTRICTS A MODEL DUE PROCESS
5 POLICY THAT SCHOOL DISTRICTS MAY ADOPT FOR USE IN REINSTATEMENT
6 PROCEEDINGS UNDER THIS SECTION AND SIMILAR PROCEEDINGS.

7 (8) THIS SECTION DOES NOT DIMINISH THE DUE PROCESS RIGHTS
8 UNDER FEDERAL LAW OF A PUPIL WHO HAS BEEN DETERMINED TO BE ELIGI-
9 BLE FOR SPECIAL EDUCATION PROGRAMS AND SERVICES.

10 (9) IF THE PHYSICAL ASSAULT OR OTHER ACT IS AN INCIDENT THAT
11 REQUIRES REPORTING TO LAW ENFORCEMENT ACCORDING TO THE MEMORANDUM
12 OF UNDERSTANDING REQUIRED UNDER SECTION 1308, THE SCHOOL BOARD OR
13 ITS DESIGNEE SHALL REPORT THE PHYSICAL ASSAULT OR OTHER ACT TO
14 APPROPRIATE STATE OR LOCAL LAW ENFORCEMENT OFFICIALS ACCORDING TO
15 THE MEMORANDUM OF UNDERSTANDING.

16 (10) AS USED IN THIS SECTION:

17 (A) "AT SCHOOL" MEANS IN A CLASSROOM, ELSEWHERE ON SCHOOL
18 PREMISES, ON A SCHOOL BUS OR OTHER SCHOOL-RELATED VEHICLE, OR AT
19 A SCHOOL-SPONSORED ACTIVITY OR EVENT WHETHER OR NOT IT IS HELD ON
20 SCHOOL PREMISES.

21 (B) "PHYSICAL ASSAULT" MEANS INTENTIONALLY CAUSING OR
22 ATTEMPTING TO CAUSE PHYSICAL HARM TO ANOTHER THROUGH FORCE OR
23 VIOLENCE.

24 (C) "SCHOOL BOARD" MEANS A SCHOOL BOARD, INTERMEDIATE SCHOOL
25 BOARD, OR THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY
26 ESTABLISHED UNDER THIS ACT.

SB0313, As Passed House, May 13, 1998

Senate Bill No. 313

8

1 (D) "SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT, A LOCAL ACT
2 SCHOOL DISTRICT, AN INTERMEDIATE SCHOOL DISTRICT, OR A PUBLIC
3 SCHOOL ACADEMY ESTABLISHED UNDER THIS ACT.

4 (E) "SCHOOL PRINCIPAL" MEANS THE CHIEF BUILDING-LEVEL ADMIN-
5 ISTRATOR OF A PARTICULAR SCHOOL.

6 Enacting section 1. This amendatory act does not take
7 effect unless all of the following bills of the 89th Legislature
8 are enacted into law:

9 (a) House Bill No. 4075.

10 (b) House Bill No. 5424.

11 (c) House Bill No. 5478.

12 (d) House Bill No. 5482.

13 (e) House Bill No. 5696.

14 (f) House Bill No. 5699.

15 (g) House Bill No. 5700.