



HOUSE BILL No. 5738

May 4, 2000, Introduced by Reps. Cherry, Frank, Kelly, LaForge, Jelinek, Dennis, Bogardus, Scranton, Lockwood, Baird, Basham, Jacobs, Vaughn, Switalski, Gielegem and Richner and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1308, 1310, 1311, and 1311a (MCL 380.1308, 380.1310, 380.1311, and 380.1311a), sections 1308 and 1310 as added by 1999 PA 102, section 1311 as amended by 1999 PA 23, and section 1311a as added by 1999 PA 104.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1308. (1) ~~Not later than 90 days after the effective~~
2 ~~date of this section, the~~ THE superintendent of public instruc-
3 tion, attorney general, and director of the department of state
4 police shall adopt, publish, and distribute to school boards,
5 county prosecutors, and local law enforcement agencies the state-
6 wide school safety information policy described in subsection
7 (2). ~~Not later than 180 days after the effective date of this~~

1 ~~section, each~~ EACH school board, county prosecutor, and local
2 law enforcement agency shall do both of the following:

3 (a) Meet and confer as appropriate on the implementation of
4 the statewide school safety information policy for each school
5 district and on any related issues that are unique to the
6 affected locality. The appropriate local law enforcement agency
7 or agencies to be involved shall be determined locally, consis-
8 tent with the statewide school safety information policy.

9 (b) ~~Begin compliance~~ COMPLY with the statewide school
10 safety information policy.

11 (2) The statewide school safety information policy required
12 under subsection (1) shall identify the types of incidents occur-
13 ring at school that must be reported to law enforcement agencies
14 and shall establish procedures to be followed when such an inci-
15 dent occurs at school. The statewide school safety information
16 policy also may address procedures for reporting incidents
17 involving possession of a dangerous weapon as required under sec-
18 tion 1313. The statewide school safety information policy shall
19 address at least all of the following:

20 (a) Law enforcement protocols and priorities for the report-
21 ing process. The law enforcement protocols must be developed
22 with the cooperation of the appropriate state or local law
23 enforcement agency. The law enforcement priorities shall include
24 at least investigation of reported incidents, identification of
25 those involved in a reported incident, assistance in prevention
26 of these types of incidents, and, when appropriate, assistance
27 from a child protection agency.

1 (b) Definition of the types of incidents requiring reporting
2 to law enforcement and response by law enforcement, taking into
3 account the intent of the actor and the circumstances surrounding
4 the incident.

5 (c) Protocols for responding to reportable incidents,
6 addressing at least all of the following:

7 (i) Initial notification and reporting by school officials.

8 (ii) The information to be provided by school officials.

9 (iii) Initial response by law enforcement agencies, which
10 shall be specifically tailored for incidents in progress, inci-
11 dents not in progress, and incidents involving delayed
12 reporting. School officials shall be consulted to determine the
13 extent of law enforcement involvement required by the situation.

14 (iv) Custody of actors.

15 (d) The amount and nature of assistance to be provided by
16 school officials, and the scope of their involvement in law
17 enforcement procedures. This provision shall require school
18 officials to notify the parent or legal guardian of a minor pupil
19 who is a victim or witness when law enforcement authorities
20 interview the pupil.

21 (e) Any other matters that will facilitate reporting of
22 incidents affecting school safety and the exchange of other
23 information affecting school safety.

24 (3) If school officials of a school district determine that
25 an incident has occurred at school that is required to be
26 reported to law enforcement agencies according to the statewide
27 school safety information policy under this section, the

1 superintendent of the school district, or his or her designee,
2 immediately shall report that finding to the appropriate state or
3 local law enforcement agency in the manner prescribed in the
4 statewide school safety information policy. SCHOOL OFFICIALS
5 ALSO SHALL REPORT THE INCIDENT TO CHILD PROTECTIVE SERVICES.

6 (4) If provided in the statewide school safety information
7 policy under this section, a local law enforcement agency that
8 has jurisdiction over a school building of a school district
9 shall report to the school officials of the school building inci-
10 dents reported to the law enforcement agency that allege the com-
11 mission of a crime and that, according to the incident report,
12 either occurred on school property or within 1,000 feet of the
13 school property or involved a pupil or staff member of the school
14 as a victim or alleged perpetrator. Upon request by a law
15 enforcement agency, school officials shall provide the law
16 enforcement agency with any information the law enforcement
17 agency determines it needs to provide this report to school
18 officials.

19 (5) If provided in the statewide school safety information
20 policy under this section, the prosecuting attorney of a county
21 shall notify a school district located in whole or in part in
22 that county of any criminal or juvenile court action initiated or
23 taken against a pupil of the school district, including, but not
24 limited to, convictions, adjudications, and dispositions. This
25 notification shall be made to either the school district superin-
26 tendent or to the intermediate superintendent of the intermediate
27 school district in which the county is located, as provided in

1 the policy or by local agreement. If the notification is made to
2 the intermediate superintendent, the intermediate superintendent
3 shall forward the information to the superintendent of the school
4 district in which the pupil is enrolled. Upon receipt of infor-
5 mation under this subsection, a school district superintendent
6 shall share the information with appropriate school building
7 personnel. The prosecuting attorney may inquire of each school
8 age individual involved in a court action described in this sub-
9 section whether the individual is a pupil in a school district
10 and, if so, in which school district.

11 (6) If provided for in the statewide school safety informa-
12 tion policy under this section, the appropriate court shall
13 inform an appropriate school administrator of the name of the
14 individual assigned to monitor a convicted or adjudicated youth
15 attending a public school and of how that individual may be
16 contacted.

17 (7) A school board, county prosecutor, ~~and~~ local law
18 enforcement agency, AND CHILD PROTECTIVE SERVICES may enter into
19 a local agreement or take other measures to facilitate the shar-
20 ing of school safety information or to promote school safety if
21 the agreement or other measures are consistent with the statewide
22 school safety information policy.

23 (8) A school board shall cooperate with local law enforce-
24 ment agencies to ensure that detailed and accurate building
25 plans, blueprints, and site plans, as appropriate, for each
26 school building operated by the school board are provided to the
27 appropriate local law enforcement agency.

1 (9) Reporting of information by a school district or school
2 personnel under this section is subject to section 444 of subpart
3 4 of part C of the general education provisions act, ~~Title~~
4 TITLE IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred
5 to as the family educational rights and privacy act of 1974.

6 (10) If a pupil is involved in an incident reported to law
7 enforcement according to the statewide school safety information
8 policy under this section, then upon request by school officials,
9 the pupil's parent or legal guardian shall execute any waivers or
10 consents necessary to allow school officials access to school,
11 court, or other pertinent records of the pupil concerning the
12 incident and action taken as a result of the incident.

13 (11) As used in this section:

14 (a) "At school" means in a classroom, elsewhere on school
15 premises, on a school bus or other school-related vehicle, or at
16 a school-sponsored activity or event whether or not it is held on
17 school premises.

18 (b) "School board" and "school district" mean those terms as
19 defined in section 1311a.

20 Sec. 1310. (1) If a pupil enrolled in grade 6 or above com-
21 mits a physical assault at school against another pupil and the
22 physical assault is reported to the school board, school district
23 superintendent, or building principal, the school board shall
24 expel the pupil from the school district for up to 180 school
25 days. A district superintendent or building principal who
26 receives a report described in this subsection shall forward the
27 report to the school board. Notwithstanding section 1147, a

1 school district is not required to allow an individual expelled
2 from another school district under this section to attend school
3 in the school district during the expulsion.

4 (2) IF AN INDIVIDUAL IS EXPELLED UNDER THIS SECTION, WITHIN
5 3 DAYS AFTER THE EXPULSION, THE SCHOOL BOARD SHALL REPORT THE
6 INCIDENT RESULTING IN THE EXPULSION TO CHILD PROTECTIVE SERVICES.

7 (3) ~~-(2)-~~ If an individual is expelled pursuant to this sec-
8 tion, it is the responsibility of that individual and of his or
9 her parent or legal guardian to locate a suitable educational
10 program and to enroll the individual in such a program during the
11 expulsion. The office for safe schools in the department shall
12 compile information on and catalog existing alternative education
13 programs or schools and nonpublic schools that may be open to
14 enrollment of individuals expelled under this section and pursu-
15 ant to section 1311(2) or 1311a, and shall periodically distrib-
16 ute this information to school districts for distribution to
17 expelled individuals. A school board that establishes an alter-
18 native education program or school described in this subsection
19 shall notify the office for safe schools about the program or
20 school and the types of pupils it serves. The office for safe
21 schools also shall work with and provide technical assistance to
22 school districts, authorizing bodies for public school academies,
23 and other interested parties in developing these types of alter-
24 native education programs or schools in geographic areas that are
25 not being served.

26 (4) ~~-(3)-~~ As used in this section:

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

5 (b) "Physical assault" means intentionally causing or
6 attempting to cause physical harm to another through force or
7 violence.

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

10 (d) "School district" means a school district, a local act
11 school district, an intermediate school district, or a public
12 school academy.

13 Sec. 1311. (1) Subject to subsection (2), the school board,
14 or the school district superintendent, a school building princi-
15 pal, or another school district official if designated by the
16 school board, may authorize or order the suspension or expulsion
17 from school of a pupil guilty of gross misdemeanor or persistent
18 disobedience if, in the judgment of the school board or its des-
19 ignee, as applicable, the interest of the school is served by the
20 authorization or order. If there is reasonable cause to believe
21 that the pupil is handicapped, and the school district has not
22 evaluated the pupil in accordance with rules of the state board
23 to determine if the student is handicapped, the pupil shall be
24 evaluated immediately by the intermediate school district of
25 which the school district is constituent in accordance with sec-
26 tion 1711.

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

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

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

16 (c) The pupil did not know or have reason to know that the
17 object or instrument possessed by the pupil constituted a danger-
18 ous weapon.

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

22 (3) If an individual is expelled pursuant to subsection (2),
23 the expelling school district shall enter on the individual's
24 permanent record that he or she has been expelled pursuant to
25 subsection (2). Except if a school district operates or partici-
26 pates cooperatively in an alternative education program
27 appropriate for individuals expelled pursuant to subsection (2)

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

26 (4) If a school board expels an individual pursuant to
27 subsection (2), the school board shall ensure that, within 3 days

1 after the expulsion, an official of the school district REPORTS
2 THE INCIDENT RESULTING IN THE EXPULSION TO CHILD PROTECTIVE SERV-
3 ICES AND refers the individual to the appropriate county depart-
4 ment of social services or county community mental health agency
5 and notifies the individual's parent or legal guardian or, if the
6 individual is at least age 18 or is an emancipated minor, noti-
7 fies the individual of the referral.

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

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

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

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

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

1 guardian or, if the individual is at least age 18 or is an
2 emancipated minor, by the individual, a school board shall make
3 available a form for a petition.

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

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

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

3 (ii) The extent to which reinstatement of the individual
4 would create a risk of school district liability or individual
5 liability for the school board or school district personnel.

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

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

9 (v) The individual's attitude concerning the incident that
10 caused the expulsion.

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

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

18 (f) Not later than the next regularly scheduled board meet-
19 ing after receiving the recommendation of the committee under
20 subdivision (e), a school board shall make a decision to uncondi-
21 tionally reinstate the individual, conditionally reinstate the
22 individual, or deny reinstatement of the individual. The deci-
23 sion of the school board is final.

24 (g) A school board may require an individual and, if the
25 petition was filed by a parent or legal guardian, his or her
26 parent or legal guardian to agree in writing to specific
27 conditions before reinstating the individual in a conditional

1 reinstatement. The conditions may include, but are not limited
2 to, agreement to a behavior contract, which may involve the indi-
3 vidual, parent or legal guardian, and an outside agency; partici-
4 pation in or completion of an anger management program or other
5 appropriate counseling; periodic progress reviews; and specified
6 immediate consequences for failure to abide by a condition. A
7 parent or legal guardian or, if the individual is at least age 18
8 or is an emancipated minor, the individual may include proposed
9 conditions in a petition for reinstatement submitted under this
10 subsection.

11 (6) A school board or school administrator that complies
12 with subsection (2) is not liable for damages for expelling a
13 pupil pursuant to subsection (2), and the authorizing body of a
14 public school academy is not liable for damages for expulsion of
15 a pupil by the public school academy pursuant to subsection (2).

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

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

22 (9) If a pupil expelled from a public school district pursu-
23 ant to subsection (2) is enrolled by a public school district
24 sponsored alternative education program or a public school acad-
25 emy during the period of expulsion, the public school academy or
26 alternative education program shall immediately become eligible
27 for the prorated share of either the public school academy or

1 operating school district's foundation allowance or the expelling
2 school district's foundation allowance, whichever is higher.

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

22 (11) As used in this section:

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

25 (b) "Criminal sexual conduct" means a violation of
26 section 520b, 520c, 520d, 520e, or 520g of the Michigan penal

1 code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e,
2 and 750.520g.

3 (c) "Dangerous weapon" means that term as defined in
4 section 1313.

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

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

9 (f) "School district" means a school district, a local act
10 school district, an intermediate school district, or a public
11 school academy.

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

15 Sec. 1311a. (1) If a pupil enrolled in grade 6 or above
16 commits a physical assault at school against a person employed by
17 or engaged as a volunteer or contractor by the school board and
18 the physical assault is reported to the school board, school dis-
19 trict superintendent, or building principal by the victim or, if
20 the victim is unable to report the assault, by another person on
21 the victim's behalf, then the school board, or the designee of
22 the school board as described in section 1311(1) on behalf of the
23 school board, shall expel the pupil from the school district per-
24 manently, subject to possible reinstatement under
25 subsection (5). A district superintendent or building principal
26 who receives a report described in this subsection shall forward
27 the report to the school board.

1 (2) If a pupil enrolled in grade 6 or above commits a verbal
2 assault, as defined by school board policy, at school against a
3 person employed by or engaged as a volunteer or contractor by the
4 school board and the verbal assault is reported to the school
5 board, school district superintendent, or building principal by
6 the victim or, if the victim is unable to report the verbal
7 assault, by another person on the victim's behalf, or if a pupil
8 enrolled in grade 6 or above makes a bomb threat or similar
9 threat directed at a school building, other school property, or a
10 school-related event, then the school board, or the designee of
11 the school board as described in section 1311(1) on behalf of the
12 school board, shall expel the pupil from the school district for
13 up to 180 school days. A district superintendent or building
14 principal who receives a report described in this subsection
15 shall forward the report to the school board. Notwithstanding
16 section 1147, a school district is not required to allow an indi-
17 vidual expelled from another school district under this subsec-
18 tion to attend school in the school district during the
19 expulsion.

20 (3) If an individual is permanently expelled pursuant to
21 subsection (1), the expelling school district shall enter on the
22 individual's permanent record that he or she has been permanently
23 expelled pursuant to subsection (1). Except if a school district
24 operates or participates cooperatively in an alternative educa-
25 tion program appropriate for individuals expelled pursuant to
26 subsection (1) and section 1311(2) and in its discretion admits
27 the individual to that program, and except for a strict

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

26 (4) If a school board expels an individual pursuant to this
27 section, the school board shall ensure that, within 3 days after

1 the expulsion, an official of the school district REPORTS THE
2 INCIDENT RESULTING IN THE EXPULSION TO CHILD PROTECTIVE SERVICES
3 AND refers the individual to the appropriate county department of
4 social services or county community mental health agency and
5 notifies the individual's parent or legal guardian or, if the
6 individual is at least age 18 or is an emancipated minor, noti-
7 fies the individual of the referral.

8 (5) The parent or legal guardian of an individual per-
9 manently expelled pursuant to subsection (1) or, if the individ-
10 ual is at least age 18 or is an emancipated minor, the individual
11 may petition the expelling school board for reinstatement of the
12 individual to public education in the school district. If the
13 expelling school board denies a petition for reinstatement, the
14 parent or legal guardian or, if the individual is at least age 18
15 or is an emancipated minor, the individual may petition another
16 school board for reinstatement of the individual in that other
17 school district. All of the following apply to reinstatement
18 under this subsection:

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

24 (b) The individual shall not be reinstated before the expi-
25 ration of 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 may prepare and submit for consideration by
16 the committee information concerning the circumstances of the
17 expulsion and any factors mitigating for or against
18 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
4 would create a risk of harm to pupils or school personnel.

5 (ii) The extent to which reinstatement of the individual
6 would create a risk of school district or individual liability
7 for the school board or school district personnel.

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

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

11 (v) The individual's attitude concerning the incident that
12 caused the expulsion.

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

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

20 (f) Not later than the next regularly scheduled board meet-
21 ing after receiving the recommendation of the committee under
22 subdivision (e), a school board shall make a decision to uncondi-
23 tionally reinstate the individual, conditionally reinstate the
24 individual, or deny reinstatement of the individual. The deci-
25 sion of the school board is final.

26 (g) A school board may require an individual and, if the
27 petition was filed by a parent or legal guardian, his or her

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

13 (6) A school board or school administrator that complies
14 with this section is not liable for damages for expelling a pupil
15 pursuant to this section, and the authorizing body of a public
16 school academy is not liable for damages for expulsion of a pupil
17 by the public school academy pursuant to this section.

18 (7) The department shall develop and distribute to all
19 school districts a form for a petition for reinstatement to be
20 used under subsection (5). The department may designate the form
21 used for a petition for reinstatement under section 1311 as a
22 form that may be used under this section.

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

26 (9) If a pupil expelled from a school district pursuant to
27 this section is enrolled by a public school district sponsored

1 alternative education program or a public school academy during
2 the period of expulsion, the public school academy or the alter-
3 native education program is immediately eligible for the prorated
4 share of either the public school academy's or operating school
5 district's foundation allowance or the expelling school
6 district's foundation allowance, whichever is higher.

7 (10) A school board or its designee shall report all
8 assaults described in subsection (1) or (2) to appropriate state
9 or local law enforcement officials and prosecutors as provided in
10 the statewide school safety information policy under section
11 1308.

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

1 other interested parties in developing these types of alternative
2 education programs or schools in geographic areas that are not
3 being served.

4 (12) As used in this section:

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

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

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

14 (d) "School district" means a school district, a local act
15 school district, an intermediate school district, or a public
16 school academy.