

SENATE BILL NO. 169

January 28, 1999, Introduced by Senators STILLE, GOSCHKA, SHUGARS, BULLARD and GOUGEON and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1230 and 1230a (MCL 380.1230 and 380.1230a), section 1230 as amended by 1993 PA 284 and section 1230a as added by 1995 PA 83.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1230. (1) ~~Beginning with hiring for the 1993-94~~
2 ~~school year and subject~~ SUBJECT to subsections (2), (4), and
3 (5), upon an offer of initial employment being made by ~~the board~~
4 ~~of a school district, local act school district, or intermediate~~
5 ~~school district or the governing body of a public school academy~~
6 ~~or nonpublic school~~ A SCHOOL BOARD to an individual for a posi-
7 tion ~~as a teacher or a school administrator or for a position~~
8 ~~requiring state board approval~~ DESCRIBED IN THIS SUBSECTION, OR
9 UPON CONTRACTING WITH AN INDIVIDUAL AS AN INDEPENDENT CONTRACTOR

1 FOR A POSITION DESCRIBED IN THIS SUBSECTION, the ~~district,~~
2 ~~public school academy, or nonpublic school~~ SCHOOL BOARD shall
3 request from the criminal records division of the department of
4 state police a criminal history check on the individual and,
5 before employing the individual as a regular employee OR ALLOWING
6 THE INDEPENDENT CONTRACTOR TO ENGAGE IN ANY ACTIVITY INVOLVING
7 CONTACT WITH PUPILS, shall have received from the department of
8 state police the report described in subsection (8). THIS SUB-
9 SECTION APPLIES TO ANY POSITION INVOLVING REGULAR CONTACT WITH
10 PUPILS OR OTHER CHILDREN, INCLUDING, BUT NOT LIMITED TO, TEACHER
11 OR OTHER INSTRUCTIONAL POSITION, SCHOOL ADMINISTRATOR, A POSITION
12 REQUIRING STATE BOARD APPROVAL, BUS DRIVER, PLAYGROUND AIDE,
13 LUNCH ROOM AIDE, HEALTH AIDE, CUSTODIAN, TUTOR, AND ATHLETIC
14 COACH OR OTHER EXTRACURRICULAR POSITION WORKING WITH PUPILS.

15 (2) If ~~the board of a school district, local act school~~
16 ~~district, or intermediate school district or the governing body~~
17 ~~of a public school academy or nonpublic school~~ A SCHOOL BOARD
18 determines it necessary to ~~employ~~ HIRE an individual for a
19 position described in subsection (1) for a particular school year
20 during that school year or within 30 days before the beginning of
21 that school year, the ~~board or governing body~~ SCHOOL BOARD may
22 employ the individual as a conditional employee under this sub-
23 section without first receiving the report described in
24 subsection (8) if all of the following apply:

25 (a) The ~~board or governing body~~ SCHOOL BOARD requests the
26 criminal history check required under subsection (1) before
27 conditionally employing the individual.

1 (b) The individual signs a statement that identifies all
 2 crimes for which he or she has been convicted, if any, and agree-
 3 ing that, if the report described in subsection (8) is not the
 4 same as the individual's statement, his or her employment con-
 5 tract will be voidable at the option of the ~~board or governing~~
 6 ~~body~~ SCHOOL BOARD. ~~Not later than July 28, 1993, the~~ THE
 7 department shall develop and distribute to ~~districts and nonpub-~~
 8 ~~lic schools~~ SCHOOL BOARDS a model form for the statement
 9 required under this subdivision. ~~The department shall make the~~
 10 ~~model form available to public school academies. A district,~~
 11 ~~public school academy, or nonpublic~~ A school BOARD shall use the
 12 model form for the purposes of this subsection.

13 (3) If an individual is employed as a conditional employee
 14 under subsection (2) and the report described in subsection (8)
 15 is not the same as the individual's statement under subsection
 16 (2), the ~~board or governing body~~ SCHOOL BOARD may void the
 17 individual's employment contract. If an employment contract is
 18 voided under this subsection, the individual's employment is ter-
 19 minated, a collective bargaining agreement that would otherwise
 20 apply to the individual's employment does not apply to the termi-
 21 nation, and the ~~district, public school academy, or nonpublic~~
 22 ~~school or the board or governing body~~ SCHOOL BOARD is not liable
 23 for the termination.

24 (4) For an applicant for a position as a substitute teacher,
 25 instead of requesting a criminal history check under
 26 subsection (1), a ~~school district, local act school district,~~
 27 ~~intermediate school district, public school academy, or~~

1 ~~nonpublic~~ school BOARD may use a report received by another
2 ~~district, public school academy, or nonpublic~~ school BOARD or
3 maintained by the department to confirm that the individual does
4 not have any criminal history. If that confirmation is not
5 available, subsection (1) applies to an applicant for a position
6 as a substitute teacher.

7 (5) If an applicant for a position described in
8 subsection (1) is being considered for employment in such a posi-
9 tion by more than 1 ~~school district, local act school district,~~
10 ~~intermediate school district, public school academy, or~~
11 ~~nonpublic~~ school BOARD and if the applicant agrees in writing to
12 allow a ~~district, public school academy, or nonpublic~~ school
13 BOARD to share the report described in subsection (8) with
14 another ~~district, public school academy, or nonpublic school, a~~
15 ~~district, public school academy, or nonpublic~~ school BOARD, A
16 SCHOOL BOARD may satisfy the requirements of subsection (1) by
17 obtaining a copy of the report described in subsection (8) from
18 another ~~district, public school academy, or nonpublic~~ school
19 BOARD.

20 (6) An applicant for a position described in subsection (1)
21 shall give written consent at the time of application for the
22 criminal records division of the department of state police to
23 conduct the criminal history check required under this section.

24 (7) A ~~school district, local act school district, interme-~~
25 ~~diante school district, public school academy, or nonpublic~~
26 school BOARD shall make a request to the criminal records
27 division of the department of state police for a criminal history

1 check required under this section on a form and in a manner
2 prescribed by the criminal records division of the department of
3 state police.

4 (8) Within 30 days after receiving a proper request by a
5 ~~school district, local act school district, intermediate school~~
6 ~~district, public school academy, or nonpublic~~ school BOARD for a
7 criminal history check on an applicant OR OTHER INDIVIDUAL under
8 this section, the criminal records division of the department of
9 state police shall conduct the criminal history check and, after
10 conducting the criminal history check and within that time
11 period, provide a report of the results of the criminal history
12 check to the ~~district, public school academy, or nonpublic~~
13 school BOARD. The report shall contain any criminal history
14 record information on the applicant maintained by the criminal
15 records division of the department of state police.

16 (9) BEFORE ALLOWING AN INDIVIDUAL TO SERVE AS A VOLUNTEER IN
17 A POSITION THAT INVOLVES MORE THAN 5 HOURS OF CONTACT WITH PUPILS
18 IN A WEEK, A SCHOOL BOARD SHALL REQUEST FROM THE CRIMINAL RECORDS
19 DIVISION OF THE DEPARTMENT OF STATE POLICE A CRIMINAL HISTORY
20 CHECK ON THE INDIVIDUAL AND SHALL HAVE RECEIVED FROM THE DEPART-
21 MENT OF STATE POLICE THE REPORT DESCRIBED IN SUBSECTION (8).

22 (10) IF, RATHER THAN EMPLOYING THE STAFF DIRECTLY, A SCHOOL
23 BOARD CONTRACTS WITH ANOTHER ENTITY TO PROVIDE STAFF FOR THE
24 SCHOOL DISTRICT, LOCAL ACT SCHOOL DISTRICT, INTERMEDIATE SCHOOL
25 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN 1 OR MORE
26 POSITIONS DESCRIBED IN SUBSECTION (1), THE SCHOOL BOARD SHALL
27 REQUEST FROM THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF

1 STATE POLICE A CRIMINAL HISTORY CHECK ON EACH INDIVIDUAL ASSIGNED
2 PURSUANT TO THE CONTRACT TO A POSITION DESCRIBED IN SUBSECTION
3 (1) AND, BEFORE ALLOWING THE INDIVIDUAL TO ENGAGE IN ANY ACTIVITY
4 INVOLVING CONTACT WITH PUPILS, SHALL HAVE RECEIVED FROM THE
5 DEPARTMENT OF STATE POLICE THE REPORT DESCRIBED IN SUBSECTION
6 (8).

7 (11) ~~(9)~~ Criminal history record information received from
8 the criminal records division of the department of state police
9 under subsection (8) shall be used by a ~~school district, local~~
10 ~~act school district, intermediate school district, public school~~
11 ~~academy, or nonpublic~~ school BOARD only for the purpose of eval-
12 uating an applicant's qualifications for employment in the posi-
13 tion for which he or she has applied and for the purposes of
14 ~~subsection (3)~~ SUBSECTIONS (3), (9), AND (10). A member of the
15 ~~board of a district or of the governing body of a public school~~
16 ~~academy or nonpublic~~ school BOARD or an employee of a ~~district,~~
17 ~~public school academy, or nonpublic~~ school BOARD shall not dis-
18 close the report or its contents except any felony conviction or
19 a misdemeanor conviction involving sexual or physical abuse to
20 any person who is not directly involved in evaluating the
21 applicant's OR OTHER INDIVIDUAL'S qualifications for employment
22 OR OTHER INTERACTION WITH PUPILS. However, for the purposes of
23 subsection (4), a person described in this subsection may confirm
24 to ANOTHER SCHOOL BOARD OR an employee of another ~~district,~~
25 ~~public school academy, or nonpublic~~ school BOARD that a report
26 under subsection (8) has revealed that an individual does not
27 have any criminal history or may disclose that no report under

1 subsection (8) has been received concerning the individual, and
2 for the purposes of subsection (5), a person described in this
3 subsection may provide a copy of the report under subsection (8)
4 concerning the individual to an appropriate representative of
5 another ~~district, public school academy, or nonpublic~~ school
6 BOARD. A person who violates this subsection is guilty of a mis-
7 demeanor punishable by a fine of not more than \$10,000.00, but is
8 not subject to the penalties under section 1804.

9 (12) ~~(10)~~ As used in this section:

10 (a) "Criminal history record information" means that term as
11 defined in section 1a of ~~Act No. 289 of the Public Acts of 1925,~~
12 ~~being section 28.241a of the Michigan Compiled Laws~~ 1925 PA 289,
13 MCL 28.241A.

14 (B) "SCHOOL BOARD" MEANS THE BOARD OF A SCHOOL DISTRICT OR
15 LOCAL ACT SCHOOL DISTRICT, INTERMEDIATE SCHOOL BOARD OF AN INTER-
16 MEDIATE SCHOOL DISTRICT, BOARD OF DIRECTORS OF A PUBLIC SCHOOL
17 ACADEMY, OR GOVERNING BOARD OF A NONPUBLIC SCHOOL, OR ITS DESIG-
18 NEE AUTHORIZED TO HIRE EMPLOYEES OR ENTER INTO CONTRACTS WITH
19 INDEPENDENT CONTRACTORS ON ITS BEHALF.

20 (C) ~~(b)~~ "State board approval" means that term as defined
21 in section 1539b.

22 Sec. 1230a. (1) In addition to the criminal history check
23 required under section 1230, ~~the board of a school district,~~
24 ~~local act school district, or intermediate school district or the~~
25 ~~governing body of a public school academy or nonpublic school~~
26 AND SUBJECT TO SUBSECTIONS (2), (4), AND (5), A SCHOOL BOARD
27 shall request the department of state police to conduct a

1 criminal records check through the federal bureau of
2 investigation on an applicant for, or an individual who is hired
3 for, a position ~~as a teacher or a school administrator or a~~
4 ~~position requiring state board approval~~ DESCRIBED IN THIS SUB-
5 SECTION OR AN INDEPENDENT CONTRACTOR WHO IS TO BE ASSIGNED TO A
6 POSITION DESCRIBED IN THIS SUBSECTION. Except as provided in
7 subsection (2), a ~~board or governing body~~ SCHOOL BOARD shall
8 not employ an individual in a position described in this subsec-
9 tion OR ASSIGN AN INDEPENDENT CONTRACTOR TO A POSITION DESCRIBED
10 IN THIS SUBSECTION until after the ~~board or governing body~~
11 SCHOOL BOARD receives the results of the criminal records check.
12 A ~~board or governing body~~ SCHOOL BOARD requesting a criminal
13 records check under this section shall require the applicant or
14 individual to submit his or her fingerprints to the department of
15 state police for that purpose. The department of state police
16 may charge a fee for conducting the criminal records check. A
17 ~~board or governing body~~ SCHOOL BOARD shall require an individ-
18 ual to submit his or her fingerprints for the purposes of this
19 section only at the time the individual initially applies for
20 employment with the ~~board or governing body~~ SCHOOL BOARD or is
21 initially employed by the ~~board or governing body~~ SCHOOL BOARD
22 OR CONTRACTED WITH AS AN INDEPENDENT CONTRACTOR BY THE SCHOOL
23 BOARD. THIS SUBSECTION APPLIES TO ANY POSITION INVOLVING REGULAR
24 CONTACT WITH PUPILS OR OTHER CHILDREN, INCLUDING, BUT NOT LIMITED
25 TO, TEACHER OR OTHER INSTRUCTIONAL POSITION, SCHOOL ADMINISTRA-
26 TOR, A POSITION REQUIRING STATE BOARD APPROVAL, BUS DRIVER,
27 PLAYGROUND AIDE, LUNCH ROOM AIDE, HEALTH AIDE, CUSTODIAN, TUTOR,

1 AND ATHLETIC COACH OR OTHER EXTRACURRICULAR POSITION WORKING WITH
2 PUPILS.

3 (2) If ~~the board of a school district, local act school~~
4 ~~district, or intermediate school district or the governing body~~
5 ~~of a public school academy or nonpublic school~~ A SCHOOL BOARD
6 determines it necessary to ~~employ~~ HIRE an individual for a
7 position described in subsection (1) for a particular school year
8 during that school year or within 30 days before the beginning of
9 that school year, the ~~board or governing body~~ SCHOOL BOARD may
10 employ the individual as a conditional employee under this sub-
11 section without first receiving the results of the criminal
12 records check under subsection (1) if all of the following
13 apply:

14 (a) The ~~board or governing body~~ SCHOOL BOARD requests the
15 criminal records check under subsection (1) before conditionally
16 employing the individual.

17 (b) The individual signs a statement that identifies all
18 crimes for which he or she has been convicted, if any, and agree-
19 ing that, if the results of the criminal records check under sub-
20 section (1) reveal information that is inconsistent with the
21 individual's statement, his or her employment contract will be
22 voidable at the option of the ~~board or governing body~~ SCHOOL
23 BOARD. ~~Not later than September 30, 1995, the~~ THE department
24 shall develop and distribute to ~~districts and nonpublic schools~~
25 SCHOOL BOARDS a model form for the statement required under this
26 subdivision. ~~The department shall make the model form available~~
27 ~~to public school academies. A district, public school academy,~~

1 ~~or nonpublic~~ A school BOARD shall use the model form for the
2 purposes of this subsection.

3 (3) If an individual is employed as a conditional employee
4 under subsection (2) and the results of the criminal records
5 check under subsection (1) reveal information that is inconsis-
6 tent with the individual's statement under subsection (2), the
7 ~~board or governing body~~ SCHOOL BOARD may void the individual's
8 employment contract. If an employment contract is voided under
9 this subsection, the individual's employment is terminated, a
10 collective bargaining agreement that would otherwise apply to the
11 individual's employment does not apply to the termination, and
12 the ~~district, public school academy, or nonpublic school or the~~
13 ~~board or governing body~~ SCHOOL BOARD is not liable for the
14 termination.

15 (4) For an applicant for a position as a substitute teacher,
16 instead of requesting a criminal records check under
17 subsection (1), a ~~school district, local act school district,~~
18 ~~intermediate school district, public school academy, or~~
19 ~~nonpublic~~ school BOARD may use results received by another
20 ~~district, public school academy, or nonpublic~~ school BOARD or
21 maintained by the department to confirm that the individual does
22 not have any criminal history. If that confirmation is not
23 available, subsection (1) applies to an applicant for a position
24 as a substitute teacher.

25 (5) If an applicant for a position described in
26 subsection (1) is being considered for employment in such a
27 position by more than 1 ~~school district, local act school~~

1 ~~district, intermediate school district, public school academy, or~~
2 ~~nonpublic~~ school BOARD and if the applicant agrees in writing to
3 allow a ~~district, public school academy, or nonpublic~~ school
4 BOARD to share the results of the criminal records check with
5 another ~~district, public school academy, or nonpublic~~ school
6 BOARD, then a ~~district, public school academy, or nonpublic~~
7 school BOARD may satisfy the requirements of subsection (1) by
8 obtaining a copy of the results of the criminal records check
9 from another ~~district, public school academy, or nonpublic~~
10 school BOARD.

11 (6) An applicant for a position described in subsection (1)
12 shall give written consent at the time of application for the
13 criminal records division of the department of state police to
14 conduct the criminal records check required under this section.

15 (7) A ~~school district, local act school district, interme-~~
16 ~~diate school district, public school academy, or nonpublic~~
17 school BOARD shall make a request to the department of state
18 police for a criminal records check under this section on a form
19 and in a manner prescribed by the department of state police.

20 (8) The results of a criminal records check under this sec-
21 tion shall be used by a ~~school district, local act school dis-~~
22 ~~trict, intermediate school district, public school academy, or~~
23 ~~nonpublic~~ school BOARD only for the purpose of evaluating an
24 individual's qualifications for employment in the position for
25 which he or she has applied and for the purposes of
26 subsections (3), (4), ~~and~~ (5), (10), AND (11). A member of
27 ~~the board of a district or of the governing body of a public~~

1 ~~school academy or nonpublic school~~ A SCHOOL BOARD or an employee
2 of a ~~district, public school academy, or nonpublic~~ school BOARD
3 shall not disclose those results, except any felony conviction or
4 a misdemeanor conviction involving sexual or physical abuse, to
5 any person who is not directly involved in evaluating the
6 individual's qualifications for employment OR OTHER INTERACTION
7 WITH PUPILS. However, for the purposes of subsections (4) and
8 (5), a person described in this subsection may provide a copy of
9 the results under subsection (1) concerning the individual to an
10 appropriate representative of another ~~district, public school~~
11 ~~academy, or nonpublic~~ school BOARD. A person who violates this
12 subsection is guilty of a misdemeanor punishable by a fine of not
13 more than \$10,000.00, but is not subject to the penalties under
14 section 1804.

15 (9) Within 30 days after receiving a proper request by a
16 ~~school district, local act school district, intermediate school~~
17 ~~district, public school academy, or nonpublic~~ school BOARD for a
18 criminal records check on an individual under this section, the
19 criminal records division of the department of state police shall
20 initiate the criminal records check. After conducting the crimi-
21 nal records check for a SCHOOL BOARD OF A school district, local
22 act school district, intermediate school district, or public
23 school academy, the criminal records division of the department
24 of state police shall provide the results of the criminal records
25 check to the SCHOOL BOARD OF THE district or public school
26 academy. After conducting the criminal records check for THE
27 SCHOOL BOARD OF a nonpublic school, the criminal records division

1 of the department of state police shall notify the SCHOOL BOARD
2 OF THE nonpublic school of whether or not the criminal records
3 check disclosed any criminal history that is not disclosed in the
4 report on the individual provided to the SCHOOL BOARD OF THE non-
5 public school under section 1230.

6 (10) BEFORE ALLOWING AN INDIVIDUAL TO SERVE AS A VOLUNTEER
7 IN A POSITION THAT INVOLVES MORE THAN 5 HOURS OF CONTACT WITH
8 PUPILS IN A WEEK, A SCHOOL BOARD SHALL REQUEST THE DEPARTMENT OF
9 STATE POLICE TO CONDUCT A CRIMINAL HISTORY CHECK ON THE INDIVID-
10 UAL THROUGH THE FEDERAL BUREAU OF INVESTIGATION AND SHALL HAVE
11 RECEIVED FROM THE DEPARTMENT OF STATE POLICE THE RESULTS OF THE
12 CRIMINAL HISTORY CHECK. A SCHOOL BOARD REQUESTING A CRIMINAL
13 RECORDS CHECK UNDER THIS SUBSECTION SHALL REQUIRE THE INDIVIDUAL
14 TO SUBMIT HIS OR HER FINGERPRINTS TO THE DEPARTMENT OF STATE
15 POLICE FOR THAT PURPOSE. THE DEPARTMENT OF STATE POLICE MAY
16 CHARGE A FEE FOR CONDUCTING THE CRIMINAL RECORDS CHECK.

17 (11) IF, RATHER THAN EMPLOYING THE STAFF DIRECTLY, A SCHOOL
18 BOARD CONTRACTS WITH ANOTHER ENTITY TO PROVIDE STAFF FOR THE
19 SCHOOL DISTRICT, LOCAL ACT SCHOOL DISTRICT, INTERMEDIATE SCHOOL
20 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN 1 OR MORE
21 POSITIONS DESCRIBED IN SUBSECTION (1), THE SCHOOL BOARD SHALL
22 REQUEST THE DEPARTMENT OF STATE POLICE TO CONDUCT A CRIMINAL HIS-
23 TORY CHECK THROUGH THE FEDERAL BUREAU OF INVESTIGATION ON EACH
24 INDIVIDUAL ASSIGNED PURSUANT TO THE CONTRACT TO A POSITION
25 DESCRIBED IN SUBSECTION (1) AND, BEFORE ALLOWING THE INDIVIDUAL
26 TO ENGAGE IN ANY ACTIVITY INVOLVING CONTACT WITH PUPILS, SHALL
27 HAVE RECEIVED FROM THE DEPARTMENT OF STATE POLICE THE RESULTS OF

1 THE CRIMINAL HISTORY CHECK. A SCHOOL BOARD REQUESTING A CRIMINAL
2 RECORDS CHECK UNDER THIS SUBSECTION SHALL REQUIRE THE INDIVIDUAL
3 TO SUBMIT HIS OR HER FINGERPRINTS TO THE DEPARTMENT OF STATE
4 POLICE FOR THAT PURPOSE. THE DEPARTMENT OF STATE POLICE MAY
5 CHARGE A FEE FOR CONDUCTING THE CRIMINAL RECORDS CHECK.

6 (12) ~~(10)~~ As used in this section: ~~—, "state"~~

7 (A) "SCHOOL BOARD" MEANS THE BOARD OF A SCHOOL DISTRICT OR
8 LOCAL ACT SCHOOL DISTRICT, INTERMEDIATE SCHOOL BOARD OF AN INTER-
9 MEDIATE SCHOOL DISTRICT, BOARD OF DIRECTORS OF A PUBLIC SCHOOL
10 ACADEMY, OR GOVERNING BODY OF A NONPUBLIC SCHOOL, OR ITS DESIGNEE
11 AUTHORIZED TO HIRE EMPLOYEES OR ENTER INTO CONTRACTS WITH INDE-
12 PENDENT CONTRACTORS ON ITS BEHALF.

13 (B) "STATE board approval" means that term as defined in
14 section 1539b.