

# SENATE BILL No. 55

January 23, 2003, Introduced by Senator JOHNSON and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1535a, 1539a, and 1539b (MCL 380.1535a, 380.1539a, and 380.1539b), as amended by 1995 PA 289, and by adding section 1230c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1230c. (1) Subject to subsection (2), if a person  
2 employed by a school district, intermediate school district,  
3 public school academy, or nonpublic school is convicted of a  
4 crime described in section 1535a(1), the prosecuting attorney  
5 handling the case shall notify the superintendent of public  
6 instruction and the person's employing school district,  
7 intermediate school district, public school academy, or nonpublic  
8 school of that conviction and of the sentence imposed on the  
9 person. A prosecuting attorney handling a case in which a person

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1 is convicted of a crime described in this section shall inquire  
2 whether the person is employed by a school district, intermediate  
3 school district, public school academy, or nonpublic school. If  
4 the prosecution of a crime described in this section was not  
5 authorized by the prosecuting attorney under section 1 of chapter  
6 IV of the code of criminal procedure, 1927 PA 175, MCL 764.1,  
7 then the court in which the conviction occurs shall fulfill the  
8 duties of the prosecuting attorney under this subsection.

9 (2) This section does not apply to a person who is subject to  
10 section 1535a, 1539a, or 1539b. Notification concerning  
11 convictions of those persons shall occur as provided for in those  
12 sections.

13 (3) As used in this section:

14 (a) "Conviction" means a judgment entered by a court upon a  
15 plea of guilty, guilty but mentally ill, or nolo contendere or  
16 upon a jury verdict or court finding that a defendant is guilty  
17 or guilty but mentally ill.

18 (b) "Employing school district, intermediate school district,  
19 public school academy, or nonpublic school" means the governing  
20 board of the school district, intermediate school district,  
21 public school academy, or nonpublic school by which the person is  
22 employed or for which the person is providing services pursuant  
23 to a contract.

24 (c) "Person employed by a school district, intermediate  
25 school district, public school academy, or nonpublic school"  
26 means a person employed directly by the governing board of a  
27 school district, intermediate school district, public school

1 academy, or nonpublic school or a person providing services for a  
2 school district, intermediate school district, public school  
3 academy, or nonpublic school pursuant to a contract with its  
4 governing board.

5 (d) "Prosecuting attorney" means the prosecuting attorney for  
6 a county, an assistant prosecuting attorney for a county, the  
7 attorney general, the deputy attorney general, an assistant  
8 attorney general, a special prosecuting attorney, or, in  
9 connection with the prosecution of an ordinance violation, an  
10 attorney for the political subdivision that enacted the ordinance  
11 upon which the violation is based.

12 Sec. 1535a. (1) Subject to subsection (2), if a person who  
13 holds a teaching certificate that is valid in this state is  
14 convicted of a crime described in this subsection, the ~~state~~  
15 ~~board~~ **superintendent of public instruction** shall notify the  
16 person in writing that his or her teaching certificate may be  
17 suspended because of the conviction and of his or her right to a  
18 hearing before the ~~state board~~ **superintendent of public**  
19 **instruction**. If the person does not avail himself or herself of  
20 this right to a hearing within 30 working days after receipt of  
21 this written notification, the teaching certificate of that  
22 person shall be suspended. If a hearing takes place, the ~~state~~  
23 ~~board~~ **superintendent of public instruction** may suspend the  
24 person's teaching certificate based upon the issues and evidence  
25 presented at the hearing. This subsection applies to any of the  
26 following crimes:

27 (a) Any felony.

1 (b) Any of the following misdemeanors:

2 (i) Criminal sexual conduct in the fourth degree or an  
3 attempt to commit criminal sexual conduct in the fourth degree.

4 (ii) Child abuse in the third or fourth degree, ~~or~~ an  
5 attempt to commit child abuse in the third or fourth degree, **or**  
6 **domestic violence involving a child.**

7 (iii) A misdemeanor involving ~~cruelty,~~ **Any of the**  
8 **following:**

9 (A) **Cruelty or torture** ~~, or indecent exposure~~ involving a  
10 child.

11 (B) **Indecent exposure or other lewd behavior.**

12 (C) **Use or possession of marihuana or another controlled**  
13 **substance.**

14 (D) **Operating a vehicle under the influence of, or impaired**  
15 **by, a controlled substance.**

16 (iv) A misdemeanor violation of section 7410 of the public  
17 health code, ~~Act No. 368 of the Public Acts of 1978, being~~  
18 ~~section 333.7410 of the Michigan Compiled Laws~~ **1978 PA 368,**  
19 **MCL 333.7410.**

20 (v) A violation of section 115, 141a, 145a, ~~or~~ **167(1)(b),**  
21 **167(1)(c), 167(1)(i), 359 or 448** of the Michigan penal code, ~~Act~~  
22 ~~No. 328 of the Public Acts of 1931, being sections 750.115,~~  
23 ~~750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws~~  
24 **1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.167, 750.359,**  
25 **and 750.448,** or a misdemeanor violation of section 81, 81a, or  
26 145c of ~~Act No. 328 of the Public Acts of 1931, being~~  
27 ~~sections 750.81, 750.81a, and 750.145c of the Michigan Compiled~~

1 ~~Laws~~ the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a,  
2 and 750.145c.

3 (vi) A misdemeanor violation of section ~~33 of the Michigan~~  
4 ~~liquor control act, Act No. 8 of the Public Acts of the Extra~~  
5 ~~Session of 1933, being section 436.33 of the Michigan Compiled~~  
6 ~~Laws~~ 701 of the Michigan liquor control code of 1998, 1998 PA  
7 58, MCL 436.1701.

8 (2) If a person who holds a teaching certificate that is  
9 valid in this state is convicted of a crime described in this  
10 subsection, the ~~state board~~ **superintendent of public**  
11 **instruction** shall find that the public health, safety, or welfare  
12 requires emergency action and shall order summary suspension of  
13 the person's teaching certificate under section 92 of the  
14 administrative procedures act of 1969, ~~Act No. 306 of the Public~~  
15 ~~Acts of 1969, being section 24.292 of the Michigan Compiled Laws~~  
16 **1969 PA 306, MCL 24.292**. However, if a person convicted of a  
17 crime described in this subsection is incarcerated in ~~a state~~  
18 ~~correctional facility~~ **secure confinement**, the ~~state board~~  
19 **superintendent of public instruction** may delay ordering the  
20 summary suspension until not later than 10 work days after the  
21 person is released from secure confinement. This subsection does  
22 not limit the ~~state board's~~ **superintendent of public**  
23 **instruction's** ability to order summary suspension of a person's  
24 teaching certificate for a reason other than described in this  
25 subsection. This subsection applies to conviction of any of the  
26 following crimes:

27 (a) Criminal sexual conduct in any degree, assault with

1 intent to commit criminal sexual conduct, or an attempt to commit  
2 criminal sexual conduct in any degree.

3 (b) Felonious assault on a child, child abuse in any degree,  
4 or an attempt to commit child abuse in any degree.

5 (c) Cruelty, torture, or indecent exposure involving a  
6 child.

7 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i),  
8 7410, or 7416 of the public health code, ~~Act No. 368 of the~~  
9 ~~Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410,~~  
10 ~~and 333.7416 of the Michigan Compiled Laws~~ **1978 PA 368,**  
11 **MCL 333.7401, 333.7403, 333.7410, and 333.7416.**

12 (e) A violation of section 83, 89, 91, 316, 317, or 529 of  
13 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~  
14 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~  
15 ~~750.529 of the Michigan Compiled Laws~~ **1931 PA 328, MCL 750.83,**  
16 **750.89, 750.91, 750.316, 750.317, and 750.529.**

17 (3) After the completion of a person's sentence, the person  
18 may request a hearing before the ~~state board~~ **superintendent of**  
19 **public instruction** on reinstatement of his or her teaching  
20 certificate. Based upon the issues and evidence presented at the  
21 hearing, the ~~state board~~ **superintendent of public instruction**  
22 may reinstate, continue the suspension of, or permanently revoke  
23 the person's teaching certificate.

24 (4) All of the following apply to a person described in this  
25 section whose conviction is reversed upon final appeal:

26 (a) The person's teaching certificate shall be reinstated  
27 upon his or her notification to the ~~state board~~ **superintendent**

1 **of public instruction** of the reversal.

2 (b) If the suspension of the person's teaching certificate  
3 under this section was the sole cause of his or her discharge  
4 from employment, the person shall be reinstated, upon his or her  
5 notification to the appropriate local or intermediate school  
6 board of the reversal, with full rights and benefits, to the  
7 position he or she would have had if he or she had been  
8 continuously employed.

9 (5) The prosecuting attorney ~~of the county~~ **handling a case**  
10 in which a person who holds a teaching certificate was convicted  
11 of a crime described in subsection (1) shall notify the ~~state~~  
12 ~~board~~ **superintendent of public instruction**, and any public  
13 school, school district, intermediate school district, or  
14 nonpublic school in which the person is employed, of that  
15 conviction and of the sentence imposed on the person. ~~The~~ **A**  
16 prosecuting attorney ~~of each county shall inquire of each person~~  
17 ~~convicted in the county~~ **handling a case in which a person is**  
18 **convicted** of a crime described in subsection (1) **shall inquire**  
19 whether the person holds a teaching certificate. **If the**  
20 **prosecution of a crime described in subsection (1) was not**  
21 **authorized by the prosecuting attorney under section 1 of chapter**  
22 **IV of the code of criminal procedure, 1927 PA 175, MCL 764.1,**  
23 **then the court in which the conviction occurs shall fulfill the**  
24 **duties of the prosecuting attorney under this subsection.**

25 (6) If the superintendent of a school district or  
26 intermediate school district, the chief administrative officer of  
27 a nonpublic school, the president of the board of a school

1 district or intermediate school district, or the president of the  
2 governing board of a nonpublic school is notified by a  
3 prosecuting attorney or learns through an authoritative source  
4 that a person who holds a teaching certificate and who is  
5 employed at the time by the school district, intermediate school  
6 district, or nonpublic school has been convicted of a crime  
7 described in subsection (1), the superintendent, chief  
8 administrative officer, or board president shall notify the  
9 ~~state board~~ **superintendent of public instruction** of that  
10 conviction.

11 (7) If a person convicted of a crime described in subsection  
12 (2) is incarcerated in ~~a state correctional facility~~ **secure**  
13 **confinement** and the ~~state board~~ **superintendent of public**  
14 **instruction** delays summary suspension as described in subsection  
15 (2), the ~~state board~~ **superintendent of public instruction** shall  
16 contact the ~~department of corrections~~ **correctional agency** and  
17 request to be notified before the person is released from secure  
18 confinement. Upon receipt of that request, the ~~department of~~  
19 ~~corrections~~ **correctional agency** shall notify the ~~state board~~  
20 **superintendent of public instruction** at least 30 work days before  
21 the person is released from secure confinement.

22 (8) For the purposes of this section, a certified copy of the  
23 court record is conclusive evidence of conviction of a crime  
24 described in this section. For the purposes of this section,  
25 conviction of a crime described in this ~~subsection~~ **section** is  
26 considered to be reasonably and adversely related to the ability  
27 of the person to serve in an elementary or secondary school and



1 is sufficient grounds for suspension or revocation of the  
2 person's teaching certificate.

3 (9) This section does not do any of the following:

4 (a) Prohibit a person who holds a teaching certificate from  
5 seeking monetary compensation from a school board or intermediate  
6 school board if that right is available under a collective  
7 bargaining agreement or another statute.

8 (b) Limit the rights and powers granted to a school district  
9 or intermediate school district under a collective bargaining  
10 agreement, this act, or another statute to discipline or  
11 discharge a person who holds a teaching certificate.

12 (c) Exempt a person who holds a teaching certificate from the  
13 operation of section 1539a if the person also holds a school  
14 administrator's certificate.

15 (10) The ~~state board~~ **superintendent of public instruction**  
16 may promulgate, as necessary, rules to implement this section  
17 pursuant to the administrative procedures act of 1969, ~~Act~~  
18 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~  
19 ~~24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 to**  
20 **24.328.**

21 (11) As used in this section:

22 (a) "Conviction" means a judgment entered by a court upon a  
23 plea of guilty, guilty but mentally ill, or nolo contendere or  
24 upon a jury verdict or court finding that a defendant is guilty  
25 or guilty but mentally ill.

26 (b) ~~"State correctional facility" means a correctional~~  
27 ~~facility under the jurisdiction of the department of~~

1 ~~corrections.~~ "Correctional agency" means the city, county,  
2 state, or federal agency responsible for providing the secure  
3 confinement.

4 (c) "Prosecuting attorney" means the prosecuting attorney for  
5 a county, an assistant prosecuting attorney for a county, the  
6 attorney general, the deputy attorney general, an assistant  
7 attorney general, a special prosecuting attorney, or, in  
8 connection with the prosecution of an ordinance violation, an  
9 attorney for the political subdivision that enacted the ordinance  
10 upon which the violation is based.

11 Sec. 1539a. (1) Subject to subsection (2), if a person who  
12 holds a school administrator's certificate that is valid in this  
13 state is convicted of a crime described in this subsection, the  
14 ~~state board~~ **superintendent of public instruction** shall notify  
15 the person in writing that his or her school administrator's  
16 certificate may be suspended because of the conviction and of his  
17 or her right to a hearing before the ~~state board~~ **superintendent**  
18 **of public instruction**. If the person does not avail himself or  
19 herself of this right to a hearing within 30 working days after  
20 receipt of this written notification, the school administrator's  
21 certificate of that person shall be suspended. If a hearing  
22 takes place, the ~~state board~~ **superintendent of public**  
23 **instruction** may suspend the person's school administrator's  
24 certificate based upon the issues and evidence presented at the  
25 hearing. This subsection applies to any of the following  
26 crimes:

27 (a) Any felony.

1 (b) Any of the following misdemeanors:

2 (i) Criminal sexual conduct in the fourth degree or an  
3 attempt to commit criminal sexual conduct in the fourth degree.

4 (ii) Child abuse in the third or fourth degree, ~~or~~ an  
5 attempt to commit child abuse in the third or fourth degree, **or**  
6 **domestic violence involving a child.**

7 (iii) A misdemeanor involving ~~cruelty,~~ **any of the**  
8 **following:**

9 (A) **Cruelty or torture** ~~, or indecent exposure~~ involving a  
10 child.

11 (B) **Indecent exposure or other lewd behavior.**

12 (C) **Use or possession of marihuana or another controlled**  
13 **substance.**

14 (D) **Operating a vehicle under the influence of, or impaired**  
15 **by, a controlled substance.**

16 (iv) A misdemeanor violation of section 7410 of the public  
17 health code, ~~Act No. 368 of the Public Acts of 1978, being~~  
18 ~~section 333.7410 of the Michigan Compiled Laws~~ **1978 PA 368,**  
19 **MCL 333.7410.**

20 (v) A violation of section 115, 141a, 145a, ~~or~~ **167(1)(B),**  
21 **167(1)(C), 167(1)(I), 359, or 448** of the Michigan penal code,  
22 ~~Act No. 328 of the Public Acts of 1931, being sections 750.115,~~  
23 ~~750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws~~  
24 **1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.167, 750.359,**  
25 **and 750.448,** or a misdemeanor violation of section 81, 81a, or  
26 145c of ~~Act No. 328 of the Public Acts of 1931, being~~  
27 ~~sections 750.81, 750.81a, and 750.145c of the Michigan Compiled~~

1 ~~Laws~~ the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a,  
2 and 750.145c.

3 (vi) A misdemeanor violation of section ~~33 of the Michigan~~  
4 ~~liquor control act, Act No. 8 of the Public Acts of the Extra~~  
5 ~~Session of 1933, being section 436.33 of the Michigan Compiled~~  
6 ~~Laws~~ 701 of the Michigan liquor control code of 1998, 1998  
7 PA 58, MCL 436.1701.

8 (2) If a person who holds a school administrator's  
9 certificate that is valid in this state is convicted of a crime  
10 described in this subsection, the ~~state board~~ **superintendent of**  
11 **public instruction** shall find that the public health, safety, or  
12 welfare requires emergency action and shall order summary  
13 suspension of the person's school administrator's certificate  
14 under section 92 of the administrative procedures act of 1969,  
15 ~~Act No. 306 of the Public Acts of 1969, being section 24.292 of~~  
16 ~~the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.292. However, if  
17 a person convicted of a crime described in this subsection is  
18 incarcerated in ~~a state correctional facility~~ **secure**  
19 **confinement**, the ~~state board~~ **superintendent of public**  
20 **instruction** may delay ordering the summary suspension until not  
21 later than 10 work days after the person is released from secure  
22 confinement. This subsection does not limit the ~~state board's~~  
23 **superintendent of public instruction's** ability to order summary  
24 suspension of a person's school administrator's certificate for a  
25 reason other than described in this subsection. This subsection  
26 applies to conviction of any of the following crimes:

27 (a) Criminal sexual conduct in any degree, assault with

1 intent to commit criminal sexual conduct, or an attempt to commit  
2 criminal sexual conduct in any degree.

3 (b) Felonious assault on a child, child abuse in any degree,  
4 or an attempt to commit child abuse in any degree.

5 (c) Cruelty, torture, or indecent exposure involving a  
6 child.

7 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i),  
8 7410, or 7416 of the public health code, ~~Act No. 368 of the~~  
9 ~~Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410,~~  
10 ~~and 333.7416 of the Michigan Compiled Laws~~ **1978 PA 368,**  
11 **MCL 333.7401, 333.7403, 333.7410, and 333.7416.**

12 (e) A violation of section 83, 89, 91, 316, 317, or 529 of  
13 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~  
14 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~  
15 ~~750.529 of the Michigan Compiled Laws~~ **1931 PA 328, MCL 750.83,**  
16 **750.89, 750.91, 750.316, 750.317, and 750.529.**

17 (3) After the completion of the person's sentence, the person  
18 may request a hearing before the ~~state board~~ **superintendent of**  
19 **public instruction** on reinstatement of his or her school  
20 administrator's certificate. Based upon the issues and evidence  
21 presented at the hearing, the ~~state board~~ **superintendent of**  
22 **public instruction** may reinstate, continue the suspension of, or  
23 permanently revoke the person's school administrator's  
24 certificate.

25 (4) All of the following apply to a person described in this  
26 section whose conviction is reversed upon final appeal:

27 (a) The person's school administrator's certificate shall be

1 reinstated upon his or her notification to the ~~state board~~  
2 **superintendent of public instruction** of the reversal.

3 (b) If the suspension of the person's school administrator's  
4 certificate under this section was the sole cause of his or her  
5 discharge from employment, the person shall be reinstated, upon  
6 his or her notification to the appropriate local or intermediate  
7 school board of the reversal, with full rights and benefits, to  
8 the position he or she would have had if he or she had been  
9 continuously employed.

10 (5) The prosecuting attorney ~~of the county~~ **handling a case**  
11 in which a person who holds a school administrator's certificate  
12 was convicted of a crime described in subsection (1) shall notify  
13 the ~~state board~~ **superintendent of public instruction**, and any  
14 public school, school district, intermediate school district, or  
15 nonpublic school in which the person is employed, of that  
16 conviction and of the sentence imposed on the person. ~~The A~~  
17 prosecuting attorney ~~of each county shall inquire of each person~~  
18 ~~convicted in the county~~ **handling a case in which a person is**  
19 **convicted** of a crime described in subsection (1) **shall inquire**  
20 whether the person holds a school administrator's certificate.  
21 **If the prosecution of a crime described in subsection (1) was not**  
22 **authorized by the prosecuting attorney under section 1 of chapter**  
23 **IV of the code of criminal procedure, 1927 PA 175, MCL 764.1,**  
24 **then the court in which the conviction occurs shall fulfill the**  
25 **duties of the prosecuting attorney under this subsection.**

26 (6) If the superintendent of a school district or  
27 intermediate school district, the chief administrative officer of

1 a nonpublic school, the president of the board of a school  
2 district or intermediate school district, or the president of the  
3 governing board of a nonpublic school is notified by a  
4 prosecuting attorney or learns through an authoritative source  
5 that a person who holds a school administrator's certificate and  
6 who is employed at the time by the school district, intermediate  
7 school district, or nonpublic school has been convicted of a  
8 crime described in subsection (1), the superintendent, chief  
9 administrative officer, or board president shall notify the  
10 ~~state board~~ **superintendent of public instruction** of that  
11 conviction.

12 (7) If a person convicted of a crime described in subsection  
13 (2) is incarcerated in ~~a state correctional facility~~ **secure**  
14 **confinement** and the ~~state board~~ **superintendent of public**  
15 **instruction** delays summary suspension as described in subsection  
16 (2), the ~~state board~~ **superintendent of public instruction** shall  
17 contact the ~~department of corrections~~ **correctional agency** and  
18 request to be notified before the person is released from secure  
19 confinement. Upon receipt of that request, the ~~department of~~  
20 ~~corrections~~ **correctional agency** shall notify the ~~state board~~  
21 **superintendent of public instruction** at least 30 work days before  
22 the person is released from secure confinement.

23 (8) For the purposes of this section, a certified copy of the  
24 court record is conclusive evidence of conviction of a crime  
25 described in this section. For the purposes of this section,  
26 conviction of a crime described in this ~~subsection~~ **section** is  
27 considered to be reasonably and adversely related to the ability

1 of the person to serve in an elementary or secondary school and  
2 is sufficient grounds for suspension or revocation of the  
3 person's school administrator's certificate.

4 (9) This section does not do any of the following:

5 (a) Prohibit a person who holds a school administrator's  
6 certificate from seeking monetary compensation from a school  
7 board or intermediate school board if that right is available  
8 under a collective bargaining agreement or another statute.

9 (b) Limit the rights and powers granted to a school district  
10 or intermediate school district under a collective bargaining  
11 agreement, this act, or another statute to discipline or  
12 discharge a person who holds a school administrator's  
13 certificate.

14 (c) Exempt a person who holds a school administrator's  
15 certificate from the operation of section 1535a.

16 (10) The ~~state board~~ **superintendent of public instruction**  
17 may promulgate, as necessary, rules to implement this section  
18 pursuant to the administrative procedures act of 1969, ~~Act~~  
19 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~  
20 ~~24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 to**  
21 **24.328.**

22 (11) As used in this section:

23 (a) "Conviction" means a judgment entered by a court upon a  
24 plea of guilty, guilty but mentally ill, or nolo contendere or  
25 upon a jury verdict or court finding that a defendant is guilty  
26 or guilty but mentally ill.

27 (b) ~~"State correctional facility" means a correctional~~



1 ~~facility under the jurisdiction of the department of~~  
2 ~~corrections.~~ "Correctional agency" means the city, county,  
3 state, or federal agency responsible for providing the secure  
4 confinement.

5 (c) "Prosecuting attorney" means the prosecuting attorney for  
6 a county, an assistant prosecuting attorney for a county, the  
7 attorney general, the deputy attorney general, an assistant  
8 attorney general, a special prosecuting attorney, or, in  
9 connection with the prosecution of an ordinance violation, an  
10 attorney for the political subdivision that enacted the ordinance  
11 upon which the violation is based.

12 Sec. 1539b. (1) Subject to subsection (2), if a person who  
13 holds state board approval is convicted of a crime described in  
14 this subsection, the ~~state board~~ **superintendent of public**  
15 **instruction** shall notify the person in writing that his or her  
16 state board approval may be suspended because of the conviction  
17 and of his or her right to a hearing before the ~~state board~~  
18 **superintendent of public instruction**. If the person does not  
19 avail himself or herself of this right to a hearing within 30  
20 working days after receipt of this written notification, the  
21 person's state board approval shall be suspended. If a hearing  
22 takes place, the ~~state board~~ **superintendent of public**  
23 **instruction** may suspend the person's state board approval, based  
24 upon the issues and evidence presented at the hearing. This  
25 subsection applies to any of the following crimes:

26 (a) Any felony.

27 (b) Any of the following misdemeanors:

1 (i) Criminal sexual conduct in the fourth degree or an  
2 attempt to commit criminal sexual conduct in the fourth degree.

3 (ii) Child abuse in the third or fourth degree, ~~or~~ an  
4 attempt to commit child abuse in the third or fourth degree, **or**  
5 **domestic violence involving a child.**

6 (iii) A misdemeanor involving ~~cruelty,~~ **any of the**  
7 **following:**

8 (A) **Cruelty or torture** ~~, or indecent exposure~~ involving a  
9 child.

10 (B) **Indecent exposure or other lewd behavior.**

11 (C) **Use or possession of marihuana or another controlled**  
12 **substance.**

13 (D) **Operating a vehicle under the influence of, or impaired**  
14 **by, a controlled substance.**

15 (iv) A misdemeanor violation of section 7410 of the public  
16 health code, ~~Act No. 368 of the Public Acts of 1978, being~~  
17 ~~section 333.7410 of the Michigan Compiled Laws~~ **1978 PA 368, MCL**  
18 **333.7410.**

19 (v) A violation of section 115, 141a, 145a, ~~or 167(1)(B),~~  
20 **167(1)(C), 167(1)(I), 359, or 448** of the Michigan penal code,  
21 ~~Act No. 328 of the Public Acts of 1931, being sections 750.115,~~  
22 ~~750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws~~  
23 **1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.167, 750.359,**  
24 **and 750.448,** or a misdemeanor violation of section 81, 81a, or  
25 145c of ~~Act No. 328 of the Public Acts of 1931, being sections~~  
26 ~~750.81, 750.81a, and 750.145c of the Michigan Compiled Laws~~ **the**  
27 **Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and**

1 750.145c.

2 (vi) A misdemeanor violation of section ~~33 of the Michigan~~  
 3 ~~liquor control act, Act No. 8 of the Public Acts of the Extra~~  
 4 ~~Session of 1933, being section 436.33 of the Michigan Compiled~~  
 5 ~~Laws~~ **701 of the Michigan liquor control code of 1998, 1998 PA**  
 6 **58, MCL 436.1701.**

7 (2) If a person who holds state board approval is convicted  
 8 of a crime described in this subsection, the ~~state board~~  
 9 **superintendent of public instruction** shall find that the public  
 10 health, safety, or welfare requires emergency action and shall  
 11 order summary suspension of the person's state board approval  
 12 under section 92 of the administrative procedures act of 1969,  
 13 ~~Act No. 306 of the Public Acts of 1969, being section 24.292 of~~  
 14 ~~the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.292.** However, if  
 15 a person convicted of a crime described in this subsection is  
 16 incarcerated in ~~a state correctional facility~~ **secure**  
 17 **confinement**, the ~~state board~~ **superintendent of public**  
 18 **instruction** may delay ordering the summary suspension until not  
 19 later than 10 work days after the person is released from secure  
 20 confinement. This subsection does not limit the ~~state board's~~  
 21 **superintendent of public instruction's** ability to order summary  
 22 suspension of a person's state board approval for a reason other  
 23 than described in this subsection. This subsection applies to  
 24 conviction of any of the following crimes:

25 (a) Criminal sexual conduct in any degree, assault with  
 26 intent to commit criminal sexual conduct, or an attempt to commit  
 27 criminal sexual conduct in any degree.

1 (b) Felonious assault on a child, child abuse in any degree,  
2 or an attempt to commit child abuse in any degree.

3 (c) Cruelty, torture, or indecent exposure involving a  
4 child.

5 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i),  
6 7410, or 7416 of the public health code, ~~Act No. 368 of the~~  
7 ~~Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410,~~  
8 ~~and 333.7416 of the Michigan Compiled Laws~~ **1978 PA 368, MCL**  
9 **333.7401, 333.7403, 333.7410, and 333.7416.**

10 (e) A violation of section 83, 89, 91, 316, 317, or 529 of  
11 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~  
12 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~  
13 ~~750.529 of the Michigan Compiled Laws~~ **1931 PA 328, MCL 750.83,**  
14 **750.89, 750.91, 750.316, 750.317, and 750.529.**

15 (3) After the completion of the person's sentence, the person  
16 may request a hearing before the ~~state board~~ **superintendent of**  
17 **public instruction** on reinstatement of his or her state board  
18 approval. Based upon the issues and evidence presented at the  
19 hearing, the ~~state board~~ **superintendent of public instruction**  
20 may reinstate, continue the suspension of, or permanently revoke  
21 the person's state board approval.

22 (4) All of the following apply to a person described in this  
23 section whose conviction is reversed upon final appeal:

24 (a) The person's state board approval shall be reinstated  
25 upon his or her notification to the ~~state board~~ **superintendent**  
26 **of public instruction** of the reversal.

27 (b) If the suspension of the state board approval was the

1 sole cause of his or her discharge from employment, the person  
2 shall be reinstated upon his or her notification to the  
3 appropriate local or intermediate school board of the reversal,  
4 with full rights and benefits, to the position he or she would  
5 have had if he or she had been continuously employed.

6 (5) The prosecuting attorney ~~of the county~~ **handling a case**  
7 in which a person who holds state board approval was convicted of  
8 a crime described in subsection (1) shall notify the ~~state~~  
9 ~~board~~ **superintendent of public instruction**, and any public  
10 school, school district, intermediate school district, or  
11 nonpublic school in which the person is employed, of that  
12 conviction and of the sentence imposed on the person. ~~The A~~  
13 prosecuting attorney ~~of each county shall inquire of each person~~  
14 ~~convicted in the county~~ **handling a case in which a person is**  
15 **convicted** of a crime described in subsection (1) **shall inquire**  
16 whether the person holds state board approval. **If the**  
17 **prosecution of a crime described in subsection (1) was not**  
18 **authorized by the prosecuting attorney under section 1 of chapter**  
19 **IV of the code of criminal procedure, 1927 PA 175, MCL 764.1,**  
20 **then the court in which the conviction occurs shall fulfill the**  
21 **duties of the prosecuting attorney under this subsection.** The  
22 ~~state board~~ **superintendent of public instruction** shall make  
23 available to prosecuting attorneys **and courts** a list of school  
24 occupations that commonly require state board approval.

25 (6) If the superintendent of a school district or  
26 intermediate school district, the chief administrative officer of  
27 a nonpublic school, the president of the board of a school

1 district or intermediate school district, or the president of the  
2 governing board of a nonpublic school is notified by a  
3 prosecuting attorney or learns through an authoritative source  
4 that a person who holds state board approval and who is employed  
5 at the time by the school district, intermediate school district,  
6 or nonpublic school has been convicted of a crime described in  
7 subsection (1), the superintendent, chief administrative officer,  
8 or board president shall notify the ~~state board~~ **superintendent**  
9 **of public instruction** of that conviction.

10 (7) If a person convicted of a crime described in subsection  
11 (2) is incarcerated in ~~a state correctional facility~~ **secure**  
12 **confinement** and the ~~state board~~ **superintendent of public**  
13 **instruction** delays summary suspension as described in subsection  
14 (2), the ~~state board~~ **superintendent of public instruction** shall  
15 contact the ~~department of corrections~~ **correctional agency** and  
16 request to be notified before the person is released from secure  
17 confinement. Upon receipt of that request, the ~~department of~~  
18 ~~corrections~~ **correctional agency** shall notify the ~~state board~~  
19 **superintendent of public instruction** at least 30 work days before  
20 the person is released from secure confinement.

21 (8) For the purposes of this section, a certified copy of the  
22 court record is conclusive evidence of conviction of a crime  
23 described in this section. For the purposes of this section,  
24 conviction of a crime described in this ~~subsection~~ **section** is  
25 considered to be reasonably and adversely related to the ability  
26 of the person to serve in an elementary or secondary school and  
27 is sufficient grounds for suspension or revocation of the

1 person's state board approval.

2 (9) This section does not do any of the following:

3 (a) Prohibit a person who holds state board approval from  
4 seeking monetary compensation from a school board or intermediate  
5 school board if that right is available under a collective  
6 bargaining agreement or another statute.

7 (b) Limit the rights and powers granted to a school district  
8 or intermediate school district under a collective bargaining  
9 agreement, this act, or another statute to discipline or  
10 discharge a person who holds state board approval.

11 (c) Exempt a person who holds state board approval from the  
12 operation of section 1535a or 1539a, or both, if the person holds  
13 a certificate subject to 1 or both of those sections.

14 (d) Limit the ability of a state licensing body to take  
15 action against a person's license or registration for the same  
16 conviction.

17 (10) The ~~state board~~ **superintendent of public instruction**  
18 may promulgate, as necessary, rules to implement this section  
19 pursuant to the administrative procedures act of 1969, ~~Act~~  
20 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~  
21 ~~24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 to**  
22 **24.328.**

23 (11) As used in this section:

24 (a) "Conviction" means a judgment entered by a court upon a  
25 plea of guilty, guilty but mentally ill, or nolo contendere or  
26 upon a jury verdict or court finding that a defendant is guilty  
27 or guilty but mentally ill.

1           (b) "Correctional agency" means the city, county, state, or  
2 federal agency responsible for providing the secure confinement.

3           (c) "Prosecuting attorney" means the prosecuting attorney for  
4 a county, an assistant prosecuting attorney for a county, the  
5 attorney general, the deputy attorney general, an assistant  
6 attorney general, a special prosecuting attorney, or, in  
7 connection with the prosecution of an ordinance violation, an  
8 attorney for the political subdivision that enacted the ordinance  
9 upon which the violation is based.

10          (d) ~~(b)~~ "State board approval" means a license,  
11 certificate, endorsement, permit, approval, or other evidence of  
12 qualifications to hold a particular position in a school district  
13 or intermediate school district or in a nonpublic school, other  
14 than a teacher's certificate subject to section 1535a or a school  
15 administrator's certificate subject to section 1539a, that is  
16 issued to a person by the state board **or the superintendent of**  
17 **public instruction** under this act or a rule promulgated under  
18 this act.

19          ~~(c) "State correctional facility" means a correctional~~  
20 ~~facility under the jurisdiction of the department of~~  
21 ~~corrections.~~