

# HOUSE BILL No. 5675

February 14, 2006, Introduced by Rep. Baxter and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1230, 1230a, 1230d, 1230g, 1535a, and 1539b (MCL 380.1230, 380.1230a, 380.1230d, 380.1230g, 380.1535a, and 380.1539b), section 1230 as amended by 2005 PA 129, section 1230a as amended by 2005 PA 138, section 1230d as added by 2005 PA 131, and section 1230g as added and sections 1535a and 1539b as amended by 2005 PA 130, and by adding section 1230h.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1230. (1) Except as otherwise provided in this section,  
2 upon an offer of initial employment being made by the board of a  
3 school district or intermediate school district or the governing

1 body of a public school academy or nonpublic school to an  
2 individual for any full-time or part-time employment or when school  
3 officials learn that an individual is being assigned to regularly  
4 and continuously work under contract in any of its schools, the  
5 district, public school academy, or nonpublic school shall request  
6 from the criminal records division of the department of state  
7 police a criminal history check on the individual and, before  
8 employing the individual as a regular employee or allowing the  
9 individual to regularly and continuously work under contract in any  
10 of its schools, shall have received from the department of state  
11 police the report described in subsection (8).

12 (2) If the board of a school district or intermediate school  
13 district or the governing body of a public school academy or  
14 nonpublic school determines it necessary to hire an individual for  
15 a particular school year during that school year or within 30 days  
16 before the beginning of that school year, the board or governing  
17 body may employ the individual as a conditional employee under this  
18 subsection without first receiving the report described in  
19 subsection (8) if all of the following apply:

20 (a) The board or governing body requests the criminal history  
21 check required under subsection (1) before conditionally employing  
22 the individual.

23 (b) The individual signs a statement identifying all crimes  
24 for which he or she has been convicted, if any, and agreeing that,  
25 if the report described in subsection (8) is not the same as the  
26 individual's statement, his or her employment contract is voidable  
27 at the option of the board or governing body. The department shall

1 develop and distribute to districts and nonpublic schools a model  
2 form for the statement required under this subdivision. The  
3 department shall make the model form available to public school  
4 academies. A district, public school academy, or nonpublic school  
5 shall use the model form for the purposes of this subsection.

6 (3) If an individual is employed as a conditional employee  
7 under subsection (2) and the report described in subsection (8) is  
8 not the same as the individual's statement under subsection (2),  
9 the board or governing body may void the individual's employment  
10 contract. If an employment contract is voided under this  
11 subsection, the individual's employment is terminated, a collective  
12 bargaining agreement that would otherwise apply to the individual's  
13 employment does not apply to the termination, and the district,  
14 public school academy, or nonpublic school or the board or  
15 governing body is not liable for the termination.

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

24 (5) If an applicant is being considered for employment by more  
25 than 1 school district, intermediate school district, public school  
26 academy, or nonpublic school and if the applicant agrees in writing  
27 to allow a district, public school academy, or nonpublic school to

1 share the report described in subsection (8) with another district,  
2 public school academy, or nonpublic school, a district, public  
3 school academy, or nonpublic school may satisfy the requirements of  
4 subsection (1) by obtaining a copy of the report described in  
5 subsection (8) from another district, public school academy, or  
6 nonpublic school.

7 (6) An applicant for employment shall give written consent at  
8 the time of application for the criminal records division of the  
9 department of state police to conduct the criminal history check  
10 required under this section.

11 (7) A school district, intermediate school district, public  
12 school academy, or nonpublic school shall make a request to the  
13 criminal records division of the department of state police for a  
14 criminal history check required under this section on a form and in  
15 a manner prescribed by the criminal records division of the  
16 department of state police.

17 (8) Within 30 days after receiving a proper request by a  
18 school district, intermediate school district, public school  
19 academy, or nonpublic school for a criminal history check on an  
20 individual under this section, the criminal records division of the  
21 department of state police shall conduct the criminal history check  
22 and, after conducting the criminal history check and within that  
23 time period, provide a report of the results of the criminal  
24 history check to the district, public school academy, or nonpublic  
25 school. The report shall contain any criminal history record  
26 information on the individual maintained by the criminal records  
27 division of the department of state police.

1           (9) If the report received by a school district, intermediate  
2 school district, public school academy, or nonpublic school under  
3 subsection (8) discloses that an individual has been convicted of a  
4 listed offense, then the school district, intermediate school  
5 district, public school academy, or nonpublic school shall not  
6 employ the individual in any capacity, as provided under section  
7 1230c, and shall not allow the individual to regularly and  
8 continuously work under contract in any of its schools. If the  
9 report received by a school district, intermediate school district,  
10 public school academy, or nonpublic school under subsection (8)  
11 discloses that an individual has been convicted of a felony other  
12 than a listed offense, then the school district, intermediate  
13 school district, public school academy, or nonpublic school shall  
14 not employ the individual in any capacity or allow the individual  
15 to regularly and continuously work under contract in any of its  
16 schools unless the superintendent or chief administrator and the  
17 board or governing body of the school district, intermediate school  
18 district, public school academy, or nonpublic school each  
19 specifically approve the employment or work assignment in writing.  
20 As used in this subsection, "listed offense" means that term as  
21 defined in section 2 of the sex offenders registration act, 1994 PA  
22 295, MCL 28.722.

23           (10) Criminal history record information received from the  
24 criminal records division of the department of state police under  
25 subsection (8) shall be used by a school district, intermediate  
26 school district, public school academy, or nonpublic school only  
27 for the purpose of evaluating an individual's qualifications for

1 employment or assignment in the position for which he or she has  
2 applied or been assigned and for the purposes of subsections (3),  
3 (4), and (5). A member of the board of a district or of the  
4 governing body of a public school academy or nonpublic school or an  
5 employee of a district, public school academy, or nonpublic school  
6 shall not disclose the report or its contents, except ~~any felony~~  
7 ~~conviction or~~ a misdemeanor conviction involving sexual or  
8 physical abuse **OR ANY FELONY CONVICTION**, to any person who is not  
9 directly involved in evaluating the applicant's qualifications for  
10 employment or assignment. However, for the purposes of subsections  
11 (4) and (5), a person described in this subsection may confirm to  
12 an employee of another district, public school academy, or  
13 nonpublic school that a report under subsection (8) has revealed  
14 that an individual does not have any criminal history or may  
15 disclose that no report under subsection (8) has been received  
16 concerning the individual, and for the purposes of subsection (5),  
17 a person described in this subsection may provide a copy of the  
18 report under subsection (8) concerning the individual to an  
19 appropriate representative of another district, public school  
20 academy, or nonpublic school. A person who violates this subsection  
21 is guilty of a misdemeanor punishable by a fine of not more than  
22 \$10,000.00, but is not subject to the penalties under section 1804.

23 (11) As used in this section, "criminal history record  
24 information" means that term as defined in section 1a of 1925 PA  
25 289, MCL 28.241a.

26 Sec. 1230a. (1) In addition to the criminal history check  
27 required under section 1230, the board of a school district or

1 intermediate school district or the governing body of a public  
2 school academy or nonpublic school shall request the department of  
3 state police to conduct a criminal records check through the  
4 federal bureau of investigation on an applicant for, or an  
5 individual who is hired for, any full-time or part-time employment  
6 or who is assigned to regularly and continuously work under  
7 contract in any of its schools. Except as otherwise provided in  
8 this section, a board or governing body shall not employ an  
9 individual or allow an individual to regularly and continuously  
10 work under contract in any of its schools until after the board or  
11 governing body receives the results of the criminal records check.  
12 A board or governing body requesting a criminal records check under  
13 this section shall require the individual to submit his or her  
14 fingerprints to the department of state police for that purpose.  
15 The department of state police may charge a fee for conducting the  
16 criminal records check. A board or governing body shall require an  
17 individual to submit his or her fingerprints for the purposes of  
18 this section only at the time the individual initially applies for  
19 employment with the board or governing body or is initially  
20 employed by the board or governing body or is initially assigned to  
21 work under contract in any of its schools.

22 (2) If the board of a school district or intermediate school  
23 district or the governing body of a public school academy or  
24 nonpublic school determines it necessary to hire an individual for  
25 a particular school year during that school year or within 30 days  
26 before the beginning of that school year, the board or governing  
27 body may employ the individual as a conditional employee under this

1 subsection without first receiving the results of the criminal  
2 records check under subsection (1) if all of the following apply:

3 (a) The board or governing body requests the criminal records  
4 check under subsection (1) before conditionally employing the  
5 individual.

6 (b) The individual signs a statement identifying all crimes  
7 for which he or she has been convicted, if any, and agreeing that,  
8 if the results of the criminal records check under subsection (1)  
9 reveal information that is inconsistent with the individual's  
10 statement, his or her employment contract is voidable at the option  
11 of the board or governing body. The department shall develop and  
12 distribute to districts and nonpublic schools a model form for the  
13 statement required under this subdivision. The department shall  
14 make the model form available to public school academies. A  
15 district, public school academy, or nonpublic school shall use the  
16 model form for the purposes of this subsection.

17 (3) If an individual is employed as a conditional employee  
18 under subsection (2) and the results of the criminal records check  
19 under subsection (1) reveal information that is inconsistent with  
20 the individual's statement under subsection (2), the board or  
21 governing body may void the individual's employment contract. If an  
22 employment contract is voided under this subsection, the  
23 individual's employment is terminated, a collective bargaining  
24 agreement that would otherwise apply to the individual's employment  
25 does not apply to the termination, and the district, public school  
26 academy, or nonpublic school or the board or governing body is not  
27 liable for the termination.



1           (4) For an applicant for a position as a substitute teacher,  
2 instead of requesting a criminal records check under subsection  
3 (1), a school district, intermediate school district, public school  
4 academy, or nonpublic school may use results received by another  
5 district, public school academy, or nonpublic school or maintained  
6 by the department to confirm that the individual does not have any  
7 criminal history. If that confirmation is not available, subsection  
8 (1) applies to the applicant.

9           (5) If an applicant is being considered for employment by more  
10 than 1 school district, intermediate school district, public school  
11 academy, or nonpublic school and if the applicant agrees in writing  
12 to allow a district, public school academy, or nonpublic school to  
13 share the results of the criminal records check with another  
14 district, public school academy, or nonpublic school, then a  
15 district, public school academy, or nonpublic school may satisfy  
16 the requirements of subsection (1) by obtaining a copy of the  
17 results of the criminal records check from another district, public  
18 school academy, or nonpublic school.

19           (6) An applicant for employment shall give written consent at  
20 the time of application for the criminal records division of the  
21 department of state police to conduct the criminal records check  
22 required under this section.

23           (7) A school district, intermediate school district, public  
24 school academy, or nonpublic school shall make a request to the  
25 department of state police for a criminal records check under this  
26 section on a form and in a manner prescribed by the department of  
27 state police.

1           (8) The results of a criminal records check under this section  
2 shall be used by a school district, intermediate school district,  
3 public school academy, or nonpublic school only for the purpose of  
4 evaluating an individual's qualifications for employment or  
5 assignment in the position for which he or she has applied or been  
6 assigned and for the purposes of subsections (3), (4), and (5). A  
7 member of the board of a district or of the governing body of a  
8 public school academy or nonpublic school or an employee of a  
9 district, public school academy, or nonpublic school shall not  
10 disclose those results, except ~~any felony conviction or~~ a  
11 misdemeanor conviction involving sexual or physical abuse **OR ANY**  
12 **FELONY CONVICTION**, to any person who is not directly involved in  
13 evaluating the individual's qualifications for employment or  
14 assignment. However, for the purposes of subsections (4) and (5), a  
15 person described in this subsection may provide a copy of the  
16 results under subsection (1) concerning the individual to an  
17 appropriate representative of another district, public school  
18 academy, or nonpublic school. A person who violates this subsection  
19 is guilty of a misdemeanor punishable by a fine of not more than  
20 \$10,000.00, but is not subject to the penalties under section 1804.

21           (9) Within 30 days after receiving a proper request by a  
22 school district, intermediate school district, public school  
23 academy, or nonpublic school for a criminal records check on an  
24 individual under this section, the criminal records division of the  
25 department of state police shall initiate the criminal records  
26 check through the federal bureau of investigation. After conducting  
27 the criminal records check required under this section for a school

1 district, intermediate school district, or public school academy,  
2 the criminal records division of the department of state police  
3 shall provide the results of the criminal records check to the  
4 district or public school academy. After conducting the criminal  
5 records check required under this section for a nonpublic school,  
6 the criminal records division of the department of state police  
7 shall notify the nonpublic school of whether or not the criminal  
8 records check disclosed any criminal history that is not disclosed  
9 in the report on the individual provided to the nonpublic school  
10 under section 1230.

11 (10) If the results received by a school district,  
12 intermediate school district, public school academy, or nonpublic  
13 school under subsection (9) disclose that an individual has been  
14 convicted of a listed offense, then the school district,  
15 intermediate school district, public school academy, or nonpublic  
16 school shall not employ the individual in any capacity, as provided  
17 under section 1230c, and shall not allow the individual to  
18 regularly and continuously work under contract in any of its  
19 schools. If the results received by a school district, intermediate  
20 school district, public school academy, or nonpublic school under  
21 subsection (9) disclose that an individual has been convicted of a  
22 felony other than a listed offense, then the school district,  
23 intermediate school district, public school academy, or nonpublic  
24 school shall not employ the individual in any capacity or allow the  
25 individual to regularly and continuously work under contract in any  
26 of its schools unless the superintendent or chief administrator and  
27 the board or governing body of the school district, intermediate

1 school district, public school academy, or nonpublic school each  
2 specifically approve the employment or work assignment in writing.

3 (11) As used in this section, "listed offense" means that term  
4 as defined in section 2 of the sex offenders registration act, 1994  
5 PA 295, MCL 28.722.

6 Sec. 1230d. (1) If a person who is employed in any capacity by  
7 a school district, intermediate school district, public school  
8 academy, or nonpublic school; who has applied for a position with a  
9 school district, intermediate school district, public school  
10 academy, or nonpublic school and has had an initial criminal  
11 history check under section 1230 or criminal records check under  
12 section 1230a; or who is regularly and continuously working under  
13 contract in a school district, intermediate school district, public  
14 school academy, or nonpublic school, is charged with a crime listed  
15 in section 1535a(1) **OR 1539B(1)** or a violation of a substantially  
16 similar law of another state, a political subdivision of this state  
17 or another state, or of the United States, the person shall report  
18 to the department and to the school district, intermediate school  
19 district, public school academy, or nonpublic school that he or she  
20 has been charged with the crime. All of the following apply to this  
21 reporting requirement:

22 (a) The person shall make the report on a form prescribed by  
23 the department.

24 (b) The person shall submit the report to the department and  
25 to the superintendent of the school district or intermediate school  
26 district or chief administrator of the public school academy or  
27 nonpublic school.

1 (c) The person shall submit the report within 3 business days  
2 after being arraigned for the crime.

3 (2) If a person who is employed in any capacity by or is  
4 regularly and continuously working under contract in a school  
5 district, intermediate school district, public school academy, or  
6 nonpublic school enters a plea of guilt or no contest to or is the  
7 subject of a finding of guilt by a judge or jury of any crime after  
8 having been initially charged with a crime described in section  
9 1535a(1) or 1539b(1), then the person immediately shall disclose to  
10 the court, on a form prescribed by the state court administrative  
11 office, that he or she is employed by or working under contract in  
12 a school district, intermediate school district, public school  
13 academy, or nonpublic school. The person shall immediately provide  
14 a copy of the form to the prosecuting attorney in charge of the  
15 case, to the superintendent of public instruction, and to the  
16 superintendent or chief administrator of the school district,  
17 intermediate school district, public school academy, or nonpublic  
18 school.

19 (3) A person who violates subsection (1) or (2) is guilty of a  
20 crime, as follows:

21 (a) If the person violates either subsection (1) or (2) and  
22 the crime involved in the violation is a misdemeanor that is a  
23 listed offense or is a felony, the person is guilty of a felony  
24 punishable by imprisonment for not more than 2 years or a fine of  
25 not more than \$2,000.00, or both.

26 (b) If the person violates either subsection (1) or (2) and  
27 the crime involved in the violation is a misdemeanor that is not a

1 listed offense, the person is guilty of a misdemeanor punishable by  
2 imprisonment for not more than 1 year or a fine of not more than  
3 \$1,000.00, or both.

4 (4) A person who violates subsection (1) or (2) may be  
5 discharged from his or her employment or have his or her contract  
6 terminated. If the board of a school district or intermediate  
7 school district or board of directors of a public school academy  
8 finds, after providing notice and the opportunity for a hearing,  
9 that a person employed by the school district, intermediate school  
10 district, or public school academy has violated subsection (1) or  
11 (2), the board or board of directors may discharge the person from  
12 his or her employment. However, if a collective bargaining  
13 agreement that applies to the affected person is in effect as of  
14 the effective date of this section, and if that collective  
15 bargaining agreement is not in compliance with this subsection,  
16 then this subsection does not apply to that school district,  
17 intermediate school district, or public school academy until after  
18 the expiration of that collective bargaining agreement.

19 (5) If a person submits a report that he or she has been  
20 charged with a crime, as required under subsection (1), and the  
21 person is subsequently not convicted of any crime after the  
22 completion of judicial proceedings resulting from that charge, then  
23 the person may request the department and the school district,  
24 intermediate school district, public school academy, or nonpublic  
25 school to delete the report from its records concerning the person.  
26 Upon receipt of the request from the person and of documentation  
27 verifying that the person was not convicted of any crime after the

1 completion of judicial proceedings resulting from that charge, the  
2 department or a school district, intermediate school district,  
3 public school academy, or nonpublic school shall delete the report  
4 from its records concerning the person.

5 (6) If the prosecuting attorney in charge of a case receives a  
6 form as provided under subsection (2), the prosecuting attorney  
7 shall notify the superintendent of public instruction and the  
8 superintendent or chief administrator of any school district,  
9 intermediate school district, public school academy, or nonpublic  
10 school in which the person is employed by forwarding a copy of the  
11 form to each of them not later than 7 days after receiving the  
12 form. If the court receives a form as provided under subsection  
13 (2), the court shall notify the superintendent of public  
14 instruction and the superintendent or chief administrator of any  
15 school district, intermediate school district, public school  
16 academy, or nonpublic school in which the person is employed by  
17 forwarding to each of them a copy of the form and information  
18 regarding the sentence imposed on the person not later than 7 days  
19 after the date of sentencing, even if the court is maintaining the  
20 file as a nonpublic record.

21 (7) The department of information technology shall work with  
22 the department and the department of state police to develop and  
23 implement an automated program that does a comparison of the  
24 department's list of registered educational personnel with the  
25 conviction information received by the department of state police.  
26 Unless otherwise prohibited by law, this comparison shall include  
27 convictions contained in a nonpublic record. The department and the

1 department of state police shall perform this comparison during  
2 January and June of each year until July 1, 2008. If a comparison  
3 discloses that a person on the department's list of registered  
4 educational personnel has been convicted of a crime, the department  
5 shall notify the superintendent or chief administrator and the  
6 board or governing body of the school district, intermediate school  
7 district, public school academy, or nonpublic school in which the  
8 person is employed of that conviction. **THE DEPARTMENT SHALL TAKE**  
9 **REASONABLE MEASURES TO ENSURE THE ACCURACY OF INFORMATION UNDER**  
10 **THIS SUBSECTION.**

11 (8) As used in this section, "listed offense" means that term  
12 as defined in section 2 of the sex offenders registration act, 1994  
13 PA 295, MCL 28.722.

14 Sec. 1230g. (1) Not later than July 1, 2008, the board of a  
15 school district or intermediate school district, the board of  
16 directors of a public school academy, or the governing body of a  
17 nonpublic school shall do both of the following for each individual  
18 who, as of January 1, 2006, is either a full-time or part-time  
19 employee of the school district, intermediate school district,  
20 public school academy, or nonpublic school or is assigned to  
21 regularly and continuously work under contract in any of its  
22 schools:

23 (a) Request from the criminal records division of the  
24 department of state police a criminal history check on the  
25 individual.

26 (b) Request the department of state police to conduct a  
27 criminal records check on the individual through the federal bureau



1 of investigation. The board, board of directors, or governing board  
2 shall require the individual to submit his or her fingerprints to  
3 the department of state police for the purposes of this  
4 subdivision. The department of state police may charge a fee for  
5 conducting the criminal records check.

6 (2) For an individual employed or working under contract as a  
7 substitute teacher, instead of requesting a criminal history check  
8 and criminal records check under subsection (1), a school district,  
9 intermediate school district, public school academy, or nonpublic  
10 school may use results received by another district, public school  
11 academy, or nonpublic school or maintained by the department to  
12 confirm that the individual does not have any criminal history. If  
13 that confirmation is not available, subsection (1) applies to the  
14 individual.

15 (3) If an individual described in subsection (1) is employed  
16 by or working under contract in more than 1 school district,  
17 intermediate school district, public school academy, or nonpublic  
18 school and if the individual agrees in writing to allow a district,  
19 public school academy, or nonpublic school to share the results of  
20 the criminal history check or criminal records check with another  
21 district, public school academy, or nonpublic school, then a  
22 district, public school academy, or nonpublic school may satisfy  
23 the requirements of subsection (1) by obtaining a copy of the  
24 results of the criminal history check or criminal records check  
25 from another district, public school academy, or nonpublic school.

26 (4) An individual described in subsection (1) shall give  
27 written consent for the criminal records division of the department

1 of state police to conduct the criminal history check and criminal  
2 records check required under this section and shall submit his or  
3 her fingerprints to the department of state police for the purposes  
4 of the criminal records check.

5 (5) A school district, intermediate school district, public  
6 school academy, or nonpublic school shall make a request to the  
7 department of state police for the criminal history check and  
8 criminal records check under this section on a form and in a manner  
9 prescribed by the department of state police.

10 (6) The results of a criminal history check and criminal  
11 records check under this section shall be used by a school  
12 district, intermediate school district, public school academy, or  
13 nonpublic school only for the purpose of evaluating an individual's  
14 qualifications for employment or assignment in his or her position  
15 and for the purposes of subsections (2) and (3). A member of the  
16 board of a school district or intermediate school district, of the  
17 board of directors of a public school academy, or of the governing  
18 body of a nonpublic school or an employee of a district, public  
19 school academy, or nonpublic school shall not disclose those  
20 results, except ~~any felony conviction or~~ a misdemeanor conviction  
21 involving sexual or physical abuse **OR ANY FELONY CONVICTION**, to any  
22 person who is not directly involved in evaluating the individual's  
23 qualifications for employment or assignment. However, for the  
24 purposes of subsections (2) and (3), a person described in this  
25 subsection may provide a copy of the results under subsection (1)  
26 concerning the individual to an appropriate representative of  
27 another district, public school academy, or nonpublic school. A

1 person who violates this subsection is guilty of a misdemeanor  
2 punishable by a fine of not more than \$10,000.00, but is not  
3 subject to the penalties under section 1804.

4 (7) Within 30 days after receiving a proper request by a  
5 school district, intermediate school district, public school  
6 academy, or nonpublic school for a criminal history check and  
7 criminal records check on an individual under this section, the  
8 criminal records division of the department of state police shall  
9 do both of the following:

10 (a) Conduct the criminal history check and, after conducting  
11 the criminal history check and within that time period, provide a  
12 report of the results of the criminal history check to the  
13 district, public school academy, or nonpublic school. The report  
14 shall contain any criminal history record information on the  
15 individual that is maintained by the criminal records division of  
16 the department of state police.

17 (b) Initiate the criminal records check through the federal  
18 bureau of investigation. After conducting the criminal records  
19 check required under this section for a school district,  
20 intermediate school district, or public school academy, the  
21 criminal records division of the department of state police shall  
22 provide the results of the criminal records check to the district  
23 or public school academy. After conducting the criminal records  
24 check required under this section for a nonpublic school, the  
25 criminal records division of the department of state police shall  
26 notify the nonpublic school of whether or not the criminal records  
27 check disclosed any criminal history that is not disclosed in the

1 criminal history check report on the individual provided to the  
2 nonpublic school under subdivision (a).

3 (8) If the results received by a school district, intermediate  
4 school district, public school academy, or nonpublic school under  
5 subsection (7) disclose that an individual has been convicted of a  
6 listed offense, then the school district, intermediate school  
7 district, public school academy, or nonpublic school shall not  
8 employ the individual in any capacity, as provided under section  
9 1230c, and shall not allow the individual to regularly and  
10 continuously work under contract in any of its schools. If the  
11 results received by a school district, intermediate school  
12 district, public school academy, or nonpublic school under  
13 subsection (7) disclose that an individual has been convicted of a  
14 felony other than a listed offense, then the school district,  
15 intermediate school district, public school academy, or nonpublic  
16 school shall not employ the individual in any capacity or allow the  
17 individual to regularly and continuously work under contract in any  
18 of its schools unless the superintendent or chief administrator and  
19 the board or governing body of the school district, intermediate  
20 school district, public school academy, or nonpublic school each  
21 specifically approve the employment or work assignment in writing.  
22 As used in this subsection, "listed offense" means that term as  
23 defined in section 2 of the sex offenders registration act, 1994 PA  
24 295, MCL 28.722.

25 **SEC. 1230H. A RECORD PREPARED BY THE DEPARTMENT, THE**  
26 **DEPARTMENT OF STATE POLICE, THE DEPARTMENT OF INFORMATION**  
27 **TECHNOLOGY, OR ANOTHER STATE AGENCY PURSUANT TO SECTIONS 1230 TO**

1 1230G, 1535A, OR 1539B IS EXEMPT FROM DISCLOSURE UNDER SECTION 13  
2 OF THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.243.  
3 HOWEVER, A RECORD DESCRIBED IN THIS SECTION THAT CONCERNS A  
4 MISDEMEANOR CONVICTION INVOLVING SEXUAL OR PHYSICAL ABUSE OR ANY  
5 FELONY CONVICTION IS ONLY EXEMPT FROM DISCLOSURE AS PROVIDED IN  
6 THIS SECTION UNTIL THE EXPIRATION OF 14 DAYS AFTER THE DATE THE  
7 RECORD IS RECEIVED BY A SCHOOL DISTRICT, INTERMEDIATE SCHOOL  
8 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL, AND IS  
9 SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA  
10 442, MCL 15.231 TO 15.246, AFTER THE CONCLUSION OF THAT PERIOD.

11 Sec. 1535a. (1) Subject to subsection (2), if a person who  
12 holds a teaching certificate that is valid in this state has been  
13 convicted of a crime described in this subsection, within 10  
14 working days after receiving notice of the conviction the  
15 superintendent of public instruction shall notify the person in  
16 writing that his or her teaching certificate may be suspended  
17 because of the conviction and of his or her right to a hearing  
18 before the superintendent of public instruction. The hearing shall  
19 be conducted as a contested case under the administrative  
20 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the  
21 person does not avail himself or herself of this right to a hearing  
22 within 15 working days after receipt of this written notification,  
23 the teaching certificate of that person shall be suspended. If a  
24 hearing takes place, the superintendent of public instruction shall  
25 complete the proceedings and make a final decision and order within  
26 120 working days after receiving the request for a hearing. Subject  
27 to subsection (2), the superintendent of public instruction may

1 suspend the person's teaching certificate based upon the issues and  
2 evidence presented at the hearing. This subsection applies to any  
3 of the following crimes:

4 (a) Any felony.

5 (b) Any of the following misdemeanors:

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

8 (ii) Child abuse in the third or fourth degree or an attempt to  
9 commit child abuse in the third or fourth degree.

10 (iii) A misdemeanor involving cruelty, torture, or indecent  
11 exposure involving a child.

12 (iv) A misdemeanor violation of section 7410 of the public  
13 health code, 1978 PA 368, MCL 333.7410.

14 (v) A violation of section 115, 141a, 145a, 335a, or 359 of  
15 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,  
16 750.145a, 750.335a, and 750.359, or a misdemeanor violation of  
17 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,  
18 MCL 750.81, 750.81a, and 750.145d.

19 (vi) A misdemeanor violation of section 701 of the Michigan  
20 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

21 (vii) Any misdemeanor that is a listed offense.

22 (c) A violation of a substantially similar law of another  
23 state, of a political subdivision of this state or another state,  
24 or of the United States.

25 (2) If a person who holds a teaching certificate that is valid  
26 in this state has been convicted of a crime described in this  
27 subsection, the superintendent of public instruction shall find

1 that the public health, safety, or welfare requires emergency  
2 action and shall order summary suspension of the person's teaching  
3 certificate under section 92 of the administrative procedures act  
4 of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an  
5 opportunity for a hearing as provided under that section. This  
6 subsection does not limit the superintendent of public  
7 instruction's ability to order summary suspension of a person's  
8 teaching certificate for a reason other than described in this  
9 subsection. This subsection applies to conviction of any of the  
10 following crimes:

11 (a) Criminal sexual conduct in any degree, assault with intent  
12 to commit criminal sexual conduct, or an attempt to commit criminal  
13 sexual conduct in any degree.

14 (b) Felonious assault on a child, child abuse in the first  
15 degree, or an attempt to commit child abuse in the first degree.

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

17 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,  
18 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,  
19 333.7403, 333.7410, and 333.7416.

20 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,  
21 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,  
22 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,  
23 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony  
24 violation of section 145d of the Michigan penal code, 1931 PA 328,  
25 MCL 750.145d.

26 (f) A violation of section 158 of the Michigan penal code,  
27 1931 PA 328, MCL 750.158, if a victim is an individual less than 18

1 years of age.

2 (g) Except for a juvenile disposition or adjudication, a  
3 violation of section 338, 338a, or 338b of the Michigan penal code,  
4 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an  
5 individual less than 18 years of age.

6 (h) A violation of section 349 of the Michigan penal code,  
7 1931 PA 328, MCL 750.349, if a victim is an individual less than 18  
8 years of age.

9 (i) An offense committed by a person who was, at the time of  
10 the offense, a sexually delinquent person as defined in section 10a  
11 of the Michigan penal code, 1931 PA 328, MCL 750.10a.

12 (j) An attempt or conspiracy to commit an offense listed in  
13 subdivision (a), (e), (f), (g), (h), or (i).

14 (k) A violation of a substantially similar law of another  
15 state, of a political subdivision of this state or another state,  
16 or of the United States.

17 (l) Any other crime listed in subsection (1), if the  
18 superintendent of public instruction determines the public health,  
19 safety, or welfare requires emergency action based on the  
20 circumstances underlying the conviction.

21 (3) The superintendent of public instruction after a hearing  
22 shall not take action against a person's teaching certificate under  
23 subsection (1) or (2) unless the superintendent of public  
24 instruction finds that the conviction is reasonably and adversely  
25 related to the person's present fitness to serve in an elementary  
26 or secondary school in this state or that the conviction  
27 demonstrates that the person is unfit to teach in an elementary or



1 secondary school in this state. Further, the superintendent of  
2 public instruction may take action against a person's teaching  
3 certificate under subsection (1) or (2) based on a conviction that  
4 occurred before the effective date of the amendatory act that added  
5 this subsection if the superintendent of public instruction finds  
6 that the conviction is reasonably and adversely related to the  
7 person's present fitness to serve in an elementary or secondary  
8 school in this state or that the conviction demonstrates that the  
9 person is unfit to teach in an elementary or secondary school in  
10 this state.

11 (4) If a person who has entered a plea of guilt or no contest  
12 to or who is the subject of a finding of guilt by a judge or jury  
13 of a crime listed in subsection (2) has been suspended from active  
14 performance of duty by a public school, school district,  
15 intermediate school district, or nonpublic school during the  
16 pendency of proceedings under this section, the public school,  
17 school district, intermediate school district, or nonpublic school  
18 employing the person shall discontinue the person's compensation  
19 until the superintendent of public instruction has made a final  
20 determination of whether or not to suspend or revoke the person's  
21 teaching certificate. If the superintendent of public instruction  
22 does not suspend or revoke the person's teaching certificate, the  
23 public school, school district, intermediate school district, or  
24 nonpublic school shall make the person whole for lost compensation,  
25 without interest. However, if a collective bargaining agreement is  
26 in effect as of the effective date of this subsection for employees  
27 of a school district, intermediate school district, or public

1 school academy, and if the terms of that collective bargaining  
2 agreement are inconsistent with this subsection, then this  
3 subsection does not apply to that school district, intermediate  
4 school district, or public school academy until after the  
5 expiration of that collective bargaining agreement.

6 (5) Except as otherwise provided in this subsection, after the  
7 completion of a person's sentence, the person may request a hearing  
8 before the superintendent of public instruction on reinstatement of  
9 his or her teaching certificate. Based upon the issues and evidence  
10 presented at the hearing, the superintendent of public instruction  
11 may reinstate, continue the suspension of, or permanently revoke  
12 the person's teaching certificate. The superintendent of public  
13 instruction shall not reinstate a person's teaching certificate  
14 unless the superintendent of public instruction finds that the  
15 person is currently fit to serve in an elementary or secondary  
16 school in this state and that reinstatement of the person's  
17 teaching certificate will not adversely affect the health, safety,  
18 and welfare of pupils. If a person's conviction was for a listed  
19 offense, the person is not entitled to request a hearing on  
20 reinstatement under this subsection, and the superintendent of  
21 public instruction shall not reinstate the person's teaching  
22 certificate under this subsection.

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

25 (a) The person's teaching certificate shall be reinstated upon  
26 his or her notification to the superintendent of public instruction  
27 of the reversal.

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

7 (c) If the person's compensation was discontinued under  
8 subsection (4), the public school, school district, intermediate  
9 school district, or nonpublic school shall make the person whole  
10 for lost compensation.

11 (7) If the prosecuting attorney in charge of a case receives a  
12 form as provided under section 1230d, the prosecuting attorney  
13 shall notify the superintendent of public instruction, and any  
14 public school, school district, intermediate school district, or  
15 nonpublic school in which the person is employed by forwarding a  
16 copy of the form to each of them not later than 7 days after  
17 receiving the form. If the court receives a form as provided under  
18 section 1230d, the court shall notify the superintendent of public  
19 instruction and any public school, school district, intermediate  
20 school district, or nonpublic school in which the person is  
21 employed by forwarding to each of them a copy of the form and  
22 information regarding the sentence imposed on the person not later  
23 than 7 days after the date of sentencing, even if the court is  
24 maintaining the file as a nonpublic record.

25 (8) Not later than 7 days after receiving notification from  
26 the prosecuting attorney or the court under subsection (7) or  
27 learning through an authoritative source that a person who holds a

1 teaching certificate has been convicted of a crime listed in  
2 subsection (1), the superintendent of public instruction shall  
3 request the court to provide a certified copy of the judgment of  
4 conviction and sentence or other document regarding the disposition  
5 of the case to the superintendent of public instruction and shall  
6 pay any fees required by the court. The court shall provide this  
7 certified copy within 7 days after receiving the request and fees  
8 under this section or after entry of the judgment or other  
9 document, whichever is later, even if the court is maintaining the  
10 judgment or other document as a nonpublic record.

11 (9) If the superintendent of a school district or intermediate  
12 school district, the chief administrative officer of a nonpublic  
13 school, the president of the board of a school district or  
14 intermediate school district, or the president of the governing  
15 board of a nonpublic school is notified or learns through an  
16 authoritative source that a person who holds a teaching certificate  
17 and who is employed by the school district, intermediate school  
18 district, or nonpublic school has been convicted of a crime  
19 described in subsection (1) or (2), the superintendent, chief  
20 administrative officer, or board president shall notify the  
21 superintendent of public instruction of that conviction within 15  
22 days after learning of the conviction.

23 (10) For the purposes of this section, a certified copy of the  
24 judgment of conviction and sentence is conclusive evidence of  
25 conviction of a crime described in this section. For the purposes  
26 of this section, conviction of a crime described in this section is  
27 considered to be reasonably and adversely related to the ability of

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

4 (11) For any hearing under subsection (1), if the  
5 superintendent of public instruction does not complete the hearing  
6 procedures and make a final decision and order within 120 working  
7 days after receiving the request for the hearing, as required under  
8 subsection (1), the superintendent of public instruction shall  
9 submit a report detailing the reasons for the delay to the standing  
10 committees and appropriations subcommittees of the senate and house  
11 of representatives that have jurisdiction over education and  
12 education appropriations. The failure of the superintendent of  
13 public instruction to complete the hearing procedures and make a  
14 final decision and order within this 120 working day time limit, or  
15 the failure of any other official or agency to meet a time limit  
16 prescribed in this section, does not affect the validity of an  
17 action taken under this section affecting a person's teaching  
18 certificate.

19 (12) Beginning July 1, 2004, the superintendent of public  
20 instruction shall submit to the legislature a quarterly report of  
21 all final actions he or she has taken under this section affecting  
22 a person's teaching certificate during the preceding quarter. The  
23 report shall contain at least all of the following with respect to  
24 each person whose teaching certificate has been affected:

25 (a) The person's name, as it appears on the teaching  
26 certificate.

27 (b) The school district, intermediate school district, public

1 school academy, or nonpublic school in which the person was  
2 employed at the time of the conviction, if any.

3 (c) The offense for which the person was convicted and the  
4 date of the offense and date of the conviction.

5 (d) Whether the action taken by the superintendent of public  
6 instruction was a summary suspension, suspension due to failure to  
7 request a hearing, suspension, revocation, or reinstatement of the  
8 teaching certificate.

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

10 (a) Prohibit a person who holds a teaching certificate from  
11 seeking monetary compensation from a school board or intermediate  
12 school board if that right is available under a collective  
13 bargaining agreement or another statute.

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

18 (14) The superintendent of public instruction may promulgate,  
19 as necessary, rules to implement this section pursuant to the  
20 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
21 24.328.

22 (15) The department of information technology shall work with  
23 the department and the department of state police to develop and  
24 implement an automated program that does a comparison of the  
25 department's list of individuals holding a teaching certificate or  
26 state board approval with the conviction information received by  
27 the department of state police. Unless otherwise prohibited by law,

1 this comparison shall include convictions contained in a nonpublic  
2 record. The department and the department of state police shall  
3 perform this comparison during January and June of each year until  
4 July 1, 2008. If a comparison discloses that a person on the  
5 department's list of individuals holding a teaching certificate or  
6 state board approval has been convicted of a crime, the department  
7 shall notify the superintendent or chief administrator and the  
8 board or governing body of the school district, intermediate school  
9 district, public school academy, or nonpublic school in which the  
10 person is employed of that conviction. **THE DEPARTMENT SHALL TAKE**  
11 **REASONABLE MEASURES TO ENSURE THE ACCURACY OF INFORMATION UNDER**  
12 **THIS SUBSECTION.**

13 (16) 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 upon  
16 a jury verdict or court finding that a defendant is guilty or  
17 guilty but mentally ill.

18 (b) "Listed offense" means that term as defined in section 2  
19 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

20 (c) "Prosecuting attorney" means the prosecuting attorney for  
21 a county, an assistant prosecuting attorney for a county, the  
22 attorney general, the deputy attorney general, an assistant  
23 attorney general, a special prosecuting attorney, or, in connection  
24 with the prosecution of an ordinance violation, an attorney for the  
25 political subdivision that enacted the ordinance upon which the  
26 violation is based.

27 Sec. 1539b. (1) Subject to subsection (2), if a person who

1 holds state board approval has been convicted of a crime described  
2 in this subsection, within 10 working days after receiving notice  
3 of the conviction the superintendent of public instruction shall  
4 notify the person in writing that his or her state board approval  
5 may be suspended because of the conviction and of his or her right  
6 to a hearing before the superintendent of public instruction. The  
7 hearing shall be conducted as a contested case under the  
8 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
9 24.328. If the person does not avail himself or herself of this  
10 right to a hearing within 15 working days after receipt of this  
11 written notification, the person's state board approval shall be  
12 suspended. If a hearing takes place, the superintendent of public  
13 instruction shall complete the proceedings and make a final  
14 decision and order within 120 working days after receiving the  
15 request for a hearing. Subject to subsection (2), the  
16 superintendent of public instruction may suspend the person's state  
17 board approval, based upon the issues and evidence presented at the  
18 hearing. This subsection applies to any of the following crimes:

19 (a) Any felony.

20 (b) Any of the following misdemeanors:

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

23 (ii) Child abuse in the third or fourth degree or an attempt to  
24 commit child abuse in the third or fourth degree.

25 (iii) A misdemeanor involving cruelty, torture, or indecent  
26 exposure involving a child.

27 (iv) A misdemeanor violation of section 7410 of the public



1 health code, 1978 PA 368, MCL 333.7410.

2 (v) A violation of section 115, 141a, 145a, 335a, or 359 of  
3 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,  
4 750.145a, 750.335a, and 750.359, or a misdemeanor violation of  
5 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,  
6 MCL 750.81, 750.81a, and 750.145d.

7 (vi) A misdemeanor violation of section 701 of the Michigan  
8 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

9 (vii) Any misdemeanor that is a listed offense.

10 (c) A violation of a substantially similar law of another  
11 state, of a political subdivision of this state or another state,  
12 or of the United States.

13 (2) If a person who holds state board approval has been  
14 convicted of a crime described in this subsection, the  
15 superintendent of public instruction shall find that the public  
16 health, safety, or welfare requires emergency action and shall  
17 order summary suspension of the person's state board approval under  
18 section 92 of the administrative procedures act of 1969, 1969 PA  
19 306, MCL 24.292, and shall subsequently provide an opportunity for  
20 a hearing as required under that section. This subsection does not  
21 limit the superintendent of public instruction's ability to order  
22 summary suspension of a person's state board approval for a reason  
23 other 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 intent  
26 to commit criminal sexual conduct, or an attempt to commit criminal  
27 sexual conduct in any degree.

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

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

4 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,  
5 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,  
6 333.7403, 333.7410, and 333.7416.

7 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,  
8 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,  
9 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,  
10 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony  
11 violation of section 145d of the Michigan penal code, 1931 PA 328,  
12 MCL 750.145d.

13 (f) A violation of section 158 of the Michigan penal code,  
14 1931 PA 328, MCL 750.158, if a victim is an individual less than 18  
15 years of age.

16 (g) Except for a juvenile disposition or adjudication, a  
17 violation of section 338, 338a, or 338b of the Michigan penal code,  
18 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an  
19 individual less than 18 years of age.

20 (h) A violation of section 349 of the Michigan penal code,  
21 1931 PA 328, MCL 750.349, if a victim is an individual less than 18  
22 years of age.

23 (i) An offense committed by a person who was, at the time of  
24 the offense, a sexually delinquent person as defined in section 10a  
25 of the Michigan penal code, 1931 PA 328, MCL 750.10a.

26 (j) An attempt or conspiracy to commit an offense listed in  
27 subdivision (a), (e), (f), (g), (h), or (i).

1 (k) A violation of a substantially similar law of another  
2 state, of a political subdivision of this state or another state,  
3 or of the United States.

4 (l) Any other crime listed in subsection (1), if the  
5 superintendent of public instruction determines the public health,  
6 safety, or welfare requires emergency action based on the  
7 circumstances underlying the conviction.

8 (3) The superintendent of public instruction after a hearing  
9 shall not take action against a person's state board approval under  
10 subsection (1) or (2) unless the superintendent of public  
11 instruction finds that the conviction is reasonably and adversely  
12 related to the person's present fitness to serve in an elementary  
13 or secondary school in this state or that the conviction  
14 demonstrates that the person is unfit to teach in an elementary or  
15 secondary school in this state. Further, the superintendent of  
16 public instruction may take action against a person's state board  
17 approval under subsection (1) or (2) based on a conviction that  
18 occurred before the effective date of the amendatory act that added  
19 this subsection if the superintendent of public instruction finds  
20 that the conviction is reasonably and adversely related to the  
21 person's present fitness to serve in an elementary or secondary  
22 school in this state.

23 (4) If a person who has entered a plea of guilt or no contest  
24 to or who is the subject of a finding of guilt by a judge or jury  
25 of a crime listed in subsection (2) has been suspended from active  
26 performance of duty by a public school, school district,  
27 intermediate school district, or nonpublic school during the

1 pendency of proceedings under this section, the public school,  
2 school district, intermediate school district, or nonpublic school  
3 employing the person shall discontinue the person's compensation  
4 until the superintendent of public instruction has made a final  
5 determination of whether or not to suspend or revoke the person's  
6 state board approval. If the superintendent of public instruction  
7 does not suspend or revoke the person's state board approval, the  
8 public school, school district, intermediate school district, or  
9 nonpublic school shall make the person whole for lost compensation,  
10 without interest. However, if a collective bargaining agreement is  
11 in effect as of the effective date of this subsection for employees  
12 of a school district, intermediate school district, or public  
13 school academy, and if the terms of that collective bargaining  
14 agreement are inconsistent with this subsection, then this  
15 subsection does not apply to that school district, intermediate  
16 school district, or public school academy until after the  
17 expiration of that collective bargaining agreement.

18 (5) Except as otherwise provided in this subsection, after the  
19 completion of the person's sentence, the person may request a  
20 hearing before the superintendent of public instruction on  
21 reinstatement of his or her state board approval. Based upon the  
22 issues and evidence presented at the hearing, the superintendent of  
23 public instruction may reinstate, continue the suspension of, or  
24 permanently revoke the person's state board approval. The  
25 superintendent of public instruction shall not reinstate a person's  
26 state board approval unless the superintendent of public  
27 instruction finds that the person is currently fit to serve in an

1 elementary or secondary school in this state and that reinstatement  
2 of the person's state board approval will not adversely affect the  
3 health, safety, and welfare of pupils. If a person's conviction was  
4 for a listed offense, the person is not entitled to request a  
5 hearing on reinstatement under this subsection, and the  
6 superintendent of public instruction shall not reinstate the  
7 person's state board approval under this subsection.

8 (6) All of the following apply to a person described in this  
9 section whose conviction is reversed upon final appeal:

10 (a) The person's state board approval shall be reinstated upon  
11 his or her notification to the superintendent of public instruction  
12 of the reversal.

13 (b) If the suspension of the state board approval was the sole  
14 cause of his or her discharge from employment, the person shall be  
15 reinstated upon his or her notification to the appropriate local or  
16 intermediate school board of the reversal, with full rights and  
17 benefits, to the position he or she would have had if he or she had  
18 been continuously employed.

19 (c) If the person's compensation was discontinued under  
20 subsection (4), the public school, school district, intermediate  
21 school district, or nonpublic school shall make the person whole  
22 for lost compensation.

23 (7) If the prosecuting attorney in charge of a case receives a  
24 form as provided under section 1230d, the prosecuting attorney  
25 shall notify the superintendent of public instruction, and any  
26 public school, school district, intermediate school district, or  
27 nonpublic school in which the person is employed by forwarding a

1 copy of the form to each of them not later than 7 days after  
2 receiving the form. If the court receives a form as provided under  
3 section 1230d, the court shall notify the superintendent of public  
4 instruction and any public school, school district, intermediate  
5 school district, or nonpublic school in which the person is  
6 employed by forwarding to each of them a copy of the form and  
7 information regarding the sentence imposed on the person not later  
8 than 7 days after the date of the sentencing, even if the court is  
9 maintaining the file as a nonpublic record.

10 (8) Not later than 7 days after receiving notification from  
11 the prosecuting attorney or the court under subsection (7) or  
12 learning through an authoritative source that a person who holds  
13 state board approval has been convicted of a crime listed in  
14 subsection (1), the superintendent of public instruction shall  
15 request the court to provide a certified copy of the judgment of  
16 conviction and sentence or other document regarding the disposition  
17 of the case to the superintendent of public instruction and shall  
18 pay any fees required by the court. The court shall provide this  
19 certified copy within 7 days after receiving the request and fees  
20 under this section or after entry of the judgment or other  
21 document, whichever is later, even if the court is maintaining the  
22 judgment or other document as a nonpublic record.

23 (9) If the superintendent of a school district or intermediate  
24 school district, the chief administrative officer of a nonpublic  
25 school, the president of the board of a school district or  
26 intermediate school district, or the president of the governing  
27 board of a nonpublic school is notified or learns through an

1 authoritative source that a person who holds state board approval  
2 and who is employed by the school district, intermediate school  
3 district, or nonpublic school has been convicted of a crime  
4 described in subsection (1) or (2), the superintendent, chief  
5 administrative officer, or board president shall notify the  
6 superintendent of public instruction of that conviction within 15  
7 days after learning of the conviction.

8 (10) For the purposes of this section, a certified copy of the  
9 judgment of conviction and sentence is conclusive evidence of  
10 conviction of a crime described in this section. For the purposes  
11 of this section, conviction of a crime described in this section is  
12 considered to be reasonably and adversely related to the ability of  
13 the person to serve in an elementary or secondary school and is  
14 sufficient grounds for suspension or revocation of the person's  
15 state board approval.

16 (11) For any hearing under subsection (1), if the  
17 superintendent of public instruction does not complete the hearing  
18 procedures and make a final decision and order within 120 working  
19 days after receiving the request for the hearing, as required under  
20 subsection (1), the superintendent of public instruction shall  
21 submit a report detailing the reasons for the delay to the standing  
22 committees and appropriations subcommittees of the senate and house  
23 of representatives that have jurisdiction over education and  
24 education appropriations. The failure of the superintendent of  
25 public instruction to complete the hearing procedures and make a  
26 final decision and order within this 120 working day time limit, or  
27 the failure of any other official or agency to meet a time limit

1 prescribed in this section, does not affect the validity of an  
2 action taken under this section affecting a person's state board  
3 approval.

4 (12) Beginning July 1, 2004, the superintendent of public  
5 instruction shall submit to the legislature a quarterly report of  
6 all final actions he or she has taken under this section affecting  
7 a person's state board approval during the preceding quarter. The  
8 report shall contain at least all of the following with respect to  
9 each person whose state board approval has been affected:

10 (a) The person's name, as it appears on the state board  
11 approval.

12 (b) The school district, intermediate school district, public  
13 school academy, or nonpublic school in which the person was  
14 employed at the time of the conviction, if any.

15 (c) The offense for which the person was convicted and the  
16 date of the offense and date of the conviction.

17 (d) Whether the action taken by the superintendent of public  
18 instruction was a summary suspension, suspension due to failure to  
19 request a hearing, suspension, revocation, or reinstatement of the  
20 state board approval.

21 (13) This section does not do any of the following:

22 (a) Prohibit a person who holds state board approval from  
23 seeking monetary compensation from a school board or intermediate  
24 school board if that right is available under a collective  
25 bargaining agreement or another statute.

26 (b) Limit the rights and powers granted to a school district  
27 or intermediate school district under a collective bargaining



1 agreement, this act, or another statute to discipline or discharge  
2 a person who holds state board approval.

3 (c) Exempt a person who holds state board approval from the  
4 operation of section 1535a if the person holds a certificate  
5 subject to that section.

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

8 (14) The superintendent of public instruction may promulgate,  
9 as necessary, rules to implement this section pursuant to the  
10 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
11 24.328.

12 (15) The department of information technology shall work with  
13 the department and the department of state police to develop and  
14 implement an automated program that does a comparison of the  
15 department's list of individuals holding a teaching certificate or  
16 state board approval with the conviction information received by  
17 the department of state police. Unless otherwise prohibited by law,  
18 this comparison shall include convictions contained in a nonpublic  
19 record. The department and the department of state police shall  
20 perform this comparison during January and June of each year until  
21 July 1, 2008. If a comparison discloses that a person on the  
22 department's list of individuals holding a teaching certificate or  
23 state board approval has been convicted of a crime, the department  
24 shall notify the superintendent or chief administrator and the  
25 board or governing body of the school district, intermediate school  
26 district, public school academy, or nonpublic school in which the  
27 person is employed of that conviction. **THE DEPARTMENT SHALL TAKE**

1 **REASONABLE MEASURES TO ENSURE THE ACCURACY OF INFORMATION UNDER**  
2 **THIS SUBSECTION.**

3 (16) As used in this section:

4 (a) "Conviction" means a judgment entered by a court upon a  
5 plea of guilty, guilty but mentally ill, or nolo contendere or upon  
6 a jury verdict or court finding that a defendant is guilty or  
7 guilty but mentally ill.

8 (b) "Listed offense" means that term as defined in section 2  
9 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

10 (c) "Prosecuting attorney" means the prosecuting attorney for  
11 a county, an assistant prosecuting attorney for a county, the  
12 attorney general, the deputy attorney general, an assistant  
13 attorney general, a special prosecuting attorney, or, in connection  
14 with the prosecution of an ordinance violation, an attorney for the  
15 political subdivision that enacted the ordinance upon which the  
16 violation is based.

17 (d) "State board approval" means a license, certificate,  
18 approval not requiring a teaching certificate, or other evidence of  
19 qualifications to hold a particular position in a school district  
20 or intermediate school district or in a nonpublic school, other  
21 than a teacher's certificate subject to section 1535a, that is  
22 issued to a person by the state board or the superintendent of  
23 public instruction under this act or a rule promulgated under this  
24 act.