

Act No. 35
Public Acts of 1990
Approved by the Governor
March 21, 1990
Filed with the Secretary of State
March 22, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. London, DeMars, Hoffman, Trim, Stacey, Bandstra, Runco, Munsell, Keith, Bennett, Johnson, Dolan, Honigman, Emmons, Camp, Krause, Wallace, DeBeaussiaert, Gubow, Kosteva, Saunders, Randall, Bryant, Miller, Strand, Bankes, Walberg, Bartnik and Power

ENROLLED HOUSE BILL No. 5082

AN ACT to amend sections 1272a and 1535a of Act No. 451 of the Public Acts of 1976, entitled as amended "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and classify the laws relating to elementary and secondary education; to provide for the classification, organization, regulation, and maintenance of schools, school districts, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, and intermediate school districts; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal certain acts and parts of acts," section 1535a as added by Act No. 61 of the Public Acts of 1987, being sections 380.1272a and 380.1535a of the Michigan Compiled Laws; and to add section 1539a.

The People of the State of Michigan enact:

Section 1. Sections 1272a and 1535a of Act No. 451 of the Public Acts of 1976, section 1535a as added by Act No. 61 of the Public Acts of 1987, being sections 380.1272a and 380.1535a of the Michigan Compiled Laws, are amended and section 1539a is added to read as follows:

Sec. 1272a. (1) The board of a K to 12 school district shall, and the board of a primary school district or a fourth class school district that does not operate a K to 12 program may, establish and operate a program under which lunch is made available to all full-time pupils enrolled and in regular daily attendance at each public school of the school district.

(2) The board of a K to 12 school district shall, and the board of a primary school district or a fourth class school district that does not operate a K to 12 program may, establish and operate a program under which breakfast is made available to all full-time pupils enrolled and in regular daily attendance at each public school of the school district if 20% or more of the lunches served the immediately preceding year were free or reduced price lunches provided pursuant to section 1272b(c).

Sec. 1535a. (1) If a person who holds a teaching certificate that is valid in this state is convicted of criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, an attempt to commit criminal sexual conduct in any degree, felonious assault on a child, child abuse, or cruelty, torture, or indecent exposure involving a child, the state board shall notify, in writing, the person of his or her right to a hearing before the state board. If the person does not avail himself or herself of this right within 30 working days after receipt of this written notification, the teaching certificate of that person shall be suspended. If a hearing takes place, based upon the issues and evidence presented at the hearing, the state board may suspend the person's teaching certificate.

(2) After the completion of a person's sentence, the person may request a hearing before the state board on reinstatement of his or her teaching certificate. Based upon the issues and evidence presented at the hearing, the state board may reinstate, continue the suspension of, or permanently revoke the person's teaching certificate.

(3) A person described in this section whose conviction is reversed upon final appeal:

(a) Shall have his or her teaching certificate reinstated upon his or her notification of that fact to the state board.

(b) Shall be reinstated, upon his or her notification of that fact to the appropriate local or intermediate school board, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed if the suspension of the teaching certificate was the sole cause of his or her discharge from employment.

(4) The prosecuting attorney of the county in which a person who holds a teaching certificate was convicted of a crime described in subsection (1) shall notify the state board of that conviction.

(5) This section shall not be construed to do any of the following:

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

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

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

(6) The state board may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

Sec. 1539a. (1) If a person who holds a school administrator's certificate that is valid in this state is convicted of criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, an attempt to commit criminal sexual conduct in any degree, felonious assault on a child, child abuse, or cruelty, torture, or indecent exposure involving a child, the state board shall notify, in writing, the person of his or her right to a hearing before the state board. If the person does not avail himself or herself of this right within 30 working days after receipt of this written notification, the school administrator's certificate of that person shall be suspended. If a hearing takes place, based upon the issues and evidence presented at the hearing, the state board may suspend the person's school administrator's certificate.

(2) After the completion of the person's sentence, the person may request a hearing before the state board on reinstatement of his or her school administrator's certificate. Based upon the issues and evidence presented at the hearing, the state board may reinstate, continue the suspension of, or permanently revoke the person's school administrator's certificate.

(3) A person described in this section whose conviction is reversed upon final appeal:

(a) Shall have his or her school administrator's certificate reinstated upon his or her notification of that fact to the state board.

(b) Shall be reinstated, upon his or her notification of that fact to the appropriate local or intermediate school board, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed if the suspension of the school administrator's certificate was the sole cause of his or her discharge from employment.

(4) The prosecuting attorney of the county in which a person who holds a school administrator's certificate was convicted of a crime described in subsection (1) shall notify the state board of that conviction.

(5) This section shall not be construed to do any of the following:

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

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

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

(6) The state board may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.