

subsection, an amount due shall be determined and treated in the same manner provided for an order entered under subsection (2).

(4) An order directed to a parent or a person other than the juvenile is not effective and binding on the parent or other person unless opportunity for hearing is given by issuance of summons or notice as provided in sections 12 and 13 of this chapter and until a copy of the order, bearing the seal of the court, is served on the parent or other person as provided in section 13 of this chapter.

(5) If the court appoints an attorney to represent a juvenile, parent, guardian, or custodian, the court may require in an order entered under this section that the juvenile, parent, guardian, or custodian reimburse the court for attorney fees.

(6) The office of the state court administrator, under the supervision and direction of the supreme court, shall create guidelines that the court may use in determining the ability of the juvenile, parent, guardian, or custodian to pay for care and any costs of service ordered under subsection (2) or (3). The guidelines shall take into account both the income and resources of the juvenile, parent, guardian, or custodian.

(7) If the court finds that a juvenile comes under section 30 of this chapter, the court shall order the juvenile or the juvenile's parent to pay restitution as provided in sections 30 and 31 of this chapter and in sections 44 and 45 of the crime victim's rights act, 1985 PA 87, MCL 780.794 and 780.795.

(8) If the court imposes restitution as a condition of probation, the court shall require the juvenile to do either of the following as an additional condition of probation:

(a) Engage in community service or, with the victim's consent, perform services for the victim.

(b) Seek and maintain paid employment and pay restitution to the victim from the earnings of that employment.

(9) If the court finds that the juvenile is in intentional default of the payment of restitution, a court may, as provided in section 31 of this chapter, revoke or alter the terms and conditions of probation for nonpayment of restitution. If a juvenile who is ordered to engage in community service intentionally refuses to perform the required community service, the court may revoke or alter the terms and conditions of probation.

(10) The court shall not enter an order of disposition for a juvenile offense as defined in section 1a of 1925 PA 289, MCL 28.241a, or a judgment of sentence for a conviction until the court has examined the court file and has determined that the juvenile's fingerprints have been taken and forwarded as required by section 3 of 1925 PA 289, MCL 28.243, and as required by the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732. If a juvenile has not had his or her fingerprints taken, the court shall do either of the following:

(a) Order the juvenile to submit himself or herself to the police agency that arrested or obtained the warrant for the juvenile's arrest so the juvenile's fingerprints can be taken and forwarded.

(b) Order the juvenile committed to the sheriff's custody for taking and forwarding the juvenile's fingerprints.

(11) Upon final disposition, conviction, acquittal, or dismissal of an offense within the court's jurisdiction under section 2(a)(1) of this chapter, using forms approved by the state court administrator, the clerk of the court entering the final disposition, conviction, acquittal,

or dismissal shall immediately advise the department of state police of that final disposition, conviction, acquittal, or dismissal as required by section 3 of 1925 PA 289, MCL 28.243. The report to the department of state police shall include information as to the finding of the judge or jury and a summary of the disposition or sentence imposed.

(12) If the court enters an order of disposition based on an act that is a juvenile offense as defined in section 1 of 1989 PA 196, MCL 780.901, the court shall order the juvenile to pay the assessment as provided in that act. If the court enters a judgment of conviction under section 2d of this chapter for an offense that is a felony, serious misdemeanor, or specified misdemeanor as defined in section 1 of 1989 PA 196, MCL 780.901, the court shall order the juvenile to pay the assessment as provided in that act.

(13) If the court has entered an order of disposition or a judgment of conviction for a listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court, the family independence agency, or the county juvenile agency shall register the juvenile or accept the juvenile's registration as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732.

(14) If the court enters an order of disposition placing a juvenile in a juvenile boot camp program, or committing a juvenile to a county juvenile agency for placement in a juvenile boot camp program, and the court receives from the family independence agency a report that the juvenile has failed to perform satisfactorily in the program, that the juvenile does not meet the program's requirements or is medically unable to participate in the program for more than 25 days, that there is no opening in a juvenile boot camp program, or that the county juvenile agency is unable to place the juvenile in a juvenile boot camp program, the court shall release the juvenile from placement or commitment and enter an alternative order of disposition. A juvenile shall not be placed in a juvenile boot camp under an order of disposition more than once, except that a juvenile returned to the court for a medical condition, because there was no opening in a juvenile boot camp program, or because the county juvenile agency was unable to place the juvenile in a juvenile boot camp program may be placed again in the juvenile boot camp program after the medical condition is corrected, an opening becomes available, or the county juvenile agency is able to place the juvenile.

(15) If the juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter for an offense other than a listed offense as defined in section 2(e)(i) to (ix) and (xi) to (xiii) of the sex offenders registration act, 1994 PA 295, MCL 28.722, the court shall determine if the offense is a violation of a law of this state or a local ordinance of a municipality of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age. If so, the order of disposition is for a listed offense as defined in section 2(e)(x) of the sex offenders registration act, 1994 PA 295, MCL 28.722, and the court shall include the basis for that determination on the record and include the determination in the order of disposition.

(16) The court shall not impose a sentence of imprisonment in the county jail under subsection (1)(m) unless the present county jail facility for the juvenile's imprisonment would meet all requirements under federal law and regulations for housing juveniles. The court shall not impose the sentence until it consults with the sheriff to determine when the sentence will begin to ensure that space will be available for the juvenile.

(17) In a proceeding under section 2(h) of this chapter, this section only applies to a disposition for a violation of a personal protection order and subsequent proceedings.

(18) If a juvenile is within the court's jurisdiction under section 2(a)(1) of this chapter, the court shall order the juvenile to pay costs as provided in section 18m of this chapter.

(19) A juvenile who has been ordered to pay the minimum state cost as provided in section 18m of this chapter as a condition of probation or supervision and who is not in willful default of the payment of the minimum state cost may petition the court at any time for a remission of the payment of any unpaid portion of the minimum state cost. If the court determines that payment of the amount due will impose a manifest hardship on the juvenile or his or her immediate family, the court may remit all or part of the amount of the minimum state cost due or modify the method of payment.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 998 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

Compiler's note: Senate Bill No. 998, referred to in enacting section 2, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 224, Eff. Jan. 1, 2005.

[No. 222]

(HB 5932)

AN ACT to amend 1925 PA 289, entitled "An act to create and maintain a fingerprint identification and criminal history records division within the department of state police; to require peace officers, persons in charge of certain institutions, and others to make reports respecting juvenile offenses, crimes, and criminals to the state police; to require the fingerprinting of an accused by certain persons; and to provide penalties and remedies for a violation of this act," by amending section 3 (MCL 28.243), as amended by 2002 PA 694.

The People of the State of Michigan enact:

28.243 Taking and forwarding fingerprints of person arrested; manner; destruction of fingerprints and arrest card; duties of clerk on final disposition of charge; contents of report; informing director of federal bureau of investigation; comparison of fingerprints and description with those on file; informing arresting agency and prosecuting attorney; applicability of provisions; prohibited conduct under subsection (5).

Sec. 3. (1) Except as provided in subsection (3), immediately upon the arrest of a person for a felony or for a misdemeanor violation of state law for which the maximum possible penalty exceeds 92 days' imprisonment or a fine of \$1,000.00, or both, or for criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the

revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, or for a juvenile offense, other than a juvenile offense for which the maximum possible penalty does not exceed 92 days' imprisonment or a fine of \$1,000.00, or both, the arresting law enforcement agency in this state shall take the person's fingerprints and forward the fingerprints to the department within 72 hours after the arrest. The fingerprints shall be sent to the department on forms furnished by or in a manner prescribed by the department, and the department shall forward the fingerprints to the director of the federal bureau of investigation on forms furnished by or in a manner prescribed by the director.

(2) A law enforcement agency shall take a person's fingerprints under this subsection if the person is arrested for a misdemeanor violation of state law for which the maximum penalty is 93 days or for criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, if the fingerprints have not previously been taken and forwarded to the department under subsection (1). A law enforcement agency shall take a person's fingerprints under this subsection if the person is arrested for a violation of a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible term of imprisonment is 93 days. If the person is convicted of any violation, the law enforcement agency shall take the person's fingerprints before sentencing if not previously taken. The court shall forward to the law enforcement agency a copy of the disposition of conviction, and the law enforcement agency shall forward the person's fingerprints and the copy of the disposition of conviction to the department within 72 hours after receiving the disposition of conviction in the same manner as provided in subsection (1). If the person is convicted of violating a local ordinance, the law enforcement agency shall indicate on the form sent to the department the statutory citation for the state law to which the local ordinance substantially corresponds.

(3) A person's fingerprints are not required to be taken and forwarded to the department under subsection (1) or (2) solely because he or she has been convicted of violating section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904, or a local ordinance substantially corresponding to section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(4) The arresting law enforcement agency may take 1 set of fingerprints of a person who is arrested for a misdemeanor punishable by imprisonment for not more than 92 days or a fine of not more than \$1,000.00, or both, and who fails to produce satisfactory evidence of identification as required by section 1 of 1961 PA 44, MCL 780.581. These fingerprints shall be forwarded to the department immediately. Upon completion of the identification process by the department, the fingerprints shall be destroyed.

(5) An arresting law enforcement agency in this state may take the person's fingerprints on forms furnished by the commanding officer upon an arrest for a misdemeanor other than a misdemeanor described in subsection (1), (2), or (4), and may forward the fingerprints to the department.

(6) If a court orders the taking of fingerprints of a person pursuant to section 11 or 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.11 and 712A.18, or section 29 of chapter IV or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 764.29 and 769.1, the law enforcement agency shall forward the fingerprints and arrest card to the department.

(7) If a petition is not authorized for a juvenile accused of a juvenile offense, if a person arrested for having committed an offense for which he or she was fingerprinted under this

section is released without a charge made against him or her, or if criminal contempt proceedings are not brought or criminal charges are not made against a person arrested for criminal contempt for a personal protection order violation under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that meets the requirements for validity under section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, the official taking or holding the person's fingerprints and arrest card shall immediately destroy the fingerprints and arrest card. The law enforcement agency shall notify the department in writing that a petition was not authorized against the juvenile or that a charge was not made or that a criminal contempt proceeding was not brought against the arrested person if the juvenile's or arrested person's fingerprints were forwarded to the department.

(8) If a juvenile is adjudicated and found not to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or if an accused is found not guilty of an offense for which he or she was fingerprinted under this section, upon final disposition of the charge against the accused or juvenile, the fingerprints and arrest card shall be destroyed by the official holding those items and the clerk of the court entering the disposition shall notify the department of any finding of not guilty or not guilty by reason of insanity, dismissal, or nolle prosequi, if it appears that the accused was initially fingerprinted under this section, or of any finding that a juvenile alleged responsible for a juvenile offense is not within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(9) Upon final disposition of the charge against the accused, the clerk of the court entering the disposition shall immediately advise the department of the final disposition of the arrest for which the person was fingerprinted if a juvenile was adjudicated to have committed a juvenile offense or if the accused was convicted of an offense for which he or she was fingerprinted under this section or section 16a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16a. With regard to any adjudication or conviction, the clerk shall transmit to the department information as to any adjudication or finding of guilty or guilty but mentally ill; any plea of guilty, nolo contendere, or guilty but mentally ill; the offense of which the accused was convicted; and a summary of any deposition or sentence imposed. The summary of the sentence shall include any probationary term; any minimum, maximum, or alternative term of imprisonment; the total of all fines, costs, and restitution ordered; and any modification of sentence. If the sentence is imposed under any of the following sections, the report shall so indicate:

(a) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(b) Section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) Sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15.

(d) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(e) Section 350a(4) of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(f) Section 430(8)(a) of the Michigan penal code, 1931 PA 328, MCL 750.430.

(10) The department shall record the disposition of each charge and shall inform the director of the federal bureau of investigation of the final disposition of any arrest or offense for which a person was fingerprinted under this section or section 16a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16a.

(11) The department shall compare the fingerprints and description received with those already on file and if the department finds that the person arrested has a criminal record, the department shall immediately inform the arresting agency and prosecuting attorney of this fact.

(12) The provisions of subsection (8) that require the destruction of the fingerprints and the arrest card do not apply to a person who was arraigned in circuit court or the family division of circuit court for any of the following:

(a) The commission or attempted commission of a crime with or against a child under 16 years of age.

(b) Rape.

(c) Criminal sexual conduct in any degree.

(d) Sodomy.

(e) Gross indecency.

(f) Indecent liberties.

(g) Child abusive commercial activities.

(h) A person who has a prior conviction, other than a misdemeanor traffic offense, unless a judge of a court of record, except the probate court, by express order on the record, orders the destruction or return of the fingerprints and arrest card.

(i) A person arrested who is a juvenile charged with an offense that would constitute the commission or attempted commission of any of the crimes in this subsection if committed by an adult.

(13) Subsection (5) does not permit the forwarding to the department of the fingerprints of a person accused and convicted under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of that act, unless the offense is punishable upon conviction by imprisonment for more than 92 days or is an offense that is punishable by imprisonment for more than 92 days upon a subsequent conviction.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 998.

(b) House Bill No. 5674.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

Compiler's note: Senate Bill No. 998, referred to in enacting section 2, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 224, Eff. Jan. 1, 2005.

House Bill No. 5674, also referred to in enacting section 2, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 220, Eff. Jan. 1, 2005.

[No. 223]

(HB 5928)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution

for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending sections 350a and 430 (MCL 750.350a and 750.430), section 350a as amended by 1996 PA 14 and section 430 as amended by 2003 PA 235.

The People of the State of Michigan enact:

750.350a Taking or retaining child by adoptive or natural parent; intent; violation as felony; penalty; restitution for financial expense; effect of pleading or being found guilty; probation; discharge and dismissal; nonpublic record; defense.

Sec. 350a. (1) An adoptive or natural parent of a child shall not take that child, or retain that child for more than 24 hours, with the intent to detain or conceal the child from any other parent or legal guardian of the child who has custody or parenting time rights pursuant to a lawful court order at the time of the taking or retention, or from the person or persons who have adopted the child, or from any other person having lawful charge of the child at the time of the taking or retention.

(2) A parent who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 1 year and 1 day, or a fine of not more than \$2,000.00, or both.

(3) A parent who violates this section, upon conviction, in addition to any other punishment, may be ordered to make restitution to the other parent, legal guardian, the person or persons who have adopted the child, or any other person having lawful charge of the child for any financial expense incurred as a result of attempting to locate and having the child returned.

(4) When a parent who has not been convicted previously of a violation of section 349, 350, or this section, or under any statute of the United States or of any state related to kidnapping, pleads guilty to, or is found guilty of, a violation of this section, the court, without entering a judgment of guilt and with the consent of the accused parent, may defer further proceedings and place the accused parent on probation with lawful terms and conditions. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall discharge from probation and dismiss the proceedings against the parent. Discharge and dismissal under this subsection shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including any additional penalties imposed for second or subsequent convictions. The department of state police shall retain a nonpublic record of an arrest and discharge and dismissal under this section. This record shall be furnished to either or both of the following:

(a) To a court or police agency upon request for the purpose of showing that a defendant in a criminal action has already availed himself or herself of this subsection.

(b) To a court, police agency, or prosecutor upon request for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(4) of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1076.

(5) It is a complete defense under this section if a parent proves that his or her actions were taken for the purpose of protecting the child from an immediate and actual threat of physical or mental harm, abuse, or neglect.

750.430 Prohibited conduct by licensed health care professional; violation as misdemeanor; submission to chemical analysis; admissibility as evidence; conduct of collection and testing; other violations arising out of same transaction; good faith emergency care; order to participate in health professional recovery program; penalties; “licensed health care professional” defined.

Sec. 430. (1) A licensed health care professional who does either of the following is guilty of a misdemeanor:

(a) Engages in the practice of his or her health profession with a bodily alcohol content of .05 or more grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(b) Engages in the practice of his or her health profession while he or she is under the influence of a controlled substance and, due to the illegal or improper use of the controlled substance, his or her ability to safely and skillfully engage in the practice of his or her health profession is visibly impaired.

(2) A peace officer who has reasonable cause to believe an individual violated subsection (1) may require the individual to submit to a chemical analysis of his or her breath, blood, or urine. Before an individual is required to submit to a chemical analysis under this subsection, the peace officer shall inform the individual of all of the following:

(a) The individual may refuse to submit to the chemical analysis, but if he or she refuses, the officer may obtain a court order requiring the individual to submit to a chemical analysis.

(b) If the individual submits to the chemical analysis, he or she may obtain a chemical analysis from a person of his or her own choosing.

(3) The failure of a peace officer to comply with the requirements of subsection (2) renders the results of a chemical analysis inadmissible as evidence in a criminal prosecution for violating this section, in a civil action arising out of a violation of this section, or in any administrative proceeding arising out of a violation of this section.

(4) The collection and testing of breath, blood, or urine specimens under this section shall be conducted in the same manner that breath, blood, or urine specimens are collected and tested for alcohol-related and controlled substance-related driving violations under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(5) This section does not prohibit the individual from being charged with, convicted of, or sentenced for any other violation of law arising out of the same transaction as the violation of this section in lieu of being charged with, convicted of, or sentenced for the violation of this section.

(6) This section does not apply to a licensed health care professional who in good faith renders emergency care without compensation at the scene of an emergency unless the acts or omissions by the licensed health care professional amount to gross negligence or willful and wanton misconduct.

(7) If an individual is convicted under this section, the court shall order that individual to participate in the health professional recovery program established under section 16167 of the public health code, 1978 PA 368, MCL 333.16167.

(8) A violation of this section is punishable as follows:

(a) If the individual's conduct did not result in physical harm or injury to the patient and the individual has not been convicted previously for violating this section, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney, may defer further proceedings and place the accused on probation

upon terms and conditions that shall include, but are not limited to, participation in the health professional recovery program established under section 16167 of the public health code, 1978 PA 368, MCL 333.16167. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided under subdivision (b). Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and are not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including additional penalties imposed for second or subsequent convictions under this subsection. There may only be 1 discharge and dismissal under this section as to an individual. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this subsection. This record shall only be furnished to either or both of the following:

(i) To a court or police agency upon request for the purpose of showing whether the individual accused of violating this section has already once utilized this subdivision.

(ii) To a court, police agency, or prosecutor upon request for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(b) For a first offense, by imprisonment for not more than 180 days or a fine of not more than \$1,000.00, or both.

(c) For a second or subsequent offense, by imprisonment for not more than 1 year or a fine of not less than \$1,000.00, or both.

(9) As used in this section, “licensed health care professional” means an individual licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 998 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

Compiler's note: Senate Bill No. 998, referred to in enacting section 2, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 224, Eff. Jan. 1, 2005.

[No. 224]

(SB 998)

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and

duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” (MCL 600.101 to 600.9947) by adding chapter 10A.

The People of the State of Michigan enact:

CHAPTER 10A.

DRUG TREATMENT COURTS

600.1060 Definitions.

Sec. 1060. As used in this chapter:

(a) “Dating relationship” means that term as defined in section 2950.

(b) “Domestic violence offense” means any crime alleged to have been committed by an individual against his or her spouse or former spouse, an individual with whom he or she has a child in common, an individual with whom he or she has had a dating relationship, or an individual who resides or has resided in the same household.

(c) “Drug treatment court” means a court supervised treatment program for individuals who abuse or are dependent upon any controlled substance or alcohol. A drug treatment court should comply with the 10 key components promulgated by the national association of drug court professionals, which include all of the following essential characteristics:

(i) Integration of alcohol and other drug treatment services with justice system case processing.

(ii) Use of a nonadversarial approach by prosecution and defense that promotes public safety while protecting any participant’s due process rights.

(iii) Identification of eligible participants early with prompt placement in the program.

(iv) Access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

(v) Monitoring of participants effectively by frequent alcohol and other drug testing to ensure abstinence from drugs or alcohol.

(vi) Use of a coordinated strategy with a regimen of graduated sanctions and rewards to govern the court’s responses to participants’ compliance.

(vii) Ongoing close judicial interaction with each participant and supervision of progress for each participant.

(viii) Monitoring and evaluation of the achievement of program goals and the program’s effectiveness.

(ix) Continued interdisciplinary education in order to promote effective drug court planning, implementation, and operation.

(x) The forging of partnerships among other drug courts, public agencies, and community-based organizations to generate local support.

(d) “Participant” means an individual who is admitted into a drug treatment court.

(e) “Prosecutor” means the prosecuting attorney of the county, the city attorney, the village attorney, or the township attorney.

(f) “Traffic offense” means a violation of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a violation of a local ordinance substantially corresponding to a violation of that act, that involves the operation of a vehicle and, at the time of the violation, is a felony or misdemeanor.

(g) “Violent offender” means an individual who meets either of the following criteria:

(i) Is currently charged with or has pled guilty to, or, if a juvenile, is currently alleged to have committed or has admitted responsibility for, an offense involving the death of or a serious bodily injury to any individual, or the carrying, possessing, or use of a firearm or other dangerous weapon by that individual, whether or not any of these circumstances are an element of the offense, or is criminal sexual conduct of any degree.

(ii) Has 1 or more prior convictions for, or, if a juvenile, has 1 or more prior findings of responsibility for, a felony involving the use or attempted use of force against another individual with the intent to cause death or serious bodily harm.

600.1062 Drug treatment court; adoption by circuit or district court; memorandum of understanding; parties; adoption by family division of circuit court; training.

Sec. 1062. (1) The circuit court in any judicial circuit or the district court in any judicial district may adopt or institute a drug treatment court, pursuant to statute or court rules. However, the circuit or district court shall not adopt or institute a drug treatment court unless the circuit or district court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit or district, the local substance abuse coordinating agency for that circuit or district, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit or district. The memorandum of understanding shall describe the role of each party.

(2) The family division of circuit court in any judicial circuit may adopt or institute a juvenile drug treatment court, pursuant to statute or court rules. However, the family division of circuit court shall not adopt or institute a juvenile drug treatment court unless the family division of circuit court enters into a memorandum of understanding with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, and a representative or representatives of community treatment providers. The memorandum of understanding also may include other parties considered necessary, such as any other prosecutor in the circuit or district court district, local law enforcement, the probation departments in that circuit, the local substance abuse coordinating agency for that circuit, a domestic violence service provider program that receives funding from the state domestic violence prevention and treatment board, and community corrections agencies in that circuit. The memorandum of understanding shall describe the role of each party. A juvenile drug treatment court is subject to the same procedures and requirements provided in this chapter for drug treatment courts created under subsection (1), except as specifically provided otherwise in this chapter.

(3) A court that is adopting a drug treatment court shall participate in training as required by the state court administrative office and the bureau of justice assistance of the United States department of justice.

600.1063 Hiring or contracting with treatment providers.

Sec. 1063. A drug treatment court may hire or contract with licensed or accredited treatment providers, in consultation and cooperation with the local substance abuse coordinating agency, and other such appropriate persons to assist the drug treatment court in fulfilling its requirements under this chapter, such as the investigation of an individual's background or circumstances, or the clinical evaluation of an individual, for his or her admission into or participation in a drug treatment court.

600.1064 Admission to drug treatment court; confidentiality of information obtained from preadmission screening and evaluation assessment; criminal history contained in L.E.I.N.

Sec. 1064. (1) Each drug treatment court shall determine whether an individual may be admitted to the drug treatment court. No individual has a right to be admitted into a drug treatment court. However, an individual is not eligible for admission into a drug treatment court if he or she is a violent offender.

(2) In addition to admission to a drug treatment court under this act, an individual who is eligible for admission pursuant to this act may also be admitted to a drug treatment court under any of the following circumstances:

(a) The individual has been assigned the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(b) The individual has had criminal proceedings against him or her deferred and has been placed on probation under any of the following:

(i) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(ii) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(iii) Section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(iv) Section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(3) To be admitted to a drug treatment court, an individual must cooperate with and complete a preadmissions screening and evaluation assessment and must agree to cooperate with any future evaluation assessment as directed by the drug treatment court. A preadmission screening and evaluation assessment shall include all of the following:

(a) A complete review of the individual's criminal history, and a review of whether or not the individual has been admitted to and has participated in or is currently participating in a drug treatment court, whether admitted under this act or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. A review of the law enforcement information network may be considered sufficient for purposes of this subdivision unless a further review is warranted. The court may accept other verifiable and reliable information from the prosecution or defense to complete its review and may require the individual to submit a statement as to whether or not he or she has previously been admitted to a drug treatment court and the results of his or her participation in the prior program or programs.

(b) An assessment of the risk of danger or harm to the individual, others, or the community.

(c) As much as practicable, a complete review of the individual's history regarding the use or abuse of any controlled substance or alcohol and an assessment of whether the individual abuses controlled substances or alcohol or is drug or alcohol dependent. It is the intent of the legislature that this assessment should be a clinical assessment as much as practicable.

(d) A review of any special needs or circumstances of the individual that may potentially affect the individual's ability to receive substance abuse treatment and follow the court's orders.

(e) For a juvenile, an assessment of the family situation including, as much as practicable, a comparable review of any guardians or parents.

(4) Except as otherwise permitted in this act, any statement or other information obtained as a result of participating in a preadmission screening and evaluation assessment under subsection (3) is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

(5) The court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for the purposes of determining an individual's admission into the drug treatment court and general criminal history review, including whether the individual has previously been admitted to and participated in a drug treatment court under this act, or under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, and the results of the individual's participation. The department of state police shall provide the information requested by a drug treatment court under this subsection.

600.1066 Placement of findings or statement in court file.

Sec. 1066. Before an individual is admitted into a drug treatment court, the court shall find on the record, or place a statement in the court file pertaining to, all of the following:

(a) The individual is dependent upon or abusing drugs or alcohol and is an appropriate candidate for participation in the drug treatment court.

(b) The individual understands the consequences of entering the drug treatment court and agrees to comply with all court orders and requirements of the court's program and treatment providers.

(c) The individual is not an unwarranted or substantial risk to the safety of the public or any individual, based upon the screening and assessment or other information presented to the court.

(d) The individual is not a violent offender.

(e) The individual has completed a preadmission screening and evaluation assessment under section 1064(3) and has agreed to cooperate with any future evaluation assessment as directed by the drug treatment court.

(f) The individual meets the requirements, if applicable, under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 4a of chapter IX of the code of criminal

procedure, 1927 PA 175, MCL 769.4a, section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(g) The terms, conditions, and the duration of the agreement between the parties, especially as to the outcome for the participant of the drug treatment court upon successful completion by the participant or termination of participation.

600.1068 Individual charged in criminal case; factors for admission to drug treatment court.

Sec. 1068. (1) If the individual being considered for admission to a drug treatment court is charged in a criminal case or, in the case of a juvenile, is alleged to have engaged in activity that would constitute a criminal act if committed by an adult, his or her admission is subject to all of the following conditions:

(a) The offense or offenses allegedly committed by the individual must be related to the abuse, illegal use, or possession of a controlled substance or alcohol.

(b) The individual, if an adult, must plead guilty to the charge or charges on the record. The individual, if a juvenile, must admit responsibility for the violation or violations that he or she is accused of having committed.

(c) The individual must waive, in writing, the right to a speedy trial, the right to representation at drug treatment court review hearings by an attorney, and, with the agreement of the prosecutor, the right to a preliminary examination.

(d) The individual must sign a written agreement to participate in the drug treatment court.

(2) The prosecutor must approve of the admission of the individual into the drug treatment court in conformity with the memorandum of understanding under section 1062.

(3) An individual shall not be admitted to, or remain in, a drug treatment court pursuant to an agreement that would permit a discharge or dismissal of a traffic offense upon successful completion of the drug treatment court program.

(4) In addition to rights accorded a victim under the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the drug treatment court must permit any victim of the offense or offenses of which the individual is charged, any victim of a prior offense of which that individual was convicted, and members of the community in which either the offenses were committed or in which the defendant resides to submit a written statement to the court regarding the advisability of admitting the individual into the drug treatment court.

(5) An individual who has waived his or her right to a preliminary examination and has pled guilty or, in the case of a juvenile, has admitted responsibility, as part of his or her application to a drug treatment court and who is not admitted to a drug treatment court, shall be permitted to withdraw his or her plea and is entitled to a preliminary examination or, in the case of a juvenile, shall be permitted to withdraw his or her admission of responsibility.

600.1070 Admission of individual into drug treatment court; requirements.

Sec. 1070. (1) Upon admitting an individual into a drug treatment court, all of the following apply:

(a) For an individual who is admitted to a drug treatment court based upon having criminal charges currently filed against him or her, the court shall accept the plea of guilty or, in the case of a juvenile, the admission of responsibility.

(b) For an individual who pled guilty to, or admitted responsibility for, criminal charges for which he or she was admitted into the drug treatment court, the court shall do either of the following:

(i) In the case of an individual who pled guilty to an offense that is not a traffic offense and who may be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall not enter a judgment of guilt or, in the case of a juvenile, shall not enter an adjudication of responsibility.

(ii) In the case of an individual who pled guilty to a traffic offense or who pled guilty to an offense but may not be eligible for discharge and dismissal pursuant to the agreement with the court and prosecutor upon successful completion of the drug treatment court program, the court shall enter a judgment of guilt or, in the case of a juvenile, shall enter an adjudication of responsibility.

(c) Pursuant to the agreement with the individual and the prosecutor, the court may either defer further proceedings as provided in section 1 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.1, or proceed to sentencing, as applicable in that case pursuant to that agreement, and place the individual on probation or other court supervision in the drug treatment court program with terms and conditions according to the agreement and as deemed necessary by the court.

(2) The court shall maintain jurisdiction over the drug treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile participant, the court may obtain jurisdiction over any parents or guardians of the juvenile in order to assist in ensuring the juvenile's continued participation and successful completion of the drug treatment court, and may issue and enforce any appropriate and necessary order regarding the parent or guardian of a juvenile participant.

(3) The drug treatment court shall cooperate with, and act in a collaborative manner with, the prosecutor, defense counsel, treatment providers, the local substance abuse coordinating agency for that circuit or district, probation departments, and, to the extent possible, local law enforcement, the department of corrections, and community corrections agencies.

(4) The drug treatment court may require an individual admitted into the court to pay a reasonable drug court fee that is reasonably related to the cost to the court for administering the drug treatment court program as provided in the memorandum of understanding under section 1062. The clerk of the drug treatment court shall transmit the fees collected to the treasurer of the local funding unit at the end of each month.

(5) The drug treatment court may request that the department of state police provide to the court information contained in the law enforcement information network pertaining to an individual applicant's criminal history for purposes of determining the individual's compliance with all court orders. The department of state police shall provide the information requested by a drug treatment court under this subsection.

600.1072 Monitoring, testing, and assessments to be provided to participants.

Sec. 1072. (1) A drug treatment court shall provide a drug court participant with all of the following:

(a) Consistent, continual, and close monitoring of the participant and interaction among the court, treatment providers, probation, and the participant.

(b) Mandatory periodic and random testing for the presence of any controlled substance or alcohol in a participant's blood, urine, or breath, using to the extent practicable the best available, accepted, and scientifically valid methods.

(c) Periodic evaluation assessments of the participant's circumstances and progress in the program.

(d) A regimen or strategy of appropriate and graduated but immediate rewards for compliance and sanctions for noncompliance, including, but not limited to, the possibility of incarceration or confinement.

(e) Substance abuse treatment services, relapse prevention services, education, and vocational opportunities as appropriate and practicable.

(2) Any statement or other information obtained as a result of participating in assessment, treatment, or testing while in a drug treatment court is confidential and is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be used in a criminal prosecution, unless it reveals criminal acts other than, or inconsistent with, personal drug use.

600.1074 Continuing and completing drug treatment court program; requirements.

Sec. 1074. (1) In order to continue to participate in and successfully complete a drug treatment court program, an individual shall comply with all of the following:

(a) Pay all court ordered fines and costs, including minimum state costs.

(b) Pay the drug treatment court fee allowed under section 1070(4).

(c) Pay all court ordered restitution.

(d) Pay all crime victims rights assessments under section 5 of 1989 PA 196, MCL 780.905.

(e) Comply with all court orders, violations of which may be sanctioned according to the court's discretion.

(2) The drug treatment court must be notified if the participant is accused of a new crime, and the judge shall consider whether to terminate the participant's participation in the drug treatment program in conformity with the memorandum of understanding under section 1062. If the participant is convicted of a felony for an offense that occurred after the defendant is admitted to drug treatment court, the judge shall terminate the participant's participation in the program.

(3) The court shall require that a participant pay all fines, costs, the fee, restitution, and assessments described in subsection (1)(a) to (d) and pay all, or make substantial contributions toward payment of, the costs of the treatment and the drug treatment court program services provided to the participant, including, but not limited to, the costs of urinalysis and such testing or any counseling provided. However, if the court determines that the payment of fines, the fee, or costs of treatment under this subsection would be a substantial hardship for the individual or would interfere with the individual's substance abuse treatment, the court may waive all or part of those fines, the fee, or costs of treatment.

600.1076 Completion or termination of drug treatment program; discharge and dismissal of proceedings; effect of termination.

Sec. 1076. (1) Upon completion or termination of the drug treatment court program, the court shall find on the record or place a written statement in the court file as to whether the participant completed the program successfully or whether the individual's

participation in the program was terminated and, if it was terminated, the reason for the termination.

(2) For a participant who successfully completes probation or other court supervision and whose proceedings were deferred or who was sentenced pursuant to section 1070, the court shall comply with the agreement made with the participant upon admission into the drug treatment court, or the agreement as it was altered after admission by the court with approval of the participant and the prosecutor for that jurisdiction as provided in subsections (3) to (8).

(3) If an individual is participating in a drug treatment court under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11, section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430, the court shall proceed pursuant to the applicable section of law. There may only be 1 discharge or dismissal under this subsection.

(4) Except as provided in subsection (5), the court, with the agreement of the prosecutor and in conformity with the terms and conditions of the memorandum of understanding under section 1062, may discharge and dismiss the proceedings against an individual who meets all of the following criteria:

(a) The individual has participated in a drug treatment court for the first time.

(b) The individual has successfully completed the terms and conditions of the drug treatment court program.

(c) The individual is not required by law to be sentenced to a correctional facility for the crimes to which he or she has pled guilty.

(d) The individual is not currently charged with and has not pled guilty to a traffic offense.

(e) The individual has not previously been subject to more than 1 of any of the following:

(i) Assignment to the status of youthful trainee under section 11 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11.

(ii) The dismissal of criminal proceedings against him or her under section 7411 of the public health code, 1978 PA 368, MCL 333.7411, section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, section 350a of the Michigan penal code, 1931 PA 328, MCL 750.350a, or section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

(5) The court may grant a discharge and dismissal of a domestic violence offense only if all of the following circumstances apply:

(a) The individual has not previously had proceedings dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(b) The domestic violence offense is eligible to be dismissed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(c) The individual fulfills the terms and conditions imposed under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a, and the discharge and dismissal of proceedings are processed and reported under section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(6) A discharge and dismissal under subsection (4) shall be without adjudication of guilt or, for a juvenile, without adjudication of responsibility and are not a conviction or a

finding of responsibility for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime or, for a juvenile, a finding of responsibility. There may only be 1 discharge and dismissal under subsection (4) for an individual. The court shall send a record of the discharge and dismissal to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network with an indication of participation by the individual in a drug treatment court. All records of the proceedings regarding the participation of the individual in the drug treatment court pursuant to subsection (4) are closed to public inspection, and are exempt from public disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, but shall be open to the courts of this state, another state, or the United States, the department of corrections, law enforcement personnel, and prosecutors only for use in the performance of their duties or to determine whether an employee of the court, department, law enforcement agency, or prosecutor's office has violated his or her conditions of employment or whether an applicant meets criteria for employment with the court, department, law enforcement agency, or prosecutor's office. The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and the discharge and dismissal under this subsection.

(7) Except as provided in subsection (3), (4), or (5), if an individual has successfully completed probation or other court supervision, the court shall do the following:

(a) If the court has not already entered an adjudication of guilt or responsibility, enter an adjudication of guilt or, in the case of a juvenile, enter a finding or adjudication of responsibility.

(b) If the court has not already sentenced the individual, proceed to sentencing or, in the case of a juvenile, disposition pursuant to the agreement.

(c) Send a record of the conviction and sentence or the finding or adjudication of responsibility and disposition to the criminal justice information center of the department of state police. The department of state police shall enter that information into the law enforcement information network with an indication of successful participation by the individual in a drug treatment court.

(8) For a participant whose participation is terminated or who fails to successfully complete the drug treatment court program, the court shall enter an adjudication of guilt, or, in the case of a juvenile, a finding of responsibility, if the entering of guilt or adjudication of responsibility was deferred pursuant to section 1070, and shall then proceed to sentencing or disposition of the individual for the original charges to which the individual pled guilty or, if a juvenile, to which the juvenile admitted responsibility prior to admission to the drug treatment court. Upon sentencing or disposition of the individual, the court shall send a record of that sentence or disposition and the individual's unsuccessful participation in the drug treatment court to the criminal justice information center of the department of state police, and the department of state police shall enter that information into the law enforcement information network, with an indication that the individual unsuccessfully participated in a drug treatment court.

600.1078 Collection and maintenance of information.

Sec. 1078. (1) Each drug treatment court shall collect and provide data on each individual applicant and participant and the entire program as required by the state court administrative office.

(2) Each drug treatment court shall maintain files or databases on each individual applicant or referral who is denied or refused admission to the program, including the

reasons for the denial or rejection, the criminal history of the applicant, the preadmission evaluation and assessment, and other demographic information as required by the state court administrative office.

(3) Each drug treatment court shall maintain files or databases on each individual participant in the program for review and evaluation as well as treatment, as directed by the state court administrative office. The information collected for evaluation purposes must include a minimum standard data set developed and specified by the state court administrative office. This information should be maintained in the court files or otherwise accessible by the courts and the state court administrative office and, as much as practicable, should include all of the following:

(a) Location and contact information for each individual participant, both upon admission and termination or completion of the program for follow-up reviews, and third party contact information.

(b) Significant transition point dates, including dates of referral, enrollment, new court orders, violations, detentions, changes in services or treatments provided, discharge for completion or termination, any provision of after-care, and after-program recidivism.

(c) The individual's precipitating offenses and significant factual information, source of referral, and all drug treatment court evaluations and assessments.

(d) Treatments provided, including intensity of care or dosage, and their outcomes.

(e) Other services or opportunities provided to the individual and resulting use by the individual, such as education or employment and the participation of and outcome for that individual.

(f) Reasons for discharge, completion, or termination of the program.

(4) As directed by the state court administrative office, after an individual is discharged either upon completion or termination of the program, the drug treatment court should conduct, as much as practicable, follow-up contacts with and reviews of participants for key outcome indicators, such as drug use, recidivism, and employment, as frequently and for a period of time determined by the state court administrative office based upon the nature of the drug treatment court and the nature of the participant. These follow-up contacts and reviews of former participants are not extensions of the court's jurisdiction over the individuals.

(5) Each drug treatment court shall provide to the state court administrative office all information requested by the state court administrative office.

(6) With the approval and at the discretion of the supreme court, the state court administrative office shall be responsible for evaluating and collecting data on the performance of drug treatment courts in this state as follows:

(a) The state court administrative office shall provide an annual review of the performance of drug treatment courts in this state to the minority and majority party leaders in the senate and house of representatives, the state drug treatment court advisory board created under section 1082, the governor, and the supreme court.

(b) The state court administrative office shall provide standards for drug treatment courts in this state including, but not limited to, developing a list of approved measurement instruments and indicators for data collection and evaluation. These standards must provide comparability between programs and their outcomes.

(c) The state court administrative office's evaluation plans should include appropriate and scientifically valid research designs, which, as soon as practicable, should include the use of comparison and control groups.

(7) The information collected under this section regarding individual applicants to drug treatment court programs for the purpose of application to that program and participants who have successfully completed drug treatment courts shall be exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

600.1080 Disposition of funds.

Sec. 1080. (1) The supreme court is responsible for the expenditure of state funds for the establishment and operation of drug treatment courts. Federal funds provided to the state for the operation of drug treatment courts shall be distributed by the department of community health or the appropriate state agency as otherwise provided by law.

(2) The state treasurer may receive money or other assets from any source for deposit into the appropriate state fund or funds for the purposes described in subsection (1).

(3) Each drug treatment court shall report quarterly to the state court administrative office on the funds received and expended by that drug treatment court, in a manner prescribed by the state court administrative office.

600.1082 Drug treatment court advisory committee.

Sec. 1082. (1) A state drug treatment court advisory committee is created in the legislative council. The state drug treatment court advisory committee consists of the following members:

(a) The state court administrator or his or her designee.

(b) Sixteen members appointed jointly by the speaker of the house of representatives and the senate majority leader, as follows:

(i) A circuit court judge who has presided for at least 2 years over a drug treatment court.

(ii) A district court judge who has presided for at least 2 years over a drug treatment court.

(iii) A judge of the family division of circuit court who has presided for at least 2 years over a juvenile drug treatment court program.

(iv) A circuit or district court judge who has presided for at least 2 years over an alcohol treatment court.

(v) A court administrator who has worked for at least 2 years with a drug or alcohol treatment court.

(vi) A prosecuting attorney who has worked for at least 2 years with a drug or alcohol treatment court.

(vii) An individual representing law enforcement in a jurisdiction that has had a drug or alcohol treatment court for at least 2 years.

(viii) An individual representing drug treatment providers who has worked at least 2 years with a drug or alcohol treatment court.

(ix) An individual representing defense attorneys, who has worked for at least 2 years with drug or alcohol treatment courts.

(x) An individual who has successfully completed a drug treatment court program.

(xi) An individual who has successfully completed a juvenile drug treatment court program.

(xii) An individual who is an advocate for the rights of crime victims.

(xiii) An individual representing the Michigan association of drug court professionals.

(xiv) An individual who is a probation officer and has worked for at least 2 years for a drug or alcohol treatment court.

(xv) An individual representing a substance abuse coordinating agency.

(xvi) An individual representing domestic violence service provider programs that receive funding from the state domestic violence prevention and treatment board.

(2) Members of the advisory committee shall serve without compensation. However, members of the advisory committee may be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee.

(3) Members of the advisory committee shall serve for terms of 4 years each, except that the members first appointed shall serve terms as follows:

(a) The members appointed under subsection (1)(b)(i) to (v) shall serve terms of 4 years each.

(b) The members appointed under subsection (1)(b)(vi) to (x) shall serve terms of 3 years each.

(c) The members appointed under subsection (1)(b)(xi) to (xvi) shall serve terms of 2 years each.

(4) If a vacancy occurs in an appointed membership on the advisory committee, the appointing authority shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The appointing authority may remove an appointed member of the advisory committee for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(6) The first meeting of the advisory committee shall be called by the speaker of the house of representatives and the senate majority leader. At the first meeting, the advisory committee shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the advisory committee shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 9 or more members.

(7) A majority of the members of the advisory committee constitute a quorum for the transaction of business at a meeting of the advisory committee. A majority of the members present and serving are required for official action of the advisory committee.

(8) The business that the advisory committee may perform shall be conducted at a public meeting of the advisory committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) A writing prepared, owned, used, in the possession of, or retained by the advisory committee in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) The advisory committee shall monitor the effectiveness of drug treatment courts and the availability of funding for those courts and shall present annual recommendations to the legislature and supreme court regarding proposed statutory changes regarding drug treatment courts.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2005.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

[No. 225]**(SB 999)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 7411 (MCL 333.7411), as amended by 2002 PA 79.

The People of the State of Michigan enact:

333.7411 Probation of individual with no previous conviction; entering adjudication of guilt upon violation of probation; discharge and dismissal without adjudication of guilt; nonpublic record of arrest and discharge and dismissal; effect of civil fine for first violation; requiring individual to attend course of instruction or rehabilitation program; failure to complete instruction or program as violation of probation; screening and assessment; participation in rehabilitative programs; payment of costs; failure to complete program as violation of probation.

Sec. 7411. (1) When an individual who has not previously been convicted of an offense under this article or under any statute of the United States or of any state relating to narcotic drugs, coca leaves, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 7403(2)(a)(v), 7403(2)(b), (c), or (d), or of use of a controlled substance under section 7404, or possession or use of an imitation controlled substance under section 7341 for a second time, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that shall include, but are not limited to, payment of a probation supervision fee as prescribed in section 3c of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3c. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal

under this section shall be without adjudication of guilt and, except as provided in subsection (2)(b), is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under section 7413. There may be only 1 discharge and dismissal under this section as to an individual.

(2) The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to any or all of the following:

(a) To a court, police agency, or office of a prosecuting attorney upon request for the purpose of showing that a defendant in a criminal action involving the possession or use of a controlled substance, or an imitation controlled substance as defined in section 7341, covered in this article has already once utilized this section.

(b) To a court, police agency, or prosecutor upon request for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(c) To the state department of corrections, a law enforcement agency, a court, or the office of a prosecuting attorney upon request of the department, law enforcement agency, court, or office of a prosecuting attorney, subject to all of the following conditions:

(i) At the time of the request, the individual is an employee of the department, law enforcement agency, court, or office of prosecuting attorney or an applicant for employment with the department, law enforcement agency, court, or office of prosecuting attorney.

(ii) If the individual is an employee of the department, law enforcement agency, court, or prosecuting attorney, the date on which the court placed the individual on probation occurred after March 25, 2002.

(iii) The record shall be used by the department of corrections, law enforcement agency, court, or prosecuting attorney only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(3) For purposes of this section, a person subjected to a civil fine for a first violation of section 7341(4) shall not be considered to have previously been convicted of an offense under this article.

(4) Except as provided in subsection (5), if an individual is convicted of a violation of this article, other than a violation of section 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i) to (iv), the court as part of the sentence, during the period of confinement or the period of probation, or both, may require the individual to attend a course of instruction or rehabilitation program approved by the department on the medical, psychological, and social effects of the misuse of drugs. The court may order the individual to pay a fee, as approved by the director, for the instruction or program. Failure to complete the instruction or program shall be considered a violation of the terms of probation.

(5) If an individual is convicted of a second violation of section 7341(4), before imposing sentence under subsection (1), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence imposed under subsection (1), the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services. Failure to complete a program shall be considered a violation of the terms of the probation.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 998 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

Compiler's note: Senate Bill No. 998, referred to in enacting section 2, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 224, Eff. Jan. 1, 2005.

[No. 226]**(SB 1000)**

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 13 and 14 of chapter II (MCL 762.13 and 762.14), section 13 as amended by 2002 PA 483 and section 14 as amended by 1994 PA 286.

The People of the State of Michigan enact:

CHAPTER II

762.13 Assignment as youthful trainee; duties of court; fees; registration under sex offenders registration act.

Sec. 13. (1) If an individual is assigned to the status of a youthful trainee and the underlying charge is an offense punishable by imprisonment for a term of more than 1 year, the court shall do 1 of the following:

(a) Commit the individual to the department of corrections for custodial supervision and training for not more than 3 years in an institutional facility designated by the department for that purpose.

(b) Place the individual on probation for not more than 3 years subject to probation conditions as provided in section 3 of chapter XI. The terms and conditions of probation may include participation in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082.

(c) Commit the individual to the county jail for not more than 1 year.

(2) If an individual is assigned to the status of youthful trainee and the underlying charge is for an offense punishable by imprisonment for 1 year or less, the court shall place the individual on probation for not more than 2 years, subject to probation conditions as provided in section 3 of chapter XI.

(3) An individual placed on probation pursuant to this section shall be under the supervision of a probation officer. Upon commitment to and receipt by the department of corrections, a youthful trainee shall be subject to the direction of the department of corrections.

(4) If an individual is committed to the county jail under subsection (1)(c) or as a probation condition, the court may authorize work release or release for educational purposes.

(5) The court shall include in each order of probation for an individual placed on probation under this section that the department of corrections shall collect a probation supervision fee of not more than \$135.00 multiplied by the number of months of probation ordered, but not more than 36 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$ 250.00-499.99	\$ 10.00
\$ 500.00-749.99	\$ 25.00
\$ 750.00-999.99	\$ 40.00
\$1,000.00 or more	5% of projected monthly income, but not more than \$135.00

The court may order a higher amount than indicated by the table, up to the maximum of \$135.00 multiplied by the number of months of probation ordered but not more than 36 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(6) If the individual is assigned to youthful trainee status for a listed offense enumerated in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the department of corrections, sheriff or his or her designee, or the individual's probation officer shall register the individual or accept the individual's registration as provided under that act.

762.14 Discharge of individual and dismissal of proceedings upon final release; assignment as youthful trainee not conviction; compliance with sex offenders registration; proceedings closed to public inspection; inspection by courts, state departments, and law enforcement personnel.

Sec. 14. (1) If consideration of an individual as a youthful trainee is not terminated and the status of youthful trainee is not revoked as provided in section 12 of this chapter, upon final release of the individual from the status as youthful trainee, the court shall discharge the individual and dismiss the proceedings.

(2) An assignment of an individual to the status of youthful trainee as provided in this chapter is not a conviction for a crime and, except as provided in subsection (3), the individual assigned to the status of youthful trainee shall not suffer a civil disability or loss of right or privilege following his or her release from that status because of his or her assignment as a youthful trainee.

(3) An individual assigned to youthful trainee status for a listed offense enumerated in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, is required to comply with the requirements of that act.

(4) Unless the court enters a judgment of conviction against the individual for the criminal offense under section 12 of this chapter, all proceedings regarding the disposition of the criminal charge and the individual's assignment as youthful trainee shall be closed to public inspection, but shall be open to the courts of this state, the department of corrections, the family independence agency, law enforcement personnel, and prosecuting attorneys for use only in the performance of their duties.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2005.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 998 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

Compiler's note: Senate Bill No. 998, referred to in enacting section 2, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 224, Eff. Jan. 1, 2005.

[No. 227]

(SB 599)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts," by amending section 6 (MCL 388.1606), as amended by 2003 PA 158.

The People of the State of Michigan enact:

388.1606 Additional definitions.

Sec. 6. (1) “Center program” means a program operated by a district or intermediate district for special education pupils from several districts in programs for the autistically impaired, trainable mentally impaired, severely mentally impaired, severely multiply impaired, hearing impaired, physically and otherwise health impaired, and visually impaired. Programs for emotionally impaired pupils housed in buildings that do not serve regular education pupils also qualify. Unless otherwise approved by the department, a center program either shall serve all constituent districts within an intermediate district or shall serve several districts with less than 50% of the pupils residing in the operating district. In addition, special education center program pupils placed part-time in noncenter programs to comply with the least restrictive environment provisions of section 612 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1412, may be considered center program pupils for pupil accounting purposes for the time scheduled in either a center program or a noncenter program.

(2) “District and high school graduation rate” means the annual completion and pupil dropout rate that is calculated by the center pursuant to nationally recognized standards.

(3) “District and high school graduation report” means a report of the number of pupils, excluding migrant and adult, in the district for the immediately preceding school year, adjusted for those pupils who have transferred into or out of the district or transferred to alternative programs, who leave high school with a diploma or other credential.

(4) “Membership”, except as otherwise provided in this act, means for a district, public school academy, university school, or intermediate district the sum of the product of .8 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year, plus the product of .2 times the final audited count from the supplemental count day for the immediately preceding school year. All pupil counts used in this subsection are as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit. The amount of the foundation allowance for a pupil in membership is determined under section 20. In making the calculation of membership, all of the following, as applicable, apply to determining the membership of a district, public school academy, university school, or intermediate district:

(a) Except as otherwise provided in this subsection, and pursuant to subsection (6), a pupil shall be counted in membership in the pupil’s educating district or districts. An individual pupil shall not be counted for more than a total of 1.0 full-time equated membership.

(b) If a pupil is educated in a district other than the pupil’s district of residence, if the pupil is not being educated as part of a cooperative education program, if the pupil’s district of residence does not give the educating district its approval to count the pupil in membership in the educating district, and if the pupil is not covered by an exception specified in subsection (6) to the requirement that the educating district must have the approval of the pupil’s district of residence to count the pupil in membership, the pupil shall not be counted in membership in any district.

(c) A special education pupil educated by the intermediate district shall be counted in membership in the intermediate district.

(d) A pupil placed by a court or state agency in an on-grounds program of a juvenile detention facility, a child caring institution, or a mental health institution, or a pupil

funded under section 53a, shall be counted in membership in the district or intermediate district approved by the department to operate the program.

(e) A pupil enrolled in the Michigan schools for the deaf and blind shall be counted in membership in the pupil's intermediate district of residence.

(f) A pupil enrolled in a vocational education program supported by a millage levied over an area larger than a single district or in an area vocational-technical education program established pursuant to section 690 of the revised school code, MCL 380.690, shall be counted only in the pupil's district of residence.

(g) A pupil enrolled in a university school shall be counted in membership in the university school.

(h) A pupil enrolled in a public school academy shall be counted in membership in the public school academy.

(i) For a new district, university school, or public school academy beginning its operation after December 31, 1994, membership for the first 2 full or partial fiscal years of operation shall be determined as follows:

(i) If operations begin before the pupil membership count day for the fiscal year, membership is the average number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year and on the supplemental count day for the current school year, as determined by the department and calculated by adding the number of pupils registered for attendance on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(ii) If operations begin after the pupil membership count day for the fiscal year and not later than the supplemental count day for the fiscal year, membership is the final audited count of the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the supplemental count day for the current school year.

(j) If a district is the authorizing body for a public school academy, then, in the first school year in which pupils are counted in membership on the pupil membership count day in the public school academy, the determination of the district's membership shall exclude from the district's pupil count for the immediately preceding supplemental count day any pupils who are counted in the public school academy on that first pupil membership count day who were also counted in the district on the immediately preceding supplemental count day.

(k) In a district, public school academy, university school, or intermediate district operating an extended school year program approved by the superintendent, a pupil enrolled, but not scheduled to be in regular daily attendance on a pupil membership count day, shall be counted.

(l) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except a special education pupil who is enrolled and receiving instruction in a special education program or service approved by the department and not having a high school diploma who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(m) An individual who has obtained a high school diploma shall not be counted in membership. An individual who has obtained a general education development (G.E.D.) certificate shall not be counted in membership. An individual participating in a job training program funded under former section 107a or a jobs program funded under former section 107b, administered by the Michigan strategic fund or the department of

career development, or participating in any successor of either of those 2 programs, shall not be counted in membership.

(n) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy, and the instructional time scheduled for the pupil in the district or intermediate district shall be included in the full-time equated membership determination under subdivision (q). However, for pupils receiving instruction in both a public school academy and in a district or intermediate district but not as a part of a cooperative education program, the following apply:

(i) If the public school academy provides instruction for at least 1/2 of the class hours specified in subdivision (q), the public school academy shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the public school academy provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the district or intermediate district providing the remainder of the hours of instruction.

(ii) If the public school academy provides instruction for less than 1/2 of the class hours specified in subdivision (q), the district or intermediate district providing the remainder of the hours of instruction shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the district or intermediate district provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the public school academy.

(o) An individual less than 16 years of age as of September 1 of the current school year who is being educated in an alternative education program shall not be counted in membership if there are also adult education participants being educated in the same program or classroom.

(p) The department shall give a uniform interpretation of full-time and part-time memberships.

(q) The number of class hours used to calculate full-time equated memberships shall be consistent with section 101(3). In determining full-time equated memberships for pupils who are enrolled in a postsecondary institution, a pupil shall not be considered to be less than a full-time equated pupil solely because of the effect of his or her postsecondary enrollment, including necessary travel time, on the number of class hours provided by the district to the pupil.

(r) Full-time equated memberships for pupils in kindergarten shall be determined by dividing the number of class hours scheduled and provided per year per kindergarten pupil by a number equal to 1/2 the number used for determining full-time equated memberships for pupils in grades 1 to 12.

(s) For a district, university school, or public school academy that has pupils enrolled in a grade level that was not offered by the district, university school, or public school academy in the immediately preceding school year, the number of pupils enrolled in that grade level to be counted in membership is the average of the number of those pupils enrolled and in regular daily attendance on the pupil membership count day and the supplemental count day of the current school year, as determined by the department. Membership shall be calculated by adding the number of pupils registered for attendance in that grade level on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(t) A pupil enrolled in a cooperative education program may be counted in membership in the pupil's district of residence with the written approval of all parties to the cooperative agreement.

(u) If, as a result of a disciplinary action, a district determines through the district's alternative or disciplinary education program that the best instructional placement for a pupil is in the pupil's home, if that placement is authorized in writing by the district superintendent and district alternative or disciplinary education supervisor, and if the district provides appropriate instruction as described in this subdivision to the pupil at the pupil's home, the district may count the pupil in membership on a pro rata basis, with the proration based on the number of hours of instruction the district actually provides to the pupil divided by the number of hours specified in subdivision (q) for full-time equivalency. For the purposes of this subdivision, a district shall be considered to be providing appropriate instruction if all of the following are met:

(i) The district provides at least 2 nonconsecutive hours of instruction per week to the pupil at the pupil's home under the supervision of a certificated teacher.

(ii) The district provides instructional materials, resources, and supplies, except computers, that are comparable to those otherwise provided in the district's alternative education program.

(iii) Course content is comparable to that in the district's alternative education program.

(iv) Credit earned is awarded to the pupil and placed on the pupil's transcript.

(v) A pupil enrolled in an alternative or disciplinary education program described in section 25 shall be counted in membership in the district or public school academy that expelled the pupil.

(w) If a pupil was enrolled in a public school academy on the pupil membership count day, if the public school academy's contract with its authorizing body is revoked, and if the pupil enrolls in a district within 45 days after the pupil membership count day, the department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.

(x) For a public school academy that has been in operation for at least 2 years and that suspended operations for at least 1 semester and is resuming operations, membership is the sum of the product of .8 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the first pupil membership count day or supplemental count day, whichever is first, occurring after operations resume, plus the product of .2 times the final audited count from the most recent pupil membership count day or supplemental count day that occurred before suspending operations, as determined by the superintendent.

(y) If a district's membership for a particular fiscal year, as otherwise calculated under this subsection, would be less than 1,550 pupils and the district has 4.5 or fewer pupils per square mile, as determined by the department, the district's membership shall be considered to be the membership figure calculated under this subdivision. If a district educates and counts in its membership pupils in grades 9 to 12 who reside in a contiguous district that does not operate grades 9 to 12 and if 1 or both of the affected districts request the department to use the determination allowed under this sentence, the department shall include the square mileage of both districts in determining the number of pupils per square mile for each of the districts for the purposes of this subdivision. The membership figure calculated under this subdivision is the greater of the following:

(i) The average of the district's membership for the 3-fiscal-year period ending with that fiscal year, calculated by adding the district's actual membership for each of those 3 fiscal

years, as otherwise calculated under this subsection, and dividing the sum of those 3 membership figures by 3.

(ii) The district's actual membership for that fiscal year as otherwise calculated under this subsection.

(z) If a public school academy that is not in its first or second year of operation closes at the end of a school year and does not reopen for the next school year, the department shall adjust the membership count of the district in which a former pupil of the public school academy enrolls and is in regular daily attendance for the next school year to ensure that the district receives the same amount of membership aid for the pupil as if the pupil were counted in the district on the supplemental count day of the preceding school year.

(5) "Public school academy" means a public school academy, urban high school academy, or strict discipline academy operating under the revised school code.

(6) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence is not required for any of the following:

(a) A nonpublic part-time pupil enrolled in grades 1 to 12 in accordance with section 166b.

(b) A pupil receiving 1/2 or less of his or her instruction in a district other than the pupil's district of residence.

(c) A pupil enrolled in a public school academy or university school.

(d) A pupil enrolled in a district other than the pupil's district of residence under an intermediate district schools of choice pilot program as described in section 91a or former section 91 if the intermediate district and its constituent districts have been exempted from section 105.

(e) A pupil enrolled in a district other than the pupil's district of residence but within the same intermediate district if the educating district enrolls nonresident pupils in accordance with section 105.

(f) A pupil enrolled in a district other than the pupil's district of residence if the pupil has been continuously enrolled in the educating district since a school year in which the pupil enrolled in the educating district under section 105 or 105c and in which the educating district enrolled nonresident pupils in accordance with section 105 or 105c.

(g) A pupil who has made an official written complaint or whose parent or legal guardian has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that the pupil has been the victim of a criminal sexual assault or other serious assault, if the official complaint either indicates that the assault occurred at school or that the assault was committed by 1 or more other pupils enrolled in the school the pupil would otherwise attend in the district of residence or by an employee of the district of residence. A person who intentionally makes a false report of a crime to law enforcement officials for the purposes of this subdivision is subject to section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, which provides criminal penalties for that conduct. As used in this subdivision:

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

(ii) "Serious assault" means an act that constitutes a felony violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, or that constitutes an assault and infliction of serious or aggravated injury under section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a.

(h) A pupil enrolled in a district located in a contiguous intermediate district, as described in section 105c, if the educating district enrolls those nonresident pupils in accordance with section 105c.

(i) A pupil whose district of residence changed after the pupil membership count day and before the supplemental count day and who continues to be enrolled on the supplemental count day as a nonresident in the district in which he or she was enrolled as a resident on the pupil membership count day of the same school year.

(j) A pupil enrolled in an alternative education program operated by a district other than his or her district of residence who meets 1 or more of the following:

(i) The pupil has been suspended or expelled from his or her district of residence for any reason, including, but not limited to, a suspension or expulsion under section 1310, 1311, or 1311a of the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

(ii) The pupil had previously dropped out of school.

(iii) The pupil is pregnant or is a parent.

(iv) The pupil has been referred to the program by a court.

(k) A pupil enrolled in the Michigan virtual high school, for the pupil's enrollment in the Michigan virtual high school.

(l) A pupil who is the child of a person who is employed by the district. As used in this subdivision, "child" includes an adopted child or legal ward.

However, if a district that is not a first class district educates pupils who reside in a first class district and if the primary instructional site for those pupils is located within the boundaries of the first class district, the educating district must have the approval of the first class district to count those pupils in membership. As used in this subsection, "first class district" means a district organized as a school district of the first class under the revised school code.

(7) "Pupil membership count day" of a district or intermediate district means:

(a) Except as provided in subdivision (b), the fourth Wednesday in September each school year.

(b) For a district or intermediate district maintaining school during the entire school year, the following days:

(i) Fourth Wednesday in July.

(ii) Fourth Wednesday in September.

(iii) Second Wednesday in February.

(iv) Fourth Wednesday in April.

(8) "Pupils in grades K to 12 actually enrolled and in regular daily attendance" means pupils in grades K to 12 in attendance and receiving instruction in all classes for which they are enrolled on the pupil membership count day or the supplemental count day, as applicable. A pupil who is absent from any of the classes in which the pupil is enrolled on the pupil membership count day or supplemental count day and who does not attend each of those classes during the 10 consecutive school days immediately following the pupil membership count day or supplemental count day, except for a pupil who has been excused by the district, shall not be counted as 1.0 full-time equated membership. In addition, a pupil who is excused from attendance on the pupil membership count day or supplemental count day and who fails to attend each of the classes in which the pupil is enrolled within 30 calendar days after the pupil membership count day or supplemental count day shall not be counted as 1.0 full-time equated membership. Pupils not counted as 1.0 full-time equated membership due to an absence from a class shall be counted as a prorated

membership for the classes the pupil attended. For purposes of this subsection, “class” means a period of time in 1 day when pupils and a certificated teacher or legally qualified substitute teacher are together and instruction is taking place.

(9) “Rule” means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) “The revised school code” means 1976 PA 451, MCL 380.1 to 380.1852.

(11) “School fiscal year” means a fiscal year that commences July 1 and continues through June 30.

(12) “State board” means the state board of education.

(13) “Superintendent”, unless the context clearly refers to a district or intermediate district superintendent, means the superintendent of public instruction described in section 3 of article VIII of the state constitution of 1963.

(14) “Supplemental count day” means the day on which the supplemental pupil count is conducted under section 6a.

(15) “Tuition pupil” means a pupil of school age attending school in a district other than the pupil’s district of residence for whom tuition may be charged. Tuition pupil does not include a pupil who is a special education pupil or a pupil described in subsection (6)(d) to (l). A pupil’s district of residence shall not require a high school tuition pupil, as provided under section 111, to attend another school district after the pupil has been assigned to a school district.

(16) “State school aid fund” means the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(17) “Taxable value” means the taxable value of property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(18) “Textbook” means a book that is selected and approved by the governing board of a district and that contains a presentation of principles of a subject, or that is a literary work relevant to the study of a subject required for the use of classroom pupils, or another type of course material that forms the basis of classroom instruction.

(19) “Total state aid” or “total state school aid” means the total combined amount of all funds due to a district, intermediate district, or other entity under all of the provisions of this act.

(20) “University school” means an instructional program operated by a public university under section 23 that meets the requirements of section 23.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

[No. 228]

(SB 1135)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other

natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” (MCL 324.101 to 324.90106) by adding sections 20517 and 20519.

The People of the State of Michigan enact:

324.20517 Laboratory data quality assurance advisory council; creation; membership; appointment; term of service; vacancy; meetings; quorum; compensation; reimbursement.

Sec. 20517. (1) The laboratory data quality assurance advisory council is created in an advisory capacity within the department.

(2) The council shall consist of all of the following individuals:

(a) A representative of a statewide business organization.

(b) A representative of commercial laboratories that do not also function as in-house laboratories.

(c) A representative of in-house laboratories.

(d) A representative of public laboratories.

(e) A representative of the Michigan municipal league or a successor organization.

(f) A representative of the general public.

(g) The director or his or her designee.

(3) The members of the council described in subsection (2)(a) to (f) shall be appointed by the governor. The members first appointed to the council shall be appointed within 90 days after the effective date of this section.

(4) Members of the council shall serve until a successor is appointed.

(5) If a vacancy occurs on the council, the unexpired term shall be filled in the same manner as the original appointment was made.

(6) The first meeting of the council shall be called by the director or his or her designee on the council. At the first meeting, the council shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the council shall meet at least quarterly, or more frequently at the call of the chairperson or if requested by 2 or more members.

(7) A majority of the members of the council constitute a quorum for the transaction of business at a meeting of the council. A majority of the members present and serving are required for official action of the council.

(8) The director or his or her designee shall serve on the council without any additional compensation. Other members of the council shall serve without compensation. However, members of the council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the council.

324.20519 Council; duties; disbandment.

Sec. 20519. (1) The council shall do all of the following:

(a) Monitor and evaluate the quality recognition program, including, but not limited to, both of the following:

(i) Whether commercial laboratories participating in the quality recognition program should or should not be required to participate in proficiency testing.

(ii) The structure and the appropriate scope of review of quality systems described in section 20505(4).

(b) Develop recommendations whether the program under this part should be retained, terminated, or replaced with another laboratory data quality assurance method.

(c) Evaluate the costs to private business of the program under this part and the costs to private business of implementing the recommendations under subdivision (b).

(d) Evaluate the first report of the auditor general under section 20513.

(e) Develop recommendations whether a commercial laboratory code of ethics is needed and, if so, what its content should be.

(f) Review the department's laboratory data acceptance requirements.

(g) Develop recommendations whether the department should provide additional technical and training assistance to commercial laboratories, in-house laboratories, and public laboratories.

(h) Submit to the governor, the senate majority leader, the speaker of the house of representatives, and the standing committees of the senate and house of representatives with primary responsibility for environmental protection issues reports on its findings under subdivisions (a) to (g). The council shall submit an interim report within 18 months after the effective date of this section and a final report by June 30, 2007.

(2) Effective 180 days after the council submits its final report as required by subsection (1)(h), the council is disbanded.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless both of the following bills of the 92nd Legislature are enacted into law:

(a) House Bill No. 5742.

(b) House Bill No. 5743.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

Compiler's note: House Bill No. 5742, referred to in enacting section 1, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 229, Imd. Eff. July 21, 2004.

House Bill No. 5743, also referred to in enacting section 1, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 230, Imd. Eff. July 21, 2004.

[No. 229]

(HB 5742)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding part 205.

The People of the State of Michigan enact:

PART 205 LABORATORY DATA QUALITY ASSURANCE

324.20501 Citation of part.

Sec. 20501. This part may be cited as the “V. Harry Adrounie laboratory data quality assurance act”.

324.20503 Definitions.

Sec. 20503. As used in this part:

(a) “Analytical data” means the qualitative or quantitative measurements generated by chemical, physical, biological, microbiological, radiological, or other scientific determination.

(b) “Calibration” means a set of operations that establish, under specified conditions, the relationship between values of quantities indicated by a measuring instrument or measuring system, or values represented by a material measure or a reference material, and the corresponding values realized by standards established as follows:

(i) In calibration of support equipment, through the use of reference standards that are traceable to the international system of units.

(ii) In calibration according to analytical methods, typically through the use of reference materials that are either purchased by the laboratory with a certificate of analysis or purity, or prepared by the laboratory using support equipment that has been calibrated or verified to meet specifications.

(c) “Commercial laboratory” means a privately owned laboratory that generates analytical data required under this act pertaining to the operations of a third person regulated under this act.

(d) “Council” means the laboratory data quality assurance advisory council created in section 20517.

(e) “Department” means the department of environmental quality.

(f) “Director” means the director of the department.

(g) “Fund” means the laboratory data quality recognition program fund created in section 20509.

(h) “In-house laboratory” means a privately owned laboratory that generates analytical data required under this act pertaining to the operations of the owner of that laboratory or an affiliate of the owner.

(i) “Laboratory” means a body that engages in calibration or testing, or both, at a specified location.

(j) “Proficiency testing” means a method of evaluating a laboratory’s performance under controlled conditions relative to a given set of criteria through analysis of unknown samples provided by an external source.

(k) “Public laboratory” means a municipal or other publicly owned laboratory that generates analytical data for submission to the department under this act.

(l) “Quality recognition program” means the laboratory data quality recognition program provided for in section 20505.

324.20505 Laboratory data quality recognition program; purpose; implementation; participation by commercial laboratory.

Sec. 20505. (1) The department shall implement a laboratory data quality recognition program to identify commercial laboratories that the department considers to be qualified to generate analytical data for submission to the department for compliance purposes under this act.

(2) Participation in the quality recognition program by a commercial laboratory is voluntary. A commercial laboratory shall not be restricted or prohibited from generating analytical data for submission to the department for compliance purposes under this act based on nonparticipation or unsuccessful participation in the quality recognition program.

(3) Each time the department lets a contract or contracts for state-funded laboratory work authorized under this act, the department shall use only those commercial laboratories that are successful participants in the quality recognition program. Exceptions may be made if desired analytical support services are not available from a commercial laboratory that is a successful participant in the quality recognition program.

(4) The quality recognition program shall determine whether the quality of analytical data is maintained through quality systems in which staff responsibilities and operational procedures are defined, documented, and subjected to an internal assessment by the commercial laboratory itself on a regular basis, with timely corrective action taken by the commercial laboratory as needed. The quality systems shall include quality assurance policies and quality control procedures and shall be documented in a written plan.

324.20507 Participation in quality recognition program; duties of commercial laboratory.

Sec. 20507. To participate in the quality recognition program, a commercial laboratory shall do all of the following:

- (a) Submit an application to the department.
- (b) Pay the department a fee based on the department's actual costs of administering the quality recognition program but not exceeding \$750.00 for an initial application or \$500.00 for a renewal application.
- (c) Grant the department access to the laboratory and laboratory records for inspections during normal business hours without prior notice.
- (d) If required by the department, participate in proficiency testing conducted by the department, the United States environmental protection agency, or any other nationally recognized proficiency testing program.

324.20509 Laboratory data quality recognition program fund; creation; disposition of fees; investment; lapse; expenditures.

Sec. 20509. (1) The laboratory data quality recognition program fund is created within the state treasury.

(2) Fees collected under section 20507 shall be deposited in the fund. The state treasurer may also receive money or other assets from any other source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only to administer the quality recognition program.

324.20511 Website; information to be posted; recognition or termination of participation.

Sec. 20511. (1) Subject to subsection (3), the department shall maintain and post on its website all of the following information:

- (a) A list of laboratories that have successfully participated in the quality recognition program together with a statement that substantially sets forth the provisions of section 20505(2) and (3).

(b) The types of analytical data with respect to which a laboratory successfully participated in the quality recognition program, if the laboratory successfully participated only with respect to certain types of analytical data.

(2) Subject to subsection (3), the successful participation of a commercial laboratory in the quality recognition program shall be recognized by the department as provided in subsection (1) and section 20505(3) for a 2-year period. A laboratory may apply under section 20507 to renew its participation in the quality recognition program.

(3) The department may terminate recognition of a commercial laboratory as a successful participant in the quality recognition program upon determining that the commercial laboratory no longer meets the standards for successful participation in the quality recognition program.

324.20515 Rules.

Sec. 20515. The department shall enforce this part and, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, may promulgate rules as it considers necessary to carry out its duties under this part. However, the department shall not promulgate any additional rules under this part after December 31, 2006.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 1135.
- (b) House Bill No. 5743.

This act is ordered to take immediate effect.
Approved July 21, 2004.
Filed with Secretary of State July 21, 2004.

Compiler's note: Senate Bill No. 1135, referred to in enacting section 1, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 228, Imd. Eff. July 21, 2004.

House Bill No. 5743, also referred to in enacting section 1, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 230, Imd. Eff. July 21, 2004.

[No. 230]

(HB 5743)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 20513.

The People of the State of Michigan enact:

324.20513 Performance post audits; conduct and report by auditor general.

Sec. 20513. (1) The auditor general shall conduct performance post audits covering all of the following:

(a) The quality of the analytical data generated by the department's environmental laboratory.

(b) The costs of operating the department's environmental laboratory relative to the costs of operating comparable private laboratories that meet the requirements for successful participation in the quality recognition program, to the extent sufficient data is available.

(c) The adequacy of the fees provided for in section 20507.

(2) The auditor general shall conduct and submit to the legislature a report on a performance post audit described in subsection (1) within 1 year after the effective date of this section and every 2 years thereafter.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) Senate Bill No. 1135.

(b) House Bill No. 5742.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

Compiler's note: Senate Bill No. 1135, referred to in enacting section 1, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 228, Imd. Eff. July 21, 2004.

House Bill No. 5742, also referred to in enacting section 1, was filed with the Secretary of State July 21, 2004, and became P.A. 2004, No. 229, Imd. Eff. July 21, 2004.

[No. 231]

(HB 5969)

AN ACT to amend 1990 PA 187, entitled "An act to regulate the equipment, maintenance, operation, and use of school buses and pupil transportation vehicles; to prescribe the qualifications of school bus and pupil transportation vehicle drivers; to prescribe the powers and duties of certain state and local governmental agencies; to create an advisory committee and to prescribe its powers and duties; and to prescribe remedies and penalties," by amending sections 15, 17, 19, and 55 (MCL 257.1815, 257.1817, 257.1819, and 257.1855), sections 17, 19, and 55 as amended by 2000 PA 49.

The People of the State of Michigan enact:

257.1815 Exterior lamps and signals on bus.

Sec. 15. The location, number, and color of all exterior lamps and signals on a school bus shall be in conformance with current United States department of transportation, federal motor vehicle safety regulations found in 49 CFR part 571 and in section 698 of the Michigan vehicle code, 1949 PA 300, MCL 257.698.

257.1817 Signal lights; stoplights; flasher lamps; applicability to school buses manufactured before October 1, 1990; conformance with federal regulations.

Sec. 17. (1) This section applies to school buses manufactured before October 1, 1990 that have not been retrofitted to meet the requirements of section 19.

(2) A school bus shall be equipped with signal lights mounted as high and widely spaced laterally as practicable that are capable of displaying to the front 2 overhead alternately flashing red lights located at the same level and to the rear 2 overhead alternately flashing red lights located at the same level. These lights shall have sufficient intensity to be visible from a distance of not less than 500 feet in normal sunlight.

(3) Overhead alternately flashing stoplights shall be operated by a manually operated switch and detached from any other instrument on the bus. A flashing light shall not be connected to the brakes or the service door on school buses manufactured before October 1, 1990. A 3-inch black area shall be provided around flasher lamps front and rear. Lamps indicating alternating flashing light operation shall be visible to the driver when in a normal seated position.

(4) Signal lights and stoplights under this section shall be in conformance with current United States department of transportation federal motor vehicle safety regulations found in 49 CFR part 571.

257.1819 Red and amber signal lights; applicability to new school buses.

Sec. 19. (1) This section applies to new school buses manufactured on or after October 1, 1990 and to school buses manufactured before October 1, 1990 that are retrofitted to meet the requirements of this section.

(2) A school bus shall be equipped with signal lights mounted as high and widely spaced laterally as practicable that are capable of displaying to the front 2 overhead alternately flashing red lights located at the same level and to the rear 2 overhead alternately flashing red lights located at the same level.

(3) In addition to the 4 red lights described in subsection (2), 4 amber lights shall be installed near each red signal light, at the same level, but closer to the vertical center line of the bus. The system of red and amber signal lights shall be wired so that the amber lights are energized manually, and the red lights are automatically energized, with the amber lights being automatically de-energized, when the bus service door is opened.

(4) The area around the lens of each overhead alternately flashing signal light and extending outward approximately 3 inches shall be painted black. In installations where there is no flat vertical portion of body immediately surrounding the entire lens of a light, a circular or square band of black approximately 3 inches wide, immediately below and to both sides of a lens, shall be painted on the body or roof area against which the signal light is seen from a distance of 500 feet along the axis of the vehicle. Visors or hoods with an appropriate black background to fit their shape and roofcap may also be used. These amber and red lights shall have sufficient intensity to be visible from a distance of not less than 500 feet in normal sunlight. Lights indicating alternately flashing light operation shall be visible to the driver when in a normal seated position.

257.1855 Actuation of alternately flashing lights; procedures for receiving and discharging pupils from bus; crossing road; prohibited stops; instruction on proper school bus etiquette; reimbursement; "required to cross the roadway" explained.

Sec. 55. (1) A school bus driver shall actuate alternately flashing lights only when the school bus is stopped or stopping on a highway or private road for the purpose of receiving or discharging pupils in the manner provided in this act. A school bus driver shall not actuate the alternately flashing lights when operating on a public highway or private road and transporting passengers primarily other than school pupils.

(2) The driver of a school bus while operating upon the public highways or private roadways open to the public shall receive or discharge pupils from the bus in the following manner:

(a) If pupils are required to cross the roadway, the driver of a school bus equipped with only the alternately flashing overhead red lights in accordance with section 17 shall activate the alternately flashing overhead red lights not less than 200 feet before the stop, stop the school bus on the roadway or private road to provide for the safety of the pupils being boarded or discharged, and continue to activate the alternately flashing overhead red lights while receiving or discharging pupils. The bus shall stop in the extreme right-hand lane when boarding or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(b) If the pupils are required to cross the roadway, the driver of a school bus equipped with red and amber alternately flashing overhead lights in accordance with section 19 shall activate the alternately flashing overhead amber lights not less than 200 feet before the stop, stop the bus on the roadway or private road to provide for the safety of the pupils being boarded or discharged, deactivate the alternately flashing overhead amber lights, and activate the alternately flashing overhead red lights while receiving or discharging pupils. The bus shall stop in the extreme right-hand lane for the purpose of boarding or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(c) If the pupils are not required to cross the roadway, the driver of a school bus equipped with only the alternately flashing overhead red lights in accordance with section 17 shall activate the alternately flashing overhead red lights not less than 200 feet before the stop, stop the bus as far off the roadway or private road as practicable to provide for the safety of the pupils being boarded or discharged, and continue to activate the alternately flashing overhead red lights while receiving or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(d) If the pupils are not required to cross the roadway, the driver of a school bus equipped with red and amber alternately flashing overhead lights in accordance with section 19 shall activate the alternately flashing overhead amber lights not less than 200 feet before the stop, stop the bus as far off the roadway or private road as practicable to provide for the safety of the pupils being boarded or discharged, deactivate the alternately flashing overhead amber lights, and activate the alternately flashing overhead red lights while receiving or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(e) If the pupils are not required to cross the roadway and where the road has adequate width for the school bus to be pulled to the far right of the roadway or private road allowing traffic to flow and to provide for the safety of pupils being boarded or discharged, the driver shall activate the hazard warning lights before the stop and continue to display the lights until the process of receiving or discharging passengers has been completed if the lawful speed limit is 45 miles per hour or less. Before resuming motion, the driver shall deactivate these lights. The driver of a school bus shall only use this procedure at stops where the school administrator or person or entity under contract with a school to provide pupil transportation services has approved its use. If this hazard

warning light option is not used, the driver shall use the appropriate procedure in subdivision (a), (b), (c), or (d) as if pupils were required to cross the roadway.

(f) Except as provided in subdivision (e), if the pupils are not required to cross the roadway and where the bus may be pulled off the roadway or private road or where the road has adequate width for the school bus to be pulled off to the far right of the roadway or private road leaving the normal traffic flow unobstructed and to provide for the safety of pupils being boarded or discharged, the driver shall activate the hazard warning lights before the stop and continue to display the lights until the process of receiving or discharging passengers has been completed. Before resuming motion, the driver shall deactivate these lights. The driver of a school bus shall only use this procedure at stops where the school administrator or entity under contract with a school to provide pupil transportation services has approved its use. If this hazard warning light option is not used, the driver shall use the appropriate procedure in subdivision (a), (b), (c), or (d) as if pupils were required to cross the roadway.

(g) The distance of not less than 200 feet required for light activation by this subsection shall be measured on the roadway or private road on which the stop is made for receiving or discharging pupils.

(3) Pupils crossing the roadway upon being discharged from a school bus shall cross in front of the stopped school bus. If a school district authorizes its school bus drivers to signal pupils to cross in front of the stopped school bus, the signal shall be uniform throughout the school district.

(4) The driver of a school bus shall not stop the bus for the purpose of receiving or discharging pupils in the following instances:

(a) Within 200 feet of a public or private roadway intersection unless the stop is approved by the school administrator or entity under contract with a school to provide pupil transportation services.

(b) Upon a limited access highway or freeway, or upon any other highway or roadway that has been divided into 2 roadways by leaving an intervening space, a physical barrier, or clearly divided sections so constructed as to impede vehicular traffic if the pupils are required to cross the roadway.

(c) Upon a roadway constructed or marked to permit 3 or more separate lanes of vehicular traffic in either direction if the pupils are required to cross the roadway.

(5) The driver of a school bus when using the alternately flashing overhead red lights shall not stop the bus on any highway or roadway for the purpose of receiving or discharging pupils under the following conditions:

(a) If the lawful speed limit is more than 35 miles per hour and the stopped bus is not clearly and continuously visible to approaching vehicles on that highway or roadway for at least 400 feet. When the distance from the stopped bus to the end of the highway or roadway is less than 400 feet, clear and continuous visibility must be available from the bus to the end of the highway or roadway.

(b) If the lawful speed limit is 35 miles per hour or less and the stopped bus is not clearly and continuously visible to approaching vehicles on that highway or roadway, for at least 200 feet. When the distance from the stopped bus to the end of the highway or roadway is less than 200 feet, clear and continuous visibility must be available from the bus to the end of the highway or roadway.

(c) Within 50 feet of an intersection if the intersection is controlled by a traffic control signal.

(6) A school may provide instruction on proper school bus etiquette which may include, but not be limited to, boarding and leaving the bus, evacuation of the bus in an emergency, and road crossing procedures and the correct hand signal in the district, if any. If a school uses school bus drivers for this instruction, the state board may reimburse the school for this training.

(7) For the purpose of this section, “required to cross the roadway” does not include crossing the roadway with the assistance of a traffic control signal, or with the assistance of a school crossing guard as defined in section 57b of the Michigan vehicle code, 1949 PA 300, MCL 257.57b, and applies only to the roadway on which the stop is being made.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

[No. 232]

(HB 5376)

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; 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 acts and parts of acts,” by amending section 1267 (MCL 380.1267), as amended by 1995 PA 289.

The People of the State of Michigan enact:

380.1267 School buildings; construction, addition, repair, or renovation; bids; exception; advertising; security; opening and reading of bids; rejection of bids; readvertising; applicability of section; adjustment of maximum amount.

Sec. 1267. (1) Before commencing construction of a new school building, or addition to or repair or renovation of an existing school building, except repair in emergency situations, the board of a school district or intermediate school district or board of directors of a public school academy, shall obtain competitive bids on all the material and labor required for the complete construction of a proposed new building or addition to or repair or renovation of an existing school building.

(2) The board, intermediate school board, or board of directors shall advertise for the bids required under subsection (1) by placing an advertisement for bids at least once in a newspaper of general circulation in the area where the building or addition is to be

constructed or where the repair or renovation of an existing building is to take place and by posting an advertisement for bids for at least 2 weeks on the department of management and budget website on a page on the website maintained for this purpose or on a website maintained by a school organization and designated by the department of management and budget for this purpose. If the department of management and budget designates a school organization website for this purpose, the department of management and budget shall indicate this fact on its website and include a link on its website to the school organization website.

(3) The advertisement for bids shall do all of the following:

(a) Specify the date and time by which all bids must be received by the board, intermediate school board, or board of directors.

(b) State that the board, intermediate school board, or board of directors will not consider or accept a bid received by the board, intermediate school board, or board of directors after the date and time specified for bid submission.

(c) Identify the time, date, and place of a public meeting at which the board, intermediate school board, or board of directors or its designee will open and read aloud each bid received by the board, intermediate school board, or board of directors by the date and time specified in subdivision (a).

(d) State that the bid shall be accompanied by a sworn and notarized statement disclosing any familial relationship that exists between the owner or any employee of the bidder and any member of the board, intermediate school board, or board of directors or the superintendent of the school district, intermediate superintendent of the intermediate school district, or chief executive officer of the public school academy. A board, intermediate school board, or board of directors shall not accept a bid that does not include this sworn and notarized disclosure statement.

(4) The board, intermediate school board, or board of directors shall require each bidder for a contract under this section to file with the board, intermediate school board, or board of directors security in an amount not less than 1/20 of the amount of the bid conditioned to secure the school district from loss or damage by reason of the withdrawal of the bid or by the failure of the bidder to enter a contract for performance, if the bid is accepted by the board, intermediate school board, or board of directors.

(5) The board, intermediate school board, or board of directors shall not open, consider, or accept a bid that the board, intermediate school board, or board of directors receives after the date and time specified for bid submission in the advertisement for bids described in subsection (3).

(6) At a public meeting identified in the advertisement for bids described in subsection (3), the board, intermediate school board, or board of directors or its designee shall open and read aloud each bid that the board, intermediate school board, or board of directors received at or before the time and date for bid submission specified in the advertisement for bids. The board, intermediate school board, or board of directors may reject any or all bids, and if all bids are rejected, shall readvertise in the manner required by this section.

(7) This section does not apply to buildings, renovations, or repairs costing less than \$17,932.00 or to repair work normally performed by school district, intermediate school board, or public school academy employees. The maximum amount specified in this subsection shall be adjusted each year by multiplying the amount for the immediately preceding year by the percentage by which the average consumer price index for all items for the 12 months ending August 31 of the year in which the adjustment is made differs from that index's average for the 12 months ending on August 31 of the immediately

preceding year and adding that product to the maximum amount that applied in the immediately preceding year, rounding to the nearest whole dollar.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

[No. 233]

(HB 4947)

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; 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 acts and parts of acts,” by amending section 614 (MCL 380.614), as amended by 2003 PA 299.

The People of the State of Michigan enact:

380.614 Board; election of members; resolution; notice of meeting; acting chairperson and secretary; open meeting; term; vacancy; nominating petition; signatures; filing petition and affidavit; ballots; filing fee.

Sec. 614. (1) Except as provided in section 615 and subject to section 642 of the Michigan election law, MCL 168.642, the members of the intermediate school board shall be elected biennially on the first Monday in June by an electoral body composed of 1 person designated by the board of each constituent school district.

(2) The board of a constituent district shall designate its representative to this electoral body by resolution adopted not earlier than 21 days before the date of this biennial election. The board shall consider the resolution at not less than 2 public meetings before adopting the resolution. The resolution shall be adopted by majority vote of the members serving on the board. In its resolution designating its representative, the board of a constituent district shall identify the candidate the board supports for each position to be filled on the intermediate school board and shall direct its representative to vote for that individual or individuals at least on the first ballot taken by the electoral body. The secretary of the intermediate school board shall send a notice by certified mail of the hour and place of the meeting of the electoral body described in subsection (1) to the secretary of the board of each constituent school district at least 10 days before the meeting. The president and secretary of the intermediate school board shall act as chairperson and

secretary at the meeting. The meeting of the electoral body shall be an open meeting conducted in the manner prescribed under the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) Except as provided in section 703, the term of office of each member elected to the intermediate school board is 6 years and begins on July 1 following election. Not more than 2 members of the intermediate school board shall be from the same school district unless there are fewer districts than there are positions to be filled.

(4) A vacancy shall be filled by the remaining members of the intermediate school board until the next biennial election at which time the vacancy shall be filled for the balance of the unexpired term. Notice of the vacancy shall be filed with the state board within 5 days after the vacancy occurs. If the vacancy is not filled within 30 days after it occurs, the vacancy shall be filled by the state board.

(5) Subject to subsection (7), a candidate for election to the intermediate school board shall be nominated by petitions that are signed by a number of school electors of the combined constituent school districts of the intermediate school district, as follows:

(a) If the population of the intermediate school district is less than 10,000 according to the most recent federal census, a minimum of 6 and a maximum of 20.

(b) If the population of the intermediate school district is 10,000 or more according to the most recent federal census, a minimum of 40 and a maximum of 100.

(6) A school elector may sign as many petitions as there are vacancies to fill. Nominating petitions and an affidavit as provided in section 558 of the Michigan election law, 1954 PA 116, MCL 168.558, shall be filed with the school district filing official not later than 30 days before the date of the biennial election under subsection (1). The school district filing official shall determine the sufficiency of the petitions and the eligibility of the candidates nominated. The school district filing official shall provide ballots for the biennial election, listing on the ballots the names of all candidates properly nominated. The chairperson of the biennial election meeting may accept nominations for a vacancy from the floor only if no nominating petitions have been filed for the vacancy.

(7) Instead of filing nominating petitions, a candidate for election to the intermediate school board may pay a nonrefundable filing fee of \$100.00 to the school district filing official. If this fee is paid by the due date for nominating petitions, the payment has the same effect under this section as the filing of nominating petitions.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

[No. 234]

(HB 4338)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school

teachers and certain other school employees; 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 acts and parts of acts,” by amending sections 613 and 624 (MCL 380.613 and 380.624), section 613 as amended by 2003 PA 299 and section 624 as amended by 1995 PA 289, and by adding sections 614a, 619, 621a, and 1107.

The People of the State of Michigan enact:

380.613 Board; annual meeting; election and duties of officers; treasurer’s bonds.

Sec. 613. (1) The intermediate school board shall meet annually on or before the fourth Monday of December or, if the intermediate school district’s regular election is in May, on or before the fourth Monday of June.

(2) The intermediate school board shall organize by electing a president, a vice-president, a secretary, and a treasurer. Until July 1, 2005, the president and vice-president shall be members of the intermediate school board, but the secretary and treasurer need not be. Beginning July 1, 2005, all officers shall be members of the intermediate school board.

(3) The officers shall perform duties provided by law and prescribed by the policies and regulations of the intermediate school board not inconsistent with this part or other laws of the state.

(4) The treasurer shall post with the secretary a bond in an amount approved by the intermediate school board, conditioned upon the faithful performance of the treasurer’s duties.

380.614a Board members subject to recall; manner; removal from office.

Sec. 614a. (1) A member of an intermediate school board elected under section 614 at a biennial election meeting described in section 614(1) or appointed to fill a vacancy under section 614 is subject to recall by the intermediate school electors of the intermediate school district in the manner prescribed in chapter XXXVI of the Michigan election law, MCL 168.951 to 168.976.

(2) A member of an intermediate school board elected under section 614 at a biennial election meeting described in section 614(1) or appointed to fill a vacancy under section 614 may be removed from office by the boards of the constituent districts. A member is removed from office under this subsection if a number of the boards of the constituent districts at least equal to a majority of the boards plus 1 adopt resolutions requesting removal of the member and file those resolutions within a 60-day period with the secretary of the intermediate school board. However, if the secretary of the intermediate school board is the subject of the removal resolution, a constituent district board may file the resolution with another officer of the intermediate school board.

(3) A member of an intermediate school board elected under section 614 at a biennial election meeting described in section 614(1) or appointed to fill a vacancy under section 614 may be removed from office by the governor as prescribed in section 619.

380.619 Removal of board member; procedures; eligibility for election or appointment; restriction.

Sec. 619. (1) The governor may remove a member of an intermediate school board from office under this section if the governor is satisfied from the evidence submitted to the governor that the member is guilty of gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

(2) Before the governor removes an intermediate school board member under this section, all of the following procedures shall be followed:

(a) Charges shall be submitted to the governor in writing specifying the grounds for removal. The charges shall be accompanied by any supporting evidence and by the affidavit of the person making the charges verifying that the person believes the charges to be true.

(b) A copy of the charges shall be served on the intermediate school board member. Service shall be made as follows:

(i) If the intermediate school board member can be found, by handing the intermediate school board member a copy of the charges and of any affidavits or exhibits accompanying the charges.

(ii) If the intermediate school board member cannot be found, by leaving a copy of the charges and of any affidavits or exhibits accompanying the charges with a person of suitable age at the intermediate school board member's last known place of residence or, if a person of suitable age is not available, by posting the copy or copies in a conspicuous place at the intermediate school board member's last known place of residence.

(c) The intermediate school board member shall be given an opportunity to respond to the charges.

(3) A person removed from office under this section is not eligible for election or appointment to a school board or intermediate school board for a period of 3 years from the date of removal.

380.621a Travel by board member; approval.

Sec. 621a. An intermediate school board shall establish a policy requiring intermediate school board approval of all travel outside this state by an intermediate school board member or an intermediate school district employee that is paid for or reimbursed by the intermediate school district.

380.624 Annual general fund operating budget.

Sec. 624. (1) Not later than April 1 of each year, the intermediate school board shall prepare an annual general fund operating budget, which shall be in the form prescribed by the county tax allocation board, and shall file the budget with the county clerk of each county in which the intermediate school board is situated except a county that has established separate tax limitation millage rates pursuant to sections 5a to 5l of the property tax limitation act, 1933 PA 62, MCL 211.205a to 211.205l. Each county clerk receiving the budget shall deliver it to the county tax allocation board in the same manner as other school district budgets are handled.

(2) An intermediate school board shall have its proposed budget reviewed by its constituent districts each year as follows:

(a) Not later than May 1 of each year, the intermediate school board shall submit its proposed budget for the next school fiscal year to the board of each constituent district for review.

(b) Not later than June 1 of each year, the board of each constituent district shall review the proposed intermediate school district budget, shall adopt a board resolution expressing its support for or disapproval of the proposed intermediate school district budget, and shall submit to the intermediate school board any specific objections and proposed changes the constituent district board has to the budget. If an intermediate school board receives any specific objections or proposed changes, the intermediate school board shall consider the proposed budget changes.

(3) The tax allocation board shall receive the budget from its county clerk and shall allocate a tax rate to the intermediate school district. Not later than September 1 of each year, or not later than 5 days after the election if taxes are authorized at an election held pursuant to section 36(2) of the general property tax act, 1893 PA 206, MCL 211.36, the secretary of the intermediate school board shall file a certified copy of the resolution of the intermediate school board certifying the taxes to be levied on the taxable property within the intermediate school district with the clerk of each city and township in which the district is situated.

(4) As used in this section, “general fund operating budget” means the budget that includes revenues from the intermediate school district’s share of mills as determined by the tax allocation board or by referendum and state school aid. Disbursements from the general fund operating budget shall apply to those expenditures required for the operation of all intermediate school district programs except cooperative education, special education, and vocational education, and may apply to any expenditures from the general fund to assist with the costs of cooperative education, special education, and vocational education.

380.1107 Removal of board member; procedures; eligibility for election or appointment; restriction.

Sec. 1107. (1) The governor may remove a member of a school board from office under this section if the governor is satisfied from the evidence submitted to the governor that the member is guilty of gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

(2) Before the governor removes a school board member under this section, all of the following procedures shall be followed:

(a) Charges shall be submitted to the governor in writing specifying the grounds for removal. The charges shall be accompanied by any supporting evidence and by the affidavit of the person making the charges verifying that the person believes the charges to be true.

(b) A copy of the charges shall be served on the school board member. Service shall be made as follows:

(i) If the school board member can be found, by handing the school board member a copy of the charges and of any affidavits or exhibits accompanying the charges.

(ii) If the school board member cannot be found, by leaving a copy of the charges and of any affidavits or exhibits accompanying the charges with a person of suitable age at the school board member’s last known place of residence or, if a person of suitable age is not available, by posting the copy or copies in a conspicuous place at the school board member’s last known place of residence.

(c) The school board member shall be given an opportunity to respond to the charges.

(3) A person removed from office under this section is not eligible for election or appointment to a school board or intermediate school board for a period of 3 years from the date of removal.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed with Secretary of State July 21, 2004.

[No. 235]

(HB 5021)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” (MCL 324.101 to 324.90106) by adding section 1615.

The People of the State of Michigan enact:

324.1615 Wildlife violator compact.

Sec. 1615. The governor of this state may enter into a compact on behalf of this state with any of the other states of the United States legally joining in the compact in the form substantially as follows:

ARTICLE I

FINDINGS, DECLARATION OF POLICY, AND PURPOSE

(a) The participating states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, state laws, state regulations, state ordinances, and state administrative rules relating to the management of such resources.

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.

(4) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.