

HOUSE BILL No. 5476

February 5, 2004, Introduced by Reps. DeRoche, Nitz, Ward, Newell, Hummel, Tabor, Voorhees, Drolet, Brandenburg, Pastor, Ehardt, Hoogendyk, Shaffer, Robertson, Palmer, Taub, Vander Veen, Palsrok, Sheen, Milosch, Stahl, Wenke, DeRossett, Emmons, Kooiman and Huizenga and referred to the Committee on Education.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1535a. (1) ~~Subject to subsection (2), if~~ **If a person**
 2 **who holds a teaching certificate that is valid in this state is**
 3 **convicted of a ~~crime~~ misdemeanor** described in this subsection,
 4 the ~~state board~~ **superintendent of public instruction** shall
 5 notify the person in writing that his or her teaching certificate
 6 may be suspended because of the conviction and of his or her
 7 right to a hearing before the ~~state board~~ **superintendent of**
 8 **public instruction.** If the person does not avail himself or
 9 herself of this right to a hearing within 30 working days after
 10 receipt of this written notification, the teaching certificate of

1 that person shall be suspended. If a hearing takes place, the
 2 ~~state board~~ **superintendent of public instruction** may suspend
 3 the person's teaching certificate based upon the issues and
 4 evidence presented at the hearing. This subsection applies to
 5 any of the following ~~crimes~~ **misdemeanors**:

6 ~~(a) Any felony.~~

7 ~~—(b) Any of the following misdemeanors:~~

8 ~~(a) —(i)—~~ Criminal sexual conduct in the fourth degree or an
 9 attempt to commit criminal sexual conduct in the fourth degree.

10 ~~(b) —(ii)—~~ Child abuse in the third or fourth degree or an
 11 attempt to commit child abuse in the third or fourth degree.

12 ~~(c) —(iii)—~~ A misdemeanor involving cruelty, torture, or
 13 indecent exposure involving a child.

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

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

27 ~~(f) —(vi)—~~ A misdemeanor violation of section ~~33 of the~~

1 ~~Michigan liquor control act, Act No. 8 of the Public Acts of the~~
2 ~~Extra Session of 1933, being section 436.33 of the Michigan~~
3 ~~Compiled Laws~~ 701 of the Michigan liquor control code of 1998,
4 1998 PA 58, MCL 436.1701.

5 (2) If a person who holds a teaching certificate that is
6 valid in this state ~~is~~ **has been** convicted of ~~a crime described~~
7 ~~in this subsection~~ **any felony**, the ~~state board~~ **superintendent**
8 **of public instruction** shall find that the public health, safety,
9 or welfare requires emergency action and shall order summary
10 suspension of the person's teaching certificate under section 92
11 of the administrative procedures act of 1969, ~~Act No. 306 of the~~
12 ~~Public Acts of 1969, being section 24.292 of the Michigan~~
13 ~~Compiled Laws~~ 1969 PA 306, MCL 24.292. **This subsection applies**
14 **to any felony conviction regardless of whether the conviction**
15 **occurred before or after the effective date of the 2004**
16 **amendatory act that added this sentence.** However, if a person
17 convicted of a crime described in this subsection is incarcerated
18 in ~~a state correctional facility~~ **secure confinement**, the ~~state~~
19 ~~board~~ **superintendent of public instruction** may delay ordering
20 the summary suspension until not later than 10 work days after
21 the person is released from secure confinement. This subsection
22 does not limit the ~~state board's~~ **superintendent of public**
23 **instruction's** ability to order summary suspension of a person's
24 teaching certificate for a reason other than described in this
25 subsection. ~~This subsection applies to conviction of any of the~~
26 ~~following crimes:~~
27 ~~(a) Criminal sexual conduct in any degree, assault with~~

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

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

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

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

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

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

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

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

27 (b) If the suspension of the person's teaching certificate

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

7 (5) The prosecuting attorney ~~of the county~~ **in charge of a**
8 **case** in which a person who holds a teaching certificate was
9 convicted of a crime described in subsection (1) **or (2)** shall
10 notify the ~~state board~~ **superintendent of public instruction,**
11 and any public school, school district, intermediate school
12 district, or nonpublic school in which the person is employed, of
13 that conviction and of the sentence imposed on the person. ~~The~~
14 **A** prosecuting attorney ~~of each county shall inquire of each~~
15 ~~person convicted in the county~~ **in charge of a case in which a**
16 **person is convicted** of a crime described in subsection (1) **or (2)**
17 **shall inquire** whether the person holds a teaching certificate.

18 (6) If the superintendent of a school district or
19 intermediate school district, the chief administrative officer of
20 a nonpublic school, the president of the board of a school
21 district or intermediate school district, or the president of the
22 governing board of a nonpublic school is notified by a
23 prosecuting attorney or learns through an authoritative source
24 that a person who holds a teaching certificate and who is
25 employed ~~at the time~~ by the school district, intermediate
26 school district, or nonpublic school has been convicted of a
27 crime described in subsection (1) **or (2)**, the superintendent,

1 chief administrative officer, or board president shall notify the
2 ~~state board~~ **superintendent of public instruction** of that
3 conviction.

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

15 (8) For the purposes of this section, a certified copy of the
16 court record is conclusive evidence of conviction of a crime
17 described in this section. For the purposes of this section,
18 conviction of a crime described in this ~~subsection~~ **section** is
19 considered to be reasonably and adversely related to the ability
20 of the person to serve in an elementary or secondary school and
21 is sufficient grounds for suspension or revocation of the
22 person's teaching certificate.

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

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

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

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

8 (10) The ~~state board~~ **superintendent of public instruction**
9 may promulgate, as necessary, rules to implement this section
10 pursuant to the administrative procedures act of 1969, ~~Act~~
11 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
12 ~~24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 to**
13 **24.328.**

14 (11) As used in this section:

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

19 (b) ~~"State correctional facility" means a correctional~~
20 ~~facility under the jurisdiction of the department of corrections~~
21 **"Correctional agency" means the city, county, state, or federal**
22 **agency responsible for providing the secure confinement.**

23 (c) **"Prosecuting attorney" means the prosecuting attorney for**
24 **a county, an assistant prosecuting attorney for a county, the**
25 **attorney general, the deputy attorney general, an assistant**
26 **attorney general, a special prosecuting attorney, or, in**
27 **connection with the prosecution of an ordinance violation, an**

1 attorney for the political subdivision that enacted the ordinance
2 upon which the violation is based.

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

19 ~~(a) Any felony.~~

20 ~~— (b) Any of the following misdemeanors:~~

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

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

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

27 ~~(d) (iv)~~ A misdemeanor violation of section 7410 of the

1 public health code, ~~Act No. 368 of the Public Acts of 1978,~~
 2 ~~being section 333.7410 of the Michigan Compiled Laws 1978 PA~~
 3 **368, MCL 333.7410.**

4 (e) ~~(v)~~ A violation of section 115, 141a, 145a, or 359 of
 5 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
 6 ~~being sections 750.115, 750.141a, 750.145a, and 750.359 of the~~
 7 ~~Michigan Compiled Laws 1931 PA 328, MCL 750.115, 750.141a,~~
 8 **750.145a, and 750.359,** or a misdemeanor violation of section 81
 9 ~~, or 81a , or 145c of Act No. 328 of the Public Acts of 1931,~~
 10 ~~being sections 750.81, 750.81a, and 750.145c of the Michigan~~
 11 ~~Compiled Laws of the Michigan penal code, 1931 PA 328, MCL~~
 12 **750.81 and 750.81a.**

13 (f) ~~(w)~~ A misdemeanor violation of section ~~33~~ of the
 14 ~~Michigan liquor control act, Act No. 8 of the Public Acts of the~~
 15 ~~Extra Session of 1933, being section 436.33 of the Michigan~~
 16 ~~Compiled Laws 701 of the Michigan liquor control code of 1998,~~
 17 **1998 PA 58, MCL 436.1701.**

18 (2) If a person who holds a school administrator's
 19 certificate that is valid in this state ~~is~~ **has been** convicted
 20 of ~~a crime described in this subsection~~ **any felony**, the ~~state~~
 21 ~~board~~ **superintendent of public instruction** shall find that the
 22 public health, safety, or welfare requires emergency action and
 23 shall order summary suspension of the person's school
 24 administrator's certificate under section 92 of the
 25 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
 26 ~~Acts of 1969, being section 24.292 of the Michigan Compiled Laws~~
 27 **1969 PA 306, MCL 24.292. This subsection applies to any felony**

1 conviction regardless of whether the conviction occurred before
2 or after the effective date of the 2004 amendatory act that added
3 this sentence. However, if a person convicted of a crime
4 described in this subsection is incarcerated in ~~a state~~
5 ~~correctional facility~~ **secure confinement**, the ~~state board~~
6 **superintendent of public instruction** may delay ordering the
7 summary suspension until not later than 10 work days after the
8 person is released from secure confinement. This subsection does
9 not limit the ~~state board's~~ **superintendent of public**
10 **instruction's** ability to order summary suspension of a person's
11 school administrator's certificate for a reason other than
12 described in this subsection. ~~This subsection applies to~~
13 ~~conviction of any of the following crimes:~~

14 ~~—— (a) Criminal sexual conduct in any degree, assault with~~
15 ~~intent to commit criminal sexual conduct, or an attempt to commit~~
16 ~~criminal sexual conduct in any degree.~~

17 ~~—— (b) Felonious assault on a child, child abuse in any degree,~~
18 ~~or an attempt to commit child abuse in any degree.~~

19 ~~—— (c) Cruelty, torture, or indecent exposure involving a~~
20 ~~child.~~

21 ~~—— (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i),~~
22 ~~7410, or 7416 of the public health code, Act No. 368 of the~~
23 ~~Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410,~~
24 ~~and 333.7416 of the Michigan Compiled Laws.~~

25 ~~—— (e) A violation of section 83, 89, 91, 316, 317, or 529 of~~
26 ~~the Michigan penal code, Act No. 328 of the Public Acts of 1931,~~
27 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~

1 ~~750.529 of the Michigan Compiled Laws.~~

2 (3) After the completion of the person's sentence, the
3 person may request a hearing before the ~~state board~~
4 **superintendent of public instruction** on reinstatement of his or
5 her school administrator's certificate. Based upon the issues
6 and evidence presented at the hearing, the ~~state board~~
7 **superintendent of public instruction** may reinstate, continue the
8 suspension of, or permanently revoke the person's school
9 administrator's certificate.

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

12 (a) The person's school administrator's certificate shall be
13 reinstated upon his or her notification to the ~~state board~~
14 **superintendent of public instruction** of the reversal.

15 (b) If the suspension of the person's school administrator's
16 certificate under this section was the sole cause of his or her
17 discharge from employment, the person shall be reinstated, upon
18 his or her notification to the appropriate local or intermediate
19 school board of the reversal, with full rights and benefits, to
20 the position he or she would have had if he or she had been
21 continuously employed.

22 (5) The prosecuting attorney ~~of the county~~ **in charge of a**
23 **case** in which a person who holds a school administrator's
24 certificate was convicted of a crime described in subsection (1)
25 **or (2)** shall notify the ~~state board~~ **superintendent of public**
26 **instruction**, and any public school, school district, intermediate
27 school district, or nonpublic school in which the person is

1 employed, of that conviction and of the sentence imposed on the
2 person. ~~The~~ **A** prosecuting attorney ~~of each county shall~~
3 ~~inquire of each person convicted in the county~~ **in charge of a**
4 **case in which a person is convicted** of a crime described in
5 subsection (1) **or (2) shall inquire** whether the person holds a
6 school administrator's certificate.

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

20 (7) If a person convicted of a crime described in subsection
21 (2) is incarcerated in ~~a state correctional facility~~ **secure**
22 **confinement** and the ~~state board~~ **superintendent of public**
23 **instruction** delays summary suspension as described in subsection
24 (2), the ~~state board~~ **superintendent of public instruction** shall
25 contact the ~~department of corrections~~ **correctional agency** and
26 request to be notified before the person is released from secure
27 confinement. Upon receipt of that request, the ~~department of~~

1 ~~corrections~~ **correctional agency** shall notify the ~~state board~~
2 **superintendent of public instruction** at least 30 work days before
3 the person is released from secure confinement.

4 (8) For the purposes of this section, a certified copy of
5 the court record is conclusive evidence of conviction of a crime
6 described in this section. For the purposes of this section,
7 conviction of a crime described in this ~~subsection~~ **section** is
8 considered to be reasonably and adversely related to the ability
9 of the person to serve in an elementary or secondary school and
10 is sufficient grounds for suspension or revocation of the
11 person's school administrator's certificate.

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

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

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

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

24 (10) The ~~state board~~ **superintendent of public instruction**
25 may promulgate, as necessary, rules to implement this section
26 pursuant to the administrative procedures act of 1969, ~~Act~~
27 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~

1 ~~24.328 of the Michigan Compiled Laws 1969 PA 306, MCL 24.201 to~~
2 ~~24.328.~~

3 (11) As used in this section:

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

8 ~~"State correctional facility" means a correctional~~
9 ~~facility under the jurisdiction of the department of corrections~~
10 "Correctional agency" means the city, county, state, or federal
11 agency responsible for providing the secure confinement.

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

19 Sec. 1539b. (1) ~~Subject to subsection (2), if~~ If a person
20 who holds state board approval is convicted of a ~~crime~~
21 **misdemeanor** described in this subsection, the ~~state board~~
22 **superintendent of public instruction** shall notify the person in
23 writing that his or her state board approval may be suspended
24 because of the conviction and of his or her right to a hearing
25 before the ~~state board~~ **superintendent of public instruction**.
26 If the person does not avail himself or herself of this right to
27 a hearing within 30 working days after receipt of this written

1 notification, the person's state board approval shall be
2 suspended. If a hearing takes place, the ~~state board~~
3 **superintendent of public instruction** may suspend the person's
4 state board approval, based upon the issues and evidence
5 presented at the hearing. This subsection applies to any of the
6 following ~~crimes~~ **misdemeanors**:

7 ~~(a) Any felony.~~

8 ~~—— (b) Any of the following misdemeanors:~~

9 ~~(a) —(i)—~~ Criminal sexual conduct in the fourth degree or an
10 attempt to commit criminal sexual conduct in the fourth degree.

11 ~~(b) —(ii)—~~ Child abuse in the third or fourth degree or an
12 attempt to commit child abuse in the third or fourth degree.

13 ~~(c) —(iii)—~~ A misdemeanor involving cruelty, torture, or
14 indecent exposure involving a child.

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

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

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

6 (2) If a person who holds state board approval ~~is~~ **has been**
7 convicted of ~~a crime described in this subsection~~ **any felony,**
8 the ~~state board~~ **superintendent of public instruction** shall find
9 that the public health, safety, or welfare requires emergency
10 action and shall order summary suspension of the person's state
11 board approval under section 92 of the administrative procedures
12 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
13 ~~section 24.292 of the Michigan Compiled Laws~~ **1969 PA 306, MCL**
14 **24.292. This subsection applies to any felony conviction**
15 **regardless of whether the conviction occurred before or after the**
16 **effective date of the 2004 amendatory act that added this**
17 **sentence.** However, if a person convicted of a crime described in
18 this subsection is incarcerated in ~~a state correctional~~
19 ~~facility~~ **secure confinement,** the ~~state board~~ **superintendent of**
20 **public instruction** may delay ordering the summary suspension
21 until not later than 10 work days after the person is released
22 from secure confinement. This subsection does not limit the
23 ~~state board's~~ **superintendent of public instruction's** ability to
24 order summary suspension of a person's state board approval for a
25 reason other than described in this subsection. ~~This subsection~~
26 ~~applies to conviction of any of the following crimes:~~
27 ~~(a) Criminal sexual conduct in any degree, assault with~~

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

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

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

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

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

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

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

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

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

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

6 (5) The prosecuting attorney ~~of the county~~ **in charge of a**
7 **case** in which a person who holds state board approval was
8 convicted of a crime described in subsection (1) **or (2)** shall
9 notify the ~~state board~~ **superintendent of public instruction,**
10 and any public school, school district, intermediate school
11 district, or nonpublic school in which the person is employed, of
12 that conviction and of the sentence imposed on the person. ~~The~~
13 **A** prosecuting attorney ~~of each county shall inquire of each~~
14 ~~person convicted in the county~~ **in charge of a case in which a**
15 **person is convicted** of a crime described in subsection (1) **or (2)**
16 **shall inquire** whether the person holds state board approval. The
17 ~~state board~~ **superintendent of public instruction** shall make
18 available to prosecuting attorneys a list of school occupations
19 that commonly require state board approval.

20 (6) If the superintendent of a school district or
21 intermediate school district, the chief administrative officer of
22 a nonpublic school, the president of the board of a school
23 district or intermediate school district, or the president of the
24 governing board of a nonpublic school is notified by a
25 prosecuting attorney or learns through an authoritative source
26 that a person who holds state board approval and who is employed
27 ~~at the time~~ by the school district, intermediate school

1 district, or nonpublic school has been convicted of a crime
2 described in subsection (1) **or (2)**, the superintendent, chief
3 administrative officer, or board president shall notify the
4 ~~state board~~ **superintendent of public instruction** of that
5 conviction.

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

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

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

26 (a) Prohibit a person who holds state board approval from
27 seeking monetary compensation from a school board or intermediate

1 school board if that right is available under a collective
2 bargaining agreement or another statute.

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

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

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

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

19 (11) As used in this section:

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

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

26 (c) "Prosecuting attorney" means the prosecuting attorney
27 for a county, an assistant prosecuting attorney for a county, the

1 attorney general, the deputy attorney general, an assistant
2 attorney general, a special prosecuting attorney, or, in
3 connection with the prosecution of an ordinance violation, an
4 attorney for the political subdivision that enacted the ordinance
5 upon which the violation is based.

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

15 ~~(c) "State correctional facility" means a correctional~~
16 ~~facility under the jurisdiction of the department of~~
17 ~~corrections.~~