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BILL ANALYSIS

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House Bill 5675 (Substitute H-3 as passed by the House)
Sponsor: Representative Rick Baxter
House Committee: Education
Senate Committee: Judiciary

Date Completed: 2-28-06

CONTENT

The bill would amend the Revised School Code to do all of the following:

- Require the Michigan Department of Education (MDE) to take reasonable measures to ensure the accuracy of certain employee criminal history information.**
- Specify that a criminal history record prepared under the Code from a comparison of MDE personnel lists with conviction information would be exempt from the Freedom of Information Act (FOIA) for 14 days after the record was received by a school district, intermediate school district (ISD), public school academy (PSA), or nonpublic school.**
- Refer to a person who regularly and continuously worked under contract "in a school", in provisions requiring criminal history background checks of people working under contract in a school district, ISD, PSA, or nonpublic school.**

Reasonable Measures

The Code requires the Department of Information Technology (DIT) to work with the MDE and the Michigan Department of State Police (MSP) to develop and implement an automated program to compare the MDE's list of registered educational personnel and individuals holding a teaching certificate or State Board of Education approval with conviction information received by the MSP. The MDE and the MSP must perform this comparison during January and June of each year until July 1, 2008. If a comparison discloses that a person on the MDE's list has been convicted of a crime, the MDE must notify the superintendent or chief administrator and the board or governing body of the school district, ISD, PSA, or nonpublic school in which the person is employed. The bill would require the MDE to take reasonable measures to ensure the accuracy of information under this provision.

FOIA Exemption

The bill would exempt from disclosure under FOIA a record prepared by a State agency under the provisions requiring a comparison of the MDE's personnel lists with MSP conviction information. The record, however, would be exempt only until the expiration of 14 days after the date it was received by a school district, ISD, PSA, or nonpublic school.

Contractors

The Code's various criminal background check requirements apply to a school district's, ISD's, PSA's, or nonpublic school's applicants and current employees as well as individuals regularly and continuously working under contract in any of its schools. The bill would refer to a person who regularly and continuously worked under contract in a school in a school district, ISD, PSA, or nonpublic school.

Under the bill, "regularly and continuously work under contract in a school" would mean to work on school property as an employee or owner of an entity that has a contract with a school district, ISD, PSA, or nonpublic school providing food, custodial, transportation, instructional, counseling, or administrative services, or to work on school property as an individual under a contract with a school district, ISD, PSA, or nonpublic school providing food, custodial, transportation, instructional, counseling, or administrative services.

"School property" would mean that term as defined in the Sex Offenders Registration Act. Under that Act, "school property" means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

- It is used to impart educational instruction.
- It is for use by students not more than 19 years of age for sports or other recreational activities.

MCL 380.1230 et al.

BACKGROUND

Criminal background check requirements for teachers and school administrators were extended in 2005 to any applicant for school employment and individuals assigned to work under a contract in a school district, ISD, PSA, or nonpublic school. Among other things, 2005 amendments do all of the following:

- Require an applicant for school employment or contractual work to provide fingerprints for State and Federal criminal background checks.
- Require a school district, ISD, PSA, or nonpublic school to require, by July 1, 2008, a person who was a school employee or contractor as of January 1, 2006, to submit his or her fingerprints to the MSP for a State and Federal criminal background check.
- Require a school employee, applicant, or contractor to report to the MDE and the employing school district, ISD, PSA, or nonpublic school when he or she is charged with certain crimes.
- Require a school employee or contractor to disclose his or her employment to the court upon conviction of certain crimes.

The 2005 measures also added the requirement that DIT work with the Department of Education and the State Police to develop an automated comparison of the MDE's list of school personnel with the MSP's criminal conviction information. The MDE and MSP must perform the comparison in January and June 2006, 2007, and 2008, and notify a school district, ISD, PSA, or nonpublic school if a comparison discloses that a school employee or contractor has been convicted of a crime.

In addition, the recent amendments prohibit a school district, ISD, PSA, or nonpublic school from employing an individual or allowing him or her to work regularly and continuously under contract in any of its schools, if a school official has notice from an authoritative

source that the individual has been convicted of an offense requiring registration under the Sex Offenders Registration Act.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Kathryn Summers-Coty

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.