

**SUBSTITUTE FOR
HOUSE BILL NO. 5675**

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (11) As used in this section: ~~—, "criminal~~

24 (A) **"CRIMINAL** history record information" means that term as
 25 defined in section 1a of 1925 PA 289, MCL 28.241a.

26 (B) **"REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN A**
 27 **SCHOOL" MEANS TO WORK ON SCHOOL PROPERTY AS AN EMPLOYEE OR OWNER OF**

1 AN ENTITY THAT HAS A CONTRACT WITH A SCHOOL DISTRICT, INTERMEDIATE
2 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL
3 PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
4 COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO WORK ON SCHOOL
5 PROPERTY AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
6 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
7 SCHOOL PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
8 COUNSELING, OR ADMINISTRATIVE SERVICES.

9 (C) "SCHOOL PROPERTY" MEANS THAT TERM AS DEFINED IN SECTION 33
10 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.733.

11 Sec. 1230a. (1) In addition to the criminal history check
12 required under section 1230, the board of a school district or
13 intermediate school district or the governing body of a public
14 school academy or nonpublic school shall request the department of
15 state police to conduct a criminal records check through the
16 federal bureau of investigation on an applicant for, or an
17 individual who is hired for, any full-time or part-time employment
18 or who is assigned to regularly and continuously work under
19 contract **IN A SCHOOL** in any of its schools. Except as otherwise
20 provided in this section, a board or governing body shall not
21 employ an individual or allow an individual to regularly and
22 continuously work under contract **IN A SCHOOL** in any of its schools
23 until after the board or governing body receives the results of the
24 criminal records check. A board or governing body requesting a
25 criminal records check under this section shall require the
26 individual to submit his or her fingerprints to the department of
27 state police for that purpose. The department of state police may

1 charge a fee for conducting the criminal records check. A board or
2 governing body shall require an individual to submit his or her
3 fingerprints for the purposes of this section only at the time the
4 individual initially applies for employment with the board or
5 governing body or is initially employed by the board or governing
6 body or is initially assigned to **REGULARLY AND CONTINUOUSLY** work
7 under contract **IN A SCHOOL** in any of its schools.

8 (2) If the board of a school district or intermediate school
9 district or the governing body of a public school academy or
10 nonpublic school determines it necessary to hire an individual for
11 a particular school year during that school year or within 30 days
12 before the beginning of that school year, the board or governing
13 body may employ the individual as a conditional employee under this
14 subsection without first receiving the results of the criminal
15 records check under subsection (1) if all of the following apply:

16 (a) The board or governing body requests the criminal records
17 check under subsection (1) before conditionally employing the
18 individual.

19 (b) The individual signs a statement identifying all crimes
20 for which he or she has been convicted, if any, and agreeing that,
21 if the results of the criminal records check under subsection (1)
22 reveal information that is inconsistent with the individual's
23 statement, his or her employment contract is voidable at the option
24 of the board or governing body. The department shall develop and
25 distribute to districts and nonpublic schools a model form for the
26 statement required under this subdivision. The department shall
27 make the model form available to public school academies. A

1 district, public school academy, or nonpublic school shall use the
2 model form for the purposes of this subsection.

3 (3) If an individual is employed as a conditional employee
4 under subsection (2) and the results of the criminal records check
5 under subsection (1) reveal information that is inconsistent with
6 the individual's statement under subsection (2), the board or
7 governing body may void the individual's employment contract. If an
8 employment contract is voided under this subsection, the
9 individual's employment is terminated, a collective bargaining
10 agreement that would otherwise apply to the individual's employment
11 does not apply to the termination, and the district, public school
12 academy, or nonpublic school or the board or governing body is not
13 liable for the termination.

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

22 (5) If an applicant is being considered for employment by more
23 than 1 school district, intermediate school district, public school
24 academy, or nonpublic school and if the applicant agrees in writing
25 to allow a district, public school academy, or nonpublic school to
26 share the results of the criminal records check with another
27 district, public school academy, or nonpublic school, then a

1 district, public school academy, or nonpublic school may satisfy
2 the requirements of subsection (1) by obtaining a copy of the
3 results of the criminal records check from another district, public
4 school academy, or nonpublic school.

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

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

14 (8) The results of a criminal records check under this section
15 shall be used by a school district, intermediate school district,
16 public school academy, or nonpublic school only for the purpose of
17 evaluating an individual's qualifications for employment or
18 assignment in the position for which he or she has applied or been
19 assigned and for the purposes of subsections (3), (4), and (5). A
20 member of the board of a district or of the governing body of a
21 public school academy or nonpublic school or an employee of a
22 district, public school academy, or nonpublic school shall not
23 disclose those results, except ~~any felony conviction or~~ a
24 misdemeanor conviction involving sexual or physical abuse **OR ANY**
25 **FELONY CONVICTION**, to any person who is not directly involved in
26 evaluating the individual's qualifications for employment or
27 assignment. However, for the purposes of subsections (4) and (5), a

1 person described in this subsection may provide a copy of the
2 results under subsection (1) concerning the individual to an
3 appropriate representative of another district, public school
4 academy, or nonpublic school. A person who violates this subsection
5 is guilty of a misdemeanor punishable by a fine of not more than
6 \$10,000.00, but is not subject to the penalties under section 1804.

7 (9) Within 30 days after receiving a proper request by a
8 school district, intermediate school district, public school
9 academy, or nonpublic school for a criminal records check on an
10 individual under this section, the criminal records division of the
11 department of state police shall initiate the criminal records
12 check through the federal bureau of investigation. After conducting
13 the criminal records check required under this section for a school
14 district, intermediate school district, or public school academy,
15 the criminal records division of the department of state police
16 shall provide the results of the criminal records check to the
17 district or public school academy. After conducting the criminal
18 records check required under this section for a nonpublic school,
19 the criminal records division of the department of state police
20 shall notify the nonpublic school of whether or not the criminal
21 records check disclosed any criminal history that is not disclosed
22 in the report on the individual provided to the nonpublic school
23 under section 1230.

24 (10) If the results received by a school district,
25 intermediate school district, public school academy, or nonpublic
26 school under subsection (9) disclose that an individual has been
27 convicted of a listed offense, then the school district,

1 intermediate school district, public school academy, or nonpublic
 2 school shall not employ the individual in any capacity, as provided
 3 under section 1230c, and shall not allow the individual to
 4 regularly and continuously work under contract **IN A SCHOOL** in any
 5 of its schools. If the results received by a school district,
 6 intermediate school district, public school academy, or nonpublic
 7 school under subsection (9) disclose that an individual has been
 8 convicted of a felony other than a listed offense, then the school
 9 district, intermediate school district, public school academy, or
 10 nonpublic school shall not employ the individual in any capacity or
 11 allow the individual to regularly and continuously work under
 12 contract **IN A SCHOOL** in any of its schools unless the
 13 superintendent or chief administrator and the board or governing
 14 body of the school district, intermediate school district, public
 15 school academy, or nonpublic school each specifically approve the
 16 employment or work assignment in writing.

17 (11) As used in this section: ~~—,"listed~~

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

20 (B) "**REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN A**
 21 **SCHOOL**" MEANS TO WORK ON SCHOOL PROPERTY AS AN EMPLOYEE OR OWNER OF
 22 AN ENTITY THAT HAS A CONTRACT WITH A SCHOOL DISTRICT, INTERMEDIATE
 23 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL
 24 PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
 25 COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO WORK ON SCHOOL
 26 PROPERTY AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
 27 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC

1 SCHOOL PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
2 COUNSELING, OR ADMINISTRATIVE SERVICES.

3 (C) "SCHOOL PROPERTY" MEANS THAT TERM AS DEFINED IN SECTION 33
4 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.733.

5 Sec. 1230c. (1) If a school official of a school district,
6 intermediate school district, public school academy, or nonpublic
7 school has notice from an authoritative source that an individual
8 has been convicted of a listed offense, the board of the school
9 district or intermediate school district, board of directors of the
10 public school academy, or governing board of the nonpublic school
11 shall not employ that individual in any capacity or allow that
12 person to regularly and continuously work under contract **IN A**
13 **SCHOOL** in any of its schools.

14 (2) As used in this section: ~~—,"listed~~

15 (A) "**LISTED** offense" means that term as defined in section 2
16 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

17 (B) "**REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN A**
18 **SCHOOL**" MEANS TO WORK ON SCHOOL PROPERTY AS AN EMPLOYEE OR OWNER OF
19 AN ENTITY THAT HAS A CONTRACT WITH A SCHOOL DISTRICT, INTERMEDIATE
20 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL
21 PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
22 COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO WORK ON SCHOOL
23 PROPERTY AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
24 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
25 SCHOOL PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
26 COUNSELING, OR ADMINISTRATIVE SERVICES.

27 (C) "SCHOOL PROPERTY" MEANS THAT TERM AS DEFINED IN SECTION 33

1 **OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.733.**

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

18 (a) The person shall make the report on a form prescribed by
19 the department.

20 (b) The person shall submit the report to the department and
21 to the superintendent of the school district or intermediate school
22 district or chief administrator of the public school academy or
23 nonpublic school.

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

26 (2) If a person who is employed in any capacity by or is
27 regularly and continuously working under contract **IN A SCHOOL** in a

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

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

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

23 (b) If the person violates either subsection (1) or (2) and
24 the crime involved in the violation is a misdemeanor that is not a
25 listed offense, the person is guilty of a misdemeanor punishable by
26 imprisonment for not more than 1 year or a fine of not more than
27 \$1,000.00, or both.

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

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

1 from its records concerning the person.

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

18 (7) The department of information technology shall work with
19 the department and the department of state police to develop and
20 implement an automated program that does a comparison of the
21 department's list of registered educational personnel with the
22 conviction information received by the department of state police.
23 Unless otherwise prohibited by law, this comparison shall include
24 convictions contained in a nonpublic record. The department and the
25 department of state police shall perform this comparison during
26 January and June of each year until July 1, 2008. If a comparison
27 discloses that a person on the department's list of registered

1 educational personnel has been convicted of a crime, the department
 2 shall notify the superintendent or chief administrator and the
 3 board or governing body of the school district, intermediate school
 4 district, public school academy, or nonpublic school in which the
 5 person is employed of that conviction. **THE DEPARTMENT SHALL TAKE**
 6 **REASONABLE MEASURES TO ENSURE THE ACCURACY OF INFORMATION UNDER**
 7 **THIS SUBSECTION.**

8 (8) As used in this section: ~~—,"listed~~

9 (A) "**LISTED** offense" means that term as defined in section 2
 10 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

11 (B) "**REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN A**
 12 **SCHOOL**" MEANS TO WORK ON SCHOOL PROPERTY AS AN EMPLOYEE OR OWNER OF
 13 AN ENTITY THAT HAS A CONTRACT WITH A SCHOOL DISTRICT, INTERMEDIATE
 14 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL
 15 PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
 16 COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO WORK ON SCHOOL
 17 PROPERTY AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
 18 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
 19 SCHOOL PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
 20 COUNSELING, OR ADMINISTRATIVE SERVICES.

21 (C) "**SCHOOL PROPERTY**" MEANS THAT TERM AS DEFINED IN SECTION 33
 22 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.733.

23 Sec. 1230g. (1) Not later than July 1, 2008, the board of a
 24 school district or intermediate school district, the board of
 25 directors of a public school academy, or the governing body of a
 26 nonpublic school shall do both of the following for each individual
 27 who, as of January 1, 2006, is either a full-time or part-time

1 employee of the school district, intermediate school district,
2 public school academy, or nonpublic school or is assigned to
3 regularly and continuously work under contract **IN A SCHOOL** in any
4 of its schools:

5 (a) Request from the criminal records division of the
6 department of state police a criminal history check on the
7 individual.

8 (b) Request the department of state police to conduct a
9 criminal records check on the individual through the federal bureau
10 of investigation. The board, board of directors, or governing board
11 shall require the individual to submit his or her fingerprints to
12 the department of state police for the purposes of this
13 subdivision. The department of state police may charge a fee for
14 conducting the criminal records check.

15 (2) For an individual employed or **REGULARLY AND CONTINUOUSLY**
16 working under contract **IN A SCHOOL** as a substitute teacher, instead
17 of requesting a criminal history check and criminal records check
18 under subsection (1), a school district, intermediate school
19 district, public school academy, or nonpublic school may use
20 results received by another district, public school academy, or
21 nonpublic school or maintained by the department to confirm that
22 the individual does not have any criminal history. If that
23 confirmation is not available, subsection (1) applies to the
24 individual.

25 (3) If an individual described in subsection (1) is employed
26 by or **REGULARLY AND CONTINUOUSLY** working under contract **IN A SCHOOL**
27 in more than 1 school district, intermediate school district,

1 public school academy, or nonpublic school and if the individual
2 agrees in writing to allow a district, public school academy, or
3 nonpublic school to share the results of the criminal history check
4 or criminal records check with another district, public school
5 academy, or nonpublic school, then a district, public school
6 academy, or nonpublic school may satisfy the requirements of
7 subsection (1) by obtaining a copy of the results of the criminal
8 history check or criminal records check from another district,
9 public school academy, or nonpublic school.

10 (4) An individual described in subsection (1) shall give
11 written consent for the criminal records division of the department
12 of state police to conduct the criminal history check and criminal
13 records check required under this section and shall submit his or
14 her fingerprints to the department of state police for the purposes
15 of the criminal records check.

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

21 (6) The results of a criminal history check and criminal
22 records check under this section shall be used by a school
23 district, intermediate school district, public school academy, or
24 nonpublic school only for the purpose of evaluating an individual's
25 qualifications for employment or assignment in his or her position
26 and for the purposes of subsections (2) and (3). A member of the
27 board of a school district or intermediate school district, of the

1 board of directors of a public school academy, or of the governing
2 body of a nonpublic school or an employee of a district, public
3 school academy, or nonpublic school shall not disclose those
4 results, except ~~any felony conviction or~~ a misdemeanor conviction
5 involving sexual or physical abuse **OR ANY FELONY CONVICTION**, to any
6 person who is not directly involved in evaluating the individual's
7 qualifications for employment or assignment. However, for the
8 purposes of subsections (2) and (3), a person described in this
9 subsection may provide a copy of the results under subsection (1)
10 concerning the individual to an appropriate representative of
11 another district, public school academy, or nonpublic school. A
12 person who violates this subsection is guilty of a misdemeanor
13 punishable by a fine of not more than \$10,000.00, but is not
14 subject to the penalties under section 1804.

15 (7) Within 30 days after receiving a proper request by a
16 school district, intermediate school district, public school
17 academy, or nonpublic school for a criminal history check and
18 criminal records check on an individual under this section, the
19 criminal records division of the department of state police shall
20 do both of the following:

21 (a) Conduct the criminal history check and, after conducting
22 the criminal history check and within that time period, provide a
23 report of the results of the criminal history check to the
24 district, public school academy, or nonpublic school. The report
25 shall contain any criminal history record information on the
26 individual that is maintained by the criminal records division of
27 the department of state police.

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

14 (8) If the results received by a school district, intermediate
15 school district, public school academy, or nonpublic school under
16 subsection (7) disclose that an individual has been convicted of a
17 listed offense, then the school district, intermediate school
18 district, public school academy, or nonpublic school shall not
19 employ the individual in any capacity, as provided under section
20 1230c, and shall not allow the individual to regularly and
21 continuously work under contract **IN A SCHOOL** in any of its schools.
22 If the results received by a school district, intermediate school
23 district, public school academy, or nonpublic school under
24 subsection (7) disclose that an individual has been convicted of a
25 felony other than a listed offense, then the school district,
26 intermediate school district, public school academy, or nonpublic
27 school shall not employ the individual in any capacity or allow the

1 individual to regularly and continuously work under contract **IN A**
2 **SCHOOL** in any of its schools unless the superintendent or chief
3 administrator and the board or governing body of the school
4 district, intermediate school district, public school academy, or
5 nonpublic school each specifically approve the employment or work
6 assignment in writing.

7 (9) As used in this ~~subsection~~, "~~listed~~ **SECTION:**

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

10 (B) "**REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN A**
11 **SCHOOL**" MEANS TO WORK ON SCHOOL PROPERTY AS AN EMPLOYEE OR OWNER OF
12 AN ENTITY THAT HAS A CONTRACT WITH A SCHOOL DISTRICT, INTERMEDIATE
13 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL
14 PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
15 COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO WORK ON SCHOOL
16 PROPERTY AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
17 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
18 SCHOOL PROVIDING FOOD, CUSTODIAL, TRANSPORTATION, INSTRUCTIONAL,
19 COUNSELING, OR ADMINISTRATIVE SERVICES.

20 (C) "**SCHOOL PROPERTY**" MEANS THAT TERM AS DEFINED IN SECTION 33
21 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.733.

22 SEC. 1230H. A RECORD PREPARED BY A STATE AGENCY UNDER SECTION
23 1230D(7), 1535A(15), OR 1539B(15) IS EXEMPT FROM DISCLOSURE UNDER
24 SECTION 13 OF THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
25 15.243. HOWEVER, A RECORD DESCRIBED IN THIS SECTION IS ONLY EXEMPT
26 FROM DISCLOSURE AS PROVIDED IN THIS SECTION UNTIL THE EXPIRATION OF
27 14 DAYS AFTER THE DATE THE RECORD IS RECEIVED BY A SCHOOL DISTRICT,

1 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
2 SCHOOL.

3 Sec. 1535a. (1) Subject to subsection (2), if a person who
4 holds a teaching certificate that is valid in this state has been
5 convicted of a crime described in this subsection, within 10
6 working days after receiving notice of the conviction the
7 superintendent of public instruction shall notify the person in
8 writing that his or her teaching certificate may be suspended
9 because of the conviction and of his or her right to a hearing
10 before the superintendent of public instruction. The hearing shall
11 be conducted as a contested case under the administrative
12 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the
13 person does not avail himself or herself of this right to a hearing
14 within 15 working days after receipt of this written notification,
15 the teaching certificate of that person shall be suspended. If a
16 hearing takes place, the superintendent of public instruction shall
17 complete the proceedings and make a final decision and order within
18 120 working days after receiving the request for a hearing. Subject
19 to subsection (2), the superintendent of public instruction may
20 suspend the person's teaching certificate based upon the issues and
21 evidence presented at the hearing. This subsection applies to any
22 of the following crimes:

23 (a) Any felony.

24 (b) Any of the following misdemeanors:

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

27 (ii) Child abuse in the third or fourth degree or an attempt to

1 commit child abuse in the third or fourth degree.

2 (iii) A misdemeanor involving cruelty, torture, or indecent
3 exposure involving a child.

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

6 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
7 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
8 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
9 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
10 MCL 750.81, 750.81a, and 750.145d.

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

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

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

17 (2) If a person who holds a teaching certificate that is valid
18 in this state has been convicted of a crime described in this
19 subsection, the superintendent of public instruction shall find
20 that the public health, safety, or welfare requires emergency
21 action and shall order summary suspension of the person's teaching
22 certificate under section 92 of the administrative procedures act
23 of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an
24 opportunity for a hearing as provided under that section. This
25 subsection does not limit the superintendent of public
26 instruction's ability to order summary suspension of a person's
27 teaching certificate for a reason other than described in this

1 subsection. This subsection applies to conviction of any of the
2 following crimes:

3 (a) Criminal sexual conduct in any degree, assault with intent
4 to commit criminal sexual conduct, or an attempt to commit criminal
5 sexual conduct in any degree.

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

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

9 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,
10 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,
11 333.7403, 333.7410, and 333.7416.

12 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,
13 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,
14 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,
15 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony
16 violation of section 145d of the Michigan penal code, 1931 PA 328,
17 MCL 750.145d.

18 (f) A violation of section 158 of the Michigan penal code,
19 1931 PA 328, MCL 750.158, if a victim is an individual less than 18
20 years of age.

21 (g) Except for a juvenile disposition or adjudication, a
22 violation of section 338, 338a, or 338b of the Michigan penal code,
23 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an
24 individual less than 18 years of age.

25 (h) A violation of section 349 of the Michigan penal code,
26 1931 PA 328, MCL 750.349, if a victim is an individual less than 18
27 years of age.

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

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

6 (k) A violation of a substantially similar law of another
7 state, of a political subdivision of this state or another state,
8 or of the United States.

9 (l) Any other crime listed in subsection (1), if the
10 superintendent of public instruction determines the public health,
11 safety, or welfare requires emergency action based on the
12 circumstances underlying the conviction.

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

1 person is unfit to teach in an elementary or secondary school in
2 this state.

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

25 (5) Except as otherwise provided in this subsection, after the
26 completion of a person's sentence, the person may request a hearing
27 before the superintendent of public instruction on reinstatement of

1 his or her teaching certificate. Based upon the issues and evidence
2 presented at the hearing, the superintendent of public instruction
3 may reinstate, continue the suspension of, or permanently revoke
4 the person's teaching certificate. The superintendent of public
5 instruction shall not reinstate a person's teaching certificate
6 unless the superintendent of public instruction finds that the
7 person is currently fit to serve in an elementary or secondary
8 school in this state and that reinstatement of the person's
9 teaching certificate will not adversely affect the health, safety,
10 and welfare of pupils. If a person's conviction was for a listed
11 offense, the person is not entitled to request a hearing on
12 reinstatement under this subsection, and the superintendent of
13 public instruction shall not reinstate the person's teaching
14 certificate under this subsection.

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

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

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

26 (c) If the person's compensation was discontinued under
27 subsection (4), the public school, school district, intermediate

1 school district, or nonpublic school shall make the person whole
2 for lost compensation.

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

17 (8) Not later than 7 days after receiving notification from
18 the prosecuting attorney or the court under subsection (7) or
19 learning through an authoritative source that a person who holds a
20 teaching certificate has been convicted of a crime listed in
21 subsection (1), the superintendent of public instruction shall
22 request the court to provide a certified copy of the judgment of
23 conviction and sentence or other document regarding the disposition
24 of the case to the superintendent of public instruction and shall
25 pay any fees required by the court. The court shall provide this
26 certified copy within 7 days after receiving the request and fees
27 under this section or after entry of the judgment or other

1 document, whichever is later, even if the court is maintaining the
2 judgment or other document as a nonpublic record.

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

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

23 (11) For any hearing under subsection (1), if the
24 superintendent of public instruction does not complete the hearing
25 procedures and make a final decision and order within 120 working
26 days after receiving the request for the hearing, as required under
27 subsection (1), the superintendent of public instruction shall

1 submit a report detailing the reasons for the delay to the standing
2 committees and appropriations subcommittees of the senate and house
3 of representatives that have jurisdiction over education and
4 education appropriations. The failure of the superintendent of
5 public instruction to complete the hearing procedures and make a
6 final decision and order within this 120 working day time limit, or
7 the failure of any other official or agency to meet a time limit
8 prescribed in this section, does not affect the validity of an
9 action taken under this section affecting a person's teaching
10 certificate.

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

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

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

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

24 (d) Whether the action taken by the superintendent of public
25 instruction was a summary suspension, suspension due to failure to
26 request a hearing, suspension, revocation, or reinstatement of the
27 teaching certificate.

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

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

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

10 (14) The superintendent of public instruction may promulgate,
11 as necessary, rules to implement this section pursuant to the
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
13 24.328.

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

1 district, public school academy, or nonpublic school in which the
2 person is employed of that conviction. **THE DEPARTMENT SHALL TAKE**
3 **REASONABLE MEASURES TO ENSURE THE ACCURACY OF INFORMATION UNDER**
4 **THIS SUBSECTION.**

5 (16) As used in this section:

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

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

12 (c) "Prosecuting attorney" means the prosecuting attorney for
13 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 connection
16 with the prosecution of an ordinance violation, an attorney for the
17 political subdivision that enacted the ordinance upon which the
18 violation is based.

19 Sec. 1539b. (1) Subject to subsection (2), if a person who
20 holds state board approval has been convicted of a crime described
21 in this subsection, within 10 working days after receiving notice
22 of the conviction the superintendent of public instruction shall
23 notify the person in writing that his or her state board approval
24 may be suspended because of the conviction and of his or her right
25 to a hearing before the superintendent of public instruction. The
26 hearing shall be conducted as a contested case under the
27 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to

1 24.328. If the person does not avail himself or herself of this
2 right to a hearing within 15 working days after receipt of this
3 written notification, the person's state board approval shall be
4 suspended. If a hearing takes place, the superintendent of public
5 instruction shall complete the proceedings and make a final
6 decision and order within 120 working days after receiving the
7 request for a hearing. Subject to subsection (2), the
8 superintendent of public instruction may suspend the person's state
9 board approval, based upon the issues and evidence presented at the
10 hearing. This subsection applies to any of the following crimes:

11 (a) Any felony.

12 (b) Any of the following misdemeanors:

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

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

17 (iii) A misdemeanor involving cruelty, torture, or indecent
18 exposure involving a child.

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

21 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
22 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
23 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
24 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
25 MCL 750.81, 750.81a, and 750.145d.

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

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

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

5 (2) If a person who holds state board approval has been
6 convicted of a crime described in this subsection, the
7 superintendent of public instruction shall find that the public
8 health, safety, or welfare requires emergency action and shall
9 order summary suspension of the person's state board approval under
10 section 92 of the administrative procedures act of 1969, 1969 PA
11 306, MCL 24.292, and shall subsequently provide an opportunity for
12 a hearing as required under that section. This subsection does not
13 limit the superintendent of public instruction's ability to order
14 summary suspension of a person's state board approval for a reason
15 other than described in this subsection. This subsection applies to
16 conviction of any of the following crimes:

17 (a) Criminal sexual conduct in any degree, assault with intent
18 to commit criminal sexual conduct, or an attempt to commit criminal
19 sexual conduct in any degree.

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

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

23 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,
24 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,
25 333.7403, 333.7410, and 333.7416.

26 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,
27 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,

1 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,
2 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony
3 violation of section 145d of the Michigan penal code, 1931 PA 328,
4 MCL 750.145d.

5 (f) A violation of section 158 of the Michigan penal code,
6 1931 PA 328, MCL 750.158, if a victim is an individual less than 18
7 years of age.

8 (g) Except for a juvenile disposition or adjudication, a
9 violation of section 338, 338a, or 338b of the Michigan penal code,
10 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an
11 individual less than 18 years of age.

12 (h) A violation of section 349 of the Michigan penal code,
13 1931 PA 328, MCL 750.349, if a victim is an individual less than 18
14 years of age.

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

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

20 (k) A violation of a substantially similar law of another
21 state, of a political subdivision of this state or another state,
22 or of the United States.

23 (l) Any other crime listed in subsection (1), if the
24 superintendent of public instruction determines the public health,
25 safety, or welfare requires emergency action based on the
26 circumstances underlying the conviction.

27 (3) The superintendent of public instruction after a hearing

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

15 (4) If a person who has entered a plea of guilt or no contest
16 to or who is the subject of a finding of guilt by a judge or jury
17 of a crime listed in subsection (2) has been suspended from active
18 performance of duty by a public school, school district,
19 intermediate school district, or nonpublic school during the
20 pendency of proceedings under this section, the public school,
21 school district, intermediate school district, or nonpublic school
22 employing the person shall discontinue the person's compensation
23 until the superintendent of public instruction has made a final
24 determination of whether or not to suspend or revoke the person's
25 state board approval. If the superintendent of public instruction
26 does not suspend or revoke the person's state board approval, the
27 public school, school district, intermediate school district, or

1 nonpublic school shall make the person whole for lost compensation,
2 without interest. However, if a collective bargaining agreement is
3 in effect as of the effective date of this subsection for employees
4 of a school district, intermediate school district, or public
5 school academy, and if the terms of that collective bargaining
6 agreement are inconsistent with this subsection, then this
7 subsection does not apply to that school district, intermediate
8 school district, or public school academy until after the
9 expiration of that collective bargaining agreement.

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

27 (6) All of the following apply to a person described in this

1 section whose conviction is reversed upon final appeal:

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

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

11 (c) If the person's compensation was discontinued under
12 subsection (4), the public school, school district, intermediate
13 school district, or nonpublic school shall make the person whole
14 for lost compensation.

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

1 maintaining the file as a nonpublic record.

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

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

27 (10) For the purposes of this section, a certified copy of the

1 judgment of conviction and sentence is conclusive evidence of
2 conviction of a crime described in this section. For the purposes
3 of this section, conviction of a crime described in this section is
4 considered to be reasonably and adversely related to the ability of
5 the person to serve in an elementary or secondary school and is
6 sufficient grounds for suspension or revocation of the person's
7 state board approval.

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

23 (12) Beginning July 1, 2004, the superintendent of public
24 instruction shall submit to the legislature a quarterly report of
25 all final actions he or she has taken under this section affecting
26 a person's state board approval during the preceding quarter. The
27 report shall contain at least all of the following with respect to

1 each person whose state board approval has been affected:

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

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

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

9 (d) Whether the action taken by the superintendent of public
10 instruction was a summary suspension, suspension due to failure to
11 request a hearing, suspension, revocation, or reinstatement of the
12 state board approval.

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

14 (a) Prohibit a person who holds state board approval from
15 seeking monetary compensation from a school board or intermediate
16 school board if that right is available under a collective
17 bargaining agreement or another statute.

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

22 (c) Exempt a person who holds state board approval from the
23 operation of section 1535a if the person holds a certificate
24 subject to that section.

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

27 (14) The superintendent of public instruction may promulgate,

1 as necessary, rules to implement this section pursuant to the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328.

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

22 (16) As used in this section:

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

27 (b) "Listed offense" means that term as defined in section 2

1 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

2 (c) "Prosecuting attorney" means the prosecuting attorney for
3 a county, an assistant prosecuting attorney for a county, the
4 attorney general, the deputy attorney general, an assistant
5 attorney general, a special prosecuting attorney, or, in connection
6 with the prosecution of an ordinance violation, an attorney for the
7 political subdivision that enacted the ordinance upon which the
8 violation is based.

9 (d) "State board approval" means a license, certificate,
10 approval not requiring a teaching certificate, or other evidence of
11 qualifications to hold a particular position in a school district
12 or intermediate school district or in a nonpublic school, other
13 than a teacher's certificate subject to section 1535a, that is
14 issued to a person by the state board or the superintendent of
15 public instruction under this act or a rule promulgated under this
16 act.