

**SUBSTITUTE FOR
HOUSE BILL NO. 6173**

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), as amended by 2006 PA 84, and by adding
section 1230e.

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
4 body of a public school academy or nonpublic school to an
5 individual for any full-time or part-time employment or when school

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

10 (2) If the board of a school district or intermediate school
11 district or the governing body of a public school academy or
12 nonpublic school determines it necessary to hire an individual **OR**
13 **TO ALLOW AN INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER**
14 **CONTRACT** for a particular school year during that school year or
15 within 30 days before the beginning of that school year, the board
16 or governing body may employ the individual as a conditional
17 employee **OR CONDITIONALLY ALLOW THE INDIVIDUAL TO REGULARLY AND**
18 **CONTINUOUSLY WORK UNDER CONTRACT** under this subsection without
19 first receiving the report described in subsection (8) if all of
20 the following apply:

21 (a) The board or governing body requests the criminal history
22 check required under subsection (1) before conditionally employing
23 the individual **OR CONDITIONALLY ALLOWING THE INDIVIDUAL TO**
24 **REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS**
25 **SCHOOLS.**

26 (b) The individual signs a statement identifying all crimes
27 for which he or she has been convicted, if any, and agreeing that,

1 if the report described in subsection (8) is not the same as the
2 individual's statement, his or her employment contract is voidable
3 at the option of the board or governing body. The department shall
4 develop and distribute to districts and nonpublic schools a model
5 form for the statement required under this subdivision. The
6 department shall make the model form available to public school
7 academies. A district, public school academy, or nonpublic school
8 shall use the model form for the purposes of this subsection.

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

19 (4) For an applicant for a position as a substitute teacher,
20 **OR FOR AN INDIVIDUAL WHO REGULARLY AND CONTINUOUSLY WORKS UNDER**
21 **CONTRACT IN MORE THAN 1 SCHOOL DISTRICT, INTERMEDIATE SCHOOL**
22 **DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL, IF THE**
23 **APPLICANT OR INDIVIDUAL AGREES IN WRITING TO ALLOW A DISTRICT,**
24 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL TO SHARE THE RESULTS OF**
25 **THE CRIMINAL HISTORY CHECK WITH ANOTHER DISTRICT, PUBLIC SCHOOL**
26 **ACADEMY, OR NONPUBLIC SCHOOL, THEN** instead of requesting a criminal
27 history check under subsection (1), a school district, intermediate

1 school district, public school academy, or nonpublic school may use
2 a report received by another district, public school academy, or
3 nonpublic school or maintained by the department to confirm that
4 the **APPLICANT OR** individual does not have any criminal history. If
5 that confirmation is not available, subsection (1) applies to the
6 applicant **OR INDIVIDUAL**.

7 (5) If an applicant is being considered for employment by more
8 than 1 school district, intermediate school district, public school
9 academy, or nonpublic school and if the applicant agrees in writing
10 to allow a district, public school academy, or nonpublic school to
11 share the report described in subsection (8) with another district,
12 public school academy, or nonpublic school, a district, public
13 school academy, or nonpublic school may satisfy the requirements of
14 subsection (1) by obtaining a copy of the report described in
15 subsection (8) from another district, public school academy, or
16 nonpublic school.

17 (6) An applicant for employment shall give written consent at
18 the time of application for the criminal records division of the
19 department of state police to conduct the criminal history check
20 required under this section.

21 (7) A school district, intermediate school district, public
22 school academy, or nonpublic school shall make a request to the
23 criminal records division of the department of state police for a
24 criminal history check required under this section on a form and in
25 a manner prescribed by the criminal records division of the
26 department of state police.

27 (8) Within 30 days after receiving a proper request by a

1 school district, intermediate school district, public school
2 academy, or nonpublic school for a criminal history check on an
3 individual under this section, the criminal records division of the
4 department of state police shall conduct the criminal history check
5 and, after conducting the criminal history check and within that
6 time period, provide a report of the results of the criminal
7 history check to the district, public school academy, or nonpublic
8 school. The report shall contain any criminal history record
9 information on the individual maintained by the criminal records
10 division of the department of state police.

11 (9) If the report received by a school district, intermediate
12 school district, public school academy, or nonpublic school under
13 subsection (8), **OR A REPORT RECEIVED UNDER SECTION 1230A, 1230D(7),**
14 **1535A(15), OR 1539B(15),** discloses that an individual has been
15 convicted of a listed offense, then the school district,
16 intermediate school district, public school academy, or nonpublic
17 school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC**
18 **RECORDS AND, IF THE INFORMATION IS VERIFIED,** shall not employ the
19 individual in any capacity, as provided under section 1230c, and
20 shall not allow the individual to regularly and continuously work
21 under contract in any of its schools. If the report received by a
22 school district, intermediate school district, public school
23 academy, or nonpublic school under subsection (8), **OR A REPORT**
24 **RECEIVED UNDER SECTION 1230A, 1230D(7), 1535A(15), OR 1539B(15),**
25 discloses that an individual has been convicted of a felony other
26 than a listed offense, then the school district, intermediate
27 school district, public school academy, or nonpublic school **SHALL**

1 TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC RECORDS AND, IF
2 THE INFORMATION IS VERIFIED USING PUBLIC RECORDS, shall not employ
3 the individual in any capacity or allow the individual to regularly
4 and continuously work under contract in any of its schools unless
5 the superintendent or chief administrator and the **GOVERNING** board
6 or governing body, **IF ANY**, of the school district, intermediate
7 school district, public school academy, or nonpublic school each
8 specifically ~~approve~~ **APPROVES** the employment or work assignment
9 in writing. **IF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,**
10 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL RECEIVES RESULTS**
11 **DESCRIBED IN THIS SUBSECTION, WITHIN 30 DAYS AFTER RECEIVING THOSE**
12 **RESULTS THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC**
13 **SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT**
14 **IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT A REPORT**
15 **DETAILING THE INFORMATION AND ANY ACTION TAKEN AS A RESULT BY THE**
16 **SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL**
17 **ACADEMY, OR NONPUBLIC SCHOOL.**

18 (10) Criminal history record information received from the
19 criminal records division of the department of state police under
20 subsection (8) shall be used by a school district, intermediate
21 school district, public school academy, or nonpublic school only
22 for the purpose of evaluating an individual's qualifications for
23 employment or assignment in the position for which he or she has
24 applied or been assigned and for the purposes of subsections (3),
25 (4), and (5). A member of the board of a district or of the
26 governing body of a public school academy or nonpublic school or an
27 employee of a district, public school academy, or nonpublic school

1 shall not disclose the report or its contents, except a misdemeanor
2 conviction involving sexual or physical abuse or any felony
3 conviction, to any person who is not directly involved in
4 evaluating the applicant's qualifications for employment or
5 assignment. However, for the purposes of subsections (4) and (5), a
6 person described in this subsection may confirm to an employee of
7 another district, public school academy, or nonpublic school that a
8 report under subsection (8) has revealed that an individual does
9 not have any criminal history or may disclose that no report under
10 subsection (8) has been received concerning the individual, and for
11 the purposes of subsection (5), a person described in this
12 subsection may provide a copy of the report under subsection (8)
13 concerning the individual to an appropriate representative of
14 another district, public school academy, or nonpublic school. **ALSO,**
15 **FOR AN INDIVIDUAL WHO IS REGULARLY AND CONTINUOUSLY WORKING UNDER**
16 **CONTRACT, A PERSON DESCRIBED IN THIS SUBSECTION MAY PROVIDE A COPY**
17 **OF THE RESULTS RECEIVED UNDER THIS SECTION CONCERNING THE**
18 **INDIVIDUAL TO AN APPROPRIATE REPRESENTATIVE OF THE INDIVIDUAL'S**
19 **EMPLOYER. A REPRESENTATIVE OF A DISTRICT, PUBLIC SCHOOL ACADEMY,**
20 **NONPUBLIC SCHOOL, OR OF ANY OTHER EMPLOYER WHO RECEIVES A COPY OF A**
21 **REPORT OR RECEIVES RESULTS OF A REPORT FROM ANOTHER SOURCE AS**
22 **AUTHORIZED UNDER THIS SUBSECTION SHALL NOT DISCLOSE THE REPORT OR**
23 **ITS CONTENTS OR THE RESULTS OF A THE REPORT TO ANY PERSON WHO IS**
24 **NOT DIRECTLY INVOLVED IN EVALUATING THE INDIVIDUAL'S OR APPLICANT'S**
25 **QUALIFICATIONS FOR EMPLOYMENT OR ASSIGNMENT.** A person who violates
26 this subsection is guilty of a misdemeanor punishable by a fine of
27 not more than \$10,000.00, but is not subject to the penalties under

1 section 1804.

2 (11) IF THE CRIMINAL HISTORY CHECK REQUIRED UNDER THIS SECTION
3 HAS BEEN COMPLETED FOR A PARTICULAR INDIVIDUAL AND THE RESULTS
4 REPORTED TO A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC
5 SCHOOL ACADEMY, OR NONPUBLIC SCHOOL AS PROVIDED UNDER THIS SECTION,
6 THEN ANOTHER CRIMINAL HISTORY CHECK IS NOT REQUIRED UNDER THIS
7 SECTION FOR THAT INDIVIDUAL AS LONG AS THE INDIVIDUAL REMAINS, WITH
8 NO BREAK IN SERVICE OTHER THAN NORMALLY SCHEDULED ACADEMIC CALENDAR
9 BREAKS, EMPLOYED OR REGULARLY AND CONTINUOUSLY WORKING UNDER
10 CONTRACT IN ANY SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,
11 PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN THIS STATE.

12 (12) ~~-(11)-~~ Subsection (1) does not apply to an individual who
13 is being employed by or assigned to regularly and continuously work
14 under contract in a school of a school district, intermediate
15 school district, public school academy, or nonpublic school if the
16 individual is not more than 19 years of age and is enrolled as a
17 general education pupil of ~~the~~ A school district, intermediate
18 school district, public school academy, or nonpublic school or is
19 not more than 26 years of age and is enrolled in special education
20 programs or services in ~~the~~ A school district, intermediate
21 school district, public school academy, or nonpublic school.
22 However, before employing the individual or assigning the
23 individual to regularly and continuously work under contract in a
24 school, the school district, intermediate school district, public
25 school academy, or nonpublic school shall perform a criminal
26 history check on that person using the department of state police's
27 internet criminal history access tool (ICHAT). If a search of the

1 department of state police's ICHAT reveals that the individual has
2 been convicted of a listed offense, then the school district,
3 intermediate school district, public school academy, or nonpublic
4 school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC**
5 **RECORDS AND, IF THE INFORMATION IS VERIFIED USING PUBLIC RECORDS,**
6 shall not employ the individual in any capacity, as provided under
7 section 1230c, and shall not allow the individual to regularly and
8 continuously work under contract in any of its schools. If a search
9 of the department of state police's ICHAT reveals that the
10 individual has been convicted of a felony other than a listed
11 offense, then the school district, intermediate school district,
12 public school academy, or nonpublic school **SHALL TAKE STEPS TO**
13 **VERIFY THAT INFORMATION USING PUBLIC RECORDS AND, IF THE**
14 **INFORMATION IS VERIFIED USING PUBLIC RECORDS,** shall not employ the
15 individual in any capacity or allow the individual to regularly and
16 continuously work under contract in any of its schools unless the
17 superintendent or chief administrator and the board or governing
18 body, **IF ANY,** of the school district, intermediate school district,
19 public school academy, or nonpublic school each specifically
20 approves the employment or work assignment in writing.

21 (13) ~~-(12)-~~ As used in this section:

22 (a) "At school" means in a classroom, elsewhere on school
23 property, or on a school bus or other school-related vehicle.

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

26 (C) **"FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF**
27 **CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL**

1 761.1.

2 (D) ~~-(e)-~~ "Listed offense" means that term as defined in
3 section 2 of the sex offenders registration act, 1994 PA 295, MCL
4 28.722.

5 (E) ~~-(d)-~~ "Regularly and continuously work under contract"
6 means either of the following:

7 (i) To work at school on a more than intermittent or sporadic
8 basis as an owner or employee of an entity that has a contract with
9 a school district, intermediate school district, public school
10 academy, or nonpublic school to provide food, custodial,
11 transportation, counseling, or administrative services, or to
12 provide instructional services to pupils or related and auxiliary
13 services to special education pupils.

14 (ii) To work at school on a more than intermittent or sporadic
15 basis as an individual under a contract with a school district,
16 intermediate school district, public school academy, or nonpublic
17 school to provide food, custodial, transportation, counseling, or
18 administrative services, or to provide instructional services to
19 pupils or related and auxiliary services to special education
20 pupils.

21 (F) ~~-(e)-~~ "School property" means that term as defined in
22 section 33 of the sex offenders registration act, 1994 PA 295, MCL
23 28.733.

24 Sec. 1230a. (1) In addition to the criminal history check
25 required under section 1230, the board of a school district or
26 intermediate school district or the governing body of a public
27 school academy or nonpublic school shall request the department of

1 state police to conduct a criminal records check through the
2 federal bureau of investigation on an applicant for, or an
3 individual who is hired for, any full-time or part-time employment
4 or who is assigned to regularly and continuously work under
5 contract in any of its schools. Except as otherwise provided in
6 this section, a board or governing body shall not employ an
7 individual or allow an individual to regularly and continuously
8 work under contract in any of its schools until after the board or
9 governing body receives the results of the criminal records check.
10 A board or governing body requesting a criminal records check under
11 this section shall require the individual to submit his or her
12 fingerprints to the department of state police for that purpose.
13 The department of state police may charge a fee for conducting the
14 criminal records check. Subject to section 1230g, a board or
15 governing body shall require an individual to submit his or her
16 fingerprints for the purposes of this section only at the time the
17 individual initially applies for employment with the board or
18 governing body or is initially employed by the board or governing
19 body or is initially assigned to regularly and continuously work
20 under contract in any of its schools.

21 (2) If the board of a school district or intermediate school
22 district or the governing body of a public school academy or
23 nonpublic school determines it necessary to hire an individual **OR**
24 **TO ALLOW AN INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER**
25 **CONTRACT** for a particular school year during that school year or
26 within 30 days before the beginning of that school year, the board
27 or governing body may employ the individual as a conditional

1 employee **OR CONDITIONALLY ALLOW THE INDIVIDUAL TO REGULARLY AND**
2 **CONTINUOUSLY WORK UNDER CONTRACT** under this subsection without
3 first receiving the results of the criminal records check under
4 subsection (1) if all of the following apply:

5 (a) The board or governing body requests the criminal records
6 check under subsection (1) before conditionally employing the
7 individual **OR CONDITIONALLY ALLOWING THE INDIVIDUAL TO REGULARLY**
8 **AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS SCHOOLS.**

9 (b) The individual signs a statement identifying all crimes
10 for which he or she has been convicted, if any, and agreeing that,
11 if the results of the criminal records check under subsection (1)
12 reveal information that is inconsistent with the individual's
13 statement, his or her employment contract is voidable at the option
14 of the board or governing body. The department shall develop and
15 distribute to districts and nonpublic schools a model form for the
16 statement required under this subdivision. The department shall
17 make the model form available to public school academies. A
18 district, public school academy, or nonpublic school shall use the
19 model form for the purposes of this subsection.

20 (3) If an individual is employed as a conditional employee
21 under subsection (2) and the results of the criminal records check
22 under subsection (1) reveal information that is inconsistent with
23 the individual's statement under subsection (2), the board or
24 governing body may void the individual's employment contract. If an
25 employment contract is voided under this subsection, the
26 individual's employment is terminated, a collective bargaining
27 agreement that would otherwise apply to the individual's employment

1 does not apply to the termination, and the district, public school
2 academy, or nonpublic school or the board or governing body is not
3 liable for the termination.

4 (4) For an applicant for a position as a substitute teacher,
5 **OR FOR AN INDIVIDUAL WHO REGULARLY AND CONTINUOUSLY WORKS UNDER**
6 **CONTRACT IN MORE THAN 1 SCHOOL DISTRICT, INTERMEDIATE SCHOOL**
7 **DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL, IF THE**
8 **APPLICANT OR INDIVIDUAL AGREES IN WRITING TO ALLOW A DISTRICT,**
9 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL TO SHARE THE RESULTS OF**
10 **THE CRIMINAL RECORDS CHECK WITH ANOTHER DISTRICT, PUBLIC SCHOOL**
11 **ACADEMY, OR NONPUBLIC SCHOOL, THEN** instead of requesting a criminal
12 records check under subsection (1), a school district, intermediate
13 school district, public school academy, or nonpublic school may use
14 results received by another district, public school academy, or
15 nonpublic school or maintained by the department to confirm that
16 the **APPLICANT OR** individual does not have any criminal history. If
17 that confirmation is not available, subsection (1) applies to the
18 applicant **OR INDIVIDUAL.**

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

1 school academy, or nonpublic school.

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

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

11 (8) The results of a criminal records check under this section
12 shall be used by a school district, intermediate school district,
13 public school academy, or nonpublic school only for the purpose of
14 evaluating an individual's qualifications for employment or
15 assignment in the position for which he or she has applied or been
16 assigned and for the purposes of subsections (3), (4), and (5). A
17 member of the board of a district or of the governing body of a
18 public school academy or nonpublic school or an employee of a
19 district, public school academy, or nonpublic school shall not
20 disclose those results, except a misdemeanor conviction involving
21 sexual or physical abuse or any felony conviction, to any person
22 who is not directly involved in evaluating the individual's
23 qualifications for employment or assignment. However, for the
24 purposes of subsections (4) and (5), a person described in this
25 subsection may provide a copy of the results ~~under subsection (1)~~
26 **RECEIVED UNDER THIS SECTION** concerning the individual to an
27 appropriate representative of another district, public school

1 academy, or nonpublic school. **ALSO, FOR AN INDIVIDUAL WHO IS**
2 **REGULARLY AND CONTINUOUSLY WORKING UNDER CONTRACT, A PERSON**
3 **DESCRIBED IN THIS SUBSECTION MAY PROVIDE A COPY OF THE RESULTS**
4 **RECEIVED UNDER THIS SECTION CONCERNING THE INDIVIDUAL TO AN**
5 **APPROPRIATE REPRESENTATIVE OF THE INDIVIDUAL'S EMPLOYER. A**
6 **REPRESENTATIVE OF A DISTRICT, PUBLIC SCHOOL ACADEMY, NONPUBLIC**
7 **SCHOOL, OR OF ANY OTHER EMPLOYER WHO RECEIVES A COPY OF A REPORT OR**
8 **RECEIVES RESULTS OF A REPORT FROM ANOTHER SOURCE AS AUTHORIZED**
9 **UNDER THIS SUBSECTION SHALL NOT DISCLOSE THE REPORT OR ITS CONTENTS**
10 **OR THE RESULTS OF A THE REPORT TO ANY PERSON WHO IS NOT DIRECTLY**
11 **INVOLVED IN EVALUATING THE INDIVIDUAL'S OR APPLICANT'S**
12 **QUALIFICATIONS FOR EMPLOYMENT OR ASSIGNMENT.** A person who violates
13 this subsection is guilty of a misdemeanor punishable by a fine of
14 not more than \$10,000.00, but is not subject to the penalties under
15 section 1804.

16 (9) Within 30 days after receiving a proper request by a
17 school district, intermediate school district, public school
18 academy, or nonpublic school for a criminal records check on an
19 individual under this section, the criminal records division of the
20 department of state police shall initiate the criminal records
21 check through the federal bureau of investigation. After conducting
22 the criminal records check required under this section for a school
23 district, intermediate school district, ~~or~~ public school academy,
24 **OR NONPUBLIC SCHOOL,** the criminal records division of the
25 department of state police shall provide the results of the
26 criminal records check to the district, ~~or~~ public school academy,
27 **OR NONPUBLIC SCHOOL.** ~~After conducting the criminal records check~~

1 ~~required under this section for a nonpublic school, the criminal~~
2 ~~records division of the department of state police shall notify the~~
3 ~~nonpublic school of whether or not the criminal records check~~
4 ~~disclosed any criminal history that is not disclosed in the report~~
5 ~~on the individual provided to the nonpublic school under section~~
6 ~~1230.~~

7 (10) If the results received by a school district,
8 intermediate school district, public school academy, or nonpublic
9 school under subsection (9), **OR A REPORT RECEIVED UNDER SECTION**
10 **1230, 1230D(7), 1535A(15), OR 1539B(15)**, disclose that an
11 individual has been convicted of a listed offense, then the school
12 district, intermediate school district, public school academy, or
13 nonpublic school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING**
14 **PUBLIC RECORDS AND, IF THE INFORMATION IS VERIFIED**, shall not
15 employ the individual in any capacity, as provided under section
16 1230c, and shall not allow the individual to regularly and
17 continuously work under contract in any of its schools. If the
18 results received by a school district, intermediate school
19 district, public school academy, or nonpublic school under
20 subsection (9), **OR A REPORT RECEIVED UNDER SECTION 1230, 1230D(7),**
21 **1535A(15), OR 1539B(15)**, disclose that an individual has been
22 convicted of a felony other than a listed offense, then the school
23 district, intermediate school district, public school academy, or
24 nonpublic school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING**
25 **PUBLIC RECORDS AND, IF THE INFORMATION IS VERIFIED USING PUBLIC**
26 **RECORDS**, shall not employ the individual in any capacity or allow
27 the individual to regularly and continuously work under contract in

1 any of its schools unless the superintendent or chief administrator
2 and the **GOVERNING** board or governing body, **IF ANY**, of the school
3 district, intermediate school district, public school academy, or
4 nonpublic school each specifically ~~approve~~ **APPROVES** the
5 employment or work assignment in writing. **IF A SCHOOL DISTRICT,**
6 **INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC**
7 **SCHOOL RECEIVES RESULTS DESCRIBED IN THIS SUBSECTION, WITHIN 30**
8 **DAYS AFTER RECEIVING THOSE RESULTS THE SCHOOL DISTRICT,**
9 **INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC**
10 **SCHOOL SHALL SUBMIT TO THE DEPARTMENT IN THE FORM AND MANNER**
11 **PRESCRIBED BY THE DEPARTMENT A REPORT DETAILING THE INFORMATION AND**
12 **ANY ACTION TAKEN AS A RESULT BY THE SCHOOL DISTRICT, INTERMEDIATE**
13 **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL.**

14 (11) **IF THE CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION**
15 **HAS BEEN COMPLETED FOR A PARTICULAR INDIVIDUAL AND THE RESULTS**
16 **REPORTED TO A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC**
17 **SCHOOL ACADEMY, OR NONPUBLIC SCHOOL AS PROVIDED UNDER THIS SECTION,**
18 **THEN ANOTHER CRIMINAL RECORDS CHECK IS NOT REQUIRED UNDER THIS**
19 **SECTION FOR THAT INDIVIDUAL AS LONG AS THE INDIVIDUAL REMAINS, WITH**
20 **NO BREAK IN SERVICE OTHER THAN NORMALLY SCHEDULED ACADEMIC CALENDAR**
21 **BREAKS, EMPLOYED OR REGULARLY AND CONTINUOUSLY WORKING UNDER**
22 **CONTRACT IN A SCHOOL IN ANY SCHOOL DISTRICT, INTERMEDIATE SCHOOL**
23 **DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN THIS STATE.**

24 (12) ~~(11)~~ Subsection (1) does not apply to an individual who
25 is being employed by or assigned to regularly and continuously work
26 under contract in a school of a school district, intermediate
27 school district, public school academy, or nonpublic school if the

1 individual is not more than 19 years of age and is enrolled as a
2 general education pupil of ~~the~~ A school district, intermediate
3 school district, public school academy, or nonpublic school or is
4 not more than 26 years of age and is enrolled in special education
5 programs or services in ~~the~~ A school district, intermediate
6 school district, public school academy, or nonpublic school.
7 However, before employing the individual or assigning the
8 individual to regularly and continuously work under contract in a
9 school, the school district, intermediate school district, public
10 school academy, or nonpublic school shall perform a criminal
11 history check on that person using the department of state police's
12 internet criminal history access tool (ICHAT). If a search of the
13 department of state police's ICHAT reveals that the individual has
14 been convicted of a listed offense, then the school district,
15 intermediate school district, public school academy, or nonpublic
16 school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC**
17 **RECORDS AND, IF THE INFORMATION IS VERIFIED USING PUBLIC RECORDS,**
18 shall not employ the individual in any capacity, as provided under
19 section 1230c, and shall not allow the individual to regularly and
20 continuously work under contract in any of its schools. If a search
21 of the department of state police's ICHAT reveals that the
22 individual has been convicted of a felony other than a listed
23 offense, then the school district, intermediate school district,
24 public school academy, or nonpublic school **SHALL TAKE STEPS TO**
25 **VERIFY THAT INFORMATION USING PUBLIC RECORDS AND, IF THE**
26 **INFORMATION IS VERIFIED USING PUBLIC RECORDS,** shall not employ the
27 individual in any capacity or allow the individual to regularly and

1 continuously work under contract in any of its schools unless the
2 superintendent or chief administrator and the board or governing
3 body of the school district, intermediate school district, public
4 school academy, or nonpublic school each specifically approves the
5 employment or work assignment in writing.

6 (13) ~~-(12)-~~ As used in this section:

7 (a) "At school" means in a classroom, elsewhere on school
8 property, or on a school bus or other school-related vehicle.

9 (B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF
10 CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
11 761.1.

12 (C) ~~-(b)-~~ "Listed offense" means that term as defined in
13 section 2 of the sex offenders registration act, 1994 PA 295, MCL
14 28.722.

15 (D) ~~-(e)-~~ "Regularly and continuously work under contract"
16 means either of the following:

17 (i) To work at school on a more than intermittent or sporadic
18 basis as an owner or employee of an entity that has a contract with
19 a school district, intermediate school district, public school
20 academy, or nonpublic school to provide food, custodial,
21 transportation, counseling, or administrative services, or to
22 provide instructional services to pupils or related and auxiliary
23 services to special education pupils.

24 (ii) To work at school on a more than intermittent or sporadic
25 basis as an individual under a contract with a school district,
26 intermediate school district, public school academy, or nonpublic
27 school to provide food, custodial, transportation, counseling, or

1 administrative services, or to provide instructional services to
2 pupils or related and auxiliary services to special education
3 pupils.

4 (E) ~~(d)~~ "School property" means that term as defined in
5 section 33 of the sex offenders registration act, 1994 PA 295, MCL
6 28.733.

7 Sec. 1230c. (1) If a school official of a school district,
8 intermediate school district, public school academy, or nonpublic
9 school has notice from an authoritative source that an individual
10 has been convicted of a listed offense, the board of the school
11 district or intermediate school district, board of directors of the
12 public school academy, or governing board of the nonpublic school
13 shall take steps to verify that information using public records
14 and, if the information is verified using public records, shall not
15 employ that individual in any capacity or allow that person to
16 regularly and continuously work under contract in any of its
17 schools. **IF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC
18 SCHOOL ACADEMY, OR NONPUBLIC SCHOOL RECEIVES NOTICE DESCRIBED IN
19 THIS SUBSECTION, WITHIN 30 DAYS AFTER RECEIVING THAT NOTICE THE
20 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
21 ACADEMY, OR NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT IN THE
22 FORM AND MANNER PRESCRIBED BY THE DEPARTMENT A REPORT DETAILING THE
23 INFORMATION RECEIVED AND ANY ACTION TAKEN AS A RESULT BY THE SCHOOL
24 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR
25 NONPUBLIC SCHOOL.**

26 (2) As used in this section:

27 (a) "At school" means in a classroom, elsewhere on school

1 property, or on a school bus or other school-related vehicle.

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

4 (c) "Regularly and continuously work under contract" means
5 either of the following:

6 (i) To work at school on a more than intermittent or sporadic
7 basis as an owner or employee of an entity that has a contract with
8 a school district, intermediate school district, public school
9 academy, or nonpublic school to provide food, custodial,
10 transportation, counseling, or administrative services, or to
11 provide instructional services to pupils or related and auxiliary
12 services to special education pupils.

13 (ii) To work at school on a more than intermittent or sporadic
14 basis as an individual under a contract with a school district,
15 intermediate school district, public school academy, or nonpublic
16 school to provide food, custodial, transportation, counseling, or
17 administrative services, or to provide instructional services to
18 pupils or related and auxiliary services to special education
19 pupils.

20 (d) "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. 1230d. (1) If a person who is employed in any capacity by
23 a school district, intermediate school district, public school
24 academy, or nonpublic school; who has applied for a position with a
25 school district, intermediate school district, public school
26 academy, or nonpublic school and has had an initial criminal
27 history check under section 1230 or criminal records check under

1 section 1230a; or who is regularly and continuously working under
2 contract in a school district, intermediate school district, public
3 school academy, or nonpublic school, is charged with a crime listed
4 in section 1535a(1) or 1539b(1) or a violation of a substantially
5 similar law of another state, a political subdivision of this state
6 or another state, or of the United States, the person shall report
7 to the department and to the school district, intermediate school
8 district, public school academy, or nonpublic school that he or she
9 has been charged with the crime. All of the following apply to this
10 reporting requirement:

11 (a) The person shall make the report on a form prescribed by
12 the department.

13 (b) The person shall submit the report to the department and
14 to the superintendent of the school district or intermediate school
15 district or chief administrator of the public school academy or
16 nonpublic school.

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

19 (2) If a person who is employed in any capacity by or is
20 regularly and continuously working under contract in a school
21 district, intermediate school district, public school academy, or
22 nonpublic school enters a plea of guilt or no contest to or is the
23 subject of a finding of guilt by a judge or jury of any crime after
24 having been initially charged with a crime described in section
25 1535a(1) or 1539b(1), then the person immediately shall disclose to
26 the court, on a form prescribed by the state court administrative
27 office, that he or she is employed by or regularly and continuously

1 working under contract in a school district, intermediate school
2 district, public school academy, or nonpublic school. The person
3 shall immediately provide a copy of the form to the prosecuting
4 attorney in charge of the case, to the superintendent of public
5 instruction, and to the superintendent or chief administrator of
6 the school district, intermediate school district, public school
7 academy, or nonpublic school.

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

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

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

20 (4) A person who violates subsection (1) or (2) may be
21 discharged from his or her employment or have his or her contract
22 terminated. If the board of a school district or intermediate
23 school district or board of directors of a public school academy
24 finds, after providing notice and the opportunity for a hearing,
25 that a person employed by the school district, intermediate school
26 district, or public school academy has violated subsection (1) or
27 (2), the board or board of directors may discharge the person from

1 his or her employment. However, if a collective bargaining
2 agreement that applies to the affected person is in effect as of
3 ~~the effective date of this section~~ **JANUARY 1, 2006**, and if that
4 collective bargaining agreement is not in compliance with this
5 subsection, then this subsection does not apply to that school
6 district, intermediate school district, or public school academy
7 until after the expiration of that collective bargaining agreement.

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

21 (6) If the prosecuting attorney in charge of a case receives a
22 form as provided under subsection (2), the prosecuting attorney
23 shall notify the superintendent of public instruction and the
24 superintendent or chief administrator of any school district,
25 intermediate school district, public school academy, or nonpublic
26 school in which the person is employed by forwarding a copy of the
27 form to each of them not later than 7 days after receiving the

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

10 (7) The department of information technology shall work with
11 the department and the department of state police to develop and
12 implement an automated program that does a comparison of the
13 department's list of registered educational personnel, **AND OF ANY**
14 **OTHER LIST MAINTAINED BY THE DEPARTMENT OF INDIVIDUALS EMPLOYED OR**
15 **REGULARLY AND CONTINUOUSLY WORKING UNDER CONTRACT IN A SCHOOL,** with
16 the conviction information received by the department of state
17 police. This comparison shall only include individuals who are
18 actually school employees at the time of the comparison or who are
19 regularly and continuously working under contract at the time of
20 the comparison. Unless otherwise prohibited by law, this comparison
21 shall include convictions contained in a nonpublic record. The
22 department and the department of state police shall perform this
23 comparison during January and June of each year until July 1, 2008.
24 The department of state police shall take all reasonable and
25 necessary measures using the available technology to ensure the
26 accuracy of this comparison before transmitting the information
27 under this subsection to the department. The department shall take

1 all reasonable and necessary measures using the available
2 technology to ensure the accuracy of this comparison before
3 notifying a school district, intermediate school district, public
4 school academy, or nonpublic school of a conviction. If a
5 comparison discloses that a person on the department's list of
6 registered educational personnel has been convicted of a crime, the
7 department shall notify the superintendent or chief administrator
8 and the board or governing body of the school district,
9 intermediate school district, public school academy, or nonpublic
10 school in which the person is employed of that conviction.

11 (8) Not later than May 1, 2006, the department shall submit a
12 report to the legislature that details the number of individuals
13 who were on the department's list of registered educational
14 personnel as of January 1, 2006, who were school employees or
15 regularly and continuously working under contract as of January 1,
16 2006, and who have been convicted of a listed offense or any
17 felony.

18 (9) IF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC
19 SCHOOL ACADEMY, OR NONPUBLIC SCHOOL RECEIVES A REPORT UNDER THIS
20 SECTION OF A CONVICTION, WITHIN 30 DAYS AFTER RECEIVING THE REPORT
21 THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
22 ACADEMY, OR NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT IN THE
23 FORM AND MANNER PRESCRIBED BY THE DEPARTMENT A REPORT DETAILING THE
24 INFORMATION RECEIVED AND ANY ACTION TAKEN AS A RESULT BY THE SCHOOL
25 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR
26 NONPUBLIC SCHOOL.

27 (10) ~~-(9)-~~ As used in this section:

1 (a) "At school" means in a classroom, elsewhere on school
2 property, or on a school bus or other school-related vehicle.

3 (B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF
4 CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
5 761.1.

6 (C) ~~-(b)-~~ "Listed offense" means that term as defined in
7 section 2 of the sex offenders registration act, 1994 PA 295, MCL
8 28.722.

9 (D) ~~-(e)-~~ "Regularly and continuously work under contract"
10 means either of the following:

11 (i) To work at school on a more than intermittent or sporadic
12 basis as an owner or employee of an entity that has a contract with
13 a school district, intermediate school district, public school
14 academy, or nonpublic school to provide food, custodial,
15 transportation, counseling, or administrative services, or to
16 provide instructional services to pupils or related and auxiliary
17 services to special education pupils.

18 (ii) To work at school on a more than intermittent or sporadic
19 basis as an individual under a contract with a school district,
20 intermediate school district, public school academy, or nonpublic
21 school to provide food, custodial, transportation, counseling, or
22 administrative services, or to provide instructional services to
23 pupils or related and auxiliary services to special education
24 pupils.

25 (E) ~~-(d)-~~ "School property" means that term as defined in
26 section 33 of the sex offenders registration act, 1994 PA 295, MCL
27 28.733.

1 SEC. 1230E. (1) NOT LATER THAN JANUARY 1, 2007, THE DEPARTMENT
2 SHALL INCLUDE IN ITS LIST OF REGISTERED EDUCATIONAL PERSONNEL ALL
3 INDIVIDUALS WHO ARE EMPLOYED BY A SCHOOL DISTRICT, INTERMEDIATE
4 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL AND ALL
5 INDIVIDUALS WHO ARE ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK
6 UNDER CONTRACT IN A SCHOOL OPERATED BY A SCHOOL DISTRICT,
7 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
8 SCHOOL.

9 (2) AS USED IN THIS SECTION:

10 (A) "AT SCHOOL" MEANS IN A CLASSROOM, ELSEWHERE ON SCHOOL
11 PROPERTY, OR ON A SCHOOL BUS OR OTHER SCHOOL-RELATED VEHICLE.

12 (B) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS
13 EITHER OF THE FOLLOWING:

14 (i) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
15 BASIS AS AN OWNER OR EMPLOYEE OF AN ENTITY THAT HAS A CONTRACT WITH
16 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
17 ACADEMY, OR NONPUBLIC SCHOOL TO PROVIDE FOOD, CUSTODIAL,
18 TRANSPORTATION, COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO
19 PROVIDE INSTRUCTIONAL SERVICES TO PUPILS OR RELATED AND AUXILIARY
20 SERVICES TO SPECIAL EDUCATION PUPILS.

21 (ii) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
22 BASIS AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
23 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
24 SCHOOL TO PROVIDE FOOD, CUSTODIAL, TRANSPORTATION, COUNSELING, OR
25 ADMINISTRATIVE SERVICES, OR TO PROVIDE INSTRUCTIONAL SERVICES TO
26 PUPILS OR RELATED AND AUXILIARY SERVICES TO SPECIAL EDUCATION
27 PUPILS.

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

3 Sec. 1230g. (1) Not later than July 1, 2008, the board of a
4 school district or intermediate school district, the board of
5 directors of a public school academy, or the governing body of a
6 nonpublic school shall do both of the following for each individual
7 who, as of ~~January 1, 2006~~ **DECEMBER 1, 2005**, is either a full-
8 time or part-time employee of the school district, intermediate
9 school district, public school academy, or nonpublic school or is
10 assigned to regularly and continuously work under contract in any
11 of its schools **AND WHO, AS OF THE DATE OF INITIATION OF THE**
12 **CRIMINAL HISTORY AND CRIMINAL RECORDS CHECKS UNDER THIS SECTION, IS**
13 **STILL EITHER A FULL-TIME OR PART-TIME EMPLOYEE OF THE SCHOOL**
14 **DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR**
15 **NONPUBLIC SCHOOL OR IS ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK**
16 **UNDER CONTRACT IN A SCHOOL IN ANY OF ITS SCHOOLS:**

17 (a) Request from the criminal records division of the
18 department of state police a criminal history check on the
19 individual.

20 (b) Request the department of state police to conduct a
21 criminal records check on the individual through the federal bureau
22 of investigation. The board, board of directors, or governing board
23 shall require the individual to submit his or her fingerprints to
24 the department of state police for the purposes of this
25 subdivision. The department of state police may charge a fee for
26 conducting the criminal records check.

27 (2) For an individual employed or regularly and continuously

1 working under contract as a substitute teacher, instead of
2 requesting a criminal history check and criminal records check
3 under subsection (1), a school district, intermediate school
4 district, public school academy, or nonpublic school may use
5 results received by another district, public school academy, or
6 nonpublic school or maintained by the department to confirm that
7 the individual does not have any criminal history. If that
8 confirmation is not available, subsection (1) applies to the
9 individual.

10 (3) If an individual described in subsection (1) is employed
11 by or regularly and continuously working under contract in more
12 than 1 school district, intermediate school district, public school
13 academy, or nonpublic school and if the individual agrees in
14 writing to allow a district, public school academy, or nonpublic
15 school to share the results of the criminal history check or
16 criminal records check with another district, public school
17 academy, or nonpublic school, then a district, public school
18 academy, or nonpublic school may satisfy the requirements of
19 subsection (1) by obtaining a copy of the results of the criminal
20 history check or criminal records check from another district,
21 public school academy, or nonpublic school.

22 (4) An individual described in subsection (1) shall give
23 written consent for the criminal records division of the department
24 of state police to conduct the criminal history check and criminal
25 records check required under this section and shall submit his or
26 her fingerprints to the department of state police for the purposes
27 of the criminal records check. **IF AN INDIVIDUAL DOES NOT COMPLY**

1 WITH THIS SUBSECTION OR OTHERWISE FAILS TO COOPERATE WITH A SCHOOL
2 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR
3 NONPUBLIC SCHOOL THAT IS SEEKING TO COMPLY WITH SUBSECTION (1)
4 CONCERNING THE INDIVIDUAL, THEN THE SCHOOL DISTRICT, INTERMEDIATE
5 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL
6 NOT EMPLOY THE INDIVIDUAL IN ANY CAPACITY AND SHALL NOT ALLOW THE
7 INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY
8 OF ITS SCHOOLS.

9 (5) 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 the criminal history check and
12 criminal records check under this section on a form and in a manner
13 prescribed by the department of state police.

14 (6) The results of a criminal history check and criminal
15 records check under this section shall be used by a school
16 district, intermediate school district, public school academy, or
17 nonpublic school only for the purpose of evaluating an individual's
18 qualifications for employment or assignment in his or her position
19 and for the purposes of subsections (2) and (3). A member of the
20 board of a school district or intermediate school district, of the
21 board of directors of a public school academy, or of the governing
22 body of a nonpublic school or an employee of a district, public
23 school academy, or nonpublic school shall not disclose those
24 results, except a misdemeanor conviction involving sexual or
25 physical abuse or any felony conviction, to any person who is not
26 directly involved in evaluating the individual's qualifications for
27 employment or assignment. However, for the purposes of subsections

1 (2) and (3), a person described in this subsection may provide a
2 copy of the results ~~under subsection (1)~~ **RECEIVED UNDER THIS**
3 **SECTION** concerning the individual to an appropriate representative
4 of another district, public school academy, or nonpublic school.
5 **ALSO, FOR AN INDIVIDUAL WHO IS REGULARLY AND CONTINUOUSLY WORKING**
6 **UNDER CONTRACT, A PERSON DESCRIBED IN THIS SUBSECTION MAY PROVIDE A**
7 **COPY OF THE RESULTS RECEIVED UNDER THIS SECTION CONCERNING THE**
8 **INDIVIDUAL TO AN APPROPRIATE REPRESENTATIVE OF THE INDIVIDUAL'S**
9 **EMPLOYER. A REPRESENTATIVE OF A DISTRICT, PUBLIC SCHOOL ACADEMY,**
10 **NONPUBLIC SCHOOL, OR OF ANY OTHER EMPLOYER WHO RECEIVES A COPY OF A**
11 **REPORT OR RECEIVES RESULTS OF A REPORT FROM ANOTHER SOURCE AS**
12 **AUTHORIZED UNDER THIS SUBSECTION SHALL NOT DISCLOSE THE REPORT OR**
13 **ITS CONTENTS OR THE RESULTS OF A THE REPORT TO ANY PERSON WHO IS**
14 **NOT DIRECTLY INVOLVED IN EVALUATING THE INDIVIDUAL'S OR APPLICANT'S**
15 **QUALIFICATIONS FOR EMPLOYMENT OR ASSIGNMENT.** A person who violates
16 this subsection is guilty of a misdemeanor punishable by a fine of
17 not more than \$10,000.00, but is not subject to the penalties under
18 section 1804.

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

25 (a) Conduct the criminal history check and, after conducting
26 the criminal history check and within that time period, provide a
27 report of the results of the criminal history check to the

1 district, public school academy, or nonpublic school. The report
2 shall contain any criminal history record information on the
3 individual that is maintained by the criminal records division of
4 the department of state police.

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

19 (8) If the results received by a school district, intermediate
20 school district, public school academy, or nonpublic school under
21 subsection (7), **OR A REPORT RECEIVED UNDER SECTION 1230A, 1230D(7),**
22 **1535A(15), OR 1539B(15)**, disclose that an individual has been
23 convicted of a listed offense, then the school district,
24 intermediate school district, public school academy, or nonpublic
25 school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC**
26 **RECORDS AND, IF THE INFORMATION IS VERIFIED**, shall not employ the
27 individual in any capacity, as provided under section 1230c, and

1 shall not allow the individual to regularly and continuously work
2 under contract in any of its schools. If the results received by a
3 school district, intermediate school district, public school
4 academy, or nonpublic school under subsection (7), **OR A REPORT**
5 **RECEIVED UNDER SECTION 1230A, 1230D(7), 1535A(15), OR 1539B(15),**
6 disclose that an individual has been convicted of a felony other
7 than a listed offense, then the school district, intermediate
8 school district, public school academy, or nonpublic school **SHALL**
9 **TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC RECORDS AND, IF**
10 **THE INFORMATION IS VERIFIED USING PUBLIC RECORDS,** shall not employ
11 the individual in any capacity or allow the individual to regularly
12 and continuously work under contract in any of its schools unless
13 the superintendent or chief administrator and the **GOVERNING** board
14 or governing body, **IF ANY,** of the school district, intermediate
15 school district, public school academy, or nonpublic school each
16 specifically ~~approve~~ **APPROVES** the employment or work assignment
17 in writing. **IF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,**
18 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL RECEIVES RESULTS**
19 **DESCRIBED IN THIS SUBSECTION, WITHIN 30 DAYS AFTER RECEIVING THOSE**
20 **RESULTS THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC**
21 **SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT**
22 **IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT A REPORT**
23 **DETAILING THE INFORMATION RECEIVED AND ANY ACTION TAKEN AS A RESULT**
24 **BY THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL**
25 **ACADEMY, OR NONPUBLIC SCHOOL.**

26 (9) **IF THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK**
27 **REQUIRED UNDER THIS SECTION HAVE BEEN COMPLETED FOR A PARTICULAR**

1 INDIVIDUAL AND THE RESULTS REPORTED TO A SCHOOL DISTRICT,
2 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
3 SCHOOL AS PROVIDED UNDER THIS SECTION, THEN ANOTHER CRIMINAL
4 HISTORY CHECK OR CRIMINAL RECORDS CHECK IS NOT REQUIRED UNDER THIS
5 SECTION FOR THAT INDIVIDUAL AS LONG AS THE INDIVIDUAL REMAINS, WITH
6 NO BREAK IN SERVICE OTHER THAN NORMALLY SCHEDULED ACADEMIC CALENDAR
7 BREAKS, EMPLOYED OR REGULARLY AND CONTINUOUSLY WORKING UNDER
8 CONTRACT IN A SCHOOL IN ANY SCHOOL DISTRICT, INTERMEDIATE SCHOOL
9 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN THIS STATE.

10 (10) ~~(9)~~ Subsection (1) does not apply to an individual who
11 is an employee or is assigned to regularly and continuously work
12 under contract in a school of a school district, intermediate
13 school district, public school academy, or nonpublic school if the
14 individual is not more than 19 years of age and is enrolled as a
15 general education pupil of ~~the~~ A school district, intermediate
16 school district, public school academy, or nonpublic school or is
17 not more than 26 years of age and is enrolled in special education
18 programs or services in ~~the~~ A school district, intermediate
19 school district, public school academy, or nonpublic school.
20 However, the school district, intermediate school district, public
21 school academy, or nonpublic school shall perform a criminal
22 history check on that person using the department of state police's
23 internet criminal history access tool (ICHAT). If a search of the
24 department of state police's ICHAT reveals that the individual has
25 been convicted of 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, as provided

1 under section 1230c, and shall not allow the individual to
2 regularly and continuously work under contract in any of its
3 schools. If a search of the department of state police's ICHAT
4 reveals that the individual has been convicted of a felony other
5 than a listed offense, then the school district, intermediate
6 school district, public school academy, or nonpublic school shall
7 not employ the individual in any capacity or allow the individual
8 to regularly and continuously work under contract in any of its
9 schools unless the superintendent or chief administrator and the
10 board or governing body of the school district, intermediate school
11 district, public school academy, or nonpublic school each
12 specifically approves the employment or work assignment in writing.

13 (11) ~~(10)~~ As used in this section:

14 (a) "At school" means in a classroom, elsewhere on school
15 property, or on a school bus or other school-related vehicle.

16 (B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF
17 CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
18 761.1.

19 (C) ~~(b)~~ "Listed offense" means that term as defined in
20 section 2 of the sex offenders registration act, 1994 PA 295, MCL
21 28.722.

22 (D) ~~(e)~~ "Regularly and continuously work under contract"
23 means either of the following:

24 (i) To work at school on a more than intermittent or sporadic
25 basis as an owner or employee of an entity that has a contract with
26 a school district, intermediate school district, public school
27 academy, or nonpublic school to provide food, custodial,

1 transportation, counseling, or administrative services, or to
2 provide instructional services to pupils or related and auxiliary
3 services to special education pupils.

4 (ii) To work at school on a more than intermittent or sporadic
5 basis as an individual under a contract with a school district,
6 intermediate school district, public school academy, or nonpublic
7 school to provide food, custodial, transportation, counseling, or
8 administrative services, or to provide instructional services to
9 pupils or related and auxiliary services to special education
10 pupils.

11 (E) ~~(d)~~ "School property" means that term as defined in
12 section 33 of the sex offenders registration act, 1994 PA 295, MCL
13 28.733.

14 Sec. 1535a. (1) Subject to subsection (2), if a person who
15 holds a teaching certificate that is valid in this state has been
16 convicted of a crime described in this subsection, within 10
17 working days after receiving notice of the conviction the
18 superintendent of public instruction shall notify the person in
19 writing that his or her teaching certificate may be suspended
20 because of the conviction and of his or her right to a hearing
21 before the superintendent of public instruction. The hearing shall
22 be conducted as a contested case under the administrative
23 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the
24 person does not avail himself or herself of this right to a hearing
25 within 15 working days after receipt of this written notification,
26 the teaching certificate of that person shall be suspended. If a
27 hearing takes place, the superintendent of public instruction shall

1 complete the proceedings and make a final decision and order within
2 120 working days after receiving the request for a hearing. Subject
3 to subsection (2), the superintendent of public instruction may
4 suspend the person's teaching certificate based upon the issues and
5 evidence presented at the hearing. This subsection applies to any
6 of the following crimes:

7 (a) Any felony.

8 (b) Any of the following misdemeanors:

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

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

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

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

17 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
18 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
19 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
20 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
21 MCL 750.81, 750.81a, and 750.145d.

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

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

25 (c) A violation of a substantially similar law of another
26 state, of a political subdivision of this state or another state,
27 or of the United States.

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

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

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

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

20 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,
21 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,
22 333.7403, 333.7410, and 333.7416.

23 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,
24 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,
25 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,
26 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony
27 violation of section 145d of the Michigan penal code, 1931 PA 328,

1 MCL 750.145d.

2 (f) A violation of section 158 of the Michigan penal code,
3 1931 PA 328, MCL 750.158, if a victim is an individual less than 18
4 years of age.

5 (g) Except for a juvenile disposition or adjudication, a
6 violation of section 338, 338a, or 338b of the Michigan penal code,
7 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an
8 individual less than 18 years of age.

9 (h) A violation of section 349 of the Michigan penal code,
10 1931 PA 328, MCL 750.349, if a victim is an individual less than 18
11 years of age.

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

15 **(J) ANY OTHER CRIME THAT IS A LISTED OFFENSE.**

16 **(K) —(j)—** An attempt or conspiracy to commit an offense listed
17 in subdivision (a), (e), (f), (g), (h), ~~or~~ (i), **OR (J).**

18 **(L) —(k)—** A violation of a substantially similar law of another
19 state, of a political subdivision of this state or another state,
20 or of the United States.

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

25 **(3) ALL OF THE FOLLOWING APPLY TO PROCEEDINGS TO SUSPEND OR**
26 **REVOKE A PERSON'S TEACHING CERTIFICATE UNDER THIS SECTION:**

27 **(A) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL APPOINT A**

1 DESIGNEE TO PERFORM THE INVESTIGATORY AND PROSECUTORIAL FUNCTIONS
2 INVOLVED IN THE PROCEEDINGS.

3 (B) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL TAKE FINAL
4 ACTION WITH REGARD TO A SUSPENSION OR REVOCATION OF A PERSON'S
5 TEACHING CERTIFICATE.

6 (C) The superintendent of public instruction after a hearing
7 shall not take action against a person's teaching certificate under
8 subsection (1) or (2) unless the superintendent of public
9 instruction finds that the conviction is reasonably and adversely
10 related to the person's present fitness to serve in an elementary
11 or secondary school in this state or that the conviction
12 demonstrates that the person is unfit to teach in an elementary or
13 secondary school in this state. Further, the superintendent of
14 public instruction may take action against a person's teaching
15 certificate under subsection (1) or (2) based on a conviction that
16 occurred before ~~the effective date of the amendatory act that~~
17 ~~added this subsection~~ **APRIL 1, 2004** if the superintendent of
18 public instruction finds that the conviction is reasonably and
19 adversely related to the person's present fitness to serve in an
20 elementary or secondary school in this state or that the conviction
21 demonstrates that the person is unfit to teach in an elementary or
22 secondary school in this state. **FOR THE PURPOSES OF THIS SECTION,**
23 **CONVICTION OF A LISTED OFFENSE IS REASONABLY AND ADVERSELY RELATED**
24 **TO THE PERSON'S FITNESS TO SERVE IN AN ELEMENTARY OR SECONDARY**
25 **SCHOOL IN THIS STATE AND DEMONSTRATES THAT THE PERSON IS UNFIT TO**
26 **TEACH IN AN ELEMENTARY OR SECONDARY SCHOOL IN THIS STATE.**

27 (4) If a person who has entered a plea of guilt or no contest

1 to or who is the subject of a finding of guilt by a judge or jury
2 of a crime listed in subsection (2) has been suspended from active
3 performance of duty by a public school, school district,
4 intermediate school district, or nonpublic school during the
5 pendency of proceedings under this section, the public school,
6 school district, intermediate school district, or nonpublic school
7 employing the person shall discontinue the person's compensation
8 until the superintendent of public instruction has made a final
9 determination of whether or not to suspend or revoke the person's
10 teaching certificate. If the superintendent of public instruction
11 does not suspend or revoke the person's teaching certificate, the
12 public school, school district, intermediate school district, or
13 nonpublic school shall make the person whole for lost compensation,
14 without interest. However, if a collective bargaining agreement is
15 in effect as of ~~the effective date of this subsection~~ **JANUARY 1,**
16 **2006** for employees of a school district, intermediate school
17 district, or public school academy, and if the terms of that
18 collective bargaining agreement are inconsistent with this
19 subsection, then this subsection does not apply to that school
20 district, intermediate school district, or public school academy
21 until after the expiration of that collective bargaining agreement.

22 (5) Except as otherwise provided in this subsection, after the
23 completion of a person's sentence, the person may request a hearing
24 ~~before the superintendent of public instruction~~ on reinstatement
25 of his or her teaching certificate. Based upon the issues and
26 evidence presented at the hearing, the superintendent of public
27 instruction may reinstate, continue the suspension of, or

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

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

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

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

23 (c) If the person's compensation was discontinued under
24 subsection (4), the public school, school district, intermediate
25 school district, or nonpublic school shall make the person whole
26 for lost compensation.

27 (7) If the prosecuting attorney in charge of a case receives a

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

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

27 (9) If the superintendent of a school district or intermediate

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

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

20 (11) For any hearing under subsection (1), if the
21 superintendent of public instruction does not ~~complete the hearing~~
22 ~~procedures and~~ make a final decision and order within 120 working
23 days after receiving the request for the hearing, as required under
24 subsection (1), the superintendent of public instruction shall
25 submit a report detailing the reasons for the delay to the standing
26 committees and appropriations subcommittees of the senate and house
27 of representatives that have jurisdiction over education and

1 education appropriations. The failure of the superintendent of
2 public instruction to ~~complete the hearing procedures and~~ make a
3 final decision and order within this 120 working day time limit, or
4 the failure of any other official or agency to meet a time limit
5 prescribed in this section, does not affect the validity of an
6 action taken under this section affecting a person's teaching
7 certificate.

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

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

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

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

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

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

26 (a) Prohibit a person who holds a teaching certificate 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 discharge
6 a person who holds a teaching certificate.

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

11 (15) The department of information technology shall work with
12 the department and the department of state police to develop and
13 implement an automated program that does a comparison of the
14 department's list of individuals holding a teaching certificate or
15 state board approval, **AND OF ANY OTHER LIST MAINTAINED BY THE**
16 **DEPARTMENT OF INDIVIDUALS EMPLOYED OR REGULARLY AND CONTINUOUSLY**
17 **WORKING UNDER CONTRACT IN A SCHOOL**, with the conviction information
18 received by the department of state police. This comparison shall
19 only include individuals who are actually school employees at the
20 time of the comparison or who are regularly and continuously
21 working under contract at the time of the comparison. Unless
22 otherwise prohibited by law, this comparison shall include
23 convictions contained in a nonpublic record. The department and the
24 department of state police shall perform this comparison during
25 January and June of each year until July 1, 2008. The department of
26 state police shall take all reasonable and necessary measures using
27 the available technology to ensure the accuracy of this comparison

1 before transmitting the information under this subsection to the
2 department. The department shall take all reasonable and necessary
3 measures using the available technology to ensure the accuracy of
4 this comparison before notifying a school district, intermediate
5 school district, public school academy, or nonpublic school of a
6 conviction. If a comparison discloses that a person on the
7 department's list of individuals holding a teaching certificate or
8 state board approval has been convicted of a crime, the department
9 shall notify the superintendent or chief administrator and the
10 board or governing body of the school district, intermediate school
11 district, public school academy, or nonpublic school in which the
12 person is employed of that conviction.

13 (16) Not later than May 1, 2006, the department shall submit a
14 report to the legislature that details the number of individuals
15 holding a teaching certificate or state board approval who were
16 school employees or regularly and continuously working under
17 contract as of January 1, 2006 and who have been convicted of a
18 listed offense or any felony.

19 (17) 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 upon
22 a jury verdict or court finding that a defendant is guilty or
23 guilty but mentally ill.

24 **(B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF**
25 **CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL**
26 **761.1.**

27 **(C) ~~(b)~~ "Listed offense" means that term as defined in**

1 section 2 of the sex offenders registration act, 1994 PA 295, MCL
2 28.722.

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

10 (E) ~~-(d)-~~ "Regularly and continuously work under contract"
11 means that term as defined in section 1230d.

12 Sec. 1539b. (1) Subject to subsection (2), if a person who
13 holds state board approval has been convicted of a crime described
14 in this subsection, within 10 working days after receiving notice
15 of the conviction the superintendent of public instruction shall
16 notify the person in writing that his or her state board approval
17 may be suspended because of the conviction and of his or her right
18 to a hearing before the superintendent of public instruction. The
19 hearing shall be conducted as a contested case under the
20 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
21 24.328. If the person does not avail himself or herself of this
22 right to a hearing within 15 working days after receipt of this
23 written notification, the person's state board approval shall be
24 suspended. If a hearing takes place, the superintendent of public
25 instruction shall complete the proceedings and make a final
26 decision and order within 120 working days after receiving the
27 request for a hearing. Subject to subsection (2), the

1 superintendent of public instruction may suspend the person's state
2 board approval, based upon the issues and evidence presented at the
3 hearing. This subsection applies to any of the following crimes:

4 (a) Any felony.

5 (b) Any of the following misdemeanors:

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

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

10 (iii) A misdemeanor involving cruelty, torture, or indecent
11 exposure involving a child.

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

14 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
15 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
16 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
17 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
18 MCL 750.81, 750.81a, and 750.145d.

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

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

22 (c) A violation of a substantially similar law of another
23 state, of a political subdivision of this state or another state,
24 or of the United States.

25 (2) If a person who holds state board approval has been
26 convicted of a crime described in this subsection, the
27 superintendent of public instruction shall find that the public

1 health, safety, or welfare requires emergency action and shall
2 order summary suspension of the person's state board approval under
3 section 92 of the administrative procedures act of 1969, 1969 PA
4 306, MCL 24.292, and shall subsequently provide an opportunity for
5 a hearing as required under that section. This subsection does not
6 limit the superintendent of public instruction's ability to order
7 summary suspension of a person's state board approval for a reason
8 other than described in this subsection. This subsection applies to
9 conviction of any of the following crimes:

10 (a) Criminal sexual conduct in any degree, assault with intent
11 to commit criminal sexual conduct, or an attempt to commit criminal
12 sexual conduct in any degree.

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

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

16 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,
17 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,
18 333.7403, 333.7410, and 333.7416.

19 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,
20 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,
21 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,
22 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony
23 violation of section 145d of the Michigan penal code, 1931 PA 328,
24 MCL 750.145d.

25 (f) A violation of section 158 of the Michigan penal code,
26 1931 PA 328, MCL 750.158, if a victim is an individual less than 18
27 years of age.

1 (g) Except for a juvenile disposition or adjudication, a
2 violation of section 338, 338a, or 338b of the Michigan penal code,
3 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an
4 individual less than 18 years of age.

5 (h) A violation of section 349 of the Michigan penal code,
6 1931 PA 328, MCL 750.349, if a victim is an individual less than 18
7 years of age.

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

11 **(J) ANY OTHER CRIME THAT IS A LISTED OFFENSE.**

12 **(K) ~~(j)~~ An attempt or conspiracy to commit an offense listed**
13 **in subdivision (a), (e), (f), (g), (h), ~~or~~ (i), OR (J).**

14 **(L) ~~(k)~~ 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 **(M) ~~(l)~~ Any other crime listed in subsection (1), if the**
18 **superintendent of public instruction determines the public health,**
19 **safety, or welfare requires emergency action based on the**
20 **circumstances underlying the conviction.**

21 **(3) ALL OF THE FOLLOWING APPLY TO PROCEEDINGS TO SUSPEND OR**
22 **REVOKE A PERSON'S STATE BOARD APPROVAL UNDER THIS SECTION:**

23 **(A) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL APPOINT A**
24 **DESIGNEE TO PERFORM THE INVESTIGATORY AND PROSECUTORIAL FUNCTIONS**
25 **INVOLVED IN THE PROCEEDINGS.**

26 **(B) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL TAKE FINAL**
27 **ACTION WITH REGARD TO A SUSPENSION OR REVOCATION OF A PERSON'S**

1 **STATE BOARD APPROVAL.**

2 (C) The superintendent of public instruction after a hearing
3 shall not take action against a person's state board approval under
4 subsection (1) or (2) unless the superintendent of public
5 instruction finds that the conviction is reasonably and adversely
6 related to the person's present fitness to serve in an elementary
7 or secondary school in this state or that the conviction
8 demonstrates that the person is unfit to teach in an elementary or
9 secondary school in this state. Further, the superintendent of
10 public instruction may take action against a person's state board
11 approval under subsection (1) or (2) based on a conviction that
12 occurred before ~~the effective date of the amendatory act that~~
13 ~~added this subsection~~ **APRIL 1, 2004** if the superintendent of
14 public instruction finds that the conviction is reasonably and
15 adversely related to the person's present fitness to serve in an
16 elementary or secondary school in this state. **FOR THE PURPOSES OF**
17 **THIS SECTION, CONVICTION OF A LISTED OFFENSE IS REASONABLY AND**
18 **ADVERSELY RELATED TO THE PERSON'S FITNESS TO SERVE IN AN ELEMENTARY**
19 **OR SECONDARY SCHOOL IN THIS STATE AND DEMONSTRATES THAT THE PERSON**
20 **IS UNFIT TO TEACH IN AN ELEMENTARY OR SECONDARY SCHOOL IN THIS**
21 **STATE.**

22 (4) If a person who has entered a plea of guilt or no contest
23 to or who is the subject of a finding of guilt by a judge or jury
24 of a crime listed in subsection (2) has been suspended from active
25 performance of duty by a public school, school district,
26 intermediate school district, or nonpublic school during the
27 pendency of proceedings under this section, the public school,

1 school district, intermediate school district, or nonpublic school
2 employing the person shall discontinue the person's compensation
3 until the superintendent of public instruction has made a final
4 determination of whether or not to suspend or revoke the person's
5 state board approval. If the superintendent of public instruction
6 does not suspend or revoke the person's state board approval, the
7 public school, school district, intermediate school district, or
8 nonpublic school shall make the person whole for lost compensation,
9 without interest. However, if a collective bargaining agreement is
10 in effect as of ~~the effective date of this subsection~~ **JANUARY 1,**
11 **2006** for employees of a school district, intermediate school
12 district, or public school academy, and if the terms of that
13 collective bargaining agreement are inconsistent with this
14 subsection, then this subsection does not apply to that school
15 district, intermediate school district, or public school academy
16 until after the expiration of that collective bargaining agreement.

17 (5) Except as otherwise provided in this subsection, after the
18 completion of the person's sentence, the person may request a
19 hearing ~~before the superintendent of public instruction~~ on
20 reinstatement of his or her state board approval. Based upon the
21 issues and evidence presented at the hearing, the superintendent of
22 public instruction may reinstate, continue the suspension of, or
23 permanently revoke the person's state board approval. The
24 superintendent of public instruction shall not reinstate a person's
25 state board approval unless the superintendent of public
26 instruction finds that the person is currently fit to serve in an
27 elementary or secondary school in this state and that reinstatement

1 of the person's state board approval will not adversely affect the
2 health, safety, and welfare of pupils. If a person's conviction was
3 for a listed offense, the person is not entitled to request a
4 hearing on reinstatement under this subsection, and the
5 superintendent of public instruction shall not reinstate the
6 person's state board approval under this subsection.

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

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

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

18 (c) If the person's compensation was discontinued under
19 subsection (4), the public school, school district, intermediate
20 school district, or nonpublic school shall make the person whole
21 for lost compensation.

22 (7) If the prosecuting attorney in charge of a case receives a
23 form as provided under section 1230d, the prosecuting attorney
24 shall notify the superintendent of public instruction, and any
25 public school, school district, intermediate school district, or
26 nonpublic school in which the person is employed by forwarding a
27 copy of the form to each of them not later than 7 days after

1 receiving the form. If the court receives a form as provided under
2 section 1230d, the court shall notify the superintendent of public
3 instruction and any public school, school district, intermediate
4 school district, or nonpublic school in which the person is
5 employed by forwarding to each of them a copy of the form and
6 information regarding the sentence imposed on the person not later
7 than 7 days after the date of the sentencing, even if the court is
8 maintaining the file as a nonpublic record.

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

22 (9) If the superintendent of a school district or intermediate
23 school district, the chief administrative officer of a nonpublic
24 school, the president of the board of a school district or
25 intermediate school district, or the president of the governing
26 board of a nonpublic school is notified or learns through an
27 authoritative source that a person who holds state board approval

1 and who is employed by the school district, intermediate school
2 district, or nonpublic school has been convicted of a crime
3 described in subsection (1) or (2), the superintendent, chief
4 administrative officer, or board president shall notify the
5 superintendent of public instruction of that conviction within 15
6 days after learning of the conviction.

7 (10) For the purposes of this section, a certified copy of the
8 judgment of conviction and sentence is conclusive evidence of
9 conviction of a crime described in this section. For the purposes
10 of this section, conviction of a crime described in this section is
11 considered to be reasonably and adversely related to the ability of
12 the person to serve in an elementary or secondary school and is
13 sufficient grounds for suspension or revocation of the person's
14 state board approval.

15 (11) For any hearing under subsection (1), if the
16 superintendent of public instruction does not ~~complete the hearing~~
17 ~~procedures and~~ make a final decision and order within 120 working
18 days after receiving the request for the hearing, as required under
19 subsection (1), the superintendent of public instruction shall
20 submit a report detailing the reasons for the delay to the standing
21 committees and appropriations subcommittees of the senate and house
22 of representatives that have jurisdiction over education and
23 education appropriations. The failure of the superintendent of
24 public instruction to ~~complete the hearing procedures and~~ make a
25 final decision and order within this 120 working day time limit, or
26 the failure of any other official or agency to meet a time limit
27 prescribed in this section, does not affect the validity of an

1 action taken under this section affecting a person's state board
2 approval.

3 (12) Beginning July 1, 2004, the superintendent of public
4 instruction shall submit to the legislature a quarterly report of
5 all final actions he or she has taken under this section affecting
6 a person's state board approval during the preceding quarter. The
7 report shall contain at least all of the following with respect to
8 each person whose state board approval has been affected:

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

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

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

16 (d) Whether the action taken by the superintendent of public
17 instruction was a summary suspension, suspension due to failure to
18 request a hearing, suspension, revocation, or reinstatement of the
19 state board approval.

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

21 (a) Prohibit a person who holds state board approval from
22 seeking monetary compensation from a school board or intermediate
23 school board if that right is available under a collective
24 bargaining agreement or another statute.

25 (b) Limit the rights and powers granted to a school district
26 or intermediate school district under a collective bargaining
27 agreement, this act, or another statute to discipline or discharge

1 a person who holds state board approval.

2 (c) Exempt a person who holds state board approval from the
3 operation of section 1535a if the person holds a certificate
4 subject to that section.

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

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

11 (15) The department of information technology shall work with
12 the department and the department of state police to develop and
13 implement an automated program that does a comparison of the
14 department's list of individuals holding a teaching certificate or
15 state board approval, **AND OF ANY OTHER LIST MAINTAINED BY THE**
16 **DEPARTMENT OF INDIVIDUALS EMPLOYED OR REGULARLY AND CONTINUOUSLY**
17 **WORKING UNDER CONTRACT IN A SCHOOL**, with the conviction information
18 received by the department of state police. This comparison shall
19 only include individuals who are actually school employees at the
20 time of the comparison or who are regularly and continuously
21 working under contract at the time of the comparison. Unless
22 otherwise prohibited by law, this comparison shall include
23 convictions contained in a nonpublic record. The department and the
24 department of state police shall perform this comparison during
25 January and June of each year until July 1, 2008. The department of
26 state police shall take all reasonable and necessary measures using
27 the available technology to ensure the accuracy of this comparison

1 before transmitting the information under this subsection to the
2 department. The department shall take all reasonable and necessary
3 measures using the available technology to ensure the accuracy of
4 this comparison before notifying a school district, intermediate
5 school district, public school academy, or nonpublic school of a
6 conviction. If a comparison discloses that a person on the
7 department's list of individuals holding a teaching certificate or
8 state board approval has been convicted of a crime, the department
9 shall notify the superintendent or chief administrator and the
10 board or governing body of the school district, intermediate school
11 district, public school academy, or nonpublic school in which the
12 person is employed of that conviction.

13 (16) Not later than May 1, 2006, the department shall submit a
14 report to the legislature that details the number of individuals
15 holding a teaching certificate or state board approval who were
16 school employees or regularly and continuously working under
17 contract as of January 1, 2006 and who have been convicted of a
18 listed offense or any felony.

19 (17) 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 upon
22 a jury verdict or court finding that a defendant is guilty or
23 guilty but mentally ill.

24 **(B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF**
25 **CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL**
26 **761.1.**

27 **(C) ~~(b)~~ "Listed offense" means that term as defined in**

1 section 2 of the sex offenders registration act, 1994 PA 295, MCL
2 28.722.

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

10 (E) ~~-(d)-~~ "Regularly and continuously work under contract"
11 means that term as defined in section 1230d.

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