

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5675**

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

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

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

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

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

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

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

1 division of the department of state police.

2 (9) If the report received by a school district, intermediate
3 school district, public school academy, or nonpublic school under
4 subsection (8) discloses that an individual has been convicted of a
5 listed offense, then the school district, intermediate school
6 district, public school academy, or nonpublic school shall not
7 employ the individual in any capacity, as provided under section
8 1230c, and shall not allow the individual to regularly and
9 continuously work under contract in any of its schools. If the
10 report received by a school district, intermediate school district,
11 public school academy, or nonpublic school under subsection (8)
12 discloses that an individual has been convicted of a felony other
13 than a listed offense, then the school district, intermediate
14 school district, public school academy, or nonpublic school shall
15 not employ the individual in any capacity or allow the individual
16 to regularly and continuously work under contract in any of its
17 schools unless the superintendent or chief administrator and the
18 board or governing body of the school district, intermediate school
19 district, public school academy, or nonpublic school each
20 specifically approve the employment or work assignment in writing.
21 As used in this subsection, "listed offense" means that term as
22 defined in section 2 of the sex offenders registration act, 1994 PA
23 295, MCL 28.722.

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

1 for the purpose of evaluating an individual's qualifications for
 2 employment or assignment in the position for which he or she has
 3 applied or been assigned and for the purposes of subsections (3),
 4 (4), and (5). A member of the board of a district or of the
 5 governing body of a public school academy or nonpublic school or an
 6 employee of a district, public school academy, or nonpublic school
 7 shall not disclose the report or its contents, except ~~any felony~~
 8 ~~conviction or~~ a misdemeanor conviction involving sexual or
 9 physical abuse **OR ANY FELONY CONVICTION**, to any person who is not
 10 directly involved in evaluating the applicant's qualifications for
 11 employment or assignment. However, for the purposes of subsections
 12 (4) and (5), a person described in this subsection may confirm to
 13 an employee of another district, public school academy, or
 14 nonpublic school that a report under subsection (8) has revealed
 15 that an individual does not have any criminal history or may
 16 disclose that no report under subsection (8) has been received
 17 concerning the individual, and for the purposes of subsection (5),
 18 a person described in this subsection may provide a copy of the
 19 report under subsection (8) concerning the individual to an
 20 appropriate representative of another district, public school
 21 academy, or nonpublic school. A person who violates this subsection
 22 is guilty of a misdemeanor punishable by a fine of not more than
 23 \$10,000.00, but is not subject to the penalties under section 1804.

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

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

27 (B) **"CRIMINAL** history record information" means that term as

1 defined in section 1a of 1925 PA 289, MCL 28.241a.

2 (C) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS
3 EITHER OF THE FOLLOWING:

4 (i) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
5 BASIS AS AN OWNER OR EMPLOYEE OF AN ENTITY THAT HAS A CONTRACT WITH
6 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
7 ACADEMY, OR NONPUBLIC SCHOOL TO PROVIDE FOOD, CUSTODIAL,
8 TRANSPORTATION, COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO
9 PROVIDE INSTRUCTIONAL SERVICES TO PUPILS OR RELATED AND AUXILIARY
10 SERVICES TO SPECIAL EDUCATION PUPILS.

11 (ii) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
12 BASIS AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
13 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
14 SCHOOL TO PROVIDE FOOD, CUSTODIAL, TRANSPORTATION, COUNSELING, OR
15 ADMINISTRATIVE SERVICES, OR TO PROVIDE INSTRUCTIONAL SERVICES TO
16 PUPILS OR RELATED AND AUXILIARY SERVICES TO SPECIAL EDUCATION
17 PUPILS.

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

20 Sec. 1230a. (1) In addition to the criminal history check
21 required under section 1230, the board of a school district or
22 intermediate school district or the governing body of a public
23 school academy or nonpublic school shall request the department of
24 state police to conduct a criminal records check through the
25 federal bureau of investigation on an applicant for, or an
26 individual who is hired for, any full-time or part-time employment
27 or who is assigned to regularly and continuously work under

1 contract in any of its schools. Except as otherwise provided in
2 this section, a board or governing body shall not employ an
3 individual or allow an individual to regularly and continuously
4 work under contract in any of its schools until after the board or
5 governing body receives the results of the criminal records check.
6 A board or governing body requesting a criminal records check under
7 this section shall require the individual to submit his or her
8 fingerprints to the department of state police for that purpose.
9 The department of state police may charge a fee for conducting the
10 criminal records check. ~~—A~~ **SUBJECT TO SECTION 1230G**, A board or
11 governing body shall require an individual to submit his or her
12 fingerprints for the purposes of this section only at the time the
13 individual initially applies for employment with the board or
14 governing body or is initially employed by the board or governing
15 body or is initially assigned to **REGULARLY AND CONTINUOUSLY** work
16 under contract in any of its schools.

17 (2) If the board of a school district or intermediate school
18 district or the governing body of a public school academy or
19 nonpublic school determines it necessary to hire an individual for
20 a particular school year during that school year or within 30 days
21 before the beginning of that school year, the board or governing
22 body may employ the individual as a conditional employee under this
23 subsection without first receiving the results of the criminal
24 records check under subsection (1) if all of the following apply:

25 (a) The board or governing body requests the criminal records
26 check under subsection (1) before conditionally employing the
27 individual.

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

12 (3) If an individual is employed as a conditional employee
13 under subsection (2) and the results of the criminal records check
14 under subsection (1) reveal information that is inconsistent with
15 the individual's statement under subsection (2), the board or
16 governing body may void the individual's employment contract. If an
17 employment contract is voided under this subsection, the
18 individual's employment is terminated, a collective bargaining
19 agreement that would otherwise apply to the individual's employment
20 does not apply to the termination, and the district, public school
21 academy, or nonpublic school or the board or governing body is not
22 liable for the termination.

23 (4) For an applicant for a position as a substitute teacher,
24 instead of requesting a criminal records check under subsection
25 (1), a school district, intermediate school district, public school
26 academy, or nonpublic school may use results received by another
27 district, public school academy, or nonpublic school or maintained

1 by the department to confirm that the individual does not have any
2 criminal history. If that confirmation is not available, subsection
3 (1) applies to the applicant.

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

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

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

23 (8) The results of a criminal records check under this section
24 shall be used by a school district, intermediate school district,
25 public school academy, or nonpublic school only for the purpose of
26 evaluating an individual's qualifications for employment or
27 assignment in the position for which he or she has applied or been

1 assigned and for the purposes of subsections (3), (4), and (5). A
2 member of the board of a district or of the governing body of a
3 public school academy or nonpublic school or an employee of a
4 district, public school academy, or nonpublic school shall not
5 disclose those results, except ~~any felony conviction or~~ a
6 misdemeanor conviction involving sexual or physical abuse **OR ANY**
7 **FELONY CONVICTION**, to any person who is not directly involved in
8 evaluating the individual's qualifications for employment or
9 assignment. However, for the purposes of subsections (4) and (5), a
10 person described in this subsection may provide a copy of the
11 results under subsection (1) concerning the individual to an
12 appropriate representative of another district, public school
13 academy, or nonpublic school. A person who violates this subsection
14 is guilty of a misdemeanor punishable by a fine of not more than
15 \$10,000.00, but is not subject to the penalties under 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 the criminal records division of the department of state police
25 shall provide the results of the criminal records check to the
26 district or public school academy. After conducting the criminal
27 records check required under this section for a nonpublic school,

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

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

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

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

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

3 (C) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS
4 EITHER OF THE FOLLOWING:

5 (i) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
6 BASIS AS AN OWNER OR EMPLOYEE OF AN ENTITY THAT HAS A CONTRACT WITH
7 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
8 ACADEMY, OR NONPUBLIC SCHOOL TO PROVIDE FOOD, CUSTODIAL,
9 TRANSPORTATION, COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO
10 PROVIDE INSTRUCTIONAL SERVICES TO PUPILS OR RELATED AND AUXILIARY
11 SERVICES TO SPECIAL EDUCATION PUPILS.

12 (ii) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
13 BASIS AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
14 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
15 SCHOOL TO PROVIDE FOOD, CUSTODIAL, TRANSPORTATION, COUNSELING, OR
16 ADMINISTRATIVE SERVICES, OR TO PROVIDE INSTRUCTIONAL SERVICES TO
17 PUPILS OR RELATED AND AUXILIARY SERVICES TO SPECIAL EDUCATION
18 PUPILS.

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

21 Sec. 1230c. (1) If a school official of a school district,
22 intermediate school district, public school academy, or nonpublic
23 school has notice from an authoritative source that an individual
24 has been convicted of a listed offense, the board of the school
25 district or intermediate school district, board of directors of the
26 public school academy, or governing board of the nonpublic school
27 SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC RECORDS

1 AND, IF THE INFORMATION IS VERIFIED USING PUBLIC RECORDS, shall not
2 employ that individual in any capacity or allow that person to
3 regularly and continuously work under contract in any of its
4 schools.

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

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

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

10 (C) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS
11 EITHER OF THE FOLLOWING:

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

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

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

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

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

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

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

25 (2) If a person who is employed in any capacity by or is
26 regularly and continuously working under contract in a school
27 district, intermediate school district, public school academy, or

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

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

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

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

26 (4) A person who violates subsection (1) or (2) may be
27 discharged from his or her employment or have his or her contract

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

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

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

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

16 (7) The department of information technology shall work with
17 the department and the department of state police to develop and
18 implement an automated program that does a comparison of the
19 department's list of registered educational personnel with the
20 conviction information received by the department of state police.
21 <<THIS COMPARISON SHALL ONLY INCLUDE INDIVIDUALS WHO ARE ACTUALLY SCHOOL
EMPLOYEES AT THE TIME OF THE COMPARISON OR WHO ARE REGULARLY AND
CONTINUOUSLY WORKING UNDER CONTRACT AT THE TIME OF THE COMPARISON.>>
22 Unless 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**
BEFORE TRANSMITTING THE INFORMATION UNDER THIS SUBSECTION TO THE

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1 DEPARTMENT. THE DEPARTMENT SHALL TAKE ALL REASONABLE AND NECESSARY
 2 MEASURES USING THE AVAILABLE TECHNOLOGY TO ENSURE THE ACCURACY OF
 3 THIS COMPARISON BEFORE NOTIFYING A SCHOOL DISTRICT, INTERMEDIATE
 4 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL OF A
 5 CONVICTION. If a comparison discloses that a person on the
 6 department's list of registered educational personnel has been
 7 convicted of a ~~<<crime>~~ **MISDEMEANOR INVOLVING PHYSICAL OR SEXUAL ABUSE OR
 ANY FELONY,>>** the department shall notify the
 8 superintendent or chief administrator and the board or governing
 9 body of the school district, intermediate school district, public
 10 school academy, or nonpublic school in which the person is employed
 11 of that conviction.

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

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

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

17 (C) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS
 18 EITHER OF THE FOLLOWING:

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

26 (ii) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
 27 BASIS AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,

1 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
2 SCHOOL TO PROVIDE FOOD, CUSTODIAL, TRANSPORTATION, COUNSELING, OR
3 ADMINISTRATIVE SERVICES, OR TO PROVIDE INSTRUCTIONAL SERVICES TO
4 PUPILS OR RELATED AND AUXILIARY SERVICES TO SPECIAL EDUCATION
5 PUPILS.

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

8 Sec. 1230g. (1) Not later than July 1, 2008, the board of a
9 school district or intermediate school district, the board of
10 directors of a public school academy, or the governing body of a
11 nonpublic school shall do both of the following for each individual
12 who, as of January 1, 2006, is either a full-time or part-time
13 employee of the school district, intermediate school district,
14 public school academy, or nonpublic school or is assigned to
15 regularly and continuously work under contract in any of its
16 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.

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

6 (6) The results of a criminal history check and criminal
7 records check under this section shall be used by a school
8 district, intermediate school district, public school academy, or
9 nonpublic school only for the purpose of evaluating an individual's
10 qualifications for employment or assignment in his or her position
11 and for the purposes of subsections (2) and (3). A member of the
12 board of a school district or intermediate school district, of the
13 board of directors of a public school academy, or of the governing
14 body of a nonpublic school or an employee of a district, public
15 school academy, or nonpublic school shall not disclose those
16 results, except ~~any felony conviction or~~ a misdemeanor conviction
17 involving sexual or physical abuse **OR ANY FELONY CONVICTION**, to any
18 person who is not directly involved in evaluating the individual's
19 qualifications for employment or assignment. However, for the
20 purposes of subsections (2) and (3), a person described in this
21 subsection may provide a copy of the results under subsection (1)
22 concerning the individual to an appropriate representative of
23 another district, public school academy, or nonpublic school. A
24 person who violates this subsection is guilty of a misdemeanor
25 punishable by a fine of not more than \$10,000.00, but is not
26 subject to the penalties under section 1804.

27 (7) 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 and
3 criminal records check on an individual under this section, the
4 criminal records division of the department of state police shall
5 do both of the following:

6 (a) Conduct the criminal history check and, after conducting
7 the criminal history check and within that time period, provide a
8 report of the results of the criminal history check to the
9 district, public school academy, or nonpublic school. The report
10 shall contain any criminal history record information on the
11 individual that is maintained by the criminal records division of
12 the department of state police.

13 (b) Initiate the criminal records check through the federal
14 bureau of investigation. After conducting the criminal records
15 check required under this section for a school district,
16 intermediate school district, or public school academy, the
17 criminal records division of the department of state police shall
18 provide the results of the criminal records check to the district
19 or public school academy. After conducting the criminal records
20 check required under this section for a nonpublic school, the
21 criminal records division of the department of state police shall
22 notify the nonpublic school of whether or not the criminal records
23 check disclosed any criminal history that is not disclosed in the
24 criminal history check report on the individual provided to the
25 nonpublic school under subdivision (a).

26 (8) If the results received by a school district, intermediate
27 school district, public school academy, or nonpublic school under

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

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

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

21 (B) "LISTED offense" means that term as defined in section 2
 22 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

23 (C) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS
 24 EITHER OF THE FOLLOWING:

25 (i) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
 26 BASIS AS AN OWNER OR EMPLOYEE OF AN ENTITY THAT HAS A CONTRACT WITH
 27 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL

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1 ACADEMY, OR NONPUBLIC SCHOOL TO PROVIDE FOOD, CUSTODIAL,
2 TRANSPORTATION, COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO
3 PROVIDE INSTRUCTIONAL SERVICES TO PUPILS OR RELATED AND AUXILIARY
4 SERVICES TO SPECIAL EDUCATION PUPILS.

5 (ii) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC
6 BASIS AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,
7 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
8 SCHOOL TO PROVIDE FOOD, CUSTODIAL, TRANSPORTATION, COUNSELING, OR
9 ADMINISTRATIVE SERVICES, OR TO PROVIDE INSTRUCTIONAL SERVICES TO
10 PUPILS OR RELATED AND AUXILIARY SERVICES TO SPECIAL EDUCATION
11 PUPILS.

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

14 SEC. 1230H. (1) A RECORD PREPARED BY A STATE AGENCY UNDER
15 SECTION 1230D(7), 1535A(15), OR 1539B(15) IS EXEMPT FROM DISCLOSURE
16 UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
17 15.246. HOWEVER, SUBJECT TO SUBSECTION (2), A RECORD DESCRIBED IN
18 THIS SUBSECTION IS ONLY EXEMPT FROM DISCLOSURE AS PROVIDED IN THIS
19 SUBSECTION UNTIL THE EXPIRATION OF <<15 BUSINESS DAYS>> AFTER THE DATE
20 THE RECORD IS RECEIVED BY A SCHOOL DISTRICT, INTERMEDIATE SCHOOL
21 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL.

22 (2) IF INFORMATION DESCRIBED IN SUBSECTION (1) IS DETERMINED
23 DURING THE <<15 BUSINESS DAYS>> EXEMPTION PERIOD TO BE INACCURATE, THEN
24 THAT INFORMATION IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF
25 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

26 (3) AFTER THE <<15 BUSINESS DAYS>> EXEMPTION PERIOD, <<ALL OF THE
27 FOLLOWING

APPLY:

(A) A STATE AGENCY SHALL DISCLOSE INFORMATION IN A RECORD

1 DESCRIBED IN SUBSECTION (1)

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>> IF THE INFORMATION CONCERNS A CONVICTION THAT IS THE TYPE OF CONVICTION THAT IS ALLOWED TO BE DISCLOSED TO THE PUBLIC UNDER SECTION 1230(10), 1230A(8), OR 1230G(6).

<<(B) IF THE INFORMATION CONCERNS A TYPE OF CONVICTION OTHER THAN A CONVICTION DESCRIBED IN SUBDIVISION (A), THE INFORMATION IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, AND BOTH OF THE FOLLOWING APPLY:

(i) A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL MAY DISCLOSE THE INFORMATION TO THE PUBLIC.

(ii) A STATE AGENCY SHALL DISCLOSE THE INFORMATION TO THE PUBLIC UPON REQUEST, EXCEPT THAT THE STATE AGENCY SHALL ENSURE THAT THE INFORMATION DOES NOT INCLUDE ANY PERSONAL IDENTIFYING INFORMATION.>>

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(4) THIS SECTION DOES NOT AFFECT ANY OTHER RIGHTS, DUTIES, OR EXEMPTIONS UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, OR UNDER ANY OTHER LAW.

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Sec. 1535a. (1) Subject to subsection (2), if a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, within 10 working days after receiving notice of the conviction the superintendent of public instruction shall notify the person in writing that his or her teaching certificate may be suspended because of the conviction and of his or her right to a hearing before the superintendent of public instruction. The hearing shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the person does not avail himself or herself of this right to a hearing within 15 working days after receipt of this written notification, the teaching certificate of that person shall be suspended. If a hearing takes place, the superintendent of public instruction shall complete the proceedings and make a final decision and order within 120 working days after receiving the request for a hearing. Subject

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26 to subsection (2), the superintendent of public instruction may
27 suspend the person's teaching certificate based upon the issues and

1 evidence presented at the hearing. This subsection applies to any
2 of the following crimes:

3 (a) Any felony.

4 (b) Any of the following misdemeanors:

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

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

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

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

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

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

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

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

24 (2) If a person who holds a teaching certificate that is valid
25 in this state has been convicted of a crime described in this
26 subsection, the superintendent of public instruction shall find
27 that the public health, safety, or welfare requires emergency

1 action and shall order summary suspension of the person's teaching
2 certificate under section 92 of the administrative procedures act
3 of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an
4 opportunity for a hearing as provided under that section. This
5 subsection does not limit the superintendent of public
6 instruction's ability to order summary suspension of a person's
7 teaching certificate for a reason other than described in this
8 subsection. This subsection applies to conviction of any of the
9 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) An attempt or conspiracy to commit an offense listed in
12 subdivision (a), (e), (f), (g), (h), or (i).

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

16 (l) Any other crime listed in subsection (1), if the
17 superintendent of public instruction determines the public health,
18 safety, or welfare requires emergency action based on the
19 circumstances underlying the conviction.

20 (3) The superintendent of public instruction after a hearing
21 shall not take action against a person's teaching certificate under
22 subsection (1) or (2) unless the superintendent of public
23 instruction finds that the conviction is reasonably and adversely
24 related to the person's present fitness to serve in an elementary
25 or secondary school in this state or that the conviction
26 demonstrates that the person is unfit to teach in an elementary or
27 secondary school in this state. Further, the superintendent of

1 public instruction may take action against a person's teaching
2 certificate under subsection (1) or (2) based on a conviction that
3 occurred before the effective date of the amendatory act that added
4 this subsection if the superintendent of public instruction finds
5 that the conviction is reasonably and adversely related to the
6 person's present fitness to serve in an elementary or secondary
7 school in this state or that the conviction demonstrates that the
8 person is unfit to teach in an elementary or secondary school in
9 this state.

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

1 agreement are inconsistent with this subsection, then this
2 subsection does not apply to that school district, intermediate
3 school district, or public school academy until after the
4 expiration of that collective bargaining agreement.

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

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

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

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

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

6 (c) If the person's compensation was discontinued under
7 subsection (4), the public school, school district, intermediate
8 school district, or nonpublic school shall make the person whole
9 for lost compensation.

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

24 (8) Not later than 7 days after receiving notification from
25 the prosecuting attorney or the court under subsection (7) or
26 learning through an authoritative source that a person who holds a
27 teaching certificate has been convicted of a crime listed in

1 subsection (1), the superintendent of public instruction shall
2 request the court to provide a certified copy of the judgment of
3 conviction and sentence or other document regarding the disposition
4 of the case to the superintendent of public instruction and shall
5 pay any fees required by the court. The court shall provide this
6 certified copy within 7 days after receiving the request and fees
7 under this section or after entry of the judgment or other
8 document, whichever is later, even if the court is maintaining the
9 judgment or other document as a nonpublic record.

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

22 (10) For the purposes of this section, a certified copy of the
23 judgment of conviction and sentence is conclusive evidence of
24 conviction of a crime described in this section. For the purposes
25 of this section, conviction of a crime described in this section is
26 considered to be reasonably and adversely related to the ability of
27 the person to serve in an elementary or secondary school and is

1 sufficient grounds for suspension or revocation of the person's
2 teaching certificate.

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

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

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

26 (b) The school district, intermediate school district, public
27 school academy, or nonpublic school in which the person was

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1 employed at the time of the conviction, if any.

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

4 (d) Whether the action taken by the superintendent of public
5 instruction was a summary suspension, suspension due to failure to
6 request a hearing, suspension, revocation, or reinstatement of the
7 teaching certificate.

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

9 (a) Prohibit a person who holds a teaching certificate from
10 seeking monetary compensation from a school board or intermediate
11 school board if that right is available under a collective
12 bargaining agreement or another statute.

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

17 (14) The superintendent of public instruction may promulgate,
18 as necessary, rules to implement this section pursuant to the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
20 24.328.

21 (15) The department of information technology shall work with
22 the department and the department of state police to develop and
23 implement an automated program that does a comparison of the
24 department's list of individuals holding a teaching certificate or
25 state board approval with the conviction information received by
26 the department of state police. <<THIS COMPARISON SHALL ONLY INCLUDE
INDIVIDUALS WHO ARE ACTUALLY SCHOOL EMPLOYEES AT THE TIME OF THE
COMPARISON OR WHO ARE REGULARLY AND CONTINUOUSLY WORKING UNDER CONTRACT
AT THE TIME OF THE COMPARISON.>> Unless otherwise prohibited by law,
27 this comparison shall include convictions contained in a nonpublic

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1 record. The department and the department of state police shall
2 perform this comparison during January and June of each year until
3 July 1, 2008. **THE DEPARTMENT OF STATE POLICE SHALL TAKE ALL**
4 **REASONABLE AND NECESSARY MEASURES USING THE AVAILABLE TECHNOLOGY TO**
5 **ENSURE THE ACCURACY OF THIS COMPARISON BEFORE TRANSMITTING THE**
6 **INFORMATION UNDER THIS SUBSECTION TO THE DEPARTMENT. THE DEPARTMENT**
7 **SHALL TAKE ALL REASONABLE AND NECESSARY MEASURES USING THE**
8 **AVAILABLE TECHNOLOGY TO ENSURE THE ACCURACY OF THIS COMPARISON**
9 **BEFORE NOTIFYING A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,**
10 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL OF A CONVICTION.** If a
11 comparison discloses that a person on the department's list of
12 individuals holding a teaching certificate or state board approval
13 has been convicted of a ~~crime~~, **MISDEMEANOR, INVOLVING PHYSICAL OR**
14 **SEXUAL ABUSE OR ANY FELONY,>>** the department shall notify the
15 superintendent or chief administrator and the board or governing
16 body of the school district, intermediate school district, public
17 school academy, or nonpublic school in which the person is employed
18 of that conviction.

18 (16) As used in this section:

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

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

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

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

**<<(D) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS THAT
TERM AS DEFINED IN SECTION 1230D.>>**

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

24 (a) Any felony.

25 (b) Any of the following misdemeanors:

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

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

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

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

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

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

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

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

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

1 other than described in this subsection. This subsection applies to
2 conviction of any of the following crimes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (a) Prohibit a person who holds state board approval from

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1 seeking monetary compensation from a school board or intermediate
2 school board if that right is available under a collective
3 bargaining agreement or another statute.

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

8 (c) Exempt a person who holds state board approval from the
9 operation of section 1535a if the person holds a certificate
10 subject to that section.

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

13 (14) The superintendent of public instruction may promulgate,
14 as necessary, rules to implement this section pursuant to the
15 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
16 24.328.

17 (15) The department of information technology shall work with
18 the department and the department of state police to develop and
19 implement an automated program that does a comparison of the
20 department's list of individuals holding a teaching certificate or
21 state board approval with the conviction information received by
22 the department of state police. <<THIS COMPARISON SHALL ONLY INCLUDE
INDIVIDUALS WHO ARE ACTUALLY SCHOOL EMPLOYEES AT THE TIME OF THE
COMPARISON OR WHO ARE REGULARLY AND CONTINUOUSLY WORKING UNDER CONTRACT
AT THE TIME OF THE COMPARISON.>> Unless otherwise prohibited by law,
23 this comparison shall include convictions contained in a nonpublic
24 record. The department and the department of state police shall
25 perform this comparison during January and June of each year until
26 July 1, 2008. **THE DEPARTMENT OF STATE POLICE SHALL TAKE ALL**
27 **REASONABLE AND NECESSARY MEASURES USING THE AVAILABLE TECHNOLOGY TO**

House Bill No. 5675 as amended March 7, 2006

1 ENSURE THE ACCURACY OF THIS COMPARISON BEFORE TRANSMITTING THE
 2 INFORMATION UNDER THIS SUBSECTION TO THE DEPARTMENT. THE DEPARTMENT
 3 SHALL TAKE ALL REASONABLE AND NECESSARY MEASURES USING THE
 4 AVAILABLE TECHNOLOGY TO ENSURE THE ACCURACY OF THIS COMPARISON
 5 BEFORE NOTIFYING A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,
 6 PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL OF A CONVICTION. If a
 7 comparison discloses that a person on the department's list of
 8 individuals holding a teaching certificate or state board approval
 9 has been convicted of a ~~crime,~~ **MISDEMEANOR INVOLVING PHYSICAL OR SEXUAL
 ABUSE OR ANY FELONY,>>** the department shall notify the
 10 superintendent or chief administrator and the board or governing
 11 body of the school district, intermediate school district, public
 12 school academy, or nonpublic school in which the person is employed
 13 of that conviction.

14 (16) As used in this section:

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

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

21 (c) "Prosecuting attorney" means the prosecuting attorney for
 22 a county, an assistant prosecuting attorney for a county, the
 23 attorney general, the deputy attorney general, an assistant
 24 attorney general, a special prosecuting attorney, or, in connection
 25 with the prosecution of an ordinance violation, an attorney for the
 26 political subdivision that enacted the ordinance upon which the
 27 violation is based.

**<<(D) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS THAT
 TERM AS DEFINED IN SECTION 1230D.>>**

1 (d) "State board approval" means a license, certificate,
2 approval not requiring a teaching certificate, or other evidence of
3 qualifications to hold a particular position in a school district
4 or intermediate school district or in a nonpublic school, other
5 than a teacher's certificate subject to section 1535a, that is
6 issued to a person by the state board or the superintendent of
7 public instruction under this act or a rule promulgated under this
8 act.