



***THE APPARENT PROBLEM:***

School districts and nonpublic schools are required under Public Act 99 of 1992, beginning with the 1993-94 school year, to get a criminal history report from the state police before making an offer of initial employment for a position as a teacher or administrator (and for certain other posts). School officials have identified some difficulties with this approach, particularly when a position is to be filled during the school year or close to the beginning of a school year. Because of the expense of the criminal history checks (expected to be about \$15 each), schools do not want to have them done for all or many applicants for a position. But if they wait until they have made their choice, there may not be time to get a completed return by the time school begins or the teacher needs to be in the classroom. A check is expected to take 30 days. (School officials say they expected the criminal history reports to be faster and less expensive when the act was passed last year because they anticipated that simple name checks would be conducted. However, the state police reportedly have determined that fingerprint checks, which are more expensive and time consuming, are the preferred method because of their greater accuracy.) School officials are seeking amendments to preserve the intent of the 1992 legislation while affording them some flexibility in hiring.

***THE CONTENT OF THE BILL:***

The bill would amend the School Code to allow a school district or a nonpublic school to hire an individual as a conditional employee without first receiving a criminal history report if:

-- the board or governing body determined it necessary to employ someone during the school year or within 30 days before the beginning of a school year;

-- the board or governing body requested the required criminal history check before conditionally employing the person; and

-- the individual signed a statement identifying all crimes for which he or she had been convicted, if any, and agreeing that his or her employment contract would be voidable at the option of the board or governing body if the information in the criminal history report was not the same as on the individual's statement.

The bill would specify that the board could void the employment contract of a person hired as a conditional employee and that if the contract was voided, the individual's employment would be terminated. A collective bargaining agreement that would otherwise apply to the person's employment would not apply to the termination in such cases, and the board or governing body would not be liable for the termination. For an applicant's own criminal history statement, school districts and nonpublic schools would have to use a model form developed and distributed by the Department of Education. (The act now requires the request and receipt of a report before making an offer of employment; the bill would require the request of the report upon the offer of initial employment and receipt of the report before employment as a "regular employee," reflecting that a person would be a conditional employee in the interim.)

The bill would permit a school district or nonpublic school to share a state police report with another district or school if a person was being considered for employment by more than one school district and the applicant agreed in writing to the sharing of the report. A district or school could satisfy the criminal report requirement in such cases by obtaining the report from another district or school.

The bill also would require the state police to report the results of a criminal history check within 30 days after receiving a proper request by a district or school. The act has no time requirement currently.

MCL 380.1230

***FISCAL IMPLICATIONS:***

There is no information at present.

***ARGUMENTS:***

***For:***

The bill allows some flexibility to school districts in meeting the new requirement that criminal history reports be obtained before hiring teachers, administrators, and certain other personnel. It would permit the conditional hiring of people while awaiting the results of a criminal history check, with the understanding that their employment could be terminated if the report revealed information different from that provided by the employee as part of the application process. The bill is consistent with the intent of the 1992 legislation, but allows schools and school districts some leeway in cases where the current criminal history report requirement is not practicable.

***Against:***

Some people opposed having the local district run a criminal check on prospective teachers and other employees when the requirement was first enacted on the grounds that such investigations should be done at the state level when a person is first certified. Then, credentials could be suspended or revoked upon a subsequent criminal conviction. It should be noted, too, that if local districts are to receive the criminal history reports, it would be better if they got them before putting a teacher in a classroom to lessen the possibility of having to remove the teacher later, which could be disruptive.

***POSITIONS:***

A representative of the Michigan Association of School Boards testified in support of the bill. (4-20-93)

The Michigan Association of Non-Public Schools, comprising schools affiliated with the Michigan Catholic Church, Lutheran-Missouri Synod, and

Christian Schools International, supports the bill. (4-20-93)

A representative of the Michigan Association of School Administrators testified in support of the bill. (4-20-93)

The Michigan Federation of Teachers supports the bill. (4-20-93)

The Ottawa Area Intermediate School District and the Kalamazoo Valley Intermediate School District submitted letters supporting the bill to the House Education Committee dated 4-19-93.