

Act No. 68
Public Acts of 1993
Approved by the Governor
June 18, 1993
Filed with the Secretary of State
June 21, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. London, Freeman, Walberg, Kaza, Bryant, Keith, DeMars, Whyman, Agee, DeLange, Middleton, Crissman, Horton, Goschka, Cropsey, Dalman, Gernaat, Bullard and Dolan

ENROLLED HOUSE BILL No. 4512

AN ACT to amend section 1230 of Act No. 451 of the Public Acts of 1976, entitled as amended "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and classify the laws relating to elementary and secondary education; to provide for the classification, organization, regulation, and maintenance of schools, school districts, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, and intermediate school districts; to provide for the regulation of school teachers and school administrators; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal certain acts and parts of acts," as added by Act No. 99 of the Public Acts of 1992, being section 380.1230 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 1230 of Act No. 451 of the Public Acts of 1976, as added by Act No. 99 of the Public Acts of 1992, being section 380.1230 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 1230. (1) Beginning with hiring for the 1993-94 school year and subject to subsections (2), (4), and (5), upon an offer of initial employment being made by the board of a school district, local act school district, or intermediate school district or the governing body of a nonpublic school to an individual for a position as a teacher or a school administrator or for a position requiring state board approval, the district or nonpublic school shall request from the criminal records division of the department of state police a criminal history check on the individual and, before employing the individual as a regular employee, shall have received from the department of state police the report described in subsection (8).

(2) If the board of a school district, local act school district, or intermediate school district or the governing body of a nonpublic school determines it necessary to employ an individual for a position described in subsection (1) for a particular school year during that school year or within 30 days before the beginning of that school year, the board or governing body may employ the individual as a conditional employee under this subsection without first receiving the report described in subsection (8) if all of the following apply:

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

(b) The individual signs a statement that identifies all crimes for which he or she has been convicted, if any, and agreeing that, if the report described in subsection (8) is not the same as the individual's statement, his or her employment contract will be voidable at the option of the board or governing body. Not later than 30 days after the

effective date of the amendatory act that added this subsection, the department shall develop and distribute to districts and nonpublic schools a model form for the statement required under this subdivision. A district or nonpublic school shall use the model form for the purposes of this subsection.

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

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

(5) If an applicant for a position described in subsection (1) is being considered for employment in such a position by more than 1 school district, local act school district, intermediate school district, or nonpublic school and if the applicant agrees in writing to allow a district or nonpublic school to share the report described in subsection (8) with another district or nonpublic school, a district or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the report described in subsection (8) from another district or nonpublic school.

(6) An applicant for a position described in subsection (1) shall give written consent at the time of application for the criminal records division of the department of state police to conduct the criminal history check required under this section.

(7) A school district, local act school district, or intermediate school district or a nonpublic school shall make a request to the criminal records division of the department of state police for a criminal history check required under this section on a form and in a manner prescribed by the criminal records division of the department of state police.

(8) Within 30 days after receiving a proper request by a school district, local act school district, or intermediate school district or a nonpublic school for a criminal history check on an applicant under this section, the criminal records division of the department of state police shall conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district or nonpublic school. The report shall contain any criminal history record information on the applicant maintained by the criminal records division of the department of state police.

(9) Criminal history record information received from the criminal records division of the department of state police under subsection (8) shall be used by a school district, local act school district, or intermediate school district or a nonpublic school only for the purpose of evaluating an applicant's qualifications for employment in the position for which he or she has applied and for the purposes of subsection (3). A member of the board of a district or of the governing body of a nonpublic school or an employee of a district or nonpublic school shall not disclose the report or its contents except any felony conviction or a misdemeanor conviction involving sexual or physical abuse to any person who is not directly involved in evaluating the applicant's qualifications for employment. However, for the purposes of subsection (4), a person described in this subsection may confirm to an employee of another district or nonpublic school that a report under subsection (8) has revealed that an individual does not have any criminal history or may disclose that no report under subsection (8) has been received concerning the individual, and for the purposes of subsection (5), a person described in this subsection may provide a copy of the report under subsection (8) concerning the individual to an appropriate representative of another district or nonpublic school. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804.

(10) As used in this section:

(a) "Criminal history record information" means that term as defined in section 1a of Act No. 289 of the Public Acts of 1925, being section 28.241a of the Michigan Compiled Laws.

(b) "State board approval" means that term as defined in section 1539b.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.