



HOUSE BILL No. 4512

March 17, 1993, Introduced by Reps. London, Freeman, Walberg, Kaza, Bryant, Keith, DeMars, Whyman, Agee, DeLange, Middleton, Crissman, Horton, Goschka, Cropsey, Dalman, Gernaat, Bullard and Dolan and referred to the Committee on Education.

A bill to amend section 1230 of Act No. 451 of the Public Acts of 1976, entitled as amended

"The school code of 1976,"

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:

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

5 Sec. 1230. (1) Beginning with hiring for the 1993-94 school
6 year and subject to ~~subsection (2)~~ SUBSECTIONS (2), (4), AND
7 (5), before the board of a school district, local act school
8 district, or intermediate school district or the governing body
9 of a nonpublic school makes an offer of initial employment to an

1 individual for a position as a teacher or a school administrator
2 or for a position requiring state board approval, the district or
3 nonpublic school shall request from the criminal records division
4 of the department of state police a criminal history check on the
5 individual and receive from the department OF STATE POLICE the
6 report described in subsection ~~(5)~~ (8).

7 (2) IF THE BOARD OF A SCHOOL DISTRICT, LOCAL ACT SCHOOL DIS-
8 TRICT, OR INTERMEDIATE SCHOOL DISTRICT OR THE GOVERNING BODY OF A
9 NONPUBLIC SCHOOL DETERMINES IT NECESSARY TO HIRE AN INDIVIDUAL
10 FOR A POSITION DESCRIBED IN SUBSECTION (1) FOR A PARTICULAR
11 SCHOOL YEAR DURING THAT SCHOOL YEAR OR WITHIN 30 DAYS BEFORE THE
12 BEGINNING OF THAT SCHOOL YEAR, THE BOARD OR GOVERNING BODY MAY
13 MAKE AN OFFER OF INITIAL EMPLOYMENT AND HIRE THE INDIVIDUAL WITH-
14 OUT FIRST RECEIVING THE REPORT DESCRIBED IN SUBSECTION (8) IF ALL
15 OF THE FOLLOWING APPLY:

16 (A) THE BOARD OR GOVERNING BODY REQUESTS THE CRIMINAL HIS-
17 TORY CHECK REQUIRED UNDER SUBSECTION (1) BEFORE MAKING THE OFFER
18 OF INITIAL EMPLOYMENT.

19 (B) THE INDIVIDUAL SIGNS A STATEMENT DECLARING THAT HE OR
20 SHE HAS NEVER BEEN CONVICTED OF A CRIME AND AGREEING THAT, IF THE
21 REPORT DESCRIBED IN SUBSECTION (8) REVEALS THAT THE INDIVIDUAL
22 HAS BEEN CONVICTED OF A CRIME, HIS OR HER EMPLOYMENT CONTRACT
23 WILL BE VOIDABLE AT THE OPTION OF THE BOARD OR GOVERNING BODY.

24 (3) IF AN INDIVIDUAL IS HIRED PURSUANT TO SUBSECTION (2) AND
25 THE REPORT DESCRIBED IN SUBSECTION (8) REVEALS THAT THE INDIVID-
26 UAL HAS BEEN CONVICTED OF A CRIME, THE BOARD OR GOVERNING BODY
27 MAY VOID THE INDIVIDUAL'S EMPLOYMENT CONTRACT. IF AN EMPLOYMENT

1 CONTRACT IS VOIDED UNDER THIS SUBSECTION, THE INDIVIDUAL'S
2 EMPLOYMENT IS TERMINATED, A COLLECTIVE BARGAINING AGREEMENT THAT
3 WOULD OTHERWISE APPLY TO THE INDIVIDUAL'S EMPLOYMENT DOES NOT
4 APPLY TO THE TERMINATION, AND THE DISTRICT OR NONPUBLIC SCHOOL OR
5 THE BOARD OR GOVERNING BODY IS NOT LIABLE FOR THE TERMINATION.

6 (4) ~~(2)~~ For an applicant for a position as a substitute
7 teacher, instead of requesting a criminal history check under
8 subsection (1), a school district, local act school district,
9 intermediate school district, or nonpublic school may use a
10 report received by another district or intermediate district or
11 maintained by the department to confirm that the individual does
12 not have any criminal history. If that confirmation is not
13 available, subsection (1) applies to an applicant for a position
14 as a substitute teacher.

15 (5) IF AN APPLICANT FOR A POSITION DESCRIBED IN
16 SUBSECTION (1) IS BEING CONSIDERED FOR EMPLOYMENT IN SUCH A POSI-
17 TION BY MORE THAN 1 SCHOOL DISTRICT, LOCAL ACT SCHOOL DISTRICT,
18 INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL AND IF THE
19 APPLICANT AGREES IN WRITING TO ALLOW A DISTRICT OR NONPUBLIC
20 SCHOOL TO SHARE THE REPORT DESCRIBED IN SUBSECTION (8) WITH
21 ANOTHER DISTRICT OR NONPUBLIC SCHOOL, A DISTRICT OR NONPUBLIC
22 SCHOOL MAY SATISFY THE REQUIREMENTS OF SUBSECTION (1) BY OBTAIN-
23 ING A COPY OF THE REPORT DESCRIBED IN SUBSECTION (8) FROM ANOTHER
24 DISTRICT OR NONPUBLIC SCHOOL.

25 (6) ~~(3)~~ An applicant for a position described in subsec-
26 tion (1) shall give written consent at the time of application
27 for the criminal records division of the department of state

1 police to conduct the criminal history check required under this
2 section.

3 (7) ~~(4)~~ A school district, local act school district, or
4 intermediate school district or a nonpublic school shall make a
5 request to the criminal records division of the department of
6 state police for a criminal history check required under this
7 section on a form and in a manner prescribed by the criminal
8 records division of the department of state police.

9 (8) ~~(5)~~ Upon proper request by a school district, local
10 act school district, or intermediate school district or a nonpub-
11 lic school for a criminal history check on an applicant under
12 this section, the criminal records division of the department of
13 state police shall conduct the criminal history check. After
14 conducting a criminal history check under this section, the crim-
15 inal records division of the department of state police shall
16 provide a report to the district or nonpublic school. The report
17 shall contain any criminal history record information on the
18 applicant maintained by the criminal records division of the
19 department of state police.

20 (9) ~~(6)~~ Criminal history record information received from
21 the criminal records division of the department of state police
22 under subsection ~~(5)~~ (8) shall be used by a school district,
23 local act school district, or intermediate school district or a
24 nonpublic school only for the purpose of evaluating an
25 applicant's qualifications for employment in the position for
26 which he or she has applied AND FOR THE PURPOSES OF
27 SUBSECTION (3). A member of the board of a district or governing

1 body of a nonpublic school or an employee of a district or
2 nonpublic school shall not disclose the report or its contents
3 except any felony conviction or a misdemeanor conviction involv-
4 ing sexual or physical abuse to any person who is not directly
5 involved in evaluating the applicant's qualifications for
6 employment. However, for the purposes of subsection ~~(2)~~ (4), a
7 person described in this subsection may confirm to an employee of
8 another district or nonpublic school that a report under
9 subsection ~~(5)~~ (8) has revealed that an individual does not
10 have any criminal history or may disclose that no report under
11 subsection ~~(5)~~ (8) has been received concerning the individual,
12 AND FOR THE PURPOSES OF SUBSECTION (5), A PERSON DESCRIBED IN
13 THIS SUBSECTION MAY PROVIDE A COPY OF THE REPORT UNDER
14 SUBSECTION (8) CONCERNING THE INDIVIDUAL TO AN APPROPRIATE REPRESENTATIVE OF ANOTHER DISTRICT OR NONPUBLIC SCHOOL. A person who
15 violates this subsection is guilty of a misdemeanor punishable by
16 a fine of not more than \$10,000.00, but is not subject to the
17 penalties under section 1804.

19 (10) ~~(7)~~ As used in this section:

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

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