

Act No. 97  
Public Acts of 1995  
Approved by the Governor  
June 20, 1995  
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June 22, 1995

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1995**

Introduced by Reps. London, Kukuk, Perricone, Dobb, Walberg, Oxender, Goschka, Porreca, Bodem, LeTarte, McBryde, Voorhees, Hill, DeMars, Johnson, Bryant, Dalman, Jersevic and Randall

# **ENROLLED HOUSE BILL No. 4533**

AN ACT to amend sections 1535a, 1539a, and 1539b 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 amended by Act No. 144 of the Public Acts of 1994, being sections 380.1535a, 380.1539a, and 380.1539b of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 1535a, 1539a, and 1539b of Act No. 451 of the Public Acts of 1976, as amended by Act No. 144 of the Public Acts of 1994, being sections 380.1535a, 380.1539a, and 380.1539b of the Michigan Compiled Laws, are amended to read as follows:

Sec. 1535a. (1) Subject to subsection (2), if a person who holds a teaching certificate that is valid in this state is convicted of a crime described in this subsection, the state board 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 state board. If the person does not avail himself or herself of this right to a hearing within 30 working days after receipt of this written notification, the teaching certificate of that person shall be suspended. If a hearing takes place, the state board may suspend the person's teaching certificate based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

- (a) Any felony.
- (b) Any of the following misdemeanors:
  - (i) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.
  - (ii) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.
  - (iii) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.

(iv) A misdemeanor violation of section 7410 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7410 of the Michigan Compiled Laws.

(v) A violation of section 115, 141a, 145a, or 359 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.115, 750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws, or a misdemeanor violation of section 81, 81a, or 145c of Act No. 328 of the Public Acts of 1931, being sections 750.81, 750.81a, and 750.145c of the Michigan Compiled Laws.

(vi) A misdemeanor violation of section 33 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.33 of the Michigan Compiled Laws.

(2) If a person who holds a teaching certificate that is valid in this state is convicted of a crime described in this subsection, the state board shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's teaching certificate under section 92 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.292 of the Michigan Compiled Laws. However, if a person convicted of a crime described in this subsection is incarcerated in a state correctional facility, the state board may delay ordering the summary suspension until not later than 10 work days after the person is released from secure confinement. This subsection does not limit the state board's ability to order summary suspension of a person's teaching certificate for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

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

(b) Felonious assault on a child, child abuse in any degree, or an attempt to commit child abuse in any degree.

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

(d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410, and 333.7416 of the Michigan Compiled Laws.

(e) A violation of section 83, 89, 91, 316, 317, or 529 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.83, 750.89, 750.91, 750.316, 750.317, and 750.529 of the Michigan Compiled Laws.

(3) After the completion of a person's sentence, the person may request a hearing before the state board on reinstatement of his or her teaching certificate. Based upon the issues and evidence presented at the hearing, the state board may reinstate, continue the suspension of, or permanently revoke the person's teaching certificate.

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

(a) The person's teaching certificate shall be reinstated upon his or her notification to the state board of the reversal.

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

(5) The prosecuting attorney of the county in which a person who holds a teaching certificate was convicted of a crime described in subsection (1) shall notify the state board of that conviction and of the sentence imposed on the person. The prosecuting attorney of each county shall inquire of each person convicted in the county of a crime described in subsection (1) whether the person holds a teaching certificate.

(6) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified by a prosecuting attorney or learns through an authoritative source that a person who holds a teaching certificate and who is employed at the time by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1), the superintendent, chief administrative officer, or board president shall notify the state board of that conviction.

(7) If a person convicted of a crime described in subsection (2) is incarcerated in a state correctional facility and the state board delays summary suspension as described in subsection (2), the state board shall contact the department of corrections and request to be notified before the person is released from secure confinement. Upon receipt of that request, the department of corrections shall notify the state board at least 30 work days before the person is released from secure confinement.

(8) For the purposes of this section, a certified copy of the court record is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this subsection is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's teaching certificate.

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

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

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

(c) Exempt a person who holds a teaching certificate from the operation of section 1539a if the person also holds a school administrator's certificate.

(10) The state board may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(11) As used in this section:

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

(b) "State correctional facility" means a correctional facility under the jurisdiction of the department of corrections.

Sec. 1539a. (1) Subject to subsection (2), if a person who holds a school administrator's certificate that is valid in this state is convicted of a crime described in this subsection, the state board shall notify the person in writing that his or her school administrator's certificate may be suspended because of the conviction and of his or her right to a hearing before the state board. If the person does not avail himself or herself of this right to a hearing within 30 working days after receipt of this written notification, the school administrator's certificate of that person shall be suspended. If a hearing takes place, the state board may suspend the person's school administrator's certificate based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

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

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

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

(iv) A misdemeanor violation of section 7410 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7410 of the Michigan Compiled Laws.

(v) A violation of section 115, 141a, 145a, or 359 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.115, 750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws, or a misdemeanor violation of section 81, 81a, or 145c of Act No. 328 of the Public Acts of 1931, being sections 750.81, 750.81a, and 750.145c of the Michigan Compiled Laws.

(vi) A misdemeanor violation of section 33 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.33 of the Michigan Compiled Laws.

(2) If a person who holds a school administrator's certificate that is valid in this state is convicted of a crime described in this subsection, the state board shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's school administrator's certificate under section 92 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.292 of the Michigan Compiled Laws. However, if a person convicted of a crime described in this subsection is incarcerated in a state correctional facility, the state board may delay ordering the summary suspension until not later than 10 work days after the person is released from secure confinement. This subsection does not limit the state board's ability to order summary suspension of a person's school administrator's certificate for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

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

(b) Felonious assault on a child, child abuse in any degree, or an attempt to commit child abuse in any degree.

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

(d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410, and 333.7416 of the Michigan Compiled Laws.

(e) A violation of section 83, 89, 91, 316, 317, or 529 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.83, 750.89, 750.91, 750.316, 750.317, and 750.529 of the Michigan Compiled Laws.

(3) After the completion of the person's sentence, the person may request a hearing before the state board on reinstatement of his or her school administrator's certificate. Based upon the issues and evidence presented at the hearing, the state board may reinstate, continue the suspension of, or permanently revoke the person's school administrator's certificate.

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

(a) The person's school administrator's certificate shall be reinstated upon his or her notification to the state board of the reversal.

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

(5) The prosecuting attorney of the county in which a person who holds a school administrator's certificate was convicted of a crime described in subsection (1) shall notify the state board of that conviction and of the sentence imposed on the person. The prosecuting attorney of each county shall inquire of each person convicted in the county of a crime described in subsection (1) whether the person holds a school administrator's certificate.

(6) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified by a prosecuting attorney or learns through an authoritative source that a person who holds a school administrator's certificate and who is employed at the time by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1), the superintendent, chief administrative officer, or board president shall notify the state board of that conviction.

(7) If a person convicted of a crime described in subsection (2) is incarcerated in a state correctional facility and the state board delays summary suspension as described in subsection (2), the state board shall contact the department of corrections and request to be notified before the person is released from secure confinement. Upon receipt of that request, the department of corrections shall notify the state board at least 30 work days before the person is released from secure confinement.

(8) For the purposes of this section, a certified copy of the court record is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this subsection is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's school administrator's certificate.

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

(a) Prohibit a person who holds a school administrator's certificate from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds a school administrator's certificate.

(c) Exempt a person who holds a school administrator's certificate from the operation of section 1535a.

(10) The state board may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(11) As used in this section:

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

(b) "State correctional facility" means a correctional facility under the jurisdiction of the department of corrections.

Sec. 1539b. (1) Subject to subsection (2), if a person who holds state board approval is convicted of a crime described in this subsection, the state board shall notify the person in writing that his or her state board approval may be suspended because of the conviction and of his or her right to a hearing before the state board. If the person does not avail himself or herself of this right to a hearing within 30 working days after receipt of this written notification, the person's state board approval shall be suspended. If a hearing takes place, the state board may suspend the person's state board approval, based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

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

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

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

(iv) A misdemeanor violation of section 7410 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7410 of the Michigan Compiled Laws.

(v) A violation of section 115, 141a, 145a, or 359 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.115, 750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws, or a misdemeanor violation of section 81, 81a, or 145c of Act No. 328 of the Public Acts of 1931, being sections 750.81, 750.81a, and 750.145c of the Michigan Compiled Laws.

(vi) A misdemeanor violation of section 33 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.33 of the Michigan Compiled Laws.

(2) If a person who holds state board approval is convicted of a crime described in this subsection, the state board shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's state board approval under section 92 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.292 of the Michigan Compiled Laws. However, if a person convicted of a crime described in this subsection is incarcerated in a state correctional facility, the state board may delay ordering the summary suspension until not later than 10 work days after the person is released from secure confinement. This subsection does not limit the state board's ability to order summary suspension of a person's state board approval for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

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

(b) Felonious assault on a child, child abuse in any degree, or an attempt to commit child abuse in any degree.

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

(d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410, and 333.7416 of the Michigan Compiled Laws.

(e) A violation of section 83, 89, 91, 316, 317, or 529 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.83, 750.89, 750.91, 750.316, 750.317, and 750.529 of the Michigan Compiled Laws.

(3) After the completion of the person's sentence, the person may request a hearing before the state board on reinstatement of his or her state board approval. Based upon the issues and evidence presented at the hearing, the state board may reinstate, continue the suspension of, or permanently revoke the person's state board approval.

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

(a) The person's state board approval shall be reinstated upon his or her notification to the state board of the reversal.

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

(5) The prosecuting attorney of the county in which a person who holds state board approval was convicted of a crime described in subsection (1) shall notify the state board of that conviction and of the sentence imposed on the person. The prosecuting attorney of each county shall inquire of each person convicted in the county of a crime described in subsection (1) whether the person holds state board approval. The state board shall make available to prosecuting attorneys a list of school occupations that commonly require state board approval.

(6) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified by a prosecuting attorney or learns through an authoritative source that a person who holds state board approval and who is employed at the time by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1), the superintendent, chief administrative officer, or board president shall notify the state board of that conviction.

(7) If a person convicted of a crime described in subsection (2) is incarcerated in a state correctional facility and the state board delays summary suspension as described in subsection (2), the state board shall contact the department of corrections and request to be notified before the person is released from secure confinement. Upon receipt of that request, the department of corrections shall notify the state board at least 30 work days before the person is released from secure confinement.

(8) For the purposes of this section, a certified copy of the court record is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this subsection is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's state board approval.

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

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

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

(c) Exempt a person who holds state board approval from the operation of section 1535a or 1539a, or both, if the person holds a certificate subject to 1 or both of those sections.

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

(10) The state board may promulgate, as necessary, rules to implement this section pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(11) As used in this section:

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

(b) "State board approval" means a license, certificate, endorsement, permit, approval, or other evidence of qualifications to hold a particular position in a school district or intermediate school district or in a nonpublic school, other than a teacher's certificate subject to section 1535a or a school administrator's certificate subject to section 1539a, that is issued to a person by the state board under this act or a rule promulgated under this act.

(c) "State correctional facility" means a correctional facility under the jurisdiction of the department of corrections.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.

