



HOUSE BILL No. 4533

March 7, 1995, Introduced by Reps. London, Kukuk, Perricone, Dobb, Walberg, Oxender, Goschka, Porreca, Bodem, LeTarte, McBryde, Voorhees, Hill, DeMars, Johnson, Bryant, Dalman, Jersevic and Randall and referred to the Committee on Education.

A bill to amend sections 1535a, 1539a, and 1539b of Act No. 451 of the Public Acts of 1976, entitled as amended "The school code 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.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1535a, 1539a, and 1539b of Act No. 451
2 of the Public Acts of 1976, as amended by Act No. 144 of the
3 Public Acts of 1994, being sections 380.1535a, 380.1539a, and
4 380.1539b of the Michigan Compiled Laws, are amended to read as
5 follows:

6 Sec. 1535a. (1) If a person who holds a teaching
7 certificate that is valid in this state is convicted of a crime
8 described in subsection (2), the state board shall notify the

1 person in writing that his or her teaching certificate may be
 2 suspended because of the conviction and of his or her right to a
 3 hearing before the state board. If the person does not avail
 4 himself or herself of this right to a hearing within 30 working
 5 days after receipt of this written notification, the teaching
 6 certificate of that person shall be suspended. If a hearing
 7 takes place, the state board may suspend the person's teaching
 8 certificate based upon the issues and evidence presented at the
 9 hearing.

10 (2) Subsection (1) applies to any of the following crimes:

11 (A) ANY FELONY.

12 (B) ANY OF THE FOLLOWING MISDEMEANORS:

13 (i) ~~(a) Criminal sexual conduct in any~~ THE FOURTH degree
 14 ~~, assault with intent to commit criminal sexual conduct,~~ or an
 15 attempt to commit criminal sexual conduct in ~~any~~ THE FOURTH
 16 degree.

17 (ii) ~~(b) Felonious assault on a child, child~~ CHILD abuse
 18 in ~~any~~ THE THIRD OR FOURTH degree ~~,~~ or an attempt to commit
 19 child abuse in ~~any~~ THE THIRD OR FOURTH degree.

20 (iii) ~~(c) Cruelty~~ A MISDEMEANOR INVOLVING CRUELTY, tor-
 21 ture, or indecent exposure involving a child.

22 (iv) ~~(d)~~ A MISDEMEANOR violation of
 23 section ~~740+(2)(a)(i), 7403(2)(a)(i), 7410, or 7416~~ 7410 of the
 24 public health code, Act No. 368 of the Public Acts of 1978, being
 25 ~~sections 333.7041, 333.7403, 333.7410, and 333.7416~~ SECTION
 26 333.7410 of the Michigan Compiled Laws.

1 ~~(c) A violation of section 83, 89, 91, 316, 317, or 529 of~~
2 ~~the Michigan penal code, Act No. 328 of the Public Acts of 1931,~~
3 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~
4 ~~750.529 of the Michigan Compiled Laws.~~

5 (3) After the completion of a person's sentence, the person
6 may request a hearing before the state board on reinstatement of
7 his or her teaching certificate. Based upon the issues and evi-
8 dence presented at the hearing, the state board may reinstate,
9 continue the suspension of, or permanently revoke the person's
10 teaching certificate.

11 (4) ~~A~~ ALL OF THE FOLLOWING APPLY TO A person described in
12 this section whose conviction is reversed upon final appeal:

13 (a) ~~Shall have his or her~~ THE PERSON'S teaching certifi-
14 cate SHALL BE reinstated upon his or her notification ~~of that~~
15 ~~fact~~ to the state board OF THE REVERSAL.

16 (b) ~~Shall~~ IF THE SUSPENSION OF THE PERSON'S TEACHING CER-
17 TIFICATE UNDER THIS SECTION WAS THE SOLE CAUSE OF HIS OR HER DIS-
18 CHARGE FROM EMPLOYMENT, THE PERSON SHALL be reinstated, upon his
19 or her notification ~~of that fact~~ to the appropriate local or
20 intermediate school board OF THE REVERSAL, with full rights and
21 benefits, to the position he or she would have had if he or she
22 had been continuously employed. ~~if the suspension of the teach-~~
23 ~~ing certificate was the sole cause of his or her discharge from~~
24 ~~employment.~~

25 (5) The prosecuting attorney of the county in which a person
26 who holds a teaching certificate was convicted of a crime
27 described in subsection (2) shall notify the state board of that

1 conviction. The prosecuting attorney of each county shall
2 inquire of each person convicted in the county of a crime
3 described in subsection (2) whether the person holds a teaching
4 certificate.

5 (6) If the superintendent of a school district or intermedi-
6 ate school district, the chief administrative officer of a non-
7 public school, the president of the board of a school district or
8 intermediate school district, or the president of the governing
9 board of a nonpublic school is notified by a prosecuting attorney
10 or learns through an authoritative source that a person who holds
11 a teaching certificate and who is employed at the time by the
12 school district, intermediate school district, or nonpublic
13 school has been convicted of a crime described in subsection (2),
14 the superintendent, chief administrative officer, or board presi-
15 dent shall notify the state board of that conviction.

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

17 (a) Prohibit a person who holds a teaching certificate from
18 seeking monetary compensation from a school board or intermediate
19 school board if that right is available under a collective bar-
20 gaining agreement or another statute.

21 (b) Limit the rights and powers granted to a school district
22 or intermediate school district under a collective bargaining
23 agreement, this act, or another statute to discipline or dis-
24 charge a person who holds a teaching certificate.

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

1 (8) The state board may promulgate, as necessary, rules to
2 implement this section pursuant to the administrative procedures
3 act of 1969, Act No. 306 of the Public Acts of 1969, being sec-
4 tions 24.201 to 24.328 of the Michigan Compiled Laws.

5 Sec. 1539a. (1) If a person who holds a school
6 administrator's certificate that is valid in this state is con-
7 victed of a crime described in subsection (2), the state board
8 shall notify the person in writing that his or her school
9 administrator's certificate may be suspended because of the con-
10 viction and of his or her right to a hearing before the state
11 board. If the person does not avail himself or herself of this
12 right to a hearing within 30 working days after receipt of this
13 written notification, the school administrator's certificate of
14 that person shall be suspended. If a hearing takes place, the
15 state board may suspend the person's school administrator's cer-
16 tificate based upon the issues and evidence presented at the
17 hearing.

18 (2) Subsection (1) applies to any of the following crimes:

19 (A) ANY FELONY.

20 (B) ANY OF THE FOLLOWING MISDEMEANORS:

21 (i) ~~(a) Criminal sexual conduct in ~~any~~ THE FOURTH degree~~
22 ~~, assault with intent to commit criminal sexual conduct,~~ or an
23 attempt to commit criminal sexual conduct in ~~any~~ THE FOURTH
24 degree.

25 (ii) ~~(b) Felonious assault on a child, child~~ CHILD abuse
26 in ~~any~~ THE THIRD OR FOURTH degree ~~,~~ or an attempt to commit
27 child abuse in ~~any~~ THE THIRD OR FOURTH degree.

1 (iii) ~~(c) Cruelty~~ A MISDEMEANOR INVOLVING CRUELTY,
2 torture, or indecent exposure involving a child.

3 (iv) ~~(d)~~ A MISDEMEANOR violation of
4 section ~~740(2)(a)(i), 7403(2)(a)(i), 7410, or 7416~~ 7410 of the
5 public health code, Act No. 368 of the Public Acts of 1978, being
6 ~~sections 333.7041, 333.7403, 333.7410, and 333.7416~~ SECTION
7 333.7410 of the Michigan Compiled Laws.

8 ~~(e) A violation of section 83, 89, 91, 316, 317, or 529 of~~
9 ~~the Michigan penal code, Act No. 328 of the Public Acts of 1931,~~
10 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~
11 ~~750.529 of the Michigan Compiled Laws.~~

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

18 (4) ~~A~~ ALL OF THE FOLLOWING APPLY TO A person described in
19 this section whose conviction is reversed upon final appeal:

20 (a) ~~Shall have his or her~~ THE PERSON'S school
21 administrator's certificate SHALL BE reinstated upon his or her
22 notification ~~of that fact~~ to the state board OF THE REVERSAL.

23 (b) ~~Shall~~ IF THE SUSPENSION OF THE PERSON'S SCHOOL
24 ADMINISTRATOR'S CERTIFICATE UNDER THIS SECTION WAS THE SOLE CAUSE
25 OF HIS OR HER DISCHARGE FROM EMPLOYMENT, THE PERSON SHALL be
26 reinstated, upon his or her notification ~~of that fact~~ to the
27 appropriate local or intermediate school board OF THE REVERSAL,

1 with full rights and benefits, to the position he or she would
2 have had if he or she had been continuously employed. ~~if the~~
3 ~~suspension of the school administrator's certificate was the sole~~
4 ~~cause of his or her discharge from employment.~~

5 (5) The prosecuting attorney of the county in which a person
6 who holds a school administrator's certificate was convicted of a
7 crime described in subsection (2) shall notify the state board of
8 that conviction. The prosecuting attorney of each county shall
9 inquire of each person convicted in the county of a crime
10 described in subsection (2) whether the person holds a school
11 administrator's certificate.

12 (6) If the superintendent of a school district or intermedi-
13 ate school district, the chief administrative officer of a non-
14 public school, the president of the board of a school district or
15 intermediate school district, or the president of the governing
16 board of a nonpublic school is notified by a prosecuting attorney
17 or learns through an authoritative source that a person who holds
18 a school administrator's certificate and who is employed at the
19 time by the school district, intermediate school district, or
20 nonpublic school has been convicted of a crime described in sub-
21 section (2), the superintendent, chief administrative officer, or
22 board president shall notify the state board of that conviction.

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

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

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

5 (c) Exempt a person who holds a school administrator's cer-
6 tificate from the operation of section 1535a.

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

11 Sec. 1539b. (1) If a person who holds state board approval
12 is convicted of a crime described in subsection (2), the state
13 board shall notify the person in writing that his or her state
14 board approval may be suspended because of the conviction and of
15 his or her right to a hearing before the state board. If the
16 person does not avail himself or herself of this right to a hear-
17 ing within 30 working days after receipt of this written notifi-
18 cation, the person's state board approval shall be suspended. If
19 a hearing takes place, the state board may suspend the person's
20 state board approval, based upon the issues and evidence
21 presented at the hearing.

22 (2) Subsection (1) applies to any of the following crimes:

23 (A) ANY FELONY.

24 (B) ANY OF THE FOLLOWING MISDEMEANORS:

25 (i) ~~(a)~~ Criminal sexual conduct in ~~any~~ THE FOURTH degree
26 ~~, assault with intent to commit criminal sexual conduct,~~ or an

1 attempt to commit criminal sexual conduct in ~~any~~ THE FOURTH
2 degree.

3 (ii) ~~(b) Felonious assault on a child, child~~ CHILD abuse
4 in ~~any~~ THE THIRD OR FOURTH degree ~~7~~ or an attempt to commit
5 child abuse in ~~any~~ THE THIRD OR FOURTH degree.

6 (iii) ~~(c) Cruelty~~ A MISDEMEANOR INVOLVING CRUELTY, tor-
7 ture, or indecent exposure involving a child.

8 (iv) ~~(d)~~ A MISDEMEANOR violation of
9 section ~~7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416~~ 7410 of the
10 public health code, Act No. 368 of the Public Acts of 1978, being
11 ~~sections 333.7041, 333.7403, 333.7410, and 333.7416~~ SECTION
12 333.7410 of the Michigan Compiled Laws.

13 ~~(e) A violation of section 83, 89, 91, 316, 317, or 529 of~~
14 ~~the Michigan penal code, Act No. 328 of the Public Acts of 1931,~~
15 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~
16 ~~750.529 of the Michigan Compiled Laws.~~

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

23 (4) ~~A~~ ALL OF THE FOLLOWING APPLY TO A person described in
24 this section whose conviction is reversed upon final appeal:

25 (a) ~~Shall have his or her~~ THE PERSON'S state board
26 approval SHALL BE reinstated upon his or her notification ~~of~~
27 ~~that fact~~ to the state board OF THE REVERSAL.

1 (b) If the suspension of the state board approval was the
2 sole cause of his or her discharge from employment, THE PERSON
3 shall be reinstated upon his or her notification ~~of that fact~~
4 to the appropriate local or intermediate school board OF THE
5 REVERSAL, with full rights and benefits, to the position he or
6 she would have had if he or she had been continuously employed.

7 (5) The prosecuting attorney of the county in which a person
8 who holds state board approval was convicted of a crime described
9 in subsection (2) shall notify the state board of that
10 conviction. The prosecuting attorney of each county shall
11 inquire of each person convicted in the county of a crime
12 described in subsection (2) whether the person holds state board
13 approval. The state board shall make available to prosecuting
14 attorneys a list of school occupations that commonly require
15 state board approval.

16 (6) If the superintendent of a school district or intermedi-
17 ate school district, the chief administrative officer of a non-
18 public school, the president of the board of a school district or
19 intermediate school district, or the president of the governing
20 board of a nonpublic school is notified by a prosecuting attorney
21 or learns through an authoritative source that a person who holds
22 state board approval and who is employed at the time by the
23 school district, intermediate school district, or nonpublic
24 school has been convicted of a crime described in subsection (2),
25 the superintendent, chief administrative officer, or board presi-
26 dent shall notify the state board of that conviction.

1 (7) This section shall not be construed to do any of the
2 following:

3 (a) Prohibit a person who holds state board approval from
4 seeking monetary compensation from a school board or intermediate
5 school board if that right is available under a collective bar-
6 gaining agreement or another statute.

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

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

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

17 (8) The state board may promulgate, as necessary, rules to
18 implement this section pursuant to the administrative procedures
19 act of 1969, Act No. 306 of the Public Acts of 1969, being sec-
20 tions 24.201 to 24.328 of the Michigan Compiled Laws.

21 (9) As used in this section, "state board approval" means a
22 license, certificate, endorsement, permit, approval, or other
23 evidence of qualifications to hold a particular position in a
24 school district or intermediate school district or in a nonpublic
25 school, other than a teacher's certificate subject to section
26 1535a or a school administrator's certificate subject to section

1 1539a, that is issued to a person by the state board under this
2 act or a rule promulgated under this act.