

HOUSE BILL No. 4075

January 28, 1997, Introduced by Rep. London and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1535a and 1539a (MCL 380.1535a and
380.1539a), as amended by 1995 PA 289.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1535a. (1) Subject to subsection (2), if a person who
2 holds a teaching certificate that is valid in this state is con-
3 victed of a crime described in this subsection, the state board
4 shall notify the person in writing that his or her teaching cer-
5 tificate may be suspended because of the conviction and of his or
6 her right to a hearing before the state board. If the person
7 does not avail himself or herself of this right to a hearing
8 within 30 working days after receipt of this written
9 notification, the teaching certificate of that person shall be
10 suspended. If a hearing takes place, the state board may suspend

1 the person's teaching certificate based upon the issues and
2 evidence presented at the hearing. This subsection applies to
3 any of the following crimes:

4 (a) Any felony.

5 (b) Any of the following misdemeanors:

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

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

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

12 (iv) A misdemeanor violation of section 7410 of the public
13 health code, ~~Act No. 368 of the Public Acts of 1978, being sec-~~
14 ~~tion 333.7410 of the Michigan Compiled Laws~~ 1978 PA 368, MCL
15 333.7410.

16 (v) A violation of section 115, 141a, 145a, or 359 of the
17 Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
18 ~~being sections 750.115, 750.141a, 750.145a, and 750.359 of the~~
19 ~~Michigan Compiled Laws~~ 1931 PA 328, MCL 750.115, 750.141A,
20 750.145A, AND 750.359, or a misdemeanor violation of section 81,
21 81a, or 145c of ~~Act No. 328 of the Public Acts of 1931, being~~
22 ~~sections 750.81, 750.81a, and 750.145c of the Michigan Compiled~~
23 ~~Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81, 750.81A,
24 AND 750.145C.

25 (vi) A misdemeanor violation of section 33 of the Michigan
26 liquor control act, ~~Act No. 8 of the Public Acts of the Extra~~

~~1 Session of 1933, being section 436.33 of the Michigan Compiled~~
~~2 Laws 1933 (EX SESS) PA 8, MCL 436.33.~~

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

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

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

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

26 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i),
27 7410, or 7416 of the public health code, ~~Act No. 368 of the~~

~~1 Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410,~~
~~2 and 333.7416 of the Michigan Compiled Laws~~ 1978 PA 368, MCL
3 333.7401, 333.7403, 333.7410, AND 333.7416.

4 (e) A violation of section 83, 89, 91, 316, 317, or 529 of
5 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
6 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~
7 ~~750.529 of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.83,
8 750.89, 750.91, 750.316, 750.317, AND 750.529.

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

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

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

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

26 (5) The prosecuting attorney of the county in which a person
27 who holds a teaching certificate, OR WHO DOES NOT HOLD A TEACHING

1 CERTIFICATE BUT IS EMPLOYED AS A TEACHER BY A PUBLIC SCHOOL,
2 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC
3 SCHOOL, was convicted of a crime described in subsection (1)
4 shall notify the state board, and any public school, school dis-
5 trict, intermediate school district, or nonpublic school in which
6 the person is employed, of that conviction and of the sentence
7 imposed on the person. The prosecuting attorney of each county
8 shall inquire of each person convicted in the county of a crime
9 described in subsection (1) whether the person holds a teaching
10 certificate OR IS EMPLOYED AS A TEACHER BY A PUBLIC SCHOOL,
11 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC
12 SCHOOL.

13 (6) If the superintendent of a school district or intermedi-
14 ate school district, the chief administrative officer of a non-
15 public school, the president of the board of a school district or
16 intermediate school district, or the president of the governing
17 board of a nonpublic school is notified by a prosecuting attorney
18 or learns through an authoritative source that a person who holds
19 a teaching certificate and who is employed at the time by the
20 school district, intermediate school district, or nonpublic
21 school has been convicted of a crime described in subsection (1),
22 the superintendent, chief administrative officer, or board presi-
23 dent shall notify the state board of that conviction.

24 (7) If a person convicted of a crime described in subsection
25 (2) is incarcerated in a state correctional facility and the
26 state board delays summary suspension as described in subsection
27 (2), the state board shall contact the department of corrections

1 and request to be notified before the person is released from
2 secure confinement. Upon receipt of that request, the department
3 of corrections shall notify the state board at least 30 work days
4 before the person is released from secure confinement.

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

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

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

18 (b) Limit the rights and powers granted to a school district
19 or intermediate school district under a collective bargaining
20 agreement, this act, or another statute to discipline or dis-
21 charge a person who holds a teaching certificate OR WHO IS
22 EMPLOYED AS A TEACHER.

23 (c) Exempt a person ~~who holds a teaching certificate~~ from
24 the operation of section 1539a if the person also holds a school
25 administrator's certificate OR IS ALSO EMPLOYED AS A SCHOOL
26 ADMINISTRATOR.

1 (10) 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~~ 1969 PA
5 306, MCL 24.201 TO 24.328.

6 (11) As used in this section:

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

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

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

- 1 (a) Any felony.
- 2 (b) Any of the following misdemeanors:
- 3 (i) Criminal sexual conduct in the fourth degree or an
4 attempt to commit criminal sexual conduct in the fourth degree.
- 5 (ii) Child abuse in the third or fourth degree or an attempt
6 to commit child abuse in the third or fourth degree.
- 7 (iii) A misdemeanor involving cruelty, torture, or indecent
8 exposure involving a child.
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- 26 (2) If a person who holds a school administrator's
27 certificate that is valid in this state is convicted of a crime

1 described in this subsection, the state board shall find that the
2 public health, safety, or welfare requires emergency action and
3 shall order summary suspension of the person's school
4 administrator's certificate under section 92 of the administra-
5 tive procedures act of 1969, ~~Act No. 306 of the Public Acts of~~
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7 306, MCL 24.292. However, if a person convicted of a crime
8 described in this subsection is incarcerated in a state correc-
9 tional facility, the state board may delay ordering the summary
10 suspension until not later than 10 work days after the person is
11 released from secure confinement. This subsection does not limit
12 the state board's ability to order summary suspension of a
13 person's school administrator's certificate for a reason other
14 than described in this subsection. This subsection applies to
15 conviction of any of the following crimes:

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

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

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

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

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

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15 reinstated upon his or her notification to the state board of the
16 reversal.

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

24 (5) The prosecuting attorney of the county in which a person
25 who holds a school administrator's certificate, OR WHO DOES NOT
26 HOLD A SCHOOL ADMINISTRATOR'S CERTIFICATE BUT IS EMPLOYED AS A
27 SCHOOL ADMINISTRATOR BY A PUBLIC SCHOOL, SCHOOL DISTRICT,

1 INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL, was convicted
2 of a crime described in subsection (1) shall notify the state
3 board, and any public school, school district, intermediate
4 school district, or nonpublic school in which the person is
5 employed, of that conviction and of the sentence imposed on the
6 person. The prosecuting attorney of each county shall inquire of
7 each person convicted in the county of a crime described in sub-
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9 certificate OR IS EMPLOYED AS A SCHOOL ADMINISTRATOR BY A PUBLIC
10 SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUB-
11 LIC SCHOOL.

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 (1), the superintendent, chief administrative officer, or
22 board president shall notify the state board of that conviction.

23 (7) If a person convicted of a crime described in subsection
24 (2) is incarcerated in a state correctional facility and the
25 state board delays summary suspension as described in subsection
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8 to be reasonably and adversely related to the ability of the
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10 ficient grounds for suspension or revocation of the person's
11 school administrator's certificate.

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14 certificate from seeking monetary compensation from a school
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16 under a collective bargaining agreement or another statute.

17 (b) Limit the rights and powers granted to a school district
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19 agreement, this act, or another statute to discipline or dis-
20 charge a person who holds a school administrator's certificate OR
21 WHO IS EMPLOYED AS A SCHOOL ADMINISTRATOR.

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

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25 implement this section pursuant to the administrative procedures
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