

SENATE BILL No. 4

January 10, 2001, Introduced by Senator JOHNSON and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1535a, 1539a, and 1539b (MCL 380.1535a, 380.1539a, and 380.1539b), as amended by 1995 PA 289, and by adding section 1230c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1230C. (1) SUBJECT TO SUBSECTION (2), IF A PERSON
2 EMPLOYED BY A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,
3 PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IS CONVICTED OF A
4 CRIME DESCRIBED IN SECTION 1535A(1), THE PROSECUTING ATTORNEY
5 HANDLING THE CASE SHALL NOTIFY THE SUPERINTENDENT OF PUBLIC
6 INSTRUCTION AND THE PERSON'S EMPLOYING SCHOOL DISTRICT, INTERME-
7 DIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL
8 OF THAT CONVICTION AND OF THE SENTENCE IMPOSED ON THE PERSON. A
9 PROSECUTING ATTORNEY HANDLING A CASE IN WHICH A PERSON IS

1 CONVICTED OF A CRIME DESCRIBED IN THIS SECTION SHALL INQUIRE
2 WHETHER THE PERSON IS EMPLOYED BY A SCHOOL DISTRICT, INTERMEDIATE
3 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL. IF
4 THE PROSECUTION OF A CRIME DESCRIBED IN THIS SECTION WAS NOT
5 AUTHORIZED BY THE PROSECUTING ATTORNEY UNDER SECTION 1 OF CHAPTER
6 IV OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 764.1,
7 THEN THE COURT IN WHICH THE CONVICTION OCCURS SHALL FULFILL THE
8 DUTIES OF THE PROSECUTING ATTORNEY UNDER THIS SUBSECTION.

9 (2) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS SUBJECT
10 TO SECTION 1535A, 1539A, OR 1539B. NOTIFICATION CONCERNING CON-
11 VICTIONS OF THOSE PERSONS SHALL OCCUR AS PROVIDED FOR IN THOSE
12 SECTIONS.

13 (3) AS USED IN THIS SECTION:

14 (A) "CONVICTION" MEANS A JUDGMENT ENTERED BY A COURT UPON A
15 PLEA OF GUILTY, GUILTY BUT MENTALLY ILL, OR NOLO CONTENDERE OR
16 UPON A JURY VERDICT OR COURT FINDING THAT A DEFENDANT IS GUILTY
17 OR GUILTY BUT MENTALLY ILL.

18 (B) "EMPLOYING SCHOOL DISTRICT, INTERMEDIATE SCHOOL DIS-
19 TRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL" MEANS THE GOV-
20 ERNING BOARD OF THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DIS-
21 TRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL BY WHICH THE
22 PERSON IS EMPLOYED OR FOR WHICH THE PERSON IS PROVIDING SERVICES
23 PURSUANT TO A CONTRACT.

24 (C) "PERSON EMPLOYED BY A SCHOOL DISTRICT, INTERMEDIATE
25 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL"
26 MEANS A PERSON EMPLOYED DIRECTLY BY THE GOVERNING BOARD OF A
27 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL

1 ACADEMY, OR NONPUBLIC SCHOOL OR A PERSON PROVIDING SERVICES FOR A
2 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
3 ACADEMY, OR NONPUBLIC SCHOOL PURSUANT TO A CONTRACT WITH ITS GOV-
4 ERNING BOARD.

5 (D) "PROSECUTING ATTORNEY" MEANS THE PROSECUTING ATTORNEY
6 FOR A COUNTY, AN ASSISTANT PROSECUTING ATTORNEY FOR A COUNTY, THE
7 ATTORNEY GENERAL, THE DEPUTY ATTORNEY GENERAL, AN ASSISTANT
8 ATTORNEY GENERAL, A SPECIAL PROSECUTING ATTORNEY, OR, IN CONNec-
9 TION WITH THE PROSECUTION OF AN ORDINANCE VIOLATION, AN ATTORNEY
10 FOR THE POLITICAL SUBDIVISION THAT ENACTED THE ORDINANCE UPON
11 WHICH THE VIOLATION IS BASED.

12 Sec. 1535a. (1) Subject to subsection (2), if a person who
13 holds a teaching certificate that is valid in this state is con-
14 victed of a crime described in this subsection, the ~~state board~~
15 SUPERINTENDENT OF PUBLIC INSTRUCTION shall notify the person in
16 writing that his or her teaching certificate may be suspended
17 because of the conviction and of his or her right to a hearing
18 before the ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION.
19 If the person does not avail himself or herself of this right to
20 a hearing within 30 working days after receipt of this written
21 notification, the teaching certificate of that person shall be
22 suspended. If a hearing takes place, the ~~state board~~
23 SUPERINTENDENT OF PUBLIC INSTRUCTION may suspend the person's
24 teaching certificate based upon the issues and evidence presented
25 at the hearing. This subsection applies to any of the following
26 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
6 attempt to commit child abuse in the third or fourth degree, OR
7 DOMESTIC VIOLENCE INVOLVING A CHILD.
- 8 (iii) A misdemeanor involving ~~cruelty,~~ ANY OF THE
9 FOLLOWING:
- 10 (A) CRUELTY OR torture ~~, or indecent exposure~~ involving a
11 child.
- 12 (B) INDECENT EXPOSURE OR OTHER LEWD BEHAVIOR.
- 13 (C) USE OR POSSESSION OF MARIHUANA OR ANOTHER CONTROLLED
14 SUBSTANCE.
- 15 (D) OPERATING A VEHICLE UNDER THE INFLUENCE OF, OR IMPAIRED
16 BY, A CONTROLLED SUBSTANCE.
- 17 (iv) A misdemeanor violation of section 7410 of the public
18 health code, ~~Act No. 368 of the Public Acts of 1978, being sec-~~
19 ~~tion 333.7410 of the Michigan Compiled Laws~~ 1978 PA 368,
20 MCL 333.7410.
- 21 (v) A violation of section 115, 141a, 145a, ~~or~~ 167(1)(B),
22 167(1)(C), 167(1)(I), 359 OR 448 of the Michigan penal code, ~~Act~~
23 ~~No. 328 of the Public Acts of 1931, being sections 750.115,~~
24 ~~750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws~~
25 1931 PA 328, MCL 750.115, 750.141A, 750.145A, 750.167, 750.359,
26 AND 750.448, or a misdemeanor violation of section 81, 81a, or
27 145c of ~~Act No. 328 of the Public Acts of 1931, being~~

1 ~~sections 750.81, 750.81a, and 750.145c of the Michigan Compiled~~
2 ~~Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81, 750.81A,
3 AND 750.145C.

4 (vi) A misdemeanor violation of section ~~33 of the Michigan~~
5 ~~liquor control act, Act No. 8 of the Public Acts of the Extra~~
6 ~~Session of 1933, being section 436.33 of the Michigan Compiled~~
7 ~~Laws~~ 701 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998
8 PA 58, MCL 436.1701.

9 (2) If a person who holds a teaching certificate that is
10 valid in this state is convicted of a crime described in this
11 subsection, the ~~state board~~ SUPERINTENDENT OF PUBLIC
12 INSTRUCTION shall find that the public health, safety, or welfare
13 requires emergency action and shall order summary suspension of
14 the person's teaching certificate under section 92 of the admin-
15 istrative procedures act of 1969, ~~Act No. 306 of the Public Acts~~
16 ~~of 1969, being section 24.292 of the Michigan Compiled Laws~~ 1969
17 PA 306, MCL 24.292. However, if a person convicted of a crime
18 described in this subsection is incarcerated in ~~a state correc-~~
19 ~~tional facility~~ SECURE CONFINEMENT, the ~~state board~~
20 SUPERINTENDENT OF PUBLIC INSTRUCTION may delay ordering the sum-
21 mary suspension until not later than 10 work days after the
22 person is released from secure confinement. This subsection does
23 not limit the ~~state board's~~ SUPERINTENDENT OF PUBLIC
24 INSTRUCTION'S ability to order summary suspension of a person's
25 teaching certificate for a reason other than described in this
26 subsection. This subsection applies to conviction of any of the
27 following crimes:

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

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

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

8 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i),
9 7410, or 7416 of the public health code, ~~Act No. 368 of the~~
10 ~~Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410,~~
11 ~~and 333.7416 of the Michigan Compiled Laws~~ 1978 PA 368,
12 MCL 333.7401, 333.7403, 333.7410, AND 333.7416.

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~~ 1931 PA 328, MCL 750.83,
17 750.89, 750.91, 750.316, 750.317, AND 750.529.

18 (3) After the completion of a person's sentence, the person
19 may request a hearing before the ~~state board~~ SUPERINTENDENT OF
20 PUBLIC INSTRUCTION on reinstatement of his or her teaching
21 certificate. Based upon the issues and evidence presented at the
22 hearing, the ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION
23 may reinstate, continue the suspension of, or permanently revoke
24 the person's teaching certificate.

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

1 (a) The person's teaching certificate shall be reinstated
2 upon his or her notification to the ~~state board~~ SUPERINTENDENT
3 OF PUBLIC INSTRUCTION of the reversal.

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

11 (5) The prosecuting attorney ~~of the county~~ HANDLING A CASE
12 in which a person who holds a teaching certificate was convicted
13 of a crime described in subsection (1) shall notify the ~~state~~
14 ~~board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION, and any public
15 school, school district, intermediate school district, or nonpub-
16 lic school in which the person is employed, of that conviction
17 and of the sentence imposed on the person. ~~The~~ A prosecuting
18 attorney ~~of each county shall inquire of each person convicted~~
19 ~~in the county~~ HANDLING A CASE IN WHICH A PERSON IS CONVICTED of
20 a crime described in subsection (1) SHALL INQUIRE whether the
21 person holds a teaching certificate. IF THE PROSECUTION OF A
22 CRIME DESCRIBED IN SUBSECTION (1) WAS NOT AUTHORIZED BY THE PROS-
23 ECUTING ATTORNEY UNDER SECTION 1 OF CHAPTER IV OF THE CODE OF
24 CRIMINAL PROCEDURE, 1927 PA 175, MCL 764.1, THEN THE COURT IN
25 WHICH THE CONVICTION OCCURS SHALL FULFILL THE DUTIES OF THE PROS-
26 ECUTING ATTORNEY UNDER THIS SUBSECTION.

1 (6) If the superintendent of a school district or
2 intermediate school district, the chief administrative officer of
3 a nonpublic school, the president of the board of a school dis-
4 trict or intermediate school district, or the president of the
5 governing board of a nonpublic school is notified by a prosecut-
6 ing attorney or learns through an authoritative source that a
7 person who holds a teaching certificate and who is employed at
8 the time by the school district, intermediate school district, or
9 nonpublic school has been convicted of a crime described in sub-
10 section (1), the superintendent, chief administrative officer, or
11 board president shall notify the ~~state board~~ SUPERINTENDENT OF
12 PUBLIC INSTRUCTION of that conviction.

13 (7) If a person convicted of a crime described in subsection
14 (2) is incarcerated in ~~a state correctional facility~~ SECURE
15 CONFINEMENT and the ~~state board~~ SUPERINTENDENT OF PUBLIC
16 INSTRUCTION delays summary suspension as described in subsection
17 (2), the ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION shall
18 contact the ~~department of corrections~~ CORRECTIONAL AGENCY and
19 request to be notified before the person is released from secure
20 confinement. Upon receipt of that request, the ~~department of~~
21 ~~corrections~~ CORRECTIONAL AGENCY shall notify the ~~state board~~
22 SUPERINTENDENT OF PUBLIC INSTRUCTION at least 30 work days before
23 the person is released from secure confinement.

24 (8) For the purposes of this section, a certified copy of
25 the court record is conclusive evidence of conviction of a crime
26 described in this section. For the purposes of this section,
27 conviction of a crime described in this ~~subsection~~ SECTION is

1 considered to be reasonably and adversely related to the ability
2 of the person to serve in an elementary or secondary school and
3 is sufficient grounds for suspension or revocation of the
4 person's teaching certificate.

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

6 (a) Prohibit a person who holds a teaching certificate from
7 seeking monetary compensation from a school board or intermediate
8 school board if that right is available under a collective bar-
9 gaining agreement or another statute.

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

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

17 (10) The ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION
18 may promulgate, as necessary, rules to implement this section
19 pursuant to the administrative procedures act of 1969, ~~Act~~
20 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
21 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
22 24.328.

23 (11) As used in this section:

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

1 (b) ~~"State correctional facility" means a correctional~~
2 ~~facility under the jurisdiction of the department of~~
3 ~~corrections.~~ "CORRECTIONAL AGENCY" MEANS THE CITY, COUNTY,
4 STATE, OR FEDERAL AGENCY RESPONSIBLE FOR PROVIDING THE SECURE
5 CONFINEMENT.

6 (C) "PROSECUTING ATTORNEY" MEANS THE PROSECUTING ATTORNEY
7 FOR A COUNTY, AN ASSISTANT PROSECUTING ATTORNEY FOR A COUNTY, THE
8 ATTORNEY GENERAL, THE DEPUTY ATTORNEY GENERAL, AN ASSISTANT
9 ATTORNEY GENERAL, A SPECIAL PROSECUTING ATTORNEY, OR, IN CONNEC-
10 TION WITH THE PROSECUTION OF AN ORDINANCE VIOLATION, AN ATTORNEY
11 FOR THE POLITICAL SUBDIVISION THAT ENACTED THE ORDINANCE UPON
12 WHICH THE VIOLATION IS BASED.

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

1 hearing. This subsection applies to any of the following
2 crimes:

3 (a) Any felony.

4 (b) Any of the following misdemeanors:

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

7 (ii) Child abuse in the third or fourth degree, ~~or~~ an
8 attempt to commit child abuse in the third or fourth degree, OR
9 DOMESTIC VIOLENCE INVOLVING A CHILD.

10 (iii) A misdemeanor involving ~~cruelty,~~ ANY OF THE
11 FOLLOWING:

12 (A) CRUELTY OR torture ~~, or indecent exposure~~ involving a
13 child.

14 (B) INDECENT EXPOSURE OR OTHER LEWD BEHAVIOR.

15 (C) USE OR POSSESSION OF MARIHUANA OR ANOTHER CONTROLLED
16 SUBSTANCE.

17 (D) OPERATING A VEHICLE UNDER THE INFLUENCE OF, OR IMPAIRED
18 BY, A CONTROLLED SUBSTANCE.

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

23 (v) A violation of section 115, 141a, 145a, ~~or~~ 167(1)(B),
24 167(1)(C), 167(1)(I), 359, OR 448 of the Michigan penal code,
25 ~~Act No. 328 of the Public Acts of 1931, being sections 750.115,~~
26 ~~750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws~~
27 1931 PA 328, MCL 750.115, 750.141A, 750.145A, 750.167, 750.359,

1 AND 750.448, or a misdemeanor violation of section 81, 81a, or
2 145c of ~~Act No. 328 of the Public Acts of 1931, being~~
3 ~~sections 750.81, 750.81a, and 750.145c of the Michigan Compiled~~
4 ~~Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81, 750.81A,
5 AND 750.145C.

6 (vi) A misdemeanor violation of section ~~33 of the Michigan~~
7 ~~liquor control act, Act No. 8 of the Public Acts of the Extra~~
8 ~~Session of 1933, being section 436.33 of the Michigan Compiled~~
9 ~~Laws~~ 701 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998
10 PA 58, MCL 436.1701.

11 (2) If a person who holds a school administrator's certifi-
12 cate that is valid in this state is convicted of a crime
13 described in this subsection, the ~~state board~~ SUPERINTENDENT OF
14 PUBLIC INSTRUCTION shall find that the public health, safety, or
15 welfare requires emergency action and shall order summary suspen-
16 sion of the person's school administrator's certificate under
17 section 92 of the administrative procedures act of 1969, ~~Act~~
18 ~~No. 306 of the Public Acts of 1969, being section 24.292 of the~~
19 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.292. However, if a
20 person convicted of a crime described in this subsection is
21 incarcerated in ~~a state correctional facility~~ SECURE
22 CONFINEMENT, the ~~state board~~ SUPERINTENDENT OF PUBLIC
23 INSTRUCTION may delay ordering the summary suspension until not
24 later than 10 work days after the person is released from secure
25 confinement. This subsection does not limit the ~~state board's~~
26 SUPERINTENDENT OF PUBLIC INSTRUCTION'S ability to order summary
27 suspension of a person's school administrator's certificate for a

1 reason other than described in this subsection. This subsection
2 applies to conviction of any of the following crimes:

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

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

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

10 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i),
11 7410, or 7416 of the public health code, ~~Act No. 368 of the~~
12 ~~Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410,~~
13 ~~and 333.7416 of the Michigan Compiled Laws~~ 1978 PA 368,
14 MCL 333.7401, 333.7403, 333.7410, AND 333.7416.

15 (e) A violation of section 83, 89, 91, 316, 317, or 529 of
16 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
17 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~
18 ~~750.529 of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.83,
19 750.89, 750.91, 750.316, 750.317, AND 750.529.

20 (3) After the completion of the person's sentence, the
21 person may request a hearing before the ~~state board~~
22 SUPERINTENDENT OF PUBLIC INSTRUCTION on reinstatement of his or
23 her school administrator's certificate. Based upon the issues
24 and evidence presented at the hearing, the ~~state board~~
25 SUPERINTENDENT OF PUBLIC INSTRUCTION may reinstate, continue the
26 suspension of, or permanently revoke the person's school
27 administrator's certificate.

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

3 (a) The person's school administrator's certificate shall be
4 reinstated upon his or her notification to the ~~state board~~
5 SUPERINTENDENT OF PUBLIC INSTRUCTION of the reversal.

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

13 (5) The prosecuting attorney ~~of the county~~ HANDLING A CASE
14 in which a person who holds a school administrator's certificate
15 was convicted of a crime described in subsection (1) shall notify
16 the ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION, and any
17 public school, school district, intermediate school district, or
18 nonpublic school in which the person is employed, of that convic-
19 tion and of the sentence imposed on the person. ~~The~~ A prose-
20 cuting attorney ~~of each county shall inquire of each person con-~~
21 victed in the county HANDLING A CASE IN WHICH A PERSON IS
22 CONVICTED of a crime described in subsection (1) SHALL INQUIRE
23 whether the person holds a school administrator's certificate.
24 IF THE PROSECUTION OF A CRIME DESCRIBED IN SUBSECTION (1) WAS NOT
25 AUTHORIZED BY THE PROSECUTING ATTORNEY UNDER SECTION 1 OF CHAPTER
26 IV OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 764.1,

1 THEN THE COURT IN WHICH THE CONVICTION OCCURS SHALL FULFILL THE
2 DUTIES OF THE PROSECUTING ATTORNEY UNDER THIS SUBSECTION.

3 (6) If the superintendent of a school district or intermedi-
4 ate school district, the chief administrative officer of a non-
5 public school, the president of the board of a school district or
6 intermediate school district, or the president of the governing
7 board of a nonpublic school is notified by a prosecuting attorney
8 or learns through an authoritative source that a person who holds
9 a school administrator's certificate and who is employed at the
10 time by the school district, intermediate school district, or
11 nonpublic school has been convicted of a crime described in sub-
12 section (1), the superintendent, chief administrative officer, or
13 board president shall notify the ~~state board~~ SUPERINTENDENT OF
14 PUBLIC INSTRUCTION of that conviction.

15 (7) If a person convicted of a crime described in subsection
16 (2) is incarcerated in ~~a state correctional facility~~ SECURE
17 CONFINEMENT and the ~~state board~~ SUPERINTENDENT OF PUBLIC
18 INSTRUCTION delays summary suspension as described in subsection
19 (2), the ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION shall
20 contact the ~~department of corrections~~ CORRECTIONAL AGENCY and
21 request to be notified before the person is released from secure
22 confinement. Upon receipt of that request, the ~~department of~~
23 ~~corrections~~ CORRECTIONAL AGENCY shall notify the ~~state board~~
24 SUPERINTENDENT OF PUBLIC INSTRUCTION at least 30 work days before
25 the person is released from secure confinement.

26 (8) For the purposes of this section, a certified copy of
27 the court record is conclusive evidence of conviction of a crime

1 described in this section. For the purposes of this section,
2 conviction of a crime described in this ~~subsection~~ SECTION is
3 considered to be reasonably and adversely related to the ability
4 of the person to serve in an elementary or secondary school and
5 is sufficient grounds for suspension or revocation of the
6 person's school administrator's certificate.

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

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

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

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

18 (10) The ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION
19 may promulgate, as necessary, rules to implement this section
20 pursuant to the administrative procedures act of 1969, ~~Act~~
21 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
22 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
23 24.328.

24 (11) As used in this section:

25 (a) "Conviction" means a judgment entered by a court upon a
26 plea of guilty, guilty but mentally ill, or nolo contendere or

1 upon a jury verdict or court finding that a defendant is guilty
2 or guilty but mentally ill.

3 (b) ~~"State correctional facility" means a correctional~~
4 ~~facility under the jurisdiction of the department of~~
5 ~~corrections.~~ "CORRECTIONAL AGENCY" MEANS THE CITY, COUNTY,
6 STATE, OR FEDERAL AGENCY RESPONSIBLE FOR PROVIDING THE SECURE
7 CONFINEMENT.

8 (c) "PROSECUTING ATTORNEY" MEANS THE PROSECUTING ATTORNEY
9 FOR A COUNTY, AN ASSISTANT PROSECUTING ATTORNEY FOR A COUNTY, THE
10 ATTORNEY GENERAL, THE DEPUTY ATTORNEY GENERAL, AN ASSISTANT
11 ATTORNEY GENERAL, A SPECIAL PROSECUTING ATTORNEY, OR, IN CONNEC-
12 TION WITH THE PROSECUTION OF AN ORDINANCE VIOLATION, AN ATTORNEY
13 FOR THE POLITICAL SUBDIVISION THAT ENACTED THE ORDINANCE UPON
14 WHICH THE VIOLATION IS BASED.

15 Sec. 1539b. (1) Subject to subsection (2), if a person who
16 holds state ~~board~~ approval is convicted of a crime described in
17 this subsection, the ~~state board~~ SUPERINTENDENT OF PUBLIC
18 INSTRUCTION shall notify the person in writing that his or her
19 state ~~board~~ approval may be suspended because of the conviction
20 and of his or her right to a hearing before the ~~state board~~
21 SUPERINTENDENT OF PUBLIC INSTRUCTION. If the person does not
22 avail himself or herself of this right to a hearing within 30
23 working days after receipt of this written notification, the
24 person's state ~~board~~ approval shall be suspended. If a hearing
25 takes place, the ~~state board~~ SUPERINTENDENT OF PUBLIC
26 INSTRUCTION may suspend the person's state ~~board~~ approval,

1 based upon the issues and evidence presented at the hearing.

2 This subsection applies to any of the following crimes:

3 (a) Any felony.

4 (b) Any of the following misdemeanors:

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

7 (ii) Child abuse in the third or fourth degree, ~~or~~ an
8 attempt to commit child abuse in the third or fourth degree, OR
9 DOMESTIC VIOLENCE INVOLVING A CHILD.

10 (iii) A misdemeanor involving ~~cruelty,~~ ANY OF THE
11 FOLLOWING:

12 (A) CRUELTY OR torture ~~, or indecent exposure~~ involving a
13 child.

14 (B) INDECENT EXPOSURE OR OTHER LEWD BEHAVIOR.

15 (C) USE OR POSSESSION OF MARIHUANA OR ANOTHER CONTROLLED
16 SUBSTANCE.

17 (D) OPERATING A VEHICLE UNDER THE INFLUENCE OF, OR IMPAIRED
18 BY, A CONTROLLED SUBSTANCE.

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

23 (v) A violation of section 115, 141a, 145a, ~~or~~ 167(1)(B),
24 167(1)(C), 167(1)(I), 359, OR 448 of the Michigan penal code,
25 ~~Act No. 328 of the Public Acts of 1931, being sections 750.115,~~
26 ~~750.141a, 750.145a, and 750.359 of the Michigan Compiled Laws~~
27 1931 PA 328, MCL 750.115, 750.141A, 750.145A, 750.167, 750.359,

1 AND 750.448, or a misdemeanor violation of section 81, 81a, or
2 145c of ~~Act No. 328 of the Public Acts of 1931, being~~
3 ~~sections 750.81, 750.81a, and 750.145c of the Michigan Compiled~~
4 ~~Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.81, 750.81A,
5 AND 750.145C.

6 (vi) A misdemeanor violation of section ~~33 of the Michigan~~
7 ~~liquor control act, Act No. 8 of the Public Acts of the Extra~~
8 ~~Session of 1933, being section 436.33 of the Michigan Compiled~~
9 ~~Laws~~ 701 OF THE MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998
10 PA 58, MCL 436.1701.

11 (2) If a person who holds state ~~board~~ approval is con-
12 victed of a crime described in this subsection, the ~~state board~~
13 SUPERINTENDENT OF PUBLIC INSTRUCTION shall find that the public
14 health, safety, or welfare requires emergency action and shall
15 order summary suspension of the person's state ~~board~~ approval
16 under section 92 of the administrative procedures act of 1969,
17 ~~Act No. 306 of the Public Acts of 1969, being section 24.292 of~~
18 ~~the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.292. However, if
19 a person convicted of a crime described in this subsection is
20 incarcerated in ~~a state correctional facility~~ SECURE
21 CONFINEMENT, the ~~state board~~ SUPERINTENDENT OF PUBLIC
22 INSTRUCTION may delay ordering the summary suspension until not
23 later than 10 work days after the person is released from secure
24 confinement. This subsection does not limit the ~~state board's~~
25 SUPERINTENDENT OF PUBLIC INSTRUCTION'S ability to order summary
26 suspension of a person's state ~~board~~ approval for a reason

1 other than described in this subsection. This subsection applies
2 to conviction of any of the following crimes:

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

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

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

10 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i),
11 7410, or 7416 of the public health code, ~~Act No. 368 of the~~
12 ~~Public Acts of 1978, being sections 333.7401, 333.7403, 333.7410,~~
13 ~~and 333.7416 of the Michigan Compiled Laws~~ 1978 PA 368,
14 MCL 333.7401, 333.7403, 333.7410, AND 333.7416.

15 (e) A violation of section 83, 89, 91, 316, 317, or 529 of
16 the Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~
17 ~~being sections 750.83, 750.89, 750.91, 750.316, 750.317, and~~
18 ~~750.529 of the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.83,
19 750.89, 750.91, 750.316, 750.317, AND 750.529.

20 (3) After the completion of the person's sentence, the
21 person may request a hearing before the ~~state board~~
22 SUPERINTENDENT OF PUBLIC INSTRUCTION on reinstatement of his or
23 her state ~~board~~ approval. Based upon the issues and evidence
24 presented at the hearing, the ~~state board~~ SUPERINTENDENT OF
25 PUBLIC INSTRUCTION may reinstate, continue the suspension of, or
26 permanently revoke the person's state ~~board~~ approval.

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

3 (a) The person's state ~~board~~ approval shall be reinstated
4 upon his or her notification to the ~~state board~~ SUPERINTENDENT
5 OF PUBLIC INSTRUCTION of the reversal.

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

12 (5) The prosecuting attorney ~~of the county~~ HANDLING A CASE
13 in which a person who holds state ~~board~~ approval was convicted
14 of a crime described in subsection (1) shall notify the ~~state~~
15 ~~board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION, and any public
16 school, school district, intermediate school district, or nonpub-
17 lic school in which the person is employed, of that conviction
18 and of the sentence imposed on the person. ~~The~~ A prosecuting
19 attorney ~~of each county shall inquire of each person convicted~~
20 ~~in the county~~ HANDLING A CASE IN WHICH A PERSON IS CONVICTED of
21 a crime described in subsection (1) SHALL INQUIRE whether the
22 person holds state ~~board~~ approval. IF THE PROSECUTION OF A
23 CRIME DESCRIBED IN SUBSECTION (1) WAS NOT AUTHORIZED BY THE PROS-
24 ECUTING ATTORNEY UNDER SECTION 1 OF CHAPTER IV OF THE CODE OF
25 CRIMINAL PROCEDURE, 1927 PA 175, MCL 764.1, THEN THE COURT IN
26 WHICH THE CONVICTION OCCURS SHALL FULFILL THE DUTIES OF THE
27 PROSECUTING ATTORNEY UNDER THIS SUBSECTION. The ~~state board~~

1 SUPERINTENDENT OF PUBLIC INSTRUCTION shall make available to
2 prosecuting attorneys AND COURTS a list of school occupations
3 that commonly require state ~~board~~ approval.

4 (6) If the superintendent of a school district or intermedi-
5 ate school district, the chief administrative officer of a non-
6 public school, the president of the board of a school district or
7 intermediate school district, or the president of the governing
8 board of a nonpublic school is notified by a prosecuting attorney
9 or learns through an authoritative source that a person who holds
10 state ~~board~~ approval and who is employed at the time by the
11 school district, intermediate school district, or nonpublic
12 school has been convicted of a crime described in subsection (1),
13 the superintendent, chief administrative officer, or board presi-
14 dent shall notify the ~~state board~~ SUPERINTENDENT OF PUBLIC
15 INSTRUCTION of that conviction.

16 (7) If a person convicted of a crime described in subsection
17 (2) is incarcerated in ~~a state correctional facility~~ SECURE
18 CONFINEMENT and the ~~state board~~ SUPERINTENDENT OF PUBLIC
19 INSTRUCTION delays summary suspension as described in subsection
20 (2), the ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION shall
21 contact the ~~department of corrections~~ CORRECTIONAL AGENCY and
22 request to be notified before the person is released from secure
23 confinement. Upon receipt of that request, the ~~department of~~
24 ~~corrections~~ CORRECTIONAL AGENCY shall notify the ~~state board~~
25 SUPERINTENDENT OF PUBLIC INSTRUCTION at least 30 work days before
26 the person is released from secure confinement.

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

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

10 (a) Prohibit a person who holds state ~~board~~ approval from
11 seeking monetary compensation from a school board or intermediate
12 school board if that right is available under a collective bar-
13 gaining agreement or another statute.

14 (b) Limit the rights and powers granted to a school district
15 or intermediate school district under a collective bargaining
16 agreement, this act, or another statute to discipline or dis-
17 charge a person who holds state ~~board~~ approval.

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

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

24 (10) The ~~state board~~ SUPERINTENDENT OF PUBLIC INSTRUCTION
25 may promulgate, as necessary, rules to implement this section
26 pursuant to the administrative procedures act of 1969, ~~Act~~
27 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~

1 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
2 24.328.

3 (11) As used in this section:

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

8 (B) "CORRECTIONAL AGENCY" MEANS THE CITY, COUNTY, STATE, OR
9 FEDERAL AGENCY RESPONSIBLE FOR PROVIDING THE SECURE CONFINEMENT.

10 (C) "PROSECUTING ATTORNEY" MEANS THE PROSECUTING ATTORNEY
11 FOR A COUNTY, AN ASSISTANT PROSECUTING ATTORNEY FOR A COUNTY, THE
12 ATTORNEY GENERAL, THE DEPUTY ATTORNEY GENERAL, AN ASSISTANT
13 ATTORNEY GENERAL, A SPECIAL PROSECUTING ATTORNEY, OR, IN CONNEC-
14 TION WITH THE PROSECUTION OF AN ORDINANCE VIOLATION, AN ATTORNEY
15 FOR THE POLITICAL SUBDIVISION THAT ENACTED THE ORDINANCE UPON
16 WHICH THE VIOLATION IS BASED.

17 (D) ~~(b)~~ "State ~~board~~ approval" means a license, certifi-
18 cate, endorsement, permit, approval, or other evidence of quali-
19 fications to hold a particular position in a school district or
20 intermediate school district or in a nonpublic school, other than
21 a teacher's certificate subject to section 1535a or a school
22 administrator's certificate subject to section 1539a, that is
23 issued to a person by the state board OR THE SUPERINTENDENT OF
24 PUBLIC INSTRUCTION under this act or a rule promulgated under
25 this act.

1 ~~-(c) "State correctional facility" means a correctional~~
2 ~~facility under the jurisdiction of the department of~~
3 ~~corrections.~~