

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 4928

(As amended, August 31, 2005)

<<A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1535a and 1539b (MCL 380.1535a and 380.1539b),
as amended by 2004 PA 51, and by adding sections 1230f and 1230g.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1230F. THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL
2 WORK WITH THE DEPARTMENT OF STATE POLICE TO ESTABLISH A SYSTEM FOR
3 THE DEPARTMENT OF STATE POLICE TO SAVE AND MAINTAIN IN ITS
4 AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (AFIS) DATABASE ALL
5 FINGERPRINTS THAT ARE SUBMITTED TO THE DEPARTMENT OF STATE POLICE
6 UNDER <<SECTIONS 1230A AND 1230G>>. IF A CRIMINAL ARREST FINGERPRINT CARD
7 IS
8 SUBSEQUENTLY SUBMITTED TO THE DEPARTMENT OF STATE POLICE AND
9 MATCHES AGAINST A FINGERPRINT THAT WAS SUBMITTED UNDER SECTION

House Bill No. 4928 as amended August 31, 2005
as amended September 13, 2005

(1 of 4)

1 1230A [OR 1230G] AND STORED IN THE AFIS DATABASE, THE DEPARTMENT OF STATE
2 POLICE SHALL NOTIFY THE DEPARTMENT.

<<SEC. 1230G. (1) NOT LATER THAN JULY 1, 2008, THE BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT, THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY, OR THE GOVERNING BODY OF A NONPUBLIC SCHOOL SHALL DO BOTH OF THE FOLLOWING FOR EACH INDIVIDUAL WHO, AS OF JANUARY 1, 2006, IS EITHER A FULL-TIME OR PART-TIME EMPLOYEE OF THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL OR IS ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS SCHOOLS:

(A) REQUEST FROM THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE A CRIMINAL HISTORY CHECK ON THE INDIVIDUAL.

(B) REQUEST THE DEPARTMENT OF STATE POLICE TO CONDUCT A CRIMINAL RECORDS CHECK ON THE INDIVIDUAL THROUGH THE FEDERAL BUREAU OF INVESTIGATION. THE BOARD, BOARD OF DIRECTORS, OR GOVERNING BOARD SHALL REQUIRE THE INDIVIDUAL TO SUBMIT HIS OR HER FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE FOR THE PURPOSES OF THIS SUBDIVISION. THE DEPARTMENT OF STATE POLICE MAY CHARGE A FEE FOR CONDUCTING THE CRIMINAL RECORDS CHECK.

(2) FOR AN INDIVIDUAL EMPLOYED OR WORKING UNDER CONTRACT AS A SUBSTITUTE TEACHER, INSTEAD OF REQUESTING A CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK UNDER SUBSECTION (1), A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL MAY USE RESULTS RECEIVED BY ANOTHER DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL OR MAINTAINED BY THE DEPARTMENT TO CONFIRM THAT THE INDIVIDUAL DOES NOT HAVE ANY CRIMINAL HISTORY. IF THAT CONFIRMATION IS NOT AVAILABLE, SUBSECTION (1) APPLIES TO THE INDIVIDUAL.

(3) IF AN INDIVIDUAL DESCRIBED IN SUBSECTION (1) IS EMPLOYED BY OR WORKING UNDER CONTRACT IN MORE THAN 1 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL AND IF THE INDIVIDUAL AGREES IN WRITING TO ALLOW A DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL TO SHARE THE RESULTS OF THE CRIMINAL HISTORY CHECK OR CRIMINAL RECORDS CHECK WITH ANOTHER DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL, THEN A DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL MAY SATISFY THE REQUIREMENTS OF SUBSECTION (1) BY OBTAINING A COPY OF THE RESULTS OF THE CRIMINAL HISTORY CHECK OR CRIMINAL RECORDS CHECK FROM ANOTHER DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL.

(4) AN INDIVIDUAL DESCRIBED IN SUBSECTION (1) SHALL GIVE WRITTEN CONSENT FOR THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE TO CONDUCT THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION AND SHALL SUBMIT HIS OR HER FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE FOR THE PURPOSES OF THE CRIMINAL RECORDS CHECK.

(5) A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL MAKE A REQUEST TO THE DEPARTMENT OF STATE POLICE FOR THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK UNDER THIS SECTION ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE.

(6) THE RESULTS OF A CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK UNDER THIS SECTION SHALL BE USED BY A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL ONLY FOR THE PURPOSE OF EVALUATING AN INDIVIDUAL'S QUALIFICATIONS FOR EMPLOYMENT OR ASSIGNMENT IN HIS OR HER POSITION AND FOR THE PURPOSES OF SUBSECTIONS (2) AND (3). A MEMBER OF THE BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL DISTRICT, OF THE BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY, OR OF THE GOVERNING BODY OF A NONPUBLIC SCHOOL OR AN EMPLOYEE OF A DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL NOT DISCLOSE THOSE RESULTS, EXCEPT ANY FELONY CONVICTION OR A MISDEMEANOR CONVICTION INVOLVING SEXUAL OR PHYSICAL ABUSE, TO ANY PERSON WHO IS NOT DIRECTLY INVOLVED IN EVALUATING THE INDIVIDUAL'S QUALIFICATIONS FOR EMPLOYMENT OR ASSIGNMENT. HOWEVER, FOR THE PURPOSES OF SUBSECTIONS (2) AND (3), A PERSON DESCRIBED IN THIS SUBSECTION MAY PROVIDE A COPY OF THE RESULTS UNDER SUBSECTION (1) CONCERNING THE INDIVIDUAL TO AN APPROPRIATE REPRESENTATIVE OF ANOTHER DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL. A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN \$10,000.00, BUT IS NOT SUBJECT TO THE PENALTIES UNDER SECTION 1804.

(7) WITHIN 30 DAYS AFTER RECEIVING A PROPER REQUEST BY A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL FOR A CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK ON AN INDIVIDUAL UNDER THIS SECTION, THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE SHALL DO BOTH OF THE FOLLOWING:

(A) CONDUCT THE CRIMINAL HISTORY CHECK AND, AFTER CONDUCTING THE CRIMINAL HISTORY CHECK AND WITHIN THAT TIME PERIOD, PROVIDE A REPORT OF THE RESULTS OF THE CRIMINAL HISTORY CHECK TO THE DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY RECORD INFORMATION ON THE INDIVIDUAL THAT IS MAINTAINED BY THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE.

(B) INITIATE THE CRIMINAL RECORDS CHECK THROUGH THE FEDERAL BUREAU OF INVESTIGATION. AFTER CONDUCTING THE CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION FOR A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY, THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE SHALL PROVIDE THE RESULTS OF THE CRIMINAL RECORDS CHECK TO THE DISTRICT OR PUBLIC SCHOOL ACADEMY. AFTER CONDUCTING THE CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION FOR A NONPUBLIC SCHOOL, THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE SHALL NOTIFY THE NONPUBLIC SCHOOL OF WHETHER OR NOT THE CRIMINAL RECORDS CHECK DISCLOSED ANY CRIMINAL HISTORY THAT IS NOT DISCLOSED IN THE CRIMINAL HISTORY CHECK REPORT ON THE INDIVIDUAL PROVIDED TO THE NONPUBLIC SCHOOL UNDER SUBDIVISION (A).

(8) IF THE RESULTS RECEIVED BY A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL UNDER SUBSECTION (7) DISCLOSE THAT AN INDIVIDUAL HAS BEEN CONVICTED OF A LISTED OFFENSE, THEN THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL NOT EMPLOY THE INDIVIDUAL IN ANY CAPACITY, AS PROVIDED UNDER SECTION 1230C, AND SHALL NOT ALLOW THE INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS SCHOOLS. IF THE RESULTS RECEIVED BY A SCHOOL DISTRICT, INTERMEDIATE

SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL UNDER SUBSECTION (7) DISCLOSE THAT AN INDIVIDUAL HAS BEEN CONVICTED OF A FELONY OTHER THAN A LISTED OFFENSE, THEN THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL NOT EMPLOY THE INDIVIDUAL IN ANY CAPACITY OR ALLOW THE INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS SCHOOLS UNLESS THE SUPERINTENDENT OR CHIEF ADMINISTRATOR AND THE BOARD OR GOVERNING BODY OF THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL EACH SPECIFICALLY APPROVE THE EMPLOYMENT OR WORK ASSIGNMENT IN WRITING. AS USED IN THIS SUBSECTION, "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.>>

3 Sec. 1535a. (1) Subject to subsection (2), if a person who
4 holds a teaching certificate that is valid in this state has been
5 convicted of a crime described in this subsection, within 10
6 working days after receiving notice of the conviction the
7 superintendent of public instruction shall notify the person in
8 writing that his or her teaching certificate may be suspended
9 because of the conviction and of his or her right to a hearing
10 before the superintendent of public instruction. The hearing shall
11 be conducted as a contested case under the administrative
12 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the
13 person does not avail himself or herself of this right to a hearing
14 within 15 working days after receipt of this written notification,
15 the teaching certificate of that person shall be suspended. If a
16 hearing takes place, the superintendent of public instruction shall
17 complete the proceedings and make a final decision and order within
18 120 working days after receiving the request for a hearing. Subject
19 to subsection (2), the superintendent of public instruction may
20 suspend the person's teaching certificate based upon the issues and
21 evidence presented at the hearing. This subsection applies to any
22 of the following crimes:

23 (a) Any felony.

24 (b) Any of the following misdemeanors:

25 (i) Criminal sexual conduct in the fourth degree or an attempt

26 to commit criminal sexual conduct in the fourth degree.

27 (ii) Child abuse in the third or fourth degree or an attempt to

1 commit child abuse in the third or fourth degree.

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

4 (iv) A misdemeanor violation of section 7410 of the public
5 health code, 1978 PA 368, MCL 333.7410.

6 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
7 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
8 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
9 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
10 MCL 750.81, 750.81a, and 750.145d.

11 (vi) A misdemeanor violation of section 701 of the Michigan
12 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

13 (vii) **ANY MISDEMEANOR THAT IS A LISTED OFFENSE.**

14 (C) **A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER**
15 **STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,**
16 **OR OF THE UNITED STATES.**

17 (2) If a person who holds a teaching certificate that is valid
18 in this state has been convicted of a crime described in this
19 subsection, the superintendent of public instruction shall find
20 that the public health, safety, or welfare requires emergency
21 action and shall order summary suspension of the person's teaching
22 certificate under section 92 of the administrative procedures act
23 of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an
24 opportunity for a hearing as provided under that section. This
25 subsection does not limit the superintendent of public
26 instruction's ability to order summary suspension of a person's
27 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 the first degree, or an attempt to commit child abuse in the first 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, 1978 PA 368, MCL 333.7401, 333.7403, 333.7410, and 333.7416.

(e) A violation of section 83, 89, 91, 145a, **145B, 145C**, 316, 317, **350, 448, 455**, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, **750.145B, 750.145C**, 750.316, 750.317, **750.350, 750.448, 750.455**, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

(F) A VIOLATION OF SECTION 158 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.158, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

(G) EXCEPT FOR A JUVENILE DISPOSITION OR ADJUDICATION, A VIOLATION OF SECTION 338, 338A, OR 338B OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.338, 750.338A, AND 750.338B, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

(H) A VIOLATION OF SECTION 349 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.349, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

1 (I) AN OFFENSE COMMITTED BY A PERSON WHO WAS, AT THE TIME OF
2 THE OFFENSE, A SEXUALLY DELINQUENT PERSON AS DEFINED IN SECTION 10A
3 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.10A.

4 (J) AN ATTEMPT OR CONSPIRACY TO COMMIT AN OFFENSE LISTED IN
5 SUBDIVISION (A), (E), (F), (G), (H), OR (I).

6 (K) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER
7 STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,
8 OR OF THE UNITED STATES.

9 (I) ~~—(f)—~~ Any other crime listed in subsection (1), if the
10 superintendent of public instruction determines the public health,
11 safety, or welfare requires emergency action based on the
12 circumstances underlying the conviction.

13 (3) The superintendent of public instruction after a hearing
14 shall not take action against a person's teaching certificate under
15 subsection (1) or (2) unless the superintendent of public
16 instruction finds that the conviction is reasonably and adversely
17 related to the person's present fitness to serve in an elementary
18 or secondary school in this state or that the conviction
19 demonstrates that the person is unfit to teach in an elementary or
20 secondary school in this state. Further, the superintendent of
21 public instruction may take action against a person's teaching
22 certificate under subsection (1) or (2) based on a conviction that
23 occurred before the effective date of the amendatory act that added
24 this subsection if the superintendent of public instruction finds
25 that the conviction is reasonably and adversely related to the
26 person's present fitness to serve in an elementary or secondary
27 school in this state or that the conviction demonstrates that the

1 person is unfit to teach in an elementary or secondary school in
2 this state.

3 (4) IF A PERSON WHO HAS ENTERED A PLEA OF GUILT OR NO CONTEST
4 TO OR WHO IS THE SUBJECT OF A FINDING OF GUILT BY A JUDGE OR JURY
5 OF A CRIME LISTED IN SUBSECTION (2) HAS BEEN SUSPENDED FROM ACTIVE
6 PERFORMANCE OF DUTY BY A PUBLIC SCHOOL, SCHOOL DISTRICT,
7 INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL DURING THE
8 PENDENCY OF PROCEEDINGS UNDER THIS SECTION, THE PUBLIC SCHOOL,
9 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL
10 EMPLOYING THE PERSON SHALL DISCONTINUE THE PERSON'S COMPENSATION
11 UNTIL THE SUPERINTENDENT OF PUBLIC INSTRUCTION HAS MADE A FINAL
12 DETERMINATION OF WHETHER OR NOT TO SUSPEND OR REVOKE THE PERSON'S
13 TEACHING CERTIFICATE. IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION
14 DOES NOT SUSPEND OR REVOKE THE PERSON'S TEACHING CERTIFICATE, THE
15 PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
16 NONPUBLIC SCHOOL SHALL MAKE THE PERSON WHOLE FOR LOST COMPENSATION,
17 WITHOUT INTEREST. HOWEVER, IF A COLLECTIVE BARGAINING AGREEMENT IS
18 IN EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION FOR EMPLOYEES
19 OF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC
20 SCHOOL ACADEMY, AND IF THE TERMS OF THAT COLLECTIVE BARGAINING
21 AGREEMENT ARE INCONSISTENT WITH THIS SUBSECTION, THEN THIS
22 SUBSECTION DOES NOT APPLY TO THAT SCHOOL DISTRICT, INTERMEDIATE
23 SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY UNTIL AFTER THE
24 EXPIRATION OF THAT COLLECTIVE BARGAINING AGREEMENT.

25 (5) ~~—(4) After~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
26 SUBSECTION, AFTER the completion of a person's sentence, the person
27 may request a hearing before the superintendent of public

1 instruction on reinstatement of his or her teaching certificate.
2 Based upon the issues and evidence presented at the hearing, the
3 superintendent of public instruction may reinstate, continue the
4 suspension of, or permanently revoke the person's teaching
5 certificate. The superintendent of public instruction shall not
6 reinstate a person's teaching certificate unless the superintendent
7 of public instruction finds that the person is currently fit to
8 serve in an elementary or secondary school in this state and that
9 reinstatement of the person's teaching certificate will not
10 adversely affect the health, safety, and welfare of pupils. **IF A**
11 **PERSON'S CONVICTION WAS FOR A LISTED OFFENSE, THE PERSON IS NOT**
12 **ENTITLED TO REQUEST A HEARING ON REINSTATEMENT UNDER THIS**
13 **SUBSECTION, AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOT**
14 **REINSTATE THE PERSON'S TEACHING CERTIFICATE UNDER THIS SUBSECTION.**

15 (6) ~~—(5)—~~ All of the following apply to a person described in
16 this section whose conviction is reversed upon final appeal:

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

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

26 (C) **IF THE PERSON'S COMPENSATION WAS DISCONTINUED UNDER**
27 **SUBSECTION (4), THE PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE**

House Bill No. 4928 as amended August 31, 2005

1 SCHOOL DISTRICT, OR NONPUBLIC SCHOOL SHALL MAKE THE PERSON WHOLE
2 FOR LOST COMPENSATION<< >>.

3 (7) ~~Not later than 15 days after the date of the~~
4 ~~conviction, the~~ IF THE prosecuting attorney in charge of a case
5 in which a person who holds a teaching certificate was convicted of
6 a crime described in subsection (1) or (2) and the court that
7 convicted the person RECEIVES A FORM AS PROVIDED UNDER SECTION
8 1230D, THE PROSECUTING ATTORNEY shall notify the superintendent of
9 public instruction, and any public school, school district,
10 intermediate school district, or nonpublic school in which the
11 person is employed ~~, of that conviction, of the name and address~~
12 ~~of the person convicted, and of~~ BY FORWARDING A COPY OF THE FORM
13 TO EACH OF THEM NOT LATER THAN 7 DAYS AFTER RECEIVING THE FORM. IF
14 THE COURT RECEIVES A FORM AS PROVIDED UNDER SECTION 1230D, THE
15 COURT SHALL NOTIFY THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND ANY
16 PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
17 NONPUBLIC SCHOOL IN WHICH THE PERSON IS EMPLOYED BY FORWARDING TO
18 EACH OF THEM A COPY OF THE FORM AND INFORMATION REGARDING the
19 sentence imposed on the person NOT LATER THAN 7 DAYS AFTER THE DATE
20 OF SENTENCING, EVEN IF THE COURT IS MAINTAINING THE FILE AS A
21 NONPUBLIC RECORD. ~~A prosecuting attorney in charge of a case in~~
22 ~~which a person is convicted of a crime described in subsection (1)~~
23 ~~or (2) and a court that convicts a person of a crime described in~~
24 ~~subsection (1) or (2) shall inquire whether the person holds a~~
25 ~~teaching certificate.~~

26 (8) ~~(7) Not later than 5 working~~ 7 days after receiving
27 notification ~~of a person's conviction~~ from the prosecuting

1 attorney or the court under subsection ~~—(6)—~~ (7) OR LEARNING
2 THROUGH AN AUTHORITATIVE SOURCE THAT A PERSON WHO HOLDS A TEACHING
3 CERTIFICATE HAS BEEN CONVICTED OF A CRIME LISTED IN SUBSECTION (1),
4 the superintendent of public instruction shall request the court
5 ~~that convicted the person~~ to provide a certified copy of the
6 judgment of conviction and sentence OR OTHER DOCUMENT REGARDING THE
7 DISPOSITION OF THE CASE to the superintendent of public instruction
8 and shall pay any fees required by the court. The court shall
9 provide this certified copy within ~~—5 working—~~ 7 days after
10 receiving the request and fees under this section OR AFTER ENTRY OF
11 THE JUDGMENT OR OTHER DOCUMENT, WHICHEVER IS LATER, EVEN IF THE
12 COURT IS MAINTAINING THE JUDGMENT OR OTHER DOCUMENT AS A NONPUBLIC
13 RECORD.

14 (9) ~~—(8)—~~ If the superintendent of a school district or
15 intermediate school district, the chief administrative officer of a
16 nonpublic school, the president of the board of a school district
17 or intermediate school district, or the president of the governing
18 board of a nonpublic school is notified ~~—by a prosecuting attorney~~
19 ~~or court~~ or learns through an authoritative source that a person
20 who holds a teaching certificate and who is employed by the school
21 district, intermediate school district, or nonpublic school has
22 been convicted of a crime described in subsection (1) or (2), the
23 superintendent, chief administrative officer, or board president
24 shall notify the superintendent of public instruction of that
25 conviction within 15 days after learning of the conviction.

26 (10) ~~—(9)—~~ For the purposes of this section, a certified copy
27 of the judgment of conviction and sentence is conclusive evidence

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

7 (11) ~~—(10)—~~ For any hearing under subsection (1), if the
8 superintendent of public instruction does not complete the hearing
9 procedures and make a final decision and order within 120 working
10 days after receiving the request for the hearing, as required under
11 subsection (1), the superintendent of public instruction shall
12 submit a report detailing the reasons for the delay to the standing
13 committees and appropriations subcommittees of the senate and house
14 of representatives that have jurisdiction over education and
15 education appropriations. The failure of the superintendent of
16 public instruction to complete the hearing procedures and make a
17 final decision and order within this 120 working day time limit, or
18 the failure of any other official or agency to meet a time limit
19 prescribed in this section, does not affect the validity of an
20 action taken under this section affecting a person's teaching
21 certificate.

22 (12) ~~—(11)— Beginning ~~3 months after the effective date of~~~~
23 ~~the amendatory act that added this subsection~~ **JULY 1, 2004**, the
24 superintendent of public instruction shall submit to the
25 legislature a quarterly report of all final actions he or she has
26 taken under this section affecting a person's teaching certificate
27 during the preceding quarter. The report shall contain at least all

1 of the following with respect to each person whose teaching
2 certificate has been affected:

3 (a) The person's name, as it appears on the teaching
4 certificate.

5 (b) The school district, intermediate school district, public
6 school academy, or nonpublic school in which the person was
7 employed at the time of the conviction, if any.

8 (c) The offense for which the person was convicted and the
9 date of the offense and date of the conviction.

10 (d) Whether the action taken by the superintendent of public
11 instruction was a summary suspension, suspension due to failure to
12 request a hearing, suspension, revocation, or reinstatement of the
13 teaching certificate.

14 ~~—— (12) Not later than 6 months after the effective date of the~~
15 ~~amendatory act that added this subsection, the superintendent of~~
16 ~~public instruction shall submit to the legislature an inventory~~
17 ~~report with information on all final actions taken under this~~
18 ~~section for the time period from March 30, 1988 until the effective~~
19 ~~date of the amendatory act that added this subsection. The report~~
20 ~~shall contain at least all of the information required in the~~
21 ~~quarterly report under subsection (11) with respect to each person~~
22 ~~whose teaching certificate was affected during that time period. If~~
23 ~~the superintendent of public instruction determines that the~~
24 ~~information required for the report is not available for any~~
25 ~~portion of that time period, the superintendent of public~~
26 ~~instruction shall include with the report a detailed explanation of~~
27 ~~the information that is not available and the reasons why the~~

House Bill No. 4928 (S-2) as amended September 13, 2005
1 ~~information is not available.~~

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

3 (a) Prohibit a person who holds a teaching certificate from
4 seeking monetary compensation from a school board or intermediate
5 school board if that right is available under a collective
6 bargaining 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 discharge
10 a person who holds a teaching certificate.

11 (14) The superintendent of public instruction may promulgate,
12 as necessary, rules to implement this section pursuant to the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328.

15 [(15) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL WORK WITH THE
16 DEPARTMENT AND THE DEPARTMENT OF STATE POLICE TO DEVELOP AND IMPLEMENT AN
17 AUTOMATED PROGRAM THAT DOES A COMPARISON OF THE DEPARTMENT'S LIST OF
18 INDIVIDUALS HOLDING A TEACHING CERTIFICATE OR STATE BOARD APPROVAL WITH
19 THE CONVICTION INFORMATION RECEIVED BY THE DEPARTMENT OF STATE POLICE.
20 UNLESS OTHERWISE PROHIBITED BY LAW, THIS COMPARISON SHALL INCLUDE
21 CONVICTIONS CONTAINED IN A NONPUBLIC RECORD. THE DEPARTMENT AND THE
22 DEPARTMENT OF STATE POLICE SHALL PERFORM THIS COMPARISON DURING JANUARY
23 AND JUNE OF EACH YEAR UNTIL JULY 1, 2008. IF A COMPARISON DISCLOSES THAT
24 A PERSON ON THE DEPARTMENT'S LIST OF INDIVIDUALS HOLDING A TEACHING
CERTIFICATE OR STATE BOARD APPROVAL HAS BEEN CONVICTED OF A CRIME, THE
DEPARTMENT SHALL NOTIFY THE SUPERINTENDENT OR CHIEF ADMINISTRATOR AND THE
BOARD OR GOVERNING BODY OF THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL
DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN WHICH THE PERSON
IS EMPLOYED OF THAT CONVICTION.]

25 (16) ~~—(15)—~~ As used in this section:

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

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

3 (B) "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2
4 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.

5 (C) ~~—(b)—~~ "Prosecuting attorney" means the prosecuting
6 attorney for a county, an assistant prosecuting attorney for a
7 county, the attorney general, the deputy attorney general, an
8 assistant attorney general, a special prosecuting attorney, or, in
9 connection with the prosecution of an ordinance violation, an
10 attorney for the political subdivision that enacted the ordinance
11 upon which the violation is based.

12 Sec. 1539b. (1) Subject to subsection (2), if a person who
13 holds state board approval has been convicted of a crime described
14 in this subsection, within 10 working days after receiving notice
15 of the conviction the superintendent of public instruction shall
16 notify the person in writing that his or her state board approval
17 may be suspended because of the conviction and of his or her right
18 to a hearing before the superintendent of public instruction. The
19 hearing shall be conducted as a contested case under the
20 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
21 24.328. If the person does not avail himself or herself of this
22 right to a hearing within 15 working days after receipt of this
23 written notification, the person's state board approval shall be
24 suspended. If a hearing takes place, the superintendent of public
25 instruction shall complete the proceedings and make a final
26 decision and order within 120 working days after receiving the
27 request for a hearing. Subject to subsection (2), the

1 superintendent of public instruction may suspend the person's state
2 board approval, based upon the issues and evidence presented at the
3 hearing. This subsection applies to 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 attempt
7 to commit criminal sexual conduct in the fourth degree.

8 (ii) Child abuse in the third or fourth degree or an attempt to
9 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, 1978 PA 368, MCL 333.7410.

14 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
15 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
16 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
17 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
18 MCL 750.81, 750.81a, and 750.145d.

19 (vi) A misdemeanor violation of section 701 of the Michigan
20 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

21 **(vii) ANY MISDEMEANOR THAT IS A LISTED OFFENSE.**

22 **(C) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER**
23 **STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,**
24 **OR OF THE UNITED STATES.**

25 (2) If a person who holds state board approval has been
26 convicted of a crime described in this subsection, the
27 superintendent of public instruction shall find that the public

1 health, safety, or welfare requires emergency action and shall
2 order summary suspension of the person's state board approval under
3 section 92 of the administrative procedures act of 1969, 1969 PA
4 306, MCL 24.292, and shall subsequently provide an opportunity for
5 a hearing as required under that section. This subsection does not
6 limit the superintendent of public instruction's ability to order
7 summary suspension of a person's state board approval for a reason
8 other than described in this subsection. This subsection applies to
9 conviction of any of the following crimes:

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

13 (b) Felonious assault on a child, child abuse in the first
14 degree, or an attempt to commit child abuse in the first degree.

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

16 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,
17 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,
18 333.7403, 333.7410, and 333.7416.

19 (e) A violation of section 83, 89, 91, 145a, **145B, 145C**, 316,
20 317, **350, 448, 455**, or 529 of the Michigan penal code, 1931 PA 328,
21 MCL 750.83, 750.89, 750.91, 750.145a, **750.145B, 750.145C**, 750.316,
22 750.317, **750.350, 750.448, 750.455**, and 750.529, or a felony
23 violation of section 145d of the Michigan penal code, 1931 PA 328,
24 MCL 750.145d.

25 **(F) A VIOLATION OF SECTION 158 OF THE MICHIGAN PENAL CODE,**
26 **1931 PA 328, MCL 750.158, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18**
27 **YEARS OF AGE.**

1 (G) EXCEPT FOR A JUVENILE DISPOSITION OR ADJUDICATION, A
2 VIOLATION OF SECTION 338, 338A, OR 338B OF THE MICHIGAN PENAL CODE,
3 1931 PA 328, MCL 750.338, 750.338A, AND 750.338B, IF A VICTIM IS AN
4 INDIVIDUAL LESS THAN 18 YEARS OF AGE.

5 (H) A VIOLATION OF SECTION 349 OF THE MICHIGAN PENAL CODE,
6 1931 PA 328, MCL 750.349, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18
7 YEARS OF AGE.

8 (I) AN OFFENSE COMMITTED BY A PERSON WHO WAS, AT THE TIME OF
9 THE OFFENSE, A SEXUALLY DELINQUENT PERSON AS DEFINED IN SECTION 10A
10 OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.10A.

11 (J) AN ATTEMPT OR CONSPIRACY TO COMMIT AN OFFENSE LISTED IN
12 SUBDIVISION (A), (E), (F), (G), (H), OR (I).

13 (K) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER
14 STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,
15 OR OF THE UNITED STATES.

16 (l) ~~—(f)—~~ Any other crime listed in subsection (1), if the
17 superintendent of public instruction determines the public health,
18 safety, or welfare requires emergency action based on the
19 circumstances underlying the conviction.

20 (3) The superintendent of public instruction after a hearing
21 shall not take action against a person's state board approval under
22 subsection (1) or (2) unless the superintendent of public
23 instruction finds that the conviction is reasonably and adversely
24 related to the person's present fitness to serve in an elementary
25 or secondary school in this state or that the conviction
26 demonstrates that the person is unfit to teach in an elementary or
27 secondary school in this state. Further, the superintendent of

1 public instruction may take action against a person's state board
2 approval under subsection (1) or (2) based on a conviction that
3 occurred before the effective date of the amendatory act that added
4 this subsection if the superintendent of public instruction finds
5 that the conviction is reasonably and adversely related to the
6 person's present fitness to serve in an elementary or secondary
7 school in this state.

8 (4) IF A PERSON WHO HAS ENTERED A PLEA OF GUILT OR NO CONTEST
9 TO OR WHO IS THE SUBJECT OF A FINDING OF GUILT BY A JUDGE OR JURY
10 OF A CRIME LISTED IN SUBSECTION (2) HAS BEEN SUSPENDED FROM ACTIVE
11 PERFORMANCE OF DUTY BY A PUBLIC SCHOOL, SCHOOL DISTRICT,
12 INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL DURING THE
13 PENDENCY OF PROCEEDINGS UNDER THIS SECTION, THE PUBLIC SCHOOL,
14 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL
15 EMPLOYING THE PERSON SHALL DISCONTINUE THE PERSON'S COMPENSATION
16 UNTIL THE SUPERINTENDENT OF PUBLIC INSTRUCTION HAS MADE A FINAL
17 DETERMINATION OF WHETHER OR NOT TO SUSPEND OR REVOKE THE PERSON'S
18 STATE BOARD APPROVAL. IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION
19 DOES NOT SUSPEND OR REVOKE THE PERSON'S STATE BOARD APPROVAL, THE
20 PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
21 NONPUBLIC SCHOOL SHALL MAKE THE PERSON WHOLE FOR LOST COMPENSATION,
22 WITHOUT INTEREST. HOWEVER, IF A COLLECTIVE BARGAINING AGREEMENT IS
23 IN EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION FOR EMPLOYEES
24 OF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC
25 SCHOOL ACADEMY, AND IF THE TERMS OF THAT COLLECTIVE BARGAINING
26 AGREEMENT ARE INCONSISTENT WITH THIS SUBSECTION, THEN THIS
27 SUBSECTION DOES NOT APPLY TO THAT SCHOOL DISTRICT, INTERMEDIATE

1 SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY UNTIL AFTER THE
2 EXPIRATION OF THAT COLLECTIVE BARGAINING AGREEMENT.

3 (5) ~~—(4)—~~ After EXCEPT AS OTHERWISE PROVIDED IN THIS
4 SUBSECTION, AFTER the completion of the person's sentence, the
5 person may request a hearing before the superintendent of public
6 instruction on reinstatement of his or her state board approval.
7 Based upon the issues and evidence presented at the hearing, the
8 superintendent of public instruction may reinstate, continue the
9 suspension of, or permanently revoke the person's state board
10 approval. The superintendent of public instruction shall not
11 reinstate a person's state board approval unless the superintendent
12 of public instruction finds that the person is currently fit to
13 serve in an elementary or secondary school in this state and that
14 reinstatement of the person's state board approval will not
15 adversely affect the health, safety, and welfare of pupils. IF A
16 PERSON'S CONVICTION WAS FOR A LISTED OFFENSE, THE PERSON IS NOT
17 ENTITLED TO REQUEST A HEARING ON REINSTATEMENT UNDER THIS
18 SUBSECTION, AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOT
19 REINSTATE THE PERSON'S STATE BOARD APPROVAL UNDER THIS SUBSECTION.

20 (6) ~~—(5)—~~ All of the following apply to a person described in
21 this section whose conviction is reversed upon final appeal:

22 (a) The person's state board approval shall be reinstated upon
23 his or her notification to the superintendent of public instruction
24 of the reversal.

25 (b) If the suspension of the state board approval was the sole
26 cause of his or her discharge from employment, the person shall be
27 reinstated upon his or her notification to the appropriate local or

House Bill No. 4928 as amended August 31, 2005

1 intermediate school board of the reversal, with full rights and
2 benefits, to the position he or she would have had if he or she had
3 been continuously employed.

4 (C) IF THE PERSON'S COMPENSATION WAS DISCONTINUED UNDER
5 SUBSECTION (4), THE PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE
6 SCHOOL DISTRICT, OR NONPUBLIC SCHOOL SHALL MAKE THE PERSON WHOLE
7 FOR LOST COMPENSATION<< >>.

8 (7) ~~(6) Not later than 15 days after the date of the~~
9 ~~conviction, the~~ IF THE prosecuting attorney in charge of a case
10 in which a person who holds state board approval was convicted of a
11 crime described in subsection (1) or (2) and the court that
12 convicted the person RECEIVES A FORM AS PROVIDED UNDER SECTION
13 1230D, THE PROSECUTING ATTORNEY shall notify the superintendent of
14 public instruction, and any public school, school district,
15 intermediate school district, or nonpublic school in which the
16 person is employed ~~, of that conviction, of the name and address~~
17 ~~of the person convicted, and of~~ BY FORWARDING A COPY OF THE FORM
18 TO EACH OF THEM NOT LATER THAN 7 DAYS AFTER RECEIVING THE FORM. IF
19 THE COURT RECEIVES A FORM AS PROVIDED UNDER SECTION 1230D, THE
20 COURT SHALL NOTIFY THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND ANY
21 PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
22 NONPUBLIC SCHOOL IN WHICH THE PERSON IS EMPLOYED BY FORWARDING TO
23 EACH OF THEM A COPY OF THE FORM AND INFORMATION REGARDING the
24 sentence imposed on the person NOT LATER THAN 7 DAYS AFTER THE DATE
25 OF THE SENTENCING, EVEN IF THE COURT IS MAINTAINING THE FILE AS A
26 NONPUBLIC RECORD. ~~A prosecuting attorney in charge of a case in~~
27 ~~which a person is convicted of a crime described in subsection (1)~~

1 ~~or (2), and a court that convicts a person of a crime described in~~
 2 ~~subsection (1) or (2) shall inquire whether the person holds state~~
 3 ~~board approval. The superintendent of public instruction shall make~~
 4 ~~available to prosecuting attorneys and courts a list of school~~
 5 ~~occupations that commonly require state board approval.~~

6 (8) ~~—(7)—~~ Not later than ~~5 working~~ 7 days after receiving
 7 notification ~~of a person's conviction~~ from the prosecuting
 8 attorney or the court under subsection ~~—(6)—~~ **(7) OR LEARNING**
 9 **THROUGH AN AUTHORITATIVE SOURCE THAT A PERSON WHO HOLDS STATE BOARD**
 10 **APPROVAL HAS BEEN CONVICTED OF A CRIME LISTED IN SUBSECTION (1),**
 11 the superintendent of public instruction shall request the court
 12 ~~that convicted the person~~ to provide a certified copy of the
 13 judgment of conviction and sentence **OR OTHER DOCUMENT REGARDING THE**
 14 **DISPOSITION OF THE CASE** to the superintendent of public instruction
 15 and shall pay any fees required by the court. The court shall
 16 provide this certified copy within ~~5 working~~ 7 days after
 17 receiving the request and fees under this section **OR AFTER ENTRY OF**
 18 **THE JUDGMENT OR OTHER DOCUMENT, WHICHEVER IS LATER, EVEN IF THE**
 19 **COURT IS MAINTAINING THE JUDGMENT OR OTHER DOCUMENT AS A NONPUBLIC**
 20 **RECORD.**

21 (9) ~~—(8)—~~ If the superintendent of a school district or
 22 intermediate school district, the chief administrative officer of a
 23 nonpublic school, the president of the board of a school district
 24 or intermediate school district, or the president of the governing
 25 board of a nonpublic school is notified ~~by a prosecuting attorney~~
 26 ~~or court~~ or learns through an authoritative source that a person
 27 who holds state board approval and who is employed by the school

1 district, intermediate school district, or nonpublic school has
2 been convicted of a crime described in subsection (1) or (2), the
3 superintendent, chief administrative officer, or board president
4 shall notify the superintendent of public instruction of that
5 conviction within 15 days after learning of the conviction.

6 (10) ~~—(9)—~~ For the purposes of this section, a certified copy
7 of the judgment of conviction and sentence is conclusive evidence
8 of conviction of a crime described in this section. For the
9 purposes of this section, conviction of a crime described in this
10 section is considered to be reasonably and adversely related to the
11 ability of the person to serve in an elementary or secondary school
12 and is sufficient grounds for suspension or revocation of the
13 person's state board approval.

14 (11) ~~—(10)—~~ For any hearing under subsection (1), if the
15 superintendent of public instruction does not complete the hearing
16 procedures and make a final decision and order within 120 working
17 days after receiving the request for the hearing, as required under
18 subsection (1), the superintendent of public instruction shall
19 submit a report detailing the reasons for the delay to the standing
20 committees and appropriations subcommittees of the senate and house
21 of representatives that have jurisdiction over education and
22 education appropriations. The failure of the superintendent of
23 public instruction to complete the hearing procedures and make a
24 final decision and order within this 120 working day time limit, or
25 the failure of any other official or agency to meet a time limit
26 prescribed in this section, does not affect the validity of an
27 action taken under this section affecting a person's state board

1 approval.

2 (12) ~~—(11)— Beginning —3 months after the effective date of~~
3 ~~the amendatory act that added this subsection—~~ **JULY 1, 2004**, the
4 superintendent of public instruction shall submit to the
5 legislature a quarterly report of all final actions he or she has
6 taken under this section affecting a person's state board approval
7 during the preceding quarter. The report shall contain at least all
8 of the following with respect to each person whose state board
9 approval has been affected:

10 (a) The person's name, as it appears on the state board
11 approval.

12 (b) The school district, intermediate school district, public
13 school academy, or nonpublic school in which the person was
14 employed at the time of the conviction, if any.

15 (c) The offense for which the person was convicted and the
16 date of the offense and date of the conviction.

17 (d) Whether the action taken by the superintendent of public
18 instruction was a summary suspension, suspension due to failure to
19 request a hearing, suspension, revocation, or reinstatement of the
20 state board approval.

21 ~~—— (12) Not later than 6 months after the effective date of the~~
22 ~~amendatory act that added this subsection, the superintendent of~~
23 ~~public instruction shall submit to the legislature an inventory~~
24 ~~report with information on all final actions taken under this~~
25 ~~section for the time period from June 23, 1992 until the effective~~
26 ~~date of the amendatory act that added this subsection. The report~~
27 ~~shall contain at least all of the information required in the~~

House Bill No. 4928 (S-2) as amended September 13, 2005

~~quarterly report under subsection (11) with respect to each person
whose state board approval was affected during that time period. If
the superintendent of public instruction determines that the
information required for the report is not available for any
portion of that time period, the superintendent of public
instruction shall include with the report a detailed explanation of
the information that is not available and the reasons why the
information is not available.~~

(13) 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 if the person holds a certificate
subject to that section.

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

(14) The superintendent of public instruction may promulgate,
as necessary, rules to implement this section pursuant to the
administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
24.328.

[(15) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL WORK WITH THE

House Bill No. 4928 (S-2) as amended September 13, 2005

1 DEPARTMENT AND THE DEPARTMENT OF STATE POLICE TO DEVELOP AND IMPLEMENT AN
 2 AUTOMATED PROGRAM THAT DOES A COMPARISON OF THE DEPARTMENT'S LIST OF
 3 INDIVIDUALS HOLDING A TEACHING CERTIFICATE OR STATE BOARD APPROVAL WITH
 4 THE CONVICTION INFORMATION RECEIVED BY THE DEPARTMENT OF STATE POLICE.
 5 UNLESS OTHERWISE PROHIBITED BY LAW, THIS COMPARISON SHALL INCLUDE
 6 CONVICTIONS CONTAINED IN A NONPUBLIC RECORD. THE DEPARTMENT AND THE
 7 DEPARTMENT OF STATE POLICE SHALL PERFORM THIS COMPARISON DURING JANUARY
 8 AND JUNE OF EACH YEAR UNTIL JULY 1, 2008. IF A COMPARISON DISCLOSES THAT
 9 A PERSON ON THE DEPARTMENT'S LIST OF INDIVIDUALS HOLDING A TEACHING
 CERTIFICATE OR STATE BOARD APPROVAL HAS BEEN CONVICTED OF A CRIME, THE
 DEPARTMENT SHALL NOTIFY THE SUPERINTENDENT OR CHIEF ADMINISTRATOR AND THE
 BOARD OR GOVERNING BODY OF THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL
 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN WHICH THE PERSON
 IS EMPLOYED OF THAT CONVICTION.]

10 (16) ~~—(15)—~~ As used in this section:

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

15 (B) "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2
 16 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.

17 (C) ~~—(b)—~~ "Prosecuting attorney" means the prosecuting
 18 attorney for a county, an assistant prosecuting attorney for a
 19 county, the attorney general, the deputy attorney general, an
 20 assistant attorney general, a special prosecuting attorney, or, in
 21 connection with the prosecution of an ordinance violation, an
 22 attorney for the political subdivision that enacted the ordinance
 23 upon which the violation is based.

24 (D) ~~—(e)—~~ "State board approval" means a license, certificate,
 25 approval not requiring a teaching certificate, or other evidence of
 26 qualifications to hold a particular position in a school district
 27 or intermediate school district or in a nonpublic school, other

1 than a teacher's certificate subject to section 1535a, that is
2 issued to a person by the state board or the superintendent of
3 public instruction under this act or a rule promulgated under this
4 act.

5 Enacting section 1. This amendatory act takes effect January
6 1, 2006.

7 Enacting section 2. This amendatory act does not take effect
8 unless all of the following bills of the 93rd Legislature are
9 enacted into law:

- 10 (a) Senate Bill No. 601.
- 11 (b) Senate Bill No. 609.
- 12 (c) Senate Bill No. 611.
- 13 (d) House Bill No. 4402.
- 14 (e) House Bill No. 4930.
- 15 (f) House Bill No. 4991.