

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 601

(As amended August 31, 2005)

(As amended, September 13, 2005)

[A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1230a (MCL 380.1230a), as added by 1995 PA 83.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1230a. (1) In addition to the criminal history check
2 required under section 1230, the board of a school district —
3 ~~local act school district,~~ or intermediate school district or the
4 governing body of a public school academy or nonpublic school shall
5 request the department of state police to conduct a criminal
6 records check through the federal bureau of investigation on an
7 applicant for, or an individual who is hired for, ~~a position as a~~
8 ~~teacher or a school administrator or a position requiring state~~

1 ~~board approval~~ **ANY FULL-TIME OR PART-TIME EMPLOYMENT OR WHO IS**
 2 **ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY**
 3 **OF ITS SCHOOLS.** Except as **OTHERWISE** provided in ~~subsection (2)~~
 4 **THIS SECTION**, a board or governing body shall not employ an
 5 individual ~~in a position described in this subsection~~ **OR ALLOW AN**
 6 **INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY**
 7 **OF ITS SCHOOLS** until after the board or governing body receives the
 8 results of the criminal records check. A board or governing body
 9 requesting a criminal records check under this section shall
 10 require the ~~applicant or~~ individual to submit his or her
 11 fingerprints to the department of state police for that purpose.
 12 The department of state police may charge a fee for conducting the
 13 criminal records check. A board or governing body shall require an
 14 individual to submit his or her fingerprints for the purposes of
 15 this section only at the time the individual initially applies for
 16 employment with the board or governing body or is initially
 17 employed by the board or governing body **OR IS INITIALLY ASSIGNED TO**
 18 **WORK UNDER CONTRACT IN ANY OF ITS SCHOOLS.**

19 (2) If the board of a school district ~~, local act school~~
 20 ~~district,~~ or intermediate school district or the governing body of
 21 a public school academy or nonpublic school determines it necessary
 22 to ~~employ~~ **HIRE** an individual ~~for a position described in~~
 23 ~~subsection (1)~~ for a particular school year during that school
 24 year or within 30 days before the beginning of that school year,
 25 the board or governing body may employ the individual as a
 26 conditional employee under this subsection without first receiving
 27 the results of the criminal records check under subsection (1) if

1 all of the following apply:

2 (a) The board or governing body requests the criminal records
3 check under subsection (1) before conditionally employing the
4 individual.

5 (b) The individual signs a statement ~~that identifies~~
6 **IDENTIFYING** all crimes for which he or she has been convicted, if
7 any, and agreeing that, if the results of the criminal records
8 check under subsection (1) reveal information that is inconsistent
9 with the individual's statement, his or her employment contract
10 ~~will be~~ **IS** voidable at the option of the board or governing body.
11 ~~Not later than September 30, 1995, the~~ **THE** department shall
12 develop and distribute to districts and nonpublic schools a model
13 form for the statement required under this subdivision. The
14 department shall make the model form available to public school
15 academies. A district, public school academy, or nonpublic school
16 shall use the model form for the purposes of this subsection.

17 (3) If an individual is employed as a conditional employee
18 under subsection (2) and the results of the criminal records check
19 under subsection (1) reveal information that is inconsistent with
20 the individual's statement under subsection (2), the board or
21 governing body may void the individual's employment contract. If an
22 employment contract is voided under this subsection, the
23 individual's employment is terminated, a collective bargaining
24 agreement that would otherwise apply to the individual's employment
25 does not apply to the termination, and the district, public school
26 academy, or nonpublic school or the board or governing body is not
27 liable for the termination.

1 (4) For an applicant for a position as a substitute teacher,
2 instead of requesting a criminal records check under subsection
3 (1), a school district, ~~local act school district,~~ intermediate
4 school district, public school academy, or nonpublic school may use
5 results received by another district, public school academy, or
6 nonpublic school or maintained by the department to confirm that
7 the individual does not have any criminal history. If that
8 confirmation is not available, subsection (1) applies to ~~an~~ **THE**
9 applicant. ~~for a position as a substitute teacher.~~

10 (5) If an applicant ~~for a position described in subsection~~
11 ~~(1)~~ is being considered for employment ~~in such a position~~ by
12 more than 1 school district, ~~local act school district,~~
13 intermediate school district, public school academy, or nonpublic
14 school and if the applicant agrees in writing to allow a district,
15 public school academy, or nonpublic school to share the results of
16 the criminal records check with another district, public school
17 academy, or nonpublic school, then a district, public school
18 academy, or nonpublic school may satisfy the requirements of
19 subsection (1) by obtaining a copy of the results of the criminal
20 records check from another district, public school academy, or
21 nonpublic school.

22 (6) An applicant for ~~a position described in subsection (1)~~
23 **EMPLOYMENT** shall give written consent at the time of application
24 for the criminal records division of the department of state police
25 to conduct the criminal records check required under this section.

26 (7) A school district, ~~local act school district,~~
27 intermediate school district, public school academy, or nonpublic

1 school shall make a request to the department of state police for a
2 criminal records check under this section on a form and in a manner
3 prescribed by the department of state police.

4 (8) The results of a criminal records check under this section
5 shall be used by a school district, ~~local act school district,~~
6 intermediate school district, public school academy, or nonpublic
7 school only for the purpose of evaluating an individual's
8 qualifications for employment **OR ASSIGNMENT** in the position for
9 which he or she has applied **OR BEEN ASSIGNED** and for the purposes
10 of subsections (3), (4), and (5). A member of the board of a
11 district or of the governing body of a public school academy or
12 nonpublic school or an employee of a district, public school
13 academy, or nonpublic school shall not disclose those results,
14 except any felony conviction or a misdemeanor conviction involving
15 sexual or physical abuse, to any person who is not directly
16 involved in evaluating the individual's qualifications for
17 employment **OR ASSIGNMENT**. However, for the purposes of subsections
18 (4) and (5), a person described in this subsection may provide a
19 copy of the results under subsection (1) concerning the individual
20 to an appropriate representative of another district, public school
21 academy, or nonpublic school. A person who violates this subsection
22 is guilty of a misdemeanor punishable by a fine of not more than
23 \$10,000.00, but is not subject to the penalties under section 1804.

24 (9) Within 30 days after receiving a proper request by a
25 school district, ~~local act school district,~~ intermediate school
26 district, public school academy, or nonpublic school for a criminal
27 records check on an individual under this section, the criminal

Senate Bill No. 601 (H-1) as amended August 31, 2005
as amended September 13, 2005

1 records division of the department of state police shall initiate
2 the criminal records check **THROUGH THE FEDERAL BUREAU OF**
3 **INVESTIGATION**. After conducting the criminal records check **REQUIRED**
4 **UNDER THIS SECTION** for a school district, ~~local act school~~
5 ~~district,~~ intermediate school district, or public school academy,
6 the criminal records division of the department of state police
7 shall provide the results of the criminal records check to the
8 district or public school academy. After conducting the criminal
9 records check **REQUIRED UNDER THIS SECTION** for a nonpublic school,
10 the criminal records division of the department of state police
11 shall notify the nonpublic school of whether or not the criminal
12 records check disclosed any criminal history that is not disclosed
13 in the report on the individual provided to the nonpublic school
14 under section 1230.

15 (10) [~~<<~~ ~~>>~~] ~~As used in~~
16 ~~this~~
~~section, "state board approval" means~~

17 ~~that term as defined in section 1539b.~~ **IF THE RESULTS RECEIVED BY**
18 **A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL**
19 **ACADEMY, OR NONPUBLIC SCHOOL UNDER SUBSECTION (9) DISCLOSE THAT AN**
20 **INDIVIDUAL HAS BEEN CONVICTED OF A LISTED OFFENSE, THEN THE SCHOOL**
21 **DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR**
22 **NONPUBLIC SCHOOL SHALL NOT EMPLOY THE INDIVIDUAL IN ANY CAPACITY,**
23 **AS PROVIDED UNDER SECTION 1230C, AND SHALL NOT ALLOW THE INDIVIDUAL**
24 **TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS**
25 **SCHOOLS. IF THE RESULTS RECEIVED BY A SCHOOL DISTRICT, INTERMEDIATE**
26 **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL UNDER**
27 **SUBSECTION (9) DISCLOSE THAT AN INDIVIDUAL HAS BEEN CONVICTED OF A**
28 **FELONY OTHER THAN A LISTED OFFENSE, THEN THE SCHOOL DISTRICT,**

Senate Bill No. 601 (H-1) as amended August 31, 2005
as amended September 13, 2005

1 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
2 SCHOOL SHALL NOT EMPLOY THE INDIVIDUAL IN ANY CAPACITY OR ALLOW THE
3 INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY
4 OF ITS SCHOOLS UNLESS THE SUPERINTENDENT OR CHIEF ADMINISTRATOR AND
5 THE BOARD OR GOVERNING BODY OF THE SCHOOL DISTRICT, INTERMEDIATE
6 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL EACH
7 SPECIFICALLY APPROVE THE EMPLOYMENT OR WORK ASSIGNMENT IN WRITING.

8 << [
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Senate Bill No. 601 (H-1) as amended August 31, 2005
as amended September 13, 2005

1
2
3
4
5
6
7
8
9
10

(11)>> AS USED IN THIS SECTION, "LISTED OFFENSE" MEANS THAT TERM AS
DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295,
MCL 28.722.]

11 Enacting section 1. This amendatory act takes effect January
12 1, 2006.

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

16 (a) Senate Bill No. 609.

17 (b) Senate Bill No. 611.

18 (c) House Bill No. 4402.

19 (d) House Bill No. 4928.

20 (e) House Bill No. 4930.

21 (f) House Bill No. 4991.