

SUBSTITUTE FOR
HOUSE BILL NO. 4928

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.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1535a. (1) Subject to subsection (2), if a person who
2 holds a teaching certificate that is valid in this state has been
3 convicted of a crime described in this subsection, within 10
4 working days after receiving notice of the conviction the
5 superintendent of public instruction shall notify the person in
6 writing that his or her teaching certificate may be suspended
7 because of the conviction and of his or her right to a hearing
8 before the superintendent of public instruction. The hearing shall

1 be conducted as a contested case under the administrative
2 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the
3 person does not avail himself or herself of this right to a hearing
4 within 15 working days after receipt of this written notification,
5 the teaching certificate of that person shall be suspended. If a
6 hearing takes place, the superintendent of public instruction shall
7 complete the proceedings and make a final decision and order within
8 120 working days after receiving the request for a hearing. Subject
9 to subsection (2), the superintendent of public instruction may
10 suspend the person's teaching certificate based upon the issues and
11 evidence presented at the hearing. This subsection applies to any
12 of the following crimes:

13 (a) Any felony.

14 (b) Any of the following misdemeanors:

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

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

19 (iii) A misdemeanor involving cruelty, torture, or indecent
20 exposure involving a child.

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

23 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
24 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
25 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
26 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
27 MCL 750.81, 750.81a, and 750.145d.

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

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

4 **(C) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER**
5 **STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,**
6 **OR OF THE UNITED STATES.**

7 (2) If a person who holds a teaching certificate that is valid
8 in this state has been convicted of a crime described in this
9 subsection, the superintendent of public instruction shall find
10 that the public health, safety, or welfare requires emergency
11 action and shall order summary suspension of the person's teaching
12 certificate under section 92 of the administrative procedures act
13 of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an
14 opportunity for a hearing as provided under that section. This
15 subsection does not limit the superintendent of public
16 instruction's ability to order summary suspension of a person's
17 teaching certificate for a reason other than described in this
18 subsection. This subsection applies to conviction of any of the
19 following crimes:

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

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

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

26 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,
27 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,

1 333.7403, 333.7410, and 333.7416.

2 (e) A violation of section 83, 89, 91, 145a, 316, 317, or 529
3 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89,
4 750.91, 750.145a, 750.316, 750.317, and 750.529, or a felony
5 violation of section 145d of the Michigan penal code, 1931 PA 328,
6 MCL 750.145d.

7 (F) ANY OTHER LISTED OFFENSE.

8 (G) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER
9 STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,
10 OR OF THE UNITED STATES.

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

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

1 person's present fitness to serve in an elementary or secondary
2 school in this state or that the conviction demonstrates that the
3 person is unfit to teach in an elementary or secondary school in
4 this state.

5 (4) IF A PERSON WHO HAS ENTERED A PLEA OF GUILT OR NO CONTEST
6 TO OR WHO IS THE SUBJECT OF A FINDING OF GUILT BY A JUDGE OR JURY
7 OF A CRIME LISTED IN SUBSECTION (2) REMAINS EMPLOYED BY A PUBLIC
8 SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC
9 SCHOOL DURING THE PENDENCY OF PROCEEDINGS UNDER THIS SECTION, THE
10 PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
11 NONPUBLIC SCHOOL EMPLOYING THE PERSON SHALL NOT PAY THE PERSON HIS
12 OR HER WAGES, BUT SHALL INSTEAD HOLD THE PERSON'S WAGES IN ESCROW
13 IN ITS OWN ACCOUNTS UNTIL THE SUPERINTENDENT OF PUBLIC INSTRUCTION
14 HAS MADE A FINAL DETERMINATION OF WHETHER OR NOT TO SUSPEND OR
15 REVOKE THE PERSON'S TEACHING CERTIFICATE. IF THE SUPERINTENDENT OF
16 PUBLIC INSTRUCTION SUSPENDS OR REVOKES THE PERSON'S TEACHING
17 CERTIFICATE, THE WAGES HELD IN ESCROW ARE FORFEITED TO THE PUBLIC
18 SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC
19 SCHOOL. IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION DOES NOT
20 SUSPEND OR REVOKE THE PERSON'S TEACHING CERTIFICATE, THE PUBLIC
21 SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC
22 SCHOOL SHALL PAY THE PERSON THE WAGES HELD IN ESCROW, WITHOUT
23 INTEREST. HOWEVER, IF A COLLECTIVE BARGAINING AGREEMENT IS IN
24 EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION FOR EMPLOYEES OF
25 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL
26 ACADEMY, AND IF THE TERMS OF THAT COLLECTIVE BARGAINING AGREEMENT
27 ARE INCONSISTENT WITH THIS SUBSECTION, THEN THIS SUBSECTION DOES

1 NOT APPLY TO THAT SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
2 PUBLIC SCHOOL ACADEMY UNTIL AFTER THE EXPIRATION OF THAT COLLECTIVE
3 BARGAINING AGREEMENT.

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

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

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

26 (b) If the suspension of the person's teaching certificate
27 under this section was the sole cause of his or her discharge from

1 employment, the person shall be reinstated, upon his or her
2 notification to the appropriate local or intermediate school board
3 of the reversal, with full rights and benefits, to the position he
4 or she would have had if he or she had been continuously employed.

5 (C) IF ANY WAGES OWED TO THE PERSON WERE FORFEITED UNDER
6 SUBSECTION (4), THE PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE
7 SCHOOL DISTRICT, OR NONPUBLIC SCHOOL TO WHICH THE WAGES WERE
8 FORFEITED SHALL REPAY THE WAGES TO THE PERSON.

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

1 ~~which a person is convicted of a crime described in subsection (1)~~
2 ~~or (2) and a court that convicts a person of a crime described in~~
3 ~~subsection (1) or (2) shall inquire whether the person holds a~~
4 ~~teaching certificate.~~

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

20 (9) ~~-(8)-~~ If the superintendent of a school district or
21 intermediate school district, the chief administrative officer of a
22 nonpublic school, the president of the board of a school district
23 or intermediate school district, or the president of the governing
24 board of a nonpublic school is notified ~~by a prosecuting attorney~~
25 ~~or court~~ or learns through an authoritative source that a person
26 who holds a teaching certificate and who is employed by the school
27 district, intermediate school district, or nonpublic school has

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

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

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

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

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

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

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

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

20 (13) ~~—(12)— Not later than —6 months after the effective date~~
21 ~~of the amendatory act that added this subsection—~~ **OCTOBER 1, 2004**,
22 the superintendent of public instruction shall submit to the
23 legislature an inventory report with information on all final
24 actions taken under this section for the time period from March 30,
25 1988 until ~~the effective date of the amendatory act that added~~
26 ~~this subsection—~~ **APRIL 1, 2004**. The report shall contain at least
27 all of the information required in the quarterly report under

1 subsection ~~—(11)—~~ (12) with respect to each person whose teaching
2 certificate was affected during that time period. If the
3 superintendent of public instruction determines that the
4 information required for the report is not available for any
5 portion of that time period, the superintendent of public
6 instruction shall include with the report a detailed explanation of
7 the information that is not available and the reasons why the
8 information is not available.

9 (14) ~~—(13)—~~ This section does not do any of the following:

10 (a) Prohibit a person who holds a teaching certificate from
11 seeking monetary compensation from a school board or intermediate
12 school board if that right is available under a collective
13 bargaining 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 discharge
17 a person who holds a teaching certificate.

18 (15) ~~—(14)—~~ The superintendent of public instruction may
19 promulgate, as necessary, rules to implement this section pursuant
20 to the administrative procedures act of 1969, 1969 PA 306, MCL
21 24.201 to 24.328.

22 (16) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL WORK WITH
23 THE DEPARTMENT AND THE DEPARTMENT OF STATE POLICE TO DEVELOP AND
24 IMPLEMENT AN AUTOMATED PROGRAM THAT DOES A MONTHLY COMPARISON OF
25 THE DEPARTMENT'S LIST OF INDIVIDUALS HOLDING A TEACHING CERTIFICATE
26 OR STATE BOARD APPROVAL WITH THE CONVICTION INFORMATION RECEIVED BY
27 THE DEPARTMENT OF STATE POLICE, INCLUDING CONVICTIONS CONTAINED IN

1 **A NONPUBLIC RECORD.**

2 **(17) —(15)—** As used in this section:

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

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

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

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

1 suspended. If a hearing takes place, the superintendent of public
2 instruction shall complete the proceedings and make a final
3 decision and order within 120 working days after receiving the
4 request for a hearing. Subject to subsection (2), the
5 superintendent of public instruction may suspend the person's state
6 board approval, based upon the issues and evidence presented at the
7 hearing. This subsection applies to any of the following crimes:

8 (a) Any felony.

9 (b) Any of the following misdemeanors:

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

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

14 (iii) A misdemeanor involving cruelty, torture, or indecent
15 exposure involving a child.

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

18 (v) A violation of section 115, 141a, 145a, 335a, or 359 of
19 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,
20 750.145a, 750.335a, and 750.359, or a misdemeanor violation of
21 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,
22 MCL 750.81, 750.81a, and 750.145d.

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

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

26 **(C) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER**
27 **STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,**

1 OR OF THE UNITED STATES.

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

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

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

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

20 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,
21 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,
22 333.7403, 333.7410, and 333.7416.

23 (e) A violation of section 83, 89, 91, 145a, 316, 317, or 529
24 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89,
25 750.91, 750.145a, 750.316, 750.317, and 750.529, or a felony
26 violation of section 145d of the Michigan penal code, 1931 PA 328,
27 MCL 750.145d.

1 (F) ANY OTHER LISTED OFFENSE.

2 (G) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER
3 STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,
4 OR OF THE UNITED STATES.

5 (H) ~~—(f)—~~ Any other crime listed in subsection (1), if the
6 superintendent of public instruction determines the public health,
7 safety, or welfare requires emergency action based on the
8 circumstances underlying the conviction.

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

24 (4) IF A PERSON WHO HAS ENTERED A PLEA OF GUILT OR NO CONTEST
25 TO OR WHO IS THE SUBJECT OF A FINDING OF GUILT BY A JUDGE OR JURY
26 OF A CRIME LISTED IN SUBSECTION (2) REMAINS EMPLOYED BY A PUBLIC
27 SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC

1 SCHOOL DURING THE PENDENCY OF PROCEEDINGS UNDER THIS SECTION, THE
2 PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
3 NONPUBLIC SCHOOL EMPLOYING THE PERSON SHALL NOT PAY THE PERSON HIS
4 OR HER WAGES, BUT SHALL INSTEAD HOLD THE PERSON'S WAGES IN ESCROW
5 IN ITS OWN ACCOUNTS UNTIL THE SUPERINTENDENT OF PUBLIC INSTRUCTION
6 HAS MADE A FINAL DETERMINATION OF WHETHER OR NOT TO SUSPEND OR
7 REVOKE THE PERSON'S STATE BOARD APPROVAL. IF THE SUPERINTENDENT OF
8 PUBLIC INSTRUCTION SUSPENDS OR REVOKES THE PERSON'S STATE BOARD
9 APPROVAL, THE WAGES HELD IN ESCROW ARE FORFEITED TO THE PUBLIC
10 SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC
11 SCHOOL. IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION DOES NOT
12 SUSPEND OR REVOKE THE PERSON'S STATE BOARD APPROVAL, THE PUBLIC
13 SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC
14 SCHOOL SHALL PAY THE PERSON THE WAGES HELD IN ESCROW, WITHOUT
15 INTEREST. HOWEVER, IF A COLLECTIVE BARGAINING AGREEMENT IS IN
16 EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION FOR EMPLOYEES OF
17 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL
18 ACADEMY, AND IF THE TERMS OF THAT COLLECTIVE BARGAINING AGREEMENT
19 ARE INCONSISTENT WITH THIS SUBSECTION, THEN THIS SUBSECTION DOES
20 NOT APPLY TO THAT SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
21 PUBLIC SCHOOL ACADEMY UNTIL AFTER THE EXPIRATION OF THAT COLLECTIVE
22 BARGAINING AGREEMENT.

23 (5) ~~-(4)-~~ After the completion of the person's sentence, the
24 person may request a hearing before the superintendent of public
25 instruction on reinstatement of his or her state board approval.
26 Based upon the issues and evidence presented at the hearing, the
27 superintendent of public instruction may reinstate, continue the

1 suspension of, or permanently revoke the person's state board
2 approval. The superintendent of public instruction shall not
3 reinstate a person's state board approval unless the superintendent
4 of public instruction finds that the person is currently fit to
5 serve in an elementary or secondary school in this state and that
6 reinstatement of the person's state board approval will not
7 adversely affect the health, safety, and welfare of pupils. **IF A**
8 **PERSON'S CONVICTION WAS FOR A LISTED OFFENSE, THE PERSON IS NOT**
9 **ENTITLED TO REQUEST A HEARING ON REINSTATEMENT UNDER THIS**
10 **SUBSECTION, AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOT**
11 **REINSTATE THE PERSON'S STATE BOARD APPROVAL UNDER THIS SUBSECTION.**

12 (6) ~~—(5)—~~ All of the following apply to a person described in
13 this section whose conviction is reversed upon final appeal:

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

17 (b) If the suspension of the state board approval was the sole
18 cause of his or her discharge from employment, the person shall be
19 reinstated upon his or her notification to the appropriate local or
20 intermediate school board of the reversal, with full rights and
21 benefits, to the position he or she would have had if he or she had
22 been continuously employed.

23 (C) **IF ANY WAGES OWED TO THE PERSON WERE FORFEITED UNDER**
24 **SUBSECTION (4), THE PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE**
25 **SCHOOL DISTRICT, OR NONPUBLIC SCHOOL TO WHICH THE WAGES WERE**
26 **FORFEITED SHALL REPAY THE WAGES TO THE PERSON.**

27 (7) ~~—(6)— Not later than 15 days after the date of the~~

~~conviction, the~~ **IF THE** prosecuting attorney in charge of a case
in which a person who holds state board approval was convicted of a
crime described in subsection (1) or (2) and the court that
convicted the person **RECEIVES A FORM AS PROVIDED UNDER SECTION**
1230D, THE PROSECUTING ATTORNEY shall notify the superintendent of
public instruction, and any public school, school district,
intermediate school district, or nonpublic school in which the
person is employed ~~, of that conviction, of the name and address~~
~~of the person convicted, and of~~ **BY FORWARDING A COPY OF THE FORM**
TO EACH OF THEM NOT LATER THAN 7 DAYS AFTER RECEIVING THE FORM. IF
THE COURT RECEIVES A FORM AS PROVIDED UNDER SECTION 1230D, THE
COURT SHALL NOTIFY THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND ANY
PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR
NONPUBLIC SCHOOL IN WHICH THE PERSON IS EMPLOYED BY FORWARDING TO
EACH OF THEM A COPY OF THE FORM AND INFORMATION REGARDING the
sentence imposed on the person **NOT LATER THAN 7 DAYS AFTER THE DATE**
OF THE SENTENCING, EVEN IF THE COURT IS MAINTAINING THE FILE AS A
NONPUBLIC RECORD. ~~A prosecuting attorney in charge of a case in~~
~~which a person is convicted of a crime described in subsection (1)~~
~~or (2), and a court that convicts a person of a crime described in~~
~~subsection (1) or (2) shall inquire whether the person holds state~~
~~board approval. The superintendent of public instruction shall make~~
~~available to prosecuting attorneys and courts a list of school~~
~~occupations that commonly require state board approval.~~

(8) —(7)— Not later than ~~5 working~~ 7 days after receiving
notification ~~of a person's conviction~~ from the prosecuting
attorney or the court under subsection ~~—(6)—~~ **(7) OR LEARNING**

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

13 (9) ~~-(8)-~~ If the superintendent of a school district or
14 intermediate school district, the chief administrative officer of a
15 nonpublic school, the president of the board of a school district
16 or intermediate school district, or the president of the governing
17 board of a nonpublic school is notified ~~by a prosecuting attorney~~
18 ~~or court~~ or learns through an authoritative source that a person
19 who holds state board approval and who is employed by the school
20 district, intermediate school district, or nonpublic school has
21 been convicted of a crime described in subsection (1) or (2), the
22 superintendent, chief administrative officer, or board president
23 shall notify the superintendent of public instruction of that
24 conviction within 15 days after learning of the conviction.

25 (10) ~~-(9)-~~ For the purposes of this section, a certified copy
26 of the judgment of conviction and sentence is conclusive evidence
27 of conviction of a crime described in this section. For the

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

6 (11) ~~—(10)—~~ For any hearing under subsection (1), if the
7 superintendent of public instruction does not complete the hearing
8 procedures and make a final decision and order within 120 working
9 days after receiving the request for the hearing, as required under
10 subsection (1), the superintendent of public instruction shall
11 submit a report detailing the reasons for the delay to the standing
12 committees and appropriations subcommittees of the senate and house
13 of representatives that have jurisdiction over education and
14 education appropriations. The failure of the superintendent of
15 public instruction to complete the hearing procedures and make a
16 final decision and order within this 120 working day time limit, or
17 the failure of any other official or agency to meet a time limit
18 prescribed in this section, does not affect the validity of an
19 action taken under this section affecting a person's state board
20 approval.

21 (12) ~~—(11)— Beginning ~~3 months after the effective date of~~~~
22 ~~the amendatory act that added this subsection~~ **JULY 1, 2004**, the
23 superintendent of public instruction shall submit to the
24 legislature a quarterly report of all final actions he or she has
25 taken under this section affecting a person's state board approval
26 during the preceding quarter. The report shall contain at least all
27 of the following with respect to each person whose state board

1 approval has been affected:

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

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

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

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

13 **(13)** ~~—(12)— Not later than 6 months after the effective date~~
14 ~~of the amendatory act that added this subsection~~ **OCTOBER 1, 2004,**
15 the superintendent of public instruction shall submit to the
16 legislature an inventory report with information on all final
17 actions taken under this section for the time period from June 23,
18 1992 until ~~the effective date of the amendatory act that added~~
19 ~~this subsection~~ **APRIL 1, 2004.** The report shall contain at least
20 all of the information required in the quarterly report under
21 subsection ~~—(11)—~~ **(12)** with respect to each person whose state
22 board approval was affected during that time period. If the
23 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

1 information is not available.

2 (14) ~~—(13)—~~ This section does not do any of the following:

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

11 (c) Exempt a person who holds state board approval from the
12 operation of section 1535a if the person holds a certificate
13 subject to that section.

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

16 (15) ~~—(14)—~~ The superintendent of public instruction may
17 promulgate, as necessary, rules to implement this section pursuant
18 to the administrative procedures act of 1969, 1969 PA 306, MCL
19 24.201 to 24.328.

20 (16) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL WORK WITH
21 THE DEPARTMENT AND THE DEPARTMENT OF STATE POLICE TO DEVELOP AND
22 IMPLEMENT AN AUTOMATED PROGRAM THAT DOES A MONTHLY COMPARISON OF
23 THE DEPARTMENT'S LIST OF INDIVIDUALS HOLDING A TEACHING CERTIFICATE
24 OR STATE BOARD APPROVAL WITH THE CONVICTION INFORMATION RECEIVED BY
25 THE DEPARTMENT OF STATE POLICE, INCLUDING CONVICTIONS CONTAINED IN
26 A NONPUBLIC RECORD.

27 (17) ~~—(15)—~~ As used in this section:

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

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

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

14 (D) ~~-(e)-~~ "State board approval" means a license, certificate,
15 approval not requiring a teaching certificate, or other evidence of
16 qualifications to hold a particular position in a school district
17 or intermediate school district or in a nonpublic school, other
18 than a teacher's certificate subject to section 1535a, that is
19 issued to a person by the state board or the superintendent of
20 public instruction under this act or a rule promulgated under this
21 act.

22 Enacting section 1. This amendatory act takes effect October
23 15, 2005.

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

27 (a) House Bill No. 4402.

1 (b) House Bill No. 4929.

2 (c) House Bill No. 4930.