

HOUSE SUBSTITUTE FOR

SENATE BILL NO. 601

(As amended August 31, 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~~

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

(2) If the board of a school district ~~, local act school~~  
~~district,~~ or intermediate school district or the governing body of  
a public school academy or nonpublic school determines it necessary  
to ~~employ~~ **HIRE** an individual ~~for a position described in~~  
~~subsection (1)~~ for a particular school year during that school  
year or within 30 days before the beginning of that school year,  
the board or governing body may employ the individual as a  
conditional employee under this subsection without first receiving  
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

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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) [**EXCEPT AS PROVIDED IN SUBSECTION (11),**] ~~As used in this~~  
~~section, "state board approval" means~~

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

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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 [(11) A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC  
9 SCHOOL ACADEMY, OR NONPUBLIC SCHOOL MAY EMPLOY OR ALLOW AN INDIVIDUAL TO  
10 REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IF THAT INDIVIDUAL WAS  
11 CONVICTED OF A LISTED OFFENSE IF THE SUPERINTENDENT OR CHIEF ADMINISTRATOR  
12 AND THE BOARD OR GOVERNING BODY OF THE SCHOOL DISTRICT, INTERMEDIATE  
13 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL EACH  
14 SPECIFICALLY APPROVE THE EMPLOYMENT OR WORK ASSIGNMENT IN WRITING AND ANY  
15 OF THE FOLLOWING APPLY:

16 (A) THE INDIVIDUAL WAS CONVICTED AS A JUVENILE UNDER SECTION 520B,  
17 520C, OR 520D OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B,  
18 750.520C, AND 750.520D, OF COMMITTING, ATTEMPTING TO COMMIT, OR  
19 CONSPIRING TO COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION 520B(1)(A),  
20 520C(1)(A), OR 520D(1)(A) OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL  
21 750.520B, 750.520C, AND 750.520D, IF EITHER OF THE FOLLOWING APPLIES:

22 (i) THE INDIVIDUAL WAS UNDER 13 YEARS OF AGE WHEN HE OR SHE  
23 COMMITTED THE OFFENSE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE VICTIM.

24 (ii) THE INDIVIDUAL WAS 13 YEARS OF AGE OR OLDER BUT LESS THAN 17  
25 YEARS OF AGE WHEN HE OR SHE COMMITTED THE OFFENSE AND IS NOT MORE THAN 3  
26 YEARS OLDER THAN THE VICTIM.

27 (B) THE INDIVIDUAL WAS CHARGED UNDER SECTION 520B, 520C, OR 520D OF  
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THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B, 750.520C, AND  
750.520D, WITH COMMITTING, ATTEMPTING TO COMMIT, OR CONSPIRING TO COMMIT  
A VIOLATION SOLELY DESCRIBED IN SECTION 520B(1)(A), 520C(1)(A), OR  
520D(1)(A) OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B,  
750.520C, AND 750.520D, AND IS CONVICTED AS A JUVENILE OF VIOLATING,  
ATTEMPTING TO VIOLATE, OR CONSPIRING TO VIOLATE SECTION 520E OR 520G OF  
THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520E AND 750.520G, IF  
EITHER OF THE FOLLOWING APPLIES:

(i) THE INDIVIDUAL WAS UNDER 13 YEARS OF AGE WHEN HE OR SHE  
COMMITTED THE OFFENSE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE VICTIM.

(ii) THE INDIVIDUAL WAS 13 YEARS OF AGE OR OLDER BUT LESS THAN 17  
YEARS OF AGE WHEN HE OR SHE COMMITTED THE OFFENSE AND IS NOT MORE THAN 3  
YEARS OLDER THAN THE VICTIM.

(C) THE INDIVIDUAL HAS SUCCESSFULLY COMPLETED HIS OR HER  
PROBATIONARY PERIOD UNDER SECTIONS 11 TO 15 OF CHAPTER II FOR  
COMMITTING A LISTED OFFENSE AND HAS BEEN DISCHARGED FROM YOUTHFUL TRAINEE  
STATUS.

(D) THE INDIVIDUAL WAS CONVICTED OF COMMITTING OR ATTEMPTING TO  
COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION 520E(1)(A) OF THE MICHIGAN  
PENAL CODE, 1931 PA 328, MCL 750.520E, AND AT THE TIME OF THE VIOLATION  
WAS 17 YEARS OF AGE OR OLDER BUT LESS THAN 21 YEARS OF AGE AND IS NOT  
MORE THAN 5 YEARS OLDER THAN THE VICTIM.

(12) 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.

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

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

(a) Senate Bill No. 609.

(b) Senate Bill No. 611.

(c) House Bill No. 4402.

(d) House Bill No. 4928.

(e) House Bill No. 4930.

(f) House Bill No. 4991.