

**SUBSTITUTE FOR  
SENATE BILL NO. 610**

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  
9 be conducted as a contested case under the administrative

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

12 (a) Any felony.

13 (b) Any of the following misdemeanors:

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

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

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

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

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

27 (vi) A misdemeanor violation of section 701 of the Michigan

1 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

2 (vii) ANY MISDEMEANOR THAT IS A LISTED OFFENSE.

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

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

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

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

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

25 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,  
26 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,  
27 333.7403, 333.7410, and 333.7416.

1 (e) A violation of section 83, 89, 91, 145a, **145B, 145C**, 316,  
2 317, **350, 455**, or 529 of the Michigan penal code, 1931 PA 328, MCL  
3 750.83, 750.89, 750.91, 750.145a, **750.145B, 750.145C**, 750.316,  
4 750.317, **750.350, 750.455**, and 750.529, or a felony violation of  
5 section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

6 (F) A VIOLATION OF SECTION 158 OF THE MICHIGAN PENAL CODE,  
7 1931 PA 328, MCL 750.158, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18  
8 YEARS OF AGE.

9 (G) EXCEPT FOR A JUVENILE DISPOSITION OR ADJUDICATION, A  
10 VIOLATION OF SECTION 338, 338A, OR 338B OF THE MICHIGAN PENAL CODE,  
11 1931 PA 328, MCL 750.338, 750.338A, AND 750.338B, IF A VICTIM IS AN  
12 INDIVIDUAL LESS THAN 18 YEARS OF AGE.

13 (H) A VIOLATION OF SECTION 349 OF THE MICHIGAN PENAL CODE,  
14 1931 PA 328, MCL 750.349, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18  
15 YEARS OF AGE.

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

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

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

24 (l) ~~(f)~~ Any other crime listed in subsection (1), if the  
25 superintendent of public instruction determines the public health,  
26 safety, or welfare requires emergency action based on the  
27 circumstances underlying the conviction.

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

18           (4) IF A PERSON WHO HAS ENTERED A PLEA OF GUILT OR NO CONTEST  
19 TO OR WHO IS THE SUBJECT OF A FINDING OF GUILT BY A JUDGE OR JURY  
20 OF A CRIME LISTED IN SUBSECTION (2) HAS BEEN SUSPENDED FROM ACTIVE  
21 DUTY BY A PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL  
22 DISTRICT, OR NONPUBLIC SCHOOL DURING THE PENDENCY OF PROCEEDINGS  
23 UNDER THIS SECTION, THE PUBLIC SCHOOL, SCHOOL DISTRICT,  
24 INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL EMPLOYING THE  
25 PERSON SHALL NOT PAY THE PERSON HIS OR HER WAGES, BUT SHALL INSTEAD  
26 HOLD THE PERSON'S WAGES IN ESCROW IN ITS OWN ACCOUNTS UNTIL THE  
27 SUPERINTENDENT OF PUBLIC INSTRUCTION HAS MADE A FINAL DETERMINATION

1 OF WHETHER OR NOT TO SUSPEND OR REVOKE THE PERSON'S TEACHING  
2 CERTIFICATE. IF THE SUPERINTENDENT OF PUBLIC INSTRUCTION SUSPENDS  
3 OR REVOKES THE PERSON'S TEACHING CERTIFICATE, THE WAGES HELD IN  
4 ESCROW ARE FORFEITED TO THE PUBLIC SCHOOL, SCHOOL DISTRICT,  
5 INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL. IF THE  
6 SUPERINTENDENT OF PUBLIC INSTRUCTION DOES NOT SUSPEND OR REVOKE THE  
7 PERSON'S TEACHING CERTIFICATE, THE PUBLIC SCHOOL, SCHOOL DISTRICT,  
8 INTERMEDIATE SCHOOL DISTRICT, OR NONPUBLIC SCHOOL SHALL PAY THE  
9 PERSON THE WAGES HELD IN ESCROW, WITHOUT INTEREST. HOWEVER, IF A  
10 COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT AS OF THE EFFECTIVE  
11 DATE OF THIS SUBSECTION FOR EMPLOYEES OF A SCHOOL DISTRICT,  
12 INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY, AND IF THE  
13 TERMS OF THAT COLLECTIVE BARGAINING AGREEMENT ARE INCONSISTENT WITH  
14 THIS SUBSECTION, THEN THIS SUBSECTION DOES NOT APPLY TO THAT SCHOOL  
15 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY  
16 UNTIL AFTER THE EXPIRATION OF THAT COLLECTIVE BARGAINING AGREEMENT.

17 (5) ~~(4) After~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
18 SUBSECTION, AFTER the completion of a person's sentence, the person  
19 may request a hearing before the superintendent of public  
20 instruction on reinstatement of his or her teaching certificate.  
21 Based upon the issues and evidence presented at the hearing, the  
22 superintendent of public instruction may reinstate, continue the  
23 suspension of, or permanently revoke the person's teaching  
24 certificate. The superintendent of public instruction shall not  
25 reinstate a person's teaching certificate unless the superintendent  
26 of public instruction finds that the person is currently fit to  
27 serve in an elementary or secondary school in this state and that

1 reinstatement of the person's teaching certificate will not  
2 adversely affect the health, safety, and welfare of pupils. **IF A**  
3 **PERSON'S CONVICTION WAS FOR A LISTED OFFENSE, THE PERSON IS NOT**  
4 **ENTITLED TO REQUEST A HEARING ON REINSTATEMENT UNDER THIS**  
5 **SUBSECTION, AND THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL NOT**  
6 **REINSTATE THE PERSON'S TEACHING CERTIFICATE UNDER THIS SUBSECTION.**

7 (6) ~~—(5)—~~ All of the following apply to a person described in  
8 this section whose conviction is reversed upon final appeal:

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

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

18 (c) **IF ANY WAGES OWED TO THE PERSON WERE FORFEITED UNDER**  
19 **SUBSECTION (4), THE PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE**  
20 **SCHOOL DISTRICT, OR NONPUBLIC SCHOOL TO WHICH THE WAGES WERE**  
21 **FORFEITED SHALL REPAY THE WAGES TO THE PERSON.**

22 (7) ~~—(6)— Not later than 15 days after the date of the~~  
23 ~~conviction, the~~ **IF THE** prosecuting attorney in charge of a case  
24 ~~in which a person who holds a teaching certificate was convicted of~~  
25 ~~a crime described in subsection (1) or (2) and the court that~~  
26 ~~convicted the person~~ **RECEIVES A FORM AS PROVIDED UNDER SECTION**  
27 **1230D, THE PROSECUTING ATTORNEY** shall notify the superintendent of

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

18 (8) ~~—(7)—~~ Not later than ~~—5 working—~~ 7 days after receiving  
 19 notification ~~of a person's conviction~~ from the prosecuting  
 20 attorney or the court under subsection ~~—(6)—~~ **(7) OR LEARNING**  
 21 **THROUGH AN AUTHORITATIVE SOURCE THAT A PERSON WHO HOLDS A TEACHING**  
 22 **CERTIFICATE HAS BEEN CONVICTED OF A CRIME LISTED IN SUBSECTION (1),**  
 23 the superintendent of public instruction shall request the court  
 24 ~~that convicted the person~~ to provide a certified copy of the  
 25 judgment of conviction and sentence **OR OTHER DOCUMENT REGARDING THE**  
 26 **DISPOSITION OF THE CASE** to the superintendent of public instruction  
 27 and shall pay any fees required by the court. The court shall

1 provide this certified copy within ~~5 working~~ 7 days after  
2 receiving the request and fees under this section **OR AFTER ENTRY OF**  
3 **THE JUDGMENT OR OTHER DOCUMENT, WHICHEVER IS LATER, EVEN IF THE**  
4 **COURT IS MAINTAINING THE JUDGMENT OR OTHER DOCUMENT AS A NONPUBLIC**  
5 **RECORD.**

6 (9) ~~(8)~~ If the superintendent of a school district or  
7 intermediate school district, the chief administrative officer of a  
8 nonpublic school, the president of the board of a school district  
9 or intermediate school district, or the president of the governing  
10 board of a nonpublic school is notified ~~by a prosecuting attorney~~  
11 ~~or court~~ or learns through an authoritative source that a person  
12 who holds a teaching certificate and who is employed by the school  
13 district, intermediate school district, or nonpublic school has  
14 been convicted of a crime described in subsection (1) or (2), the  
15 superintendent, chief administrative officer, or board president  
16 shall notify the superintendent of public instruction of that  
17 conviction within 15 days after learning of the conviction.

18 (10) ~~(9)~~ For the purposes of this section, a certified copy  
19 of the judgment of conviction and sentence is conclusive evidence  
20 of conviction of a crime described in this section. For the  
21 purposes of this section, conviction of a crime described in this  
22 section is considered to be reasonably and adversely related to the  
23 ability of the person to serve in an elementary or secondary school  
24 and is sufficient grounds for suspension or revocation of the  
25 person's teaching certificate.

26 (11) ~~(10)~~ For any hearing under subsection (1), if the  
27 superintendent of public instruction does not complete the hearing

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

14 (12) ~~—(11)— Beginning ~~3 months after the effective date of~~~~  
15 ~~the amendatory act that added this subsection~~ **JULY 1, 2004**, the  
16 superintendent of public instruction shall submit to the  
17 legislature a quarterly report of all final actions he or she has  
18 taken under this section affecting a person's teaching certificate  
19 during the preceding quarter. The report shall contain at least all  
20 of the following with respect to each person whose teaching  
21 certificate has been affected:

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

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

27 (c) The offense for which the person was convicted and the

1 date of the offense and date of the conviction.

2 (d) Whether the action taken by the superintendent of public  
3 instruction was a summary suspension, suspension due to failure to  
4 request a hearing, suspension, revocation, or reinstatement of the  
5 teaching certificate.

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

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

22 (a) Prohibit a person who holds a teaching certificate from  
23 seeking monetary compensation from a school board or intermediate  
24 school board if that right is available under a collective  
25 bargaining agreement or another statute.

26 (b) Limit the rights and powers granted to a school district  
27 or intermediate school district under a collective bargaining

1 agreement, this act, or another statute to discipline or discharge  
2 a person who holds a teaching certificate.

3 (14) The superintendent of public instruction may promulgate,  
4 as necessary, rules to implement this section pursuant to the  
5 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
6 24.328.

7 (15) **THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL WORK WITH**  
8 **THE DEPARTMENT AND THE DEPARTMENT OF STATE POLICE TO DEVELOP AND**  
9 **IMPLEMENT AN AUTOMATED PROGRAM THAT DOES A QUARTERLY COMPARISON OF**  
10 **THE DEPARTMENT'S LIST OF INDIVIDUALS HOLDING A TEACHING CERTIFICATE**  
11 **OR STATE BOARD APPROVAL WITH THE CONVICTION INFORMATION RECEIVED BY**  
12 **THE DEPARTMENT OF STATE POLICE, INCLUDING CONVICTIONS CONTAINED IN**  
13 **A NONPUBLIC RECORD.**

14 (16) ~~(15)~~ As used in this section:

15 (a) "Conviction" means a judgment entered by a court upon a  
16 plea of guilty, guilty but mentally ill, or nolo contendere or upon  
17 a jury verdict or court finding that a defendant is guilty or  
18 guilty but mentally ill.

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

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

1           Sec. 1539b. (1) Subject to subsection (2), if a person who  
2 holds state board approval has been convicted of a crime described  
3 in this subsection, within 10 working days after receiving notice  
4 of the conviction the superintendent of public instruction shall  
5 notify the person in writing that his or her state board approval  
6 may be suspended because of the conviction and of his or her right  
7 to a hearing before the superintendent of public instruction. The  
8 hearing shall be conducted as a contested case under the  
9 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
10 24.328. If the person does not avail himself or herself of this  
11 right to a hearing within 15 working days after receipt of this  
12 written notification, the person's state board approval shall be  
13 suspended. If a hearing takes place, the superintendent of public  
14 instruction shall complete the proceedings and make a final  
15 decision and order within 120 working days after receiving the  
16 request for a hearing. Subject to subsection (2), the  
17 superintendent of public instruction may suspend the person's state  
18 board approval, based upon the issues and evidence presented at the  
19 hearing. This subsection applies to any of the following crimes:

20           (a) Any felony.

21           (b) Any of the following misdemeanors:

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

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

26           (iii) A misdemeanor involving cruelty, torture, or indecent  
27 exposure involving a child.

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

3 (v) A violation of section 115, 141a, 145a, 335a, or 359 of  
4 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,  
5 750.145a, 750.335a, and 750.359, or a misdemeanor violation of  
6 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,  
7 MCL 750.81, 750.81a, and 750.145d.

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

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

11 (C) **A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER**  
12 **STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,**  
13 **OR OF THE UNITED STATES.**

14 (2) If a person who holds state board approval has been  
15 convicted of a crime described in this subsection, the  
16 superintendent of public instruction shall find that the public  
17 health, safety, or welfare requires emergency action and shall  
18 order summary suspension of the person's state board approval under  
19 section 92 of the administrative procedures act of 1969, 1969 PA  
20 306, MCL 24.292, and shall subsequently provide an opportunity for  
21 a hearing as required under that section. This subsection does not  
22 limit the superintendent of public instruction's ability to order  
23 summary suspension of a person's state board approval for a reason  
24 other than described in this subsection. This subsection applies to  
25 conviction of any of the following crimes:

26 (a) Criminal sexual conduct in any degree, assault with intent  
27 to commit criminal sexual conduct, or an attempt to commit criminal

1 sexual conduct in any degree.

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

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

5 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,  
6 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,  
7 333.7403, 333.7410, and 333.7416.

8 (e) A violation of section 83, 89, 91, 145a, **145B**, **145C**, 316,  
9 317, **350**, **455**, or 529 of the Michigan penal code, 1931 PA 328, MCL  
10 750.83, 750.89, 750.91, 750.145a, **750.145B**, **750.145C**, 750.316,  
11 750.317, **750.350**, **750.455**, and 750.529, or a felony violation of  
12 section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

13 **(F) A VIOLATION OF SECTION 158 OF THE MICHIGAN PENAL CODE,**  
14 **1931 PA 328, MCL 750.158, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18**  
15 **YEARS OF AGE.**

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

20 **(H) A VIOLATION OF SECTION 349 OF THE MICHIGAN PENAL CODE,**  
21 **1931 PA 328, MCL 750.349, IF A VICTIM IS AN INDIVIDUAL LESS THAN 18**  
22 **YEARS OF AGE.**

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

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

1           (K) A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW OF ANOTHER  
2 STATE, OF A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER STATE,  
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4           (l) ~~(f)~~ Any other crime listed in subsection (1), if the  
5 superintendent of public instruction determines the public health,  
6 safety, or welfare requires emergency action based on the  
7 circumstances underlying the conviction.

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

23           (4) IF A PERSON WHO HAS ENTERED A PLEA OF GUILT OR NO CONTEST  
24 TO OR WHO IS THE SUBJECT OF A FINDING OF GUILT BY A JUDGE OR JURY  
25 OF A CRIME LISTED IN SUBSECTION (2) HAS BEEN SUSPENDED FROM ACTIVE  
26 DUTY BY A PUBLIC SCHOOL, SCHOOL DISTRICT, INTERMEDIATE SCHOOL  
27 DISTRICT, OR NONPUBLIC SCHOOL DURING THE PENDENCY OF PROCEEDINGS

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

22 (5) ~~(4) After~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
23 SUBSECTION, 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 ~~—— (12) Not later than 6 months after the effective date of the~~  
14 ~~amendatory act that added this subsection, the superintendent of~~  
15 ~~public instruction shall submit to the legislature an inventory~~  
16 ~~report with information on all final actions taken under this~~  
17 ~~section for the time period from June 23, 1992 until the effective~~  
18 ~~date of the amendatory act that added this subsection. The report~~  
19 ~~shall contain at least all of the information required in the~~  
20 ~~quarterly report under subsection (11) with respect to each person~~  
21 ~~whose state board approval was affected during that time period. If~~  
22 ~~the superintendent of public instruction determines that the~~  
23 ~~information required for the report is not available for any~~  
24 ~~portion of that time period, the superintendent of public~~  
25 ~~instruction shall include with the report a detailed explanation of~~  
26 ~~the information that is not available and the reasons why the~~  
27 ~~information is not available.~~

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

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

6 (b) Limit the rights and powers granted to a school district  
7 or intermediate school district under a collective bargaining  
8 agreement, this act, or another statute to discipline or discharge  
9 a person who holds state board approval.

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

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

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

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

26 (16) ~~—(15)—~~ As used in this section:

27 (a) "Conviction" means a judgment entered by a court upon a

1 plea of guilty, guilty but mentally ill, or nolo contendere or upon  
2 a jury verdict or court finding that a defendant is guilty or  
3 guilty but mentally ill.

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

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

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

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

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

26 (a) Senate Bill No. 601.

27 (b) Senate Bill No. 609.

1 (c) Senate Bill No. 612.