

# HOUSE BILL No. 4928

June 14, 2005, Introduced by Reps. Palmer, Gosselin, Hoogendyk, Stahl, Drolet, Vander Veen, Gaffney, Taub and Acciavatti and referred to the Committee on Education.

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

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

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

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

21 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,  
22 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,  
23 333.7403, 333.7410, and 333.7416.

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

1 MCL 750.145d.

2 **(F) ANY OTHER LISTED OFFENSE.**

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

7 (3) The superintendent of public instruction after a hearing  
8 shall not take action against a person's teaching certificate under  
9 subsection (1) or (2) unless the superintendent of public  
10 instruction finds that the conviction is reasonably and adversely  
11 related to the person's present fitness to serve in an elementary  
12 or secondary school in this state or that the conviction  
13 demonstrates that the person is unfit to teach in an elementary or  
14 secondary school in this state. Further, the superintendent of  
15 public instruction may take action against a person's teaching  
16 certificate under subsection (1) or (2) based on a conviction that  
17 occurred before the effective date of the amendatory act that added  
18 this subsection if the superintendent of public instruction finds  
19 that the conviction is reasonably and adversely related to the  
20 person's present fitness to serve in an elementary or secondary  
21 school in this state or that the conviction demonstrates that the  
22 person is unfit to teach in an elementary or secondary school in  
23 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 TEACHING CERTIFICATE. IF THE SUPERINTENDENT OF  
8 PUBLIC INSTRUCTION SUSPENDS OR REVOKES THE PERSON'S TEACHING  
9 CERTIFICATE, 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 TEACHING CERTIFICATE, 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~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
24 SUBSECTION, AFTER the completion of a person's sentence, the person  
25 may request a hearing before the superintendent of public  
26 instruction on reinstatement of his or her teaching certificate.  
27 Based upon the issues and evidence presented at the hearing, the

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

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

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

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

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

~~(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 a teaching certificate 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 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 a~~  
~~teaching certificate.~~

**(8) (7) Not later than 7 days after receiving**  
notification ~~of a person's conviction~~ from the prosecuting  
attorney or the court under subsection ~~(6)~~ **(7) OR LEARNING**  
**THROUGH AN AUTHORITATIVE SOURCE THAT A PERSON WHO HOLDS A TEACHING**

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

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

24 (10) ~~—(9)—~~ For the purposes of this section, a certified copy  
25 of the judgment of conviction and sentence is conclusive evidence  
26 of conviction of a crime described in this section. For the  
27 purposes of this section, conviction of a crime described in this



1 section is considered to be reasonably and adversely related to the  
2 ability of the person to serve in an elementary or secondary school  
3 and is sufficient grounds for suspension or revocation of the  
4 person's teaching certificate.

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

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

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

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

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

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

12 **(13)** ~~—(12)— Not later than 6 months after the effective date~~  
13 ~~of the amendatory act that added this subsection~~ **OCTOBER 1, 2004,**  
14 the superintendent of public instruction shall submit to the  
15 legislature an inventory report with information on all final  
16 actions taken under this section for the time period from March 30,  
17 1988 until ~~the effective date of the amendatory act that added~~  
18 ~~this subsection~~ **APRIL 1, 2004.** The report shall contain at least  
19 all of the information required in the quarterly report under  
20 subsection ~~—(11)—~~ **(12)** with respect to each person whose teaching  
21 certificate was affected during that time period. If the  
22 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       (14) ~~—(13)—~~ This section does not do any of the following:

2       (a) Prohibit a person who holds a teaching certificate 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 a teaching certificate.

10       (15) ~~—(14)—~~ The superintendent of public instruction may  
11 promulgate, as necessary, rules to implement this section pursuant  
12 to the administrative procedures act of 1969, 1969 PA 306, MCL  
13 24.201 to 24.328.

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

21       (17) ~~—(15)—~~ As used in this section:

22       (a) "Conviction" means a judgment entered by a court upon a  
23 plea of guilty, guilty but mentally ill, or nolo contendere or upon  
24 a jury verdict or court finding that a defendant is guilty or  
25 guilty but mentally ill.

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

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

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

27           (a) Any felony.

1 (b) Any of the following misdemeanors:

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

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

6 (iii) A misdemeanor involving cruelty, torture, or indecent  
7 exposure involving a child.

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

10 (v) A violation of section 115, 141a, 145a, 335a, or 359 of  
11 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,  
12 750.145a, 750.335a, and 750.359, or a misdemeanor violation of  
13 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,  
14 MCL 750.81, 750.81a, and 750.145d.

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

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

1 conviction of any of the following crimes:

2 (a) Criminal sexual conduct in any degree, assault with intent  
3 to commit criminal sexual conduct, or an attempt to commit criminal  
4 sexual conduct in any degree.

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

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

8 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,  
9 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,  
10 333.7403, 333.7410, and 333.7416.

11 (e) A violation of section 83, 89, 91, 145a, 316, 317, or 529  
12 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89,  
13 750.91, 750.145a, 750.316, 750.317, and 750.529, or a felony  
14 violation of section 145d of the Michigan penal code, 1931 PA 328,  
15 MCL 750.145d.

16 **(F) ANY OTHER LISTED OFFENSE.**

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

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

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

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

1 EFFECT AS OF THE EFFECTIVE DATE OF THIS SUBSECTION FOR EMPLOYEES OF  
2 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC SCHOOL  
3 ACADEMY, AND IF THE TERMS OF THAT COLLECTIVE BARGAINING AGREEMENT  
4 ARE INCONSISTENT WITH THIS SUBSECTION, THEN THIS SUBSECTION DOES  
5 NOT APPLY TO THAT SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR  
6 PUBLIC SCHOOL ACADEMY UNTIL AFTER THE EXPIRATION OF THAT COLLECTIVE  
7 BARGAINING AGREEMENT.

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

24 (6) ~~—(5)—~~ All of the following apply to a person described in  
25 this section whose conviction is reversed upon final appeal:

26 (a) The person's state board approval shall be reinstated upon  
27 his or her notification to the superintendent of public instruction



1 of the reversal.

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

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

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

1 sentence imposed on the person **NOT LATER THAN 7 DAYS AFTER THE DATE**  
 2 **OF THE SENTENCING, EVEN IF THE COURT IS MAINTAINING THE FILE AS A**  
 3 **NONPUBLIC RECORD.** ~~A prosecuting attorney in charge of a case in~~  
 4 ~~which a person is convicted of a crime described in subsection (1)~~  
 5 ~~or (2), and a court that convicts a person of a crime described in~~  
 6 ~~subsection (1) or (2) shall inquire whether the person holds state~~  
 7 ~~board approval. The superintendent of public instruction shall make~~  
 8 ~~available to prosecuting attorneys and courts a list of school~~  
 9 ~~occupations that commonly require state board approval.~~

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

25 (9) ~~(8)~~ If the superintendent of a school district or  
 26 intermediate school district, the chief administrative officer of a  
 27 nonpublic school, the president of the board of a school district

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

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

18 (11) ~~—(10)—~~ For any hearing under subsection (1), if the  
19 superintendent of public instruction does not complete the hearing  
20 procedures and make a final decision and order within 120 working  
21 days after receiving the request for the hearing, as required under  
22 subsection (1), the superintendent of public instruction shall  
23 submit a report detailing the reasons for the delay to the standing  
24 committees and appropriations subcommittees of the senate and house  
25 of representatives that have jurisdiction over education and  
26 education appropriations. The failure of the superintendent of  
27 public instruction to complete the hearing procedures and make a

1 final decision and order within this 120 working day time limit, or  
2 the failure of any other official or agency to meet a time limit  
3 prescribed in this section, does not affect the validity of an  
4 action taken under this section affecting a person's state board  
5 approval.

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

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

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

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

21 (d) Whether the action taken by the superintendent of public  
22 instruction was a summary suspension, suspension due to failure to  
23 request a hearing, suspension, revocation, or reinstatement of the  
24 state board approval.

25 (13) ~~-(12)- Not later than -6 months after the effective date~~  
26 ~~of the amendatory act that added this subsection~~ **OCTOBER 1, 2004**,  
27 the superintendent of public instruction shall submit to the

1 legislature an inventory report with information on all final  
2 actions taken under this section for the time period from June 23,  
3 1992 until ~~the effective date of the amendatory act that added~~  
4 ~~this subsection~~ **APRIL 1, 2004**. The report shall contain at least  
5 all of the information required in the quarterly report under  
6 subsection ~~-(11)-~~ **(12)** with respect to each person whose state  
7 board approval was affected during that time period. If the  
8 superintendent of public instruction determines that the  
9 information required for the report is not available for any  
10 portion of that time period, the superintendent of public  
11 instruction shall include with the report a detailed explanation of  
12 the information that is not available and the reasons why the  
13 information is not available.

14 **(14)** ~~-(13)-~~ This section does not do any of the following:

15 (a) Prohibit a person who holds state board approval from  
16 seeking monetary compensation from a school board or intermediate  
17 school board if that right is available under a collective  
18 bargaining agreement or another statute.

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

23 (c) Exempt a person who holds state board approval from the  
24 operation of section 1535a if the person holds a certificate  
25 subject to that section.

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

1       (15) ~~—(14)—~~ The superintendent of public instruction may  
2 promulgate, as necessary, rules to implement this section pursuant  
3 to the administrative procedures act of 1969, 1969 PA 306, MCL  
4 24.201 to 24.328.

5       (16) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL WORK WITH  
6 THE DEPARTMENT AND THE DEPARTMENT OF STATE POLICE TO DEVELOP AND  
7 IMPLEMENT AN AUTOMATED PROGRAM THAT DOES A MONTHLY COMPARISON OF  
8 THE DEPARTMENT'S LIST OF INDIVIDUALS HOLDING A TEACHING CERTIFICATE  
9 OR STATE BOARD APPROVAL WITH THE CONVICTION INFORMATION RECEIVED BY  
10 THE DEPARTMENT OF STATE POLICE, INCLUDING CONVICTIONS CONTAINED IN  
11 A NONPUBLIC RECORD. AFTER THIS AUTOMATED PROGRAM HAS BEEN DEVELOPED  
12 AND IMPLEMENTED, THE DEPARTMENT PROMPTLY SHALL NOTIFY THE ATTORNEY  
13 GENERAL AND THE STATE COURT ADMINISTRATIVE OFFICE THAT THE  
14 AUTOMATED PROGRAM HAS BEEN DEVELOPED AND IMPLEMENTED.

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

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

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

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

1 upon which the violation is based.

2 (D) ~~-(e)-~~ "State board approval" means a license, certificate,  
3 approval not requiring a teaching certificate, or other evidence of  
4 qualifications to hold a particular position in a school district  
5 or intermediate school district or in a nonpublic school, other  
6 than a teacher's certificate subject to section 1535a, that is  
7 issued to a person by the state board or the superintendent of  
8 public instruction under this act or a rule promulgated under this  
9 act.

10 Enacting section 1. This amendatory act does not take effect  
11 unless all of the following bills of the 93rd Legislature are  
12 enacted into law:

13 (a) Senate Bill No.\_\_\_\_ or House Bill No. (request no.  
14 03526'05).

15 (b) Senate Bill No.\_\_\_\_ or House Bill No. 4929(request no.  
16 03530'05).

17 (c) Senate Bill No.\_\_\_\_ or House Bill No. 4930(request no.  
18 03633'05).