

SENATE BILL No. 196

February 15, 2005, Introduced by Senators JELINEK, GARCIA, HARDIMAN, McMANUS, SWITALSKI, KUIPERS, CROPSEY, GOSCHKA and BIRKHOLZ and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending sections 1230, 1230a, and 1233 (MCL 380.1230, 380.1230a, and 380.1233), section 1230 as amended by 1993 PA 284, section 1230a as added by 1995 PA 83, and section 1233 as amended by 2000 PA 288.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1230. (1) Beginning with hiring for the 1993-94 school
2 year and subject to subsections (2), (4), and (5), upon an offer of
3 initial employment being made by the board of a school district,
4 local act school district, or intermediate school district or the
5 governing body of a public school academy or nonpublic school to an
6 individual for a position as a teacher or a school administrator or

1 for a position requiring state board approval, the district, public
2 school academy, or nonpublic school shall request from the criminal
3 records division of the department of state police a criminal
4 history check on the individual and, before employing the
5 individual as a regular employee, shall have received from the
6 department of state police the report described in subsection (8).

7 (2) If the board of a school district, local act school
8 district, or intermediate school district or the governing body of
9 a public school academy or nonpublic school determines it necessary
10 to employ an individual for a position described in subsection (1)
11 for a particular school year during that school year or within 30
12 days before the beginning of that school year, the board or
13 governing body may employ the individual as a conditional employee
14 under this subsection without first receiving the report described
15 in subsection (8) if all of the following apply:

16 (a) The board or governing body requests the criminal history
17 check required under subsection (1) before conditionally employing
18 the individual.

19 (b) The individual signs a statement that identifies all
20 crimes for which he or she has been convicted, if any, and agreeing
21 that, if the report described in subsection (8) is not the same as
22 the individual's statement, his or her employment contract will be
23 voidable at the option of the board or governing body. Not later
24 than July 28, 1993, the department shall develop and distribute to
25 districts and nonpublic schools a model form for the statement
26 required under this subdivision. The department shall make the
27 model form available to public school academies. A district, public

1 school academy, or nonpublic school shall use the model form for
2 the purposes of this subsection.

3 (3) If an individual is employed as a conditional employee
4 under subsection (2) and the report described in subsection (8) is
5 not the same as the individual's statement under subsection (2),
6 the board or governing body may void the individual's employment
7 contract. If an employment contract is voided under this
8 subsection, the individual's employment is terminated, a collective
9 bargaining agreement that would otherwise apply to the individual's
10 employment does not apply to the termination, and the district,
11 public school academy, or nonpublic school or the board or
12 governing body is not liable for the termination.

13 (4) For an applicant for a position as a substitute teacher,
14 instead of requesting a criminal history check under subsection
15 (1), a school district, local act school district, intermediate
16 school district, public school academy, or nonpublic school may use
17 a report received by another district, public school academy, or
18 nonpublic school or maintained by the department to confirm that
19 the individual does not have any criminal history. If that
20 confirmation is not available, subsection (1) applies to an
21 applicant for a position as a substitute teacher.

22 (5) If an applicant for a position described in subsection (1)
23 is being considered for employment in such a position by more than
24 1 school district, local act school district, intermediate school
25 district, public school academy, or nonpublic school and if the
26 applicant agrees in writing to allow a district, public school
27 academy, or nonpublic school to share the report described in

1 subsection (8) with another district, public school academy, or
2 nonpublic school, a district, public school academy, or nonpublic
3 school may satisfy the requirements of subsection (1) by obtaining
4 a copy of the report described in subsection (8) from another
5 district, public school academy, or nonpublic school.

6 (6) An applicant for a position described in subsection (1)
7 shall give written consent at the time of application for the
8 criminal records division of the department of state police to
9 conduct the criminal history check required under this section.

10 (7) A school district, local act school district, intermediate
11 school district, public school academy, or nonpublic school shall
12 make a request to the criminal records division of the department
13 of state police for a criminal history check required under this
14 section on a form and in a manner prescribed by the criminal
15 records division of the department of state police.

16 (8) Within 30 days after receiving a proper request by a
17 school district, local act school district, intermediate school
18 district, public school academy, or nonpublic school for a criminal
19 history check on an applicant under this section, the criminal
20 records division of the department of state police shall conduct
21 the criminal history check and, after conducting the criminal
22 history check and within that time period, provide a report of the
23 results of the criminal history check to the district, public
24 school academy, or nonpublic school. The report shall contain any
25 criminal history record information on the applicant maintained by
26 the criminal records division of the department of state police.

27 (9) Criminal history record information received from the

1 criminal records division of the department of state police under
2 subsection (8) shall be used by a school district, local act school
3 district, intermediate school district, public school academy, or
4 nonpublic school only for the purpose of evaluating an applicant's
5 qualifications for employment in the position for which he or she
6 has applied and for the purposes of subsection (3). A member of the
7 board of a district or of the governing body of a public school
8 academy or nonpublic school or an employee of a district, public
9 school academy, or nonpublic school shall not disclose the report
10 or its contents except any felony conviction or a misdemeanor
11 conviction involving sexual or physical abuse to any person who is
12 not directly involved in evaluating the applicant's qualifications
13 for employment. However, for the purposes of subsection (4), a
14 person described in this subsection may confirm to an employee of
15 another district, public school academy, or nonpublic school that a
16 report under subsection (8) has revealed that an individual does
17 not have any criminal history or may disclose that no report under
18 subsection (8) has been received concerning the individual, and for
19 the purposes of subsection (5), a person described in this
20 subsection may provide a copy of the report under subsection (8)
21 concerning the individual to an appropriate representative of
22 another district, public school academy, or nonpublic school. A
23 person who violates this subsection is guilty of a misdemeanor
24 punishable by a fine of not more than \$10,000.00, but is not
25 subject to the penalties under section 1804.

26 **(10) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS CURRENTLY**
27 **SERVING AS A MEMBER OF THE MICHIGAN SENATE OR HOUSE OF**

1 REPRESENTATIVES AND SERVES AS A SUBSTITUTE TEACHER AS A VOLUNTEER
2 WITHOUT PAY.

3 (11) ~~—(10)—~~ As used in this section:

4 (a) "Criminal history record information" means that term as
5 defined in section 1a of ~~Act No. 289 of the Public Acts of 1925,~~
6 ~~being section 28.241a of the Michigan Compiled Laws 1925 PA 289,~~
7 **MCL 28.241A.**

8 (b) "State board approval" means that term as defined in
9 section 1539b.

10 Sec. 1230a. (1) In addition to the criminal history check
11 required under section 1230, the board of a school district, local
12 act school district, or intermediate school district or the
13 governing body of a public school academy or nonpublic school shall
14 request the department of state police to conduct a criminal
15 records check through the federal bureau of investigation on an
16 applicant for, or an individual who is hired for, a position as a
17 teacher or a school administrator or a position requiring state
18 board approval. Except as provided in subsection (2), a board or
19 governing body shall not employ an individual in a position
20 described in this subsection until after the board or governing
21 body receives the results of the criminal records check. A board or
22 governing body requesting a criminal records check under this
23 section shall require the applicant or individual to submit his or
24 her fingerprints to the department of state police for that
25 purpose. The department of state police may charge a fee for
26 conducting the criminal records check. A board or governing body
27 shall require an individual to submit his or her fingerprints for

1 the purposes of this section only at the time the individual
2 initially applies for employment with the board or governing body
3 or is initially employed by the board or governing body.

4 (2) If the board of a school district, local act school
5 district, or intermediate school district or the governing body of
6 a public school academy or nonpublic school determines it necessary
7 to employ an individual for a position described in subsection (1)
8 for a particular school year during that school year or within 30
9 days before the beginning of that school year, the board or
10 governing body may employ the individual as a conditional employee
11 under this subsection without first receiving the results of the
12 criminal records check under subsection (1) if all of the following
13 apply:

14 (a) The board or governing body requests the criminal records
15 check under subsection (1) before conditionally employing the
16 individual.

17 (b) The individual signs a statement that identifies all
18 crimes for which he or she has been convicted, if any, and agreeing
19 that, if the results of the criminal records check under subsection
20 (1) reveal information that is inconsistent with the individual's
21 statement, his or her employment contract will be voidable at the
22 option of the board or governing body. Not later than September 30,
23 1995, the department shall develop and distribute to districts and
24 nonpublic schools a model form for the statement required under
25 this subdivision. The department shall make the model form
26 available to public school academies. A district, public school
27 academy, or nonpublic school shall use the model form for the

1 purposes of this subsection.

2 (3) If an individual is employed as a conditional employee
3 under subsection (2) and the results of the criminal records check
4 under subsection (1) reveal information that is inconsistent with
5 the individual's statement under subsection (2), the board or
6 governing body may void the individual's employment contract. If an
7 employment contract is voided under this subsection, the
8 individual's employment is terminated, a collective bargaining
9 agreement that would otherwise apply to the individual's employment
10 does not apply to the termination, and the district, public school
11 academy, or nonpublic school or the board or governing body is not
12 liable for the termination.

13 (4) For an applicant for a position as a substitute teacher,
14 instead of requesting a criminal records check under subsection
15 (1), a school district, local act school district, intermediate
16 school district, public school academy, or nonpublic school may use
17 results received by another district, public school academy, or
18 nonpublic school or maintained by the department to confirm that
19 the individual does not have any criminal history. If that
20 confirmation is not available, subsection (1) applies to an
21 applicant for a position as a substitute teacher.

22 (5) If an applicant for a position described in subsection (1)
23 is being considered for employment in such a position by more than
24 1 school district, local act school district, intermediate school
25 district, public school academy, or nonpublic school and if the
26 applicant agrees in writing to allow a district, public school
27 academy, or nonpublic school to share the results of the criminal

1 records check with another district, public school academy, or
2 nonpublic school, then a district, public school academy, or
3 nonpublic school may satisfy the requirements of subsection (1) by
4 obtaining a copy of the results of the criminal records check from
5 another district, public school academy, or nonpublic school.

6 (6) An applicant for a position described in subsection (1)
7 shall give written consent at the time of application for the
8 criminal records division of the department of state police to
9 conduct the criminal records check required under this section.

10 (7) A school district, local act school district, intermediate
11 school district, public school academy, or nonpublic school shall
12 make a request to the department of state police for a criminal
13 records check under this section on a form and in a manner
14 prescribed by the department of state police.

15 (8) The results of a criminal records check under this section
16 shall be used by a school district, local act school district,
17 intermediate school district, public school academy, or nonpublic
18 school only for the purpose of evaluating an individual's
19 qualifications for employment in the position for which he or she
20 has applied and for the purposes of subsections (3), (4), and (5).
21 A member of the board of a district or of the governing body of a
22 public school academy or nonpublic school or an employee of a
23 district, public school academy, or nonpublic school shall not
24 disclose those results, except any felony conviction or a
25 misdemeanor conviction involving sexual or physical abuse, to any
26 person who is not directly involved in evaluating the individual's
27 qualifications for employment. However, for the purposes of

1 subsections (4) and (5), a person described in this subsection may
2 provide a copy of the results under subsection (1) concerning the
3 individual to an appropriate representative of another district,
4 public school academy, or nonpublic school. A person who violates
5 this subsection is guilty of a misdemeanor punishable by a fine of
6 not more than \$10,000.00, but is not subject to the penalties under
7 section 1804.

8 (9) Within 30 days after receiving a proper request by a
9 school district, local act school district, intermediate school
10 district, public school academy, or nonpublic school for a criminal
11 records check on an individual under this section, the criminal
12 records division of the department of state police shall initiate
13 the criminal records check. After conducting the criminal records
14 check for a school district, local act school district,
15 intermediate school district, or public school academy, the
16 criminal records division of the department of state police shall
17 provide the results of the criminal records check to the district
18 or public school academy. After conducting the criminal records
19 check for a nonpublic school, the criminal records division of the
20 department of state police shall notify the nonpublic school of
21 whether or not the criminal records check disclosed any criminal
22 history that is not disclosed in the report on the individual
23 provided to the nonpublic school under section 1230.

24 **(10) THIS SECTION DOES NOT APPLY TO A PERSON WHO IS CURRENTLY**
25 **SERVING AS A MEMBER OF THE MICHIGAN SENATE OR HOUSE OF**
26 **REPRESENTATIVES AND SERVES AS A SUBSTITUTE TEACHER AS A VOLUNTEER**
27 **WITHOUT PAY.**

1 (11) ~~(10)~~ As used in this section, "state board approval"
2 means that term as defined in section 1539b.

3 Sec. 1233. (1) Except as otherwise provided by law, the board
4 of a school district or intermediate school board of an
5 intermediate school district shall not permit a teacher who does
6 not hold a valid teaching certificate to teach in a grade or
7 department of the school.

8 (2) The board of a school district or intermediate school
9 board of an intermediate school district shall not allow an
10 individual to serve in a counseling role in the school district or
11 intermediate school district, as the role is defined by the
12 superintendent of public instruction, unless the individual meets 1
13 or more of the following and the board or intermediate school board
14 complies with subsection (7):

15 (a) The individual holds a valid teaching certificate with a
16 school counseling endorsement.

17 (b) The individual meets all of the following:

18 (i) Holds a master's degree awarded after completion of an
19 approved school counselor education program that includes at least
20 all of the following skills and content areas or their equivalent:

21 (A) Guidance services--philosophy, principles, and practices.

22 (B) Individual and group analysis--nature and range of human
23 characteristics and appraisal methods.

24 (C) Guidance information--vocational development theory,
25 educational and occupational information.

26 (D) Counseling theory and practice--individual and group
27 procedures, administration and coordination relationships,

1 professional relationships, and ethics.

2 (E) Supervised experiences--laboratory, practicum, or
3 internship.

4 (F) Evaluation--statistics and research methodology, follow-up
5 evaluation, and measurement methods.

6 (ii) Has successfully completed the department's guidance
7 counselor examination.

8 (iii) Has been recommended by an approved school counselor
9 education program to provide services as a school counselor.

10 (c) The individual meets both of the following:

11 (i) Has at least 5 years of successful experience serving in a
12 school counseling role in another state within the immediately
13 preceding 7-year period.

14 (ii) Has successfully completed the department's guidance
15 counselor examination.

16 (3) The intermediate superintendent shall notify the
17 superintendent of public instruction immediately of the names of
18 noncertificated teachers teaching in violation of subsection (1)
19 and the names of individuals serving in counseling roles in
20 violation of subsection (2), the employing district, and the amount
21 of time the noncertificated teachers or unqualified individuals
22 were employed.

23 (4) A vocational teacher preparation institution shall utilize
24 the employment experience of an annually authorized teacher for the
25 purpose of waiving student teaching as a requirement for vocational
26 certification if the annually authorized teacher is supervised by
27 the teacher preparation institution.

1 (5) All vocational education teachers certified after June 1,
2 1995 shall pass a competency test.

3 (6) The board of a school district or intermediate school
4 district may employ **OR ASSIGN** a person without a teaching
5 certificate **TO SERVE** as a substitute teacher if the person ~~has~~
6 **MEETS AT LEAST 1 OF THE FOLLOWING:**

7 **(A) HAS** at least 90 semester hours of college credit from a
8 college or university.

9 **(B) IS CURRENTLY SERVING AS A MEMBER OF THE MICHIGAN SENATE OR**
10 **HOUSE OF REPRESENTATIVES AND SERVES AS A SUBSTITUTE TEACHER AS A**
11 **VOLUNTEER WITHOUT PAY. A PERSON DESCRIBED IN THIS SUBDIVISION IS**
12 **NOT REQUIRED TO HOLD A SUBSTITUTE TEACHER PERMIT IN ORDER TO SERVE**
13 **AS A SUBSTITUTE TEACHER.**

14 (7) If the board of a school district or intermediate school
15 board of an intermediate school district chooses to employ an
16 individual who does not hold a valid teaching certificate to serve
17 in a counseling role, as permitted under subsection (2), the school
18 board or intermediate school board shall comply with sections 1230
19 and 1230a with respect to that individual to the same extent as
20 required for employing a person with a teaching certificate to
21 serve as a teacher.