

Act No. 130
Public Acts of 2005
Approved by the Governor
September 28, 2005
Filed with the Secretary of State
September 29, 2005
EFFECTIVE DATE: January 1, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005**

Introduced by Reps. Palmer, Gosselin, Hoogendyk, Stahl, Drolet, Vander Veen, Gaffney, Taub and Acciavatti

ENROLLED HOUSE BILL No. 4928

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 1535a and 1539b (MCL 380.1535a and 380.1539b), as amended by 2004 PA 51, and by adding sections 1230f and 1230g.

The People of the State of Michigan enact:

Sec. 1230f. The department of information technology shall work with the department of state police to establish a system for the department of state police to save and maintain in its automated fingerprint identification system (AFIS) database all fingerprints that are submitted to the department of state police under sections 1230a and 1230g. If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under section 1230a or 1230g and stored in the AFIS database, the department of state police shall notify the department.

Sec. 1230g. (1) Not later than July 1, 2008, the board of a school district or intermediate school district, the board of directors of a public school academy, or the governing body of a nonpublic school shall do both of the following for each individual who, as of January 1, 2006, is either a full-time or part-time employee of the school district, intermediate school district, public school academy, or nonpublic school or is assigned to regularly and continuously work under contract in any of its schools:

(a) Request from the criminal records division of the department of state police a criminal history check on the individual.

(b) Request the department of state police to conduct a criminal records check on the individual through the federal bureau of investigation. The board, board of directors, or governing board shall require the individual to submit his or her fingerprints to the department of state police for the purposes of this subdivision. The department of state police may charge a fee for conducting the criminal records check.

(2) For an individual employed or working under contract as a substitute teacher, instead of requesting a criminal history check and criminal records check under subsection (1), a school district, intermediate school district, public school academy, or nonpublic school may use results received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to the individual.

(3) If an individual described in subsection (1) is employed by or working under contract in more than 1 school district, intermediate school district, public school academy, or nonpublic school and if the individual agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal history check or criminal records check with another district, public school academy, or nonpublic school, then a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the results of the criminal history check or criminal records check from another district, public school academy, or nonpublic school.

(4) An individual described in subsection (1) shall give written consent for the criminal records division of the department of state police to conduct the criminal history check and criminal records check required under this section and shall submit his or her fingerprints to the department of state police for the purposes of the criminal records check.

(5) A school district, intermediate school district, public school academy, or nonpublic school shall make a request to the department of state police for the criminal history check and criminal records check under this section on a form and in a manner prescribed by the department of state police.

(6) The results of a criminal history check and criminal records check under this section shall be used by a school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual's qualifications for employment or assignment in his or her position and for the purposes of subsections (2) and (3). A member of the board of a school district or intermediate school district, of the board of directors of a public school academy, or of the governing body of a nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose those results, except any felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person who is not directly involved in evaluating the individual's qualifications for employment or assignment. However, for the purposes of subsections (2) and (3), a person described in this subsection may provide a copy of the results under subsection (1) concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804.

(7) Within 30 days after receiving a proper request by a school district, intermediate school district, public school academy, or nonpublic school for a criminal history check and criminal records check on an individual under this section, the criminal records division of the department of state police shall do both of the following:

(a) Conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district, public school academy, or nonpublic school. The report shall contain any criminal history record information on the individual that is maintained by the criminal records division of the department of state police.

(b) Initiate the criminal records check through the federal bureau of investigation. After conducting the criminal records check required under this section for a school district, intermediate school district, or public school academy, the criminal records division of the department of state police shall provide the results of the criminal records check to the district or public school academy. After conducting the criminal records check required under this section for a nonpublic school, the criminal records division of the department of state police shall notify the nonpublic school of whether or not the criminal records check disclosed any criminal history that is not disclosed in the criminal history check report on the individual provided to the nonpublic school under subdivision (a).

(8) If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (7) disclose that an individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (7) disclose that an individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school each specifically approve the employment or work assignment in writing. As used in this subsection, "listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

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

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

- (a) Any felony.
- (b) Any of the following misdemeanors:
 - (i) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.
 - (ii) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.
 - (iii) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.
 - (iv) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.
 - (v) A violation of section 115, 141a, 145a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.
 - (vi) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.
 - (vii) Any misdemeanor that is a listed offense.
- (c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

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

- (a) Criminal sexual conduct in any degree, assault with intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct in any degree.
- (b) Felonious assault on a child, child abuse in the first degree, or an attempt to commit child abuse in the first degree.
- (c) Cruelty, torture, or indecent exposure involving a child.
- (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410, or 7416 of the public health code, 1978 PA 368, MCL 333.7401, 333.7403, 333.7410, and 333.7416.
- (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316, 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316, 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.
- (f) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.
- (g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.
- (h) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.
- (i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.
- (j) An attempt or conspiracy to commit an offense listed in subdivision (a), (e), (f), (g), (h), or (i).
- (k) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.
- (l) Any other crime listed in subsection (1), if the superintendent of public instruction determines the public health, safety, or welfare requires emergency action based on the circumstances underlying the conviction.

(3) The superintendent of public instruction after a hearing shall not take action against a person's teaching certificate under subsection (1) or (2) unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's teaching certificate under

subsection (1) or (2) based on a conviction that occurred before the effective date of the amendatory act that added this subsection if the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state.

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not to suspend or revoke the person's teaching certificate. If the superintendent of public instruction does not suspend or revoke the person's teaching certificate, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest. However, if a collective bargaining agreement is in effect as of the effective date of this subsection for employees of a school district, intermediate school district, or public school academy, and if the terms of that collective bargaining agreement are inconsistent with this subsection, then this subsection does not apply to that school district, intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) Except as otherwise provided in this subsection, after the completion of a person's sentence, the person may request a hearing before the superintendent of public instruction on reinstatement of his or her teaching certificate. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's teaching certificate. The superintendent of public instruction shall not reinstate a person's teaching certificate unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's teaching certificate will not adversely affect the health, safety, and welfare of pupils. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the person's teaching certificate under this subsection.

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

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

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

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case 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 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.

(8) Not later than 7 days after receiving notification from the prosecuting attorney or the court under subsection (7) or learning through an authoritative source that a person who holds a teaching certificate has been convicted of a crime listed in subsection (1), the superintendent of public instruction shall request the court to provide a certified copy of the judgment of conviction and sentence or other document regarding the disposition of the case to the superintendent of public instruction and shall pay any fees required by the court. The court shall provide this certified copy within 7 days after receiving the request and fees under this section or after entry of the judgment or other document, whichever is later, even if the court is maintaining the judgment or other document as a nonpublic record.

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

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an

elementary or secondary school and is sufficient grounds for suspension or revocation of the person's teaching certificate.

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

(12) Beginning July 1, 2004, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's teaching certificate during the preceding quarter. The report shall contain at least all of the following with respect to each person whose teaching certificate has been affected:

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

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

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

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

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

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

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds a teaching certificate.

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

(15) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval with the conviction information received by the department of state police. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

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

(b) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(c) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

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

(a) Any felony.

(b) Any of the following misdemeanors:

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

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

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

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

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

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

(vii) Any misdemeanor that is a listed offense.

(c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

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

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

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

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

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

(e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316, 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316, 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d.

(f) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(h) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(i) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(j) An attempt or conspiracy to commit an offense listed in subdivision (a), (e), (f), (g), (h), or (i).

(k) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.

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

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

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not

to suspend or revoke the person's state board approval. If the superintendent of public instruction does not suspend or revoke the person's state board approval, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest. However, if a collective bargaining agreement is in effect as of the effective date of this subsection for employees of a school district, intermediate school district, or public school academy, and if the terms of that collective bargaining agreement are inconsistent with this subsection, then this subsection does not apply to that school district, intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) Except as otherwise provided in this subsection, after the completion of the person's sentence, the person may request a hearing before the superintendent of public instruction on reinstatement of his or her state board approval. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's state board approval. The superintendent of public instruction shall not reinstate a person's state board approval unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's state board approval will not adversely affect the health, safety, and welfare of pupils. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the person's state board approval under this subsection.

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

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

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

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case 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 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.

(8) Not later than 7 days after receiving notification from the prosecuting attorney or the court under subsection (7) or learning through an authoritative source that a person who holds state board approval has been convicted of a crime listed in subsection (1), the superintendent of public instruction shall request the court to provide a certified copy of the judgment of conviction and sentence or other document regarding the disposition of the case to the superintendent of public instruction and shall pay any fees required by the court. The court shall provide this certified copy within 7 days after receiving the request and fees under this section or after entry of the judgment or other document, whichever is later, even if the court is maintaining the judgment or other document as a nonpublic record.

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

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

(11) For any hearing under subsection (1), if the superintendent of public instruction does not complete the hearing procedures and make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to complete the hearing procedures and make a final decision and order within this 120 working day time limit, or the

failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's state board approval.

(12) Beginning July 1, 2004, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's state board approval during the preceding quarter. The report shall contain at least all of the following with respect to each person whose state board approval has been affected:

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

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

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

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

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

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

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

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

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

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

(15) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval with the conviction information received by the department of state police. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

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

(b) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(c) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

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

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

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

(a) Senate Bill No. 601.

(b) Senate Bill No. 609.

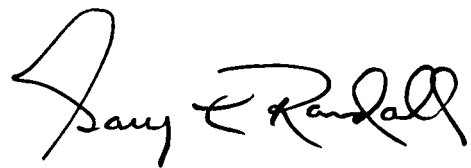
(c) Senate Bill No. 611.

(d) House Bill No. 4402.

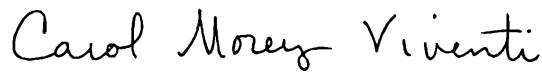
(e) House Bill No. 4930.

(f) House Bill No. 4991.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor