

# SENATE BILL No. 1350

May 28, 2008, Introduced by Senators WHITMER, KUIPERS, CHERRY, VAN WOERKOM, CASSIS and GLEASON and referred to the Committee on Education.

A bill to require certain background checks for certain public school employees, applicants for employment, and contractors; to provide for disclosure of certain records and reports; to provide for certain powers and duties of certain state and local officials; and to require certain reports and disclosures and prescribe penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. As used in this act:

2           (a) "At the school" means in a classroom at the school,  
3 elsewhere on school property, or on a school bus or other school-  
4 related vehicle under the control of the school.

5           (b) "Criminal history record information" means that term as  
6 defined in section 1a of 1925 PA 289, MCL 28.241a.

7           (c) "Department" means the department of education.

1 (d) "Felony" means that term as defined in section 1 of  
2 chapter I of the code of criminal procedure, 1927 PA 175, MCL  
3 761.1.

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

6 (f) "Regularly and continuously work under contract" means any  
7 of the following:

8 (i) To work at the school on a more than intermittent or  
9 sporadic basis as an owner or employee of an entity that has a  
10 contract with the school to provide food, custodial,  
11 transportation, counseling, or administrative services, or to  
12 provide instructional services to pupils or related and auxiliary  
13 services to special education pupils.

14 (ii) To work at the school on a more than intermittent or  
15 sporadic basis as an individual under a contract with the school to  
16 provide food, custodial, transportation, counseling, or  
17 administrative services, or to provide instructional services to  
18 pupils or related and auxiliary services to special education  
19 pupils.

20 (g) "Revised school code" means the revised school code, 1976  
21 PA 451, MCL 380.1 to 380.1852.

22 (h) "School" means the Michigan schools for the deaf and  
23 blind.

24 (i) "School employer" means the school or a school district,  
25 intermediate school district, public school academy, or nonpublic  
26 school, as those terms are defined under the revised school code.

27 (j) "School property" means a building, facility, structure,

1 or real property owned, leased, or otherwise controlled by the  
2 school, other than a building, facility, structure, or real  
3 property that is no longer in use on a permanent or continuous  
4 basis, to which either of the following applies:

5 (i) It is used to impart educational instruction.

6 (ii) It is for use by students not more than 19 years of age  
7 for sports or other recreational activities.

8 Sec. 3. (1) Except as otherwise provided in this section, upon  
9 an offer of initial employment being made by the school to an  
10 individual for any full-time or part-time employment or when school  
11 officials learn that an individual is being assigned to regularly  
12 and continuously work under contract at the school, the school  
13 shall request from the criminal records division of the department  
14 of state police a criminal history check on the individual and,  
15 before employing the individual as a regular employee or allowing  
16 the individual to regularly and continuously work under contract at  
17 the school, shall have received from the department of state police  
18 the report described in subsection (8).

19 (2) If the school administrator of the school determines it  
20 necessary to hire an individual or to allow an individual to  
21 regularly and continuously work under contract for a particular  
22 school year during that school year or within 30 days before the  
23 beginning of that school year, the school may employ the individual  
24 as a conditional employee or conditionally allow the individual to  
25 regularly and continuously work under contract under this  
26 subsection without first receiving the report described in  
27 subsection (8) if all of the following apply:

1 (a) The school requests the criminal history check required  
2 under subsection (1) before conditionally employing the individual  
3 or conditionally allowing the individual to regularly and  
4 continuously work under contract at the school.

5 (b) The individual signs a statement identifying all crimes  
6 for which he or she has been convicted, if any, and agreeing that,  
7 if the report described in subsection (8) is not the same as the  
8 individual's statement, his or her employment contract is voidable  
9 at the option of the school. The school shall use the model form  
10 developed by the department of education under section 1230 of the  
11 revised school code, MCL 380.1230, for the purposes of this  
12 subsection.

13 (3) If an individual is employed as a conditional employee  
14 under subsection (2) and the report described in subsection (8) is  
15 not the same as the individual's statement under subsection (2),  
16 the school may void the individual's employment contract. If an  
17 employment contract is voided under this subsection, the  
18 individual's employment is terminated, a collective bargaining  
19 agreement that would otherwise apply to the individual's employment  
20 does not apply to the termination, and the school or this state is  
21 not liable for the termination.

22 (4) For an applicant for a position as a substitute teacher,  
23 or for an individual who regularly and continuously works under  
24 contract at more than 1 school employer, if the applicant or  
25 individual agrees in writing to allow another school employer that  
26 has received a report of the results of a criminal history check  
27 conducted on the applicant or individual under the revised school

1 code to share the results of the criminal history check with the  
2 school, then instead of requesting a criminal history check under  
3 subsection (1), the school may use a report received by another  
4 school employer or maintained by the department to confirm that the  
5 applicant or individual does not have any criminal history. If that  
6 confirmation is not available, subsection (1) applies to the  
7 applicant or individual.

8 (5) If an applicant is being considered for employment by more  
9 than 1 school employer and if the applicant agrees in writing to  
10 allow a school employer to share the report described in subsection  
11 (8) with another school employer, the school may satisfy the  
12 requirements of subsection (1) by obtaining a copy of the report  
13 described in subsection (8) from another school employer.

14 (6) An applicant for employment shall give written consent at  
15 the time of application for the criminal records division of the  
16 department of state police to conduct the criminal history check  
17 required under this section.

18 (7) The school shall make a request to the criminal records  
19 division of the department of state police for a criminal history  
20 check required under this section on a form and in a manner  
21 prescribed by the criminal records division of the department of  
22 state police.

23 (8) Within 30 days after receiving a proper request by the  
24 school for a criminal history check on an individual under this  
25 section, the criminal records division of the department of state  
26 police shall conduct the criminal history check and, after  
27 conducting the criminal history check and within that time period,

1 provide a report of the results of the criminal history check to  
2 the school. The report shall contain any criminal history record  
3 information on the individual maintained by the criminal records  
4 division of the department of state police. The school shall retain  
5 that report in the individual's employment records.

6 (9) If the criminal history check required under this section  
7 has been completed for a particular individual and the results  
8 reported to the school as provided under this section, then another  
9 criminal history check is not required under this section for that  
10 individual as long as the individual remains employed with no  
11 separation from service by any school employer in this state or  
12 remains regularly and continuously working under contract with no  
13 separation from service for the same employer at any school  
14 employer in this state. For the purposes of this subsection, an  
15 employee is not considered to have a separation from service in any  
16 of the following circumstances:

17 (a) The employee is laid off or placed on a leave of absence  
18 by his or her employer and returns to active employment with the  
19 same employer within 1 year after being laid off or placed on the  
20 leave of absence.

21 (b) The employee transfers to another school employer and  
22 remains continuously employed by any school employer in this state.

23 (10) If an individual described in subsection (9) is an  
24 applicant for employment by another school employer than the one  
25 that originally received the results of the criminal history check  
26 or that currently is in possession of the results of the criminal  
27 history check, or is being assigned to regularly and continuously

1 work under contract at a different school employer than the one  
2 that originally received the results of the criminal history check  
3 or that currently is in possession of the results of the criminal  
4 history check, then all of the following apply:

5 (a) If the results of the individual's criminal history check  
6 have not already been forwarded to the new school employer, the new  
7 school employer shall request the school employer that has the  
8 results to forward them to the new school employer. Upon receipt of  
9 such a request, a school employer that has the results shall  
10 forward them to the requesting school employer.

11 (b) If the results of the individual's criminal history check  
12 are not received by the new school employer under this subsection  
13 or otherwise, then this section applies to the individual to the  
14 same extent as if he or she has had a separation from service.

15 (c) If the results of the individual's criminal history check  
16 are received by the new school employer under this subsection or  
17 otherwise, then that school employer shall perform a criminal  
18 history check on that individual using the department of state  
19 police's internet criminal history access tool (ICHAT), ensuring  
20 that this criminal history check is based on the personal  
21 identifying information, including at least the individual's name,  
22 sex, and date of birth, that was associated with the results  
23 received from the previous school employer.

24 (d) If the search of the department of state police's ICHAT  
25 under subdivision (c) reveals that the individual has been  
26 convicted of a listed offense, then the school employer shall take  
27 steps to verify that information using public records and, if the

1 information is verified using public records, shall not employ the  
2 individual in any capacity and shall not allow the individual to  
3 regularly and continuously work under contract at any of its  
4 schools. If a search of the department of state police's ICHAT  
5 under subdivision (c) reveals that the individual has been  
6 convicted of a felony other than a listed offense, then the school  
7 employer shall take steps to verify that information using public  
8 records and, if the information is verified using public records,  
9 shall not employ the individual in any capacity or allow the  
10 individual to regularly and continuously work under contract at any  
11 of its schools unless the superintendent or chief administrator and  
12 the board or governing body, if any, of the school employer each  
13 specifically approves the employment or work assignment in writing.

14 (11) Subsection (1) does not apply to an individual who is  
15 being employed by or assigned to regularly and continuously work  
16 under contract at the school if the individual is not more than 26  
17 years of age and is enrolled in special education programs or  
18 services at the school. However, before employing the individual or  
19 assigning the individual to regularly and continuously work under  
20 contract at the school, the school shall perform a criminal history  
21 check on that person using the department of state police's  
22 internet criminal history access tool (ICHAT). If a search of the  
23 department of state police's ICHAT reveals that the individual has  
24 been convicted of a listed offense, then the school administrator  
25 of the school shall take steps to verify that information using  
26 public records and, if the information is verified using public  
27 records, the school shall not employ the individual in any capacity

1 and shall not allow the individual to regularly and continuously  
2 work under contract at the school. If a search of the department of  
3 state police's ICHAT reveals that the individual has been convicted  
4 of a felony other than a listed offense, then the school shall take  
5 steps to verify that information using public records and, if the  
6 information is verified using public records, the school shall not  
7 employ the individual in any capacity or allow the individual to  
8 regularly and continuously work under contract at the school unless  
9 the school administrator of the school and the superintendent of  
10 public instruction each specifically approves the employment or  
11 work assignment in writing.

12 (12) For the purposes of subsection (11), the department shall  
13 provide to the school information on how to verify a conviction  
14 using public records.

15 Sec. 5. (1) In addition to the criminal history check required  
16 under section 3, the school shall request the department of state  
17 police to conduct a criminal records check through the federal  
18 bureau of investigation on an applicant for, or an individual who  
19 is hired for, any full-time or part-time employment or who is  
20 assigned to regularly and continuously work under contract at the  
21 school. Except as otherwise provided in this section, the school  
22 shall not employ an individual or allow an individual to regularly  
23 and continuously work under contract at the school until after the  
24 school receives the results of the criminal records check. When  
25 requesting a criminal records check under this section, the school  
26 shall require the individual to submit his or her fingerprints to  
27 the department of state police for that purpose. The department of

1 state police may charge a fee for conducting the criminal records  
2 check. Subject to section 7, the school shall require an individual  
3 to submit his or her fingerprints for the purposes of this section  
4 only at the time the individual initially applies for employment  
5 with the school or is initially employed by the school or is  
6 initially assigned to regularly and continuously work under  
7 contract at the school.

8 (2) If the school administrator of the school determines it  
9 necessary to hire an individual or to allow an individual to  
10 regularly and continuously work under contract for a particular  
11 school year during that school year or within 30 days before the  
12 beginning of that school year, the school may employ the individual  
13 as a conditional employee or conditionally allow the individual to  
14 regularly and continuously work under contract under this  
15 subsection without first receiving the results of the criminal  
16 records check under subsection (1) if all of the following apply:

17 (a) The school requests the criminal records check under  
18 subsection (1) before conditionally employing the individual or  
19 conditionally allowing the individual to regularly and continuously  
20 work under contract at the school.

21 (b) The individual signs a statement identifying all crimes  
22 for which he or she has been convicted, if any, and agreeing that,  
23 if the results of the criminal records check under subsection (1)  
24 reveal information that is inconsistent with the individual's  
25 statement, his or her employment contract is voidable at the option  
26 of the school. The school shall use the model form developed by the  
27 department of education under section 1230a of the revised school

1 code, MCL 380.1230a, for the 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 school may  
6 void the individual's employment contract. If an employment  
7 contract is voided under this subsection, the individual's  
8 employment is terminated, a collective bargaining agreement that  
9 would otherwise apply to the individual's employment does not apply  
10 to the termination, and the school or this state is not liable for  
11 the termination.

12 (4) For an applicant for a position as a substitute teacher,  
13 or for an individual who regularly and continuously works under  
14 contract at more than 1 school employer, if the applicant or  
15 individual agrees in writing to allow another school employer that  
16 has received the results of a criminal records check conducted on  
17 the applicant or individual under the revised school code to share  
18 the results of the criminal records check with the school, then  
19 instead of requesting a criminal records check under subsection  
20 (1), the school may use results received by another school employer  
21 or maintained by the department to confirm that the applicant or  
22 individual does not have any criminal history. If that confirmation  
23 is not available, subsection (1) applies to the applicant or  
24 individual.

25 (5) If an applicant is being considered for employment by more  
26 than 1 school employer and if the applicant agrees in writing to  
27 allow a school employer to share the results of the criminal

1 history check with another school employer, the school may satisfy  
2 the requirements of subsection (1) by obtaining a copy of the  
3 results of the criminal history check from another school employer.

4 (6) An applicant for employment shall give written consent at  
5 the time of application for the criminal records division of the  
6 department of state police to conduct the criminal records check  
7 required under this section.

8 (7) The school shall make a request to the department of state  
9 police for a criminal records check under this section on a form  
10 and in a manner prescribed by the department of state police.

11 (8) Within 30 days after receiving a proper request by the  
12 school for a criminal records check on an individual under this  
13 section, the criminal records division of the department of state  
14 police shall initiate the criminal records check through the  
15 federal bureau of investigation. After conducting the criminal  
16 records check required under this section for the school, the  
17 criminal records division of the department of state police shall  
18 provide the results of the criminal records check to the school.  
19 The school shall retain those results in the individual's  
20 employment records.

21 (9) If the criminal records check required under this section  
22 has been completed for a particular individual and the results  
23 reported to the school as provided under this section, then another  
24 criminal records check is not required under this section for that  
25 individual as long as the individual remains employed with no  
26 separation from service by any school employer in this state or  
27 remains regularly and continuously working under contract with no

1 separation from service for the same employer at any school  
2 employer in this state. For the purposes of this subsection, an  
3 employee is not considered to have a separation from service in any  
4 of the following circumstances:

5 (a) The employee is laid off or placed on a leave of absence  
6 by his or her employer and returns to active employment with the  
7 same employer within 1 year after being laid off or placed on the  
8 leave of absence.

9 (b) The employee transfers to another school employer and  
10 remains continuously employed by any school employer in this state.

11 (10) If an individual described in subsection (9) is an  
12 applicant for employment by another school employer than the one  
13 that originally received the results of the criminal records check  
14 or that currently is in possession of the results of the criminal  
15 records check, or is being assigned to regularly and continuously  
16 work under contract at a different school employer than the one  
17 that originally received the results of the criminal records check  
18 or that currently is in possession of the results of the criminal  
19 records check, then all of the following apply:

20 (a) If the results of the individual's criminal records check  
21 have not already been forwarded to the new school employer, the new  
22 school employer shall request the school employer that has the  
23 results to forward them to the new school employer. Upon receipt of  
24 such a request, a school employer that has the results shall  
25 forward them to the requesting school employer.

26 (b) If the results of the individual's criminal records check  
27 are not received by the new school employer under this subsection

1 or otherwise, then this section applies to the individual to the  
2 same extent as if he or she has had a separation from service.

3 (11) Subsection (1) does not apply to an individual who is  
4 being employed by or assigned to regularly and continuously work  
5 under contract at the school if the individual is not more than 26  
6 years of age and is enrolled in special education programs or  
7 services at the school. However, before employing the individual or  
8 assigning the individual to regularly and continuously work under  
9 contract at the school, the school shall perform a criminal history  
10 check on that person using the department of state police's  
11 internet criminal history access tool (ICHAT). If a search of the  
12 department of state police's ICHAT reveals that the individual has  
13 been convicted of a listed offense, then the school administrator  
14 of the school shall take steps to verify that information using  
15 public records and, if the information is verified using public  
16 records, the school shall not employ the individual in any capacity  
17 and shall not allow the individual to regularly and continuously  
18 work under contract at the school. If a search of the department of  
19 state police's ICHAT reveals that the individual has been convicted  
20 of a felony other than a listed offense, then the school shall take  
21 steps to verify that information using public records and, if the  
22 information is verified using public records, the school shall not  
23 employ the individual in any capacity or allow the individual to  
24 regularly and continuously work under contract at the school unless  
25 the school administrator of the school and the superintendent of  
26 public instruction each specifically approves the employment or  
27 work assignment in writing.

1           (12) For the purposes of subsection (11), the department shall  
2 provide to the school information on how to verify a conviction  
3 using public records.

4           Sec. 7. (1) Not later than July 1, 2008, the school shall do  
5 both of the following for each individual who, as of March 1, 2008,  
6 is either a full-time or part-time employee of the school or is  
7 assigned to regularly and continuously work under contract at the  
8 school and who either is still a full-time or part-time employee of  
9 the school on the date that the criminal history and criminal  
10 records checks under this section are initiated or is still  
11 assigned to regularly and continuously work under contract at the  
12 school on the date that the criminal history and criminal records  
13 checks under this section are initiated:

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

17           (b) Request the department of state police to conduct a  
18 criminal records check on the individual through the federal bureau  
19 of investigation. The school shall require the individual to submit  
20 his or her fingerprints to the department of state police for the  
21 purposes of this subdivision. The department of state police may  
22 charge a fee for conducting the criminal records check.

23           (2) For an individual employed or regularly and continuously  
24 working under contract as a substitute teacher at the school, or  
25 for an individual who regularly and continuously works under  
26 contract at more than 1 school employer, if the individual agrees  
27 in writing to allow another school employer to share with the

1 school the results of a criminal history check or criminal records  
2 check conducted on the individual under the revised school code,  
3 then instead of requesting a criminal history check and criminal  
4 records check under subsection (1), the school may use results  
5 received by another school employer to confirm that the individual  
6 does not have any criminal history. Alternatively, the school may  
7 use results maintained by the department to confirm that the  
8 individual does not have any criminal history. If confirmation is  
9 not available from any of these sources, subsection (1) applies to  
10 the individual.

11 (3) If an individual described in subsection (1) is employed  
12 by or regularly and continuously working under contract at more  
13 than 1 school employer and if the individual agrees in writing to  
14 allow a school employer to share the results of the criminal  
15 history check and criminal records check with another school  
16 employer, then the school may satisfy the requirements of  
17 subsection (1) by obtaining a copy of the results of the criminal  
18 history check and criminal records check from another school  
19 employer.

20 (4) An individual described in subsection (1) shall give  
21 written consent for the criminal records division of the department  
22 of state police to conduct the criminal history check and criminal  
23 records check required under this section and shall submit his or  
24 her fingerprints to the department of state police for the purposes  
25 of the criminal records check. If an individual does not comply  
26 with this subsection or otherwise fails to cooperate with the  
27 school as it is seeking to comply with subsection (1) concerning

1 the individual, then the school shall not employ the individual in  
2 any capacity and shall not allow the individual to regularly and  
3 continuously work under contract at the school.

4 (5) The school shall make a request to the department of state  
5 police for the criminal history check and criminal records check  
6 under this section on a form and in a manner prescribed by the  
7 department of state police.

8 (6) Within 30 days after receiving a proper request by the  
9 school for a criminal history check and criminal records check on  
10 an individual under this section, the criminal records division of  
11 the department of state police shall do both of the following:

12 (a) Conduct the criminal history check and, after conducting  
13 the criminal history check and within that time period, provide a  
14 report of the results of the criminal history check to the school.  
15 The report shall contain any criminal history record information on  
16 the individual that is maintained by the criminal records division  
17 of the department of state police. The school shall retain that  
18 report in the individual's employment records.

19 (b) Initiate the criminal records check through the federal  
20 bureau of investigation. After conducting the criminal records  
21 check required under this section for the school, the criminal  
22 records division of the department of state police shall provide  
23 the results of the criminal records check to the school. The school  
24 shall retain those results in the individual's employment records.

25 (7) If the criminal history check and criminal records check  
26 required under this section have been completed for a particular  
27 individual and the results reported to the school as provided under

1 this section, then another criminal history check or criminal  
2 records check is not required under this section for that  
3 individual as long as the individual remains employed with no  
4 separation from service by any school employer in this state or  
5 remains regularly and continuously working under contract with no  
6 separation from service at any school employer in this state. For  
7 the purposes of this subsection, an employee is not considered to  
8 have a separation from service in any of the following  
9 circumstances:

10 (a) The employee is laid off or placed on a leave of absence  
11 by his or her employer and returns to active employment with the  
12 same employer within 1 year after being laid off or placed on the  
13 leave of absence.

14 (b) The employee transfers to another school employer and  
15 remains continuously employed by any school employer in this state.

16 (8) Subsection (1) does not apply to an individual who is  
17 being employed by or assigned to regularly and continuously work  
18 under contract at the school if the individual is not more than 26  
19 years of age and is enrolled in special education programs or  
20 services at the school. However, before employing the individual or  
21 assigning the individual to regularly and continuously work under  
22 contract at the school, the school shall perform a criminal history  
23 check on that person using the department of state police's  
24 internet criminal history access tool (ICHAT). If a search of the  
25 department of state police's ICHAT reveals that the individual has  
26 been convicted of a listed offense, then the school shall take  
27 steps to verify that information using public records and, if the

1 information is verified using public records, the school shall not  
2 employ the individual in any capacity, as provided under section 9,  
3 and shall not allow the individual to regularly and continuously  
4 work under contract at the school. If a search of the department of  
5 state police's ICHAT reveals that the individual has been convicted  
6 of a felony other than a listed offense, then the school shall take  
7 steps to verify that information using public records and, if the  
8 information is verified using public records, the school shall not  
9 employ the individual in any capacity or allow the individual to  
10 regularly and continuously work under contract at the school unless  
11 the school administrator of the school and the superintendent of  
12 public instruction each specifically approves the employment or  
13 work assignment in writing.

14 (9) For the purposes of subsection (8), the department shall  
15 provide to the school information on how to verify a conviction  
16 using public records.

17 Sec. 9. (1) If a report received by the school under section  
18 3(8), 5(8), or 7(6) discloses that an individual has been convicted  
19 of a listed offense, then the school shall take steps to verify  
20 that information using public records and, if the information is  
21 verified, the school shall not employ the individual in any  
22 capacity and shall not allow the individual to regularly and  
23 continuously work under contract at the school. If a report  
24 received by the school under section 3(8), 5(8), or 7(6) discloses  
25 that an individual has been convicted of a felony other than a  
26 listed offense, then the school shall take steps to verify that  
27 information using public records and, if the information is

1 verified using public records, the school shall not employ the  
2 individual in any capacity or allow the individual to regularly and  
3 continuously work under contract at any of its schools unless the  
4 school administrator of the school and the superintendent of public  
5 instruction each specifically approves the employment or work  
6 assignment in writing. If the school receives results described in  
7 this subsection, within 60 days after receiving those results the  
8 school shall submit to the department in the form and manner  
9 prescribed by the department a report detailing the information and  
10 any action taken as a result by the school. The department shall  
11 maintain a copy of this report for at least 6 years.

12 (2) For the purposes of subsection (1) and section 13, the  
13 department shall make available to the school information on how to  
14 verify a conviction using public records.

15 Sec. 11. (1) Criminal history record information received from  
16 the criminal records division of the department of state police  
17 under section 3 or 7 or results of a criminal records check under  
18 section 5 or 7 shall be used by the school only for the purpose of  
19 evaluating an individual's qualifications for employment or  
20 assignment in the position for which he or she has applied or been  
21 assigned. Except as otherwise provided under this act, an employee  
22 or official of the school or of the department shall not disclose  
23 the report or its contents received under this act, except a  
24 misdemeanor conviction involving sexual or physical abuse or any  
25 felony conviction, to any person who is not directly involved in  
26 evaluating the individual's qualifications for employment or  
27 assignment. However, for the purposes of section 3(4), (5), and

1 (11), section 5(4), (5), and (11), or section 7(2) and (3), a  
2 person described in this subsection may provide a copy of the  
3 results received under this section concerning the individual to an  
4 appropriate representative of another school employer. For an  
5 individual who is regularly and continuously working under  
6 contract, if the individual agrees in writing, the school may  
7 provide a copy of the results received under this section  
8 concerning the individual to an appropriate representative of the  
9 individual's employer. A representative of the individual's  
10 employer who receives a copy of a report, or receives results of a  
11 report from another source as authorized by this subsection, shall  
12 not disclose the report or its contents or the results of the  
13 report to any person outside of the employer's business or to any  
14 of the employer's personnel who are not directly involved in  
15 evaluating the individual's qualifications for employment or  
16 assignment. A person who violates this section is guilty of a  
17 misdemeanor punishable by a fine of not more than \$10,000.00.

18 (2) As used in this section, "misdemeanor conviction involving  
19 sexual or physical abuse" includes, but is not limited to, a  
20 misdemeanor conviction for a listed offense; a misdemeanor  
21 conviction for violation of section 617a of the Michigan vehicle  
22 code, 1949 PA 300, MCL 257.617a; a misdemeanor conviction for  
23 violation of section 701 of the Michigan liquor control code of  
24 1998, 1998 PA 58, MCL 436.1701; a misdemeanor conviction for  
25 violation of section 81, 81a, 81c, 90c, 136b, 141a, 145, 145d,  
26 145n, 233, 335a, or 411h of the Michigan penal code, 1931 PA 328,  
27 MCL 750.81, 750.81a, 750.81c, 750.90c, 750.136b, 750.141a, 750.145,

1 750.145d, 750.145n, 750.233, 750.335a, and 750.411h; a misdemeanor  
2 conviction of section 6 of 1979 PA 53, MCL 752.796; or a  
3 misdemeanor conviction for violation of a substantially similar law  
4 of another state, of a political subdivision of this state or  
5 another state, or of the United States.

6       Sec. 13. If a school official of the school has notice from an  
7 authoritative source that an individual has been convicted of a  
8 listed offense, the school administrator of the school shall take  
9 steps to verify that information using public records and, if the  
10 information is verified using public records, the school shall not  
11 employ that individual in any capacity or allow that person to  
12 regularly and continuously work under contract at the school. If  
13 the school receives notice described in this subsection, within 60  
14 days after receiving that notice the school shall submit to the  
15 department in the form and manner prescribed by the department a  
16 report detailing the information received and any action taken as a  
17 result by the school. The department shall maintain a copy of this  
18 report for at least 6 years.

19       Sec. 15. (1) If a person who is employed in any capacity by  
20 the school, who has applied for a position with the school and has  
21 had an initial criminal history check under section 3 or criminal  
22 records check under section 5, or who is regularly and continuously  
23 working under contract at the school is charged with a crime listed  
24 in section 1535a(1) or 1539b(1) of the revised school code, MCL  
25 380.1535a and 380.1539b, or a violation of a substantially similar  
26 law of another state, a political subdivision of this state or  
27 another state, or of the United States, the person shall report to

1 the department and to the school that he or she has been charged  
2 with the crime. All of the following apply to this reporting  
3 requirement:

4 (a) The person shall make the report on a form prescribed by  
5 the department.

6 (b) The person shall submit the report to the department and  
7 to the school administrator of the school.

8 (c) The person shall submit the report within 3 business days  
9 after being arraigned for the crime.

10 (2) If a person who is employed in any capacity by or is  
11 regularly and continuously working under contract at the school  
12 enters a plea of guilty or no contest to or is the subject of a  
13 finding of guilt by a judge or jury of any crime after having been  
14 initially charged with a crime described in section 1535a(1) or  
15 1539b(1) of the revised school code, MCL 380.1535a and 380.1539b,  
16 then the person immediately shall disclose to the court, on a form  
17 prescribed by the state court administrative office, that he or she  
18 is employed by or regularly and continuously working under contract  
19 at the school. The person shall immediately provide a copy of the  
20 form to the prosecuting attorney in charge of the case, to the  
21 superintendent of public instruction, and to the school  
22 administrator of the school.

23 (3) A person who violates subsection (1) or (2) is guilty of a  
24 crime, as follows:

25 (a) If the person violates either subsection (1) or (2) and  
26 the crime involved in the violation is a misdemeanor that is a  
27 listed offense or is a felony, the person is guilty of a felony

1 punishable by imprisonment for not more than 2 years or a fine of  
2 not more than \$2,000.00, or both.

3 (b) If the person violates either subsection (1) or (2) and  
4 the crime involved in the violation is a misdemeanor that is not a  
5 listed offense, the person is guilty of a misdemeanor punishable by  
6 imprisonment for not more than 1 year or a fine of not more than  
7 \$1,000.00, or both.

8 (4) A person who violates subsection (1) or (2) may be  
9 discharged from his or her employment or have his or her contract  
10 terminated. If the school administrator of the school finds, after  
11 providing notice and the opportunity for a hearing, that a person  
12 employed by the school has violated subsection (1) or (2), the  
13 school may discharge the person from his or her employment.  
14 However, if a collective bargaining agreement that applies to the  
15 affected person is in effect as of May 1, 2008, and if that  
16 collective bargaining agreement is not in compliance with this  
17 subsection, then this subsection does not apply until after the  
18 expiration of that collective bargaining agreement.

19 (5) If a person submits a report that he or she has been  
20 charged with a crime, as required under subsection (1), and the  
21 person is subsequently not convicted of any crime after the  
22 completion of judicial proceedings resulting from that charge, then  
23 the person may request the department and the school to delete the  
24 report from its records concerning the person. Upon receipt of the  
25 request from the person and of documentation verifying that the  
26 person was not convicted of any crime after the completion of  
27 judicial proceedings resulting from that charge, the department or

1 the school shall delete the report from its records concerning the  
2 person.

3 (6) If the prosecuting attorney in charge of a case receives a  
4 form as provided under subsection (2), the prosecuting attorney  
5 shall notify the superintendent of public instruction and the  
6 school administrator of the school by forwarding a copy of the form  
7 to each of them not later than 7 days after receiving the form. If  
8 the court receives a form as provided under subsection (2), the  
9 court shall notify the superintendent of public instruction and the  
10 school administrator of the school by forwarding to each of them a  
11 copy of the form and information regarding the sentence imposed on  
12 the person not later than 7 days after the date of sentencing, even  
13 if the court is maintaining the file as a nonpublic record.

14 (7) If the school receives a report under this section of a  
15 conviction, within 60 days after receiving the report the school  
16 shall submit to the department in the form and manner prescribed by  
17 the department a report detailing the information received and any  
18 action taken as a result by the school. The department shall  
19 maintain a copy of this report for at least 6 years.

20 Sec. 17. (1) A record prepared by a state agency under this  
21 act is exempt from disclosure under the freedom of information act,  
22 1976 PA 442, MCL 15.231 to 15.246. However, subject to subsections  
23 (2) and (3), a record described in this subsection is only exempt  
24 from disclosure as provided in this subsection until the expiration  
25 of 15 business days after the date the record is received by the  
26 school.

27 (2) If information described in subsection (1) is determined

1 during the 15-business-day exemption period to be inaccurate, then  
2 that information is exempt from disclosure under the freedom of  
3 information act, 1976 PA 442, MCL 15.231 to 15.246.

4 (3) After the 15-business-day exemption period under  
5 subsection (1), all of the following apply:

6 (a) A state agency shall disclose information in a record  
7 described in subsection (1) if the information concerns a  
8 conviction that is the type of conviction that is allowed to be  
9 disclosed to the public under section 11.

10 (b) If the information concerns a type of conviction other  
11 than a conviction described in subdivision (a), the information is  
12 exempt from disclosure under the freedom of information act, 1976  
13 PA 442, MCL 15.231 to 15.246. However, a state agency shall  
14 disclose the information to the public upon request, except that  
15 the state agency shall ensure that the information does not include  
16 any personal identifying information.

17 (4) This section does not affect any other rights, duties, or  
18 exemptions under the freedom of information act, 1976 PA 442, MCL  
19 15.231 to 15.246, or under any other law.

20 Sec. 19. Not later than July 1, 2008, the department shall  
21 include in its list of registered educational personnel all  
22 individuals who are employed by the school and all individuals who  
23 are assigned to regularly and continuously work under contract at  
24 the school.

25 Sec. 21. The department of information technology shall work  
26 with the department of state police to establish a system for the  
27 department of state police to save and maintain in its automated

1 fingerprint identification system (AFIS) database all fingerprints  
2 that are submitted to the department of state police under this  
3 act. If a criminal arrest fingerprint card is subsequently  
4 submitted to the department of state police and matches against a  
5 fingerprint that was submitted under this act and stored in the  
6 AFIS database, the department of state police shall notify the  
7 department.