

# HOUSE BILL No. 5786

April 12, 2018, Introduced by Reps. Clemente, Pagan, Hoadley, Iden, Hauck, Greimel, Geiss, Chang, Kesto, Rendon and Hornberger and referred to the Committee on Law and Justice.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
(MCL 380.1 to 380.1852) by adding section 1230j.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 1230J. (1) IN ADDITION TO ANY OTHER EMPLOYMENT RECORDS  
2        MAINTAINED BY THE DEPARTMENT, THE DEPARTMENT SHALL PREPARE AND  
3        MAINTAIN A RECORD REGARDING THE REASON OR REASONS FOR, AND  
4        CIRCUMSTANCES SURROUNDING, A SEPARATION OF SERVICE FOR EACH  
5        INDIVIDUAL WHO IS EMPLOYED BY A SCHOOL DISTRICT, INTERMEDIATE  
6        SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY, OR WHO IS ASSIGNED TO  
7        REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN A PUBLIC SCHOOL,  
8        WHO SUBSEQUENTLY SEPARATES FROM THAT EMPLOYMENT OR ASSIGNMENT. THE  
9        INDIVIDUAL MAY REVIEW THE RECORD PREPARED AND MAINTAINED UNDER THIS

1 SUBSECTION.

2 (2) IF AN INDIVIDUAL DESCRIBED IN SUBSECTION (1) DISAGREES  
3 WITH THE ACCURACY OF THE CONTENTS OF THE RECORD PREPARED AND  
4 MAINTAINED UNDER SUBSECTION (1), HE OR SHE MAY REQUEST THE  
5 CORRECTION OR REMOVAL OF THE PORTION OF THE RECORD HE OR SHE  
6 BELIEVES IS INCORRECT. IF THE DEPARTMENT AND THE INDIVIDUAL CANNOT  
7 REACH AN AGREEMENT ON THE CONTENTS OF THE RECORD, THE INDIVIDUAL  
8 MAY SUBMIT A WRITTEN STATEMENT EXPLAINING HIS OR HER POSITION AND  
9 THE BASIS FOR HIS OR HER DISAGREEMENT. IF AN INDIVIDUAL SUBMITS A  
10 WRITTEN STATEMENT UNDER THIS SUBSECTION, IT MUST BE KEPT WITH THE  
11 RECORD PREPARED AND MAINTAINED UNDER SUBSECTION (1) AND PROVIDED  
12 WITH THE REST OF THE CONTENTS OF THE RECORD AS REQUIRED UNDER  
13 SUBSECTION (4).

14 (3) AN INDIVIDUAL DESCRIBED IN SUBSECTION (1) WHO SUBSEQUENTLY  
15 SEEKS TO BE REEMPLOYED BY A SCHOOL DISTRICT, INTERMEDIATE SCHOOL  
16 DISTRICT, OR PUBLIC SCHOOL ACADEMY, OR WHO SUBSEQUENTLY SEEKS TO BE  
17 ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN A  
18 PUBLIC SCHOOL, SHALL SIGN AND PROVIDE TO THE PROSPECTIVE EMPLOYER A  
19 WAIVER AUTHORIZING THE DEPARTMENT TO RELEASE THE RECORD PREPARED  
20 AND MAINTAINED UNDER SUBSECTION (1), IN A FORM AND MANNER  
21 PRESCRIBED BY THE DEPARTMENT. THE PROSPECTIVE EMPLOYER SHALL  
22 PROVIDE THE COMPLETED WAIVER TO THE DEPARTMENT.

23 (4) NOT LATER THAN 20 BUSINESS DAYS AFTER RECEIVING A WAIVER  
24 UNDER SUBSECTION (3), THE DEPARTMENT SHALL PROVIDE THE RECORD  
25 PREPARED AND MAINTAINED UNDER SUBSECTION (1) TO THE PROSPECTIVE  
26 EMPLOYER.

27 (5) A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, OR PUBLIC

1 SCHOOL ACADEMY SHALL NOT HIRE AN INDIVIDUAL DESCRIBED IN SUBSECTION  
2 (1), OR ALLOW AN INDIVIDUAL DESCRIBED IN SUBSECTION (1) TO BE  
3 ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN A  
4 PUBLIC SCHOOL, UNLESS THE INDIVIDUAL COMPLIES WITH SUBSECTION (3).

5 (6) IF THE DEPARTMENT, OR AN EMPLOYEE ACTING ON BEHALF OF THE  
6 DEPARTMENT, DISCLOSES A RECORD UNDER SUBSECTION (4) IN GOOD FAITH  
7 AFTER RECEIPT OF A WAIVER EXECUTED UNDER SUBSECTION (3), THE  
8 DEPARTMENT, OR AN EMPLOYEE ACTING ON BEHALF OF THE DEPARTMENT, IS  
9 IMMUNE FROM CIVIL LIABILITY FOR THE DISCLOSURE. THE DEPARTMENT, OR  
10 AN EMPLOYEE ACTING ON BEHALF OF THE DEPARTMENT, IS PRESUMED TO BE  
11 ACTING IN GOOD FAITH AT THE TIME OF A DISCLOSURE UNDER SUBSECTION  
12 (4) UNLESS A PREPONDERANCE OF THE EVIDENCE ESTABLISHES 1 OR MORE OF  
13 THE FOLLOWING:

14 (A) THAT THE DEPARTMENT, OR EMPLOYEE, KNEW THAT THE  
15 INFORMATION DISCLOSED WAS FALSE OR MISLEADING.

16 (B) THAT THE DEPARTMENT, OR EMPLOYEE, DISCLOSED THE  
17 INFORMATION WITH A RECKLESS DISREGARD FOR THE TRUTH.

18 (C) THAT THE DISCLOSURE WAS SPECIFICALLY PROHIBITED BY A STATE  
19 OR FEDERAL STATUTE.

20 Enacting section 1. This amendatory act takes effect 90 days  
21 after the date it is enacted into law.