

SENATE BILL NO. 787

October 5, 1999, Introduced by Senators GOSCHKA, BULLARD,
MC COTTER, HAMMERSTROM, SHUGARS, JAYE and JOHNSON and
referred to the Committee on Education.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1230. (1) ~~Beginning with hiring for the 1993-94~~
2 ~~school year and subject~~ SUBJECT to subsections (2), (4), and
3 (5), upon an offer of initial employment being made by the board
4 of a school district, local act school district, or intermediate
5 school district or the governing body of a public school academy
6 or nonpublic school to an individual for a position as a teacher,
7 ~~or a~~ school administrator, OR COACH OF AN INTERSCHOLASTIC
8 ATHLETIC ACTIVITY or for a position requiring state board
9 approval, the district, public school academy, or nonpublic

1 school shall request from the criminal records division of the
2 department of state police a criminal history check on the indi-
3 vidual and, before employing the individual as a regular employ-
4 ee, shall have received from the department of state police the
5 report described in subsection (8).

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

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

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

1 academies. A district, public school academy, or nonpublic
2 school shall use the model form for the purposes of this
3 subsection.

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

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

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

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

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

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

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

1 maintained by the criminal records division of the department of
2 state police.

3 (9) Criminal history record information received from the
4 criminal records division of the department of state police under
5 subsection (8) shall be used by a school district, local act
6 school district, intermediate school district, public school
7 academy, or nonpublic school only for the purpose of evaluating
8 an applicant's qualifications for employment in the position for
9 which he or she has applied and for the purposes of ~~subsection~~
10 SUBSECTIONS (3), (4), AND (5). A member of the board of a dis-
11 trict or of the governing body of a public school academy or non-
12 public school or an employee of a district, public school acade-
13 my, or nonpublic school shall not disclose the report or its con-
14 tents except any felony conviction or a misdemeanor conviction
15 involving sexual or physical abuse to any person who is not
16 directly involved in evaluating the applicant's qualifications
17 for employment. However, for the purposes of subsection (4), a
18 person described in this subsection may confirm to an employee of
19 another district, public school academy, or nonpublic school that
20 a report under subsection (8) has revealed that an individual
21 does not have any criminal history or may disclose that no report
22 under subsection (8) has been received concerning the individual,
23 and for the purposes of subsection (5), a person described in
24 this subsection may provide a copy of the report under
25 subsection (8) concerning the individual to an appropriate repre-
26 sentative of another district, public school academy, or
27 nonpublic school. A person who violates this subsection is

1 guilty of a misdemeanor punishable by a fine of not more than
2 \$10,000.00, but is not subject to the penalties under
3 section 1804.

4 (10) As used in this section:

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

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

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

1 conducting the criminal records check. A board or governing body
2 shall require an individual to submit his or her fingerprints for
3 the purposes of this section only at the time the individual ini-
4 tially applies for employment with the board or governing body or
5 is initially employed by the board or governing body.

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

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

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

1 department shall make the model form available to public school
2 academies. A district, public school academy, or nonpublic
3 school shall use the model form for the purposes of this
4 subsection.

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

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

25 (5) If an applicant for a position described in
26 subsection (1) is being considered for employment in such a
27 position by more than 1 school district, local act school

1 district, intermediate school district, public school academy, or
2 nonpublic school and if the applicant agrees in writing to allow
3 a district, public school academy, or nonpublic school to share
4 the results of the criminal records check with another district,
5 public school academy, or nonpublic school, then a district,
6 public school academy, or nonpublic school may satisfy the
7 requirements of subsection (1) by obtaining a copy of the results
8 of the criminal records check from another district, public
9 school academy, or nonpublic school.

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

14 (7) A school district, local act school district, intermedi-
15 ate school district, public school academy, or nonpublic school
16 shall make a request to the department of state police for a
17 criminal records check under this section on a form and in a
18 manner prescribed by the department of state police.

19 (8) The results of a criminal records check under this sec-
20 tion shall be used by a school district, local act school dis-
21 trict, intermediate school district, public school academy, or
22 nonpublic school only for the purpose of evaluating an
23 individual's qualifications for employment in the position for
24 which he or she has applied and for the purposes of
25 subsections (3), (4), and (5). A member of the board of a dis-
26 trict or of the governing body of a public school academy or
27 nonpublic school or an employee of a district, public school

1 academy, or nonpublic school shall not disclose those results,
2 except any felony conviction or a misdemeanor conviction involv-
3 ing sexual or physical abuse, to any person who is not directly
4 involved in evaluating the individual's qualifications for
5 employment. However, for the purposes of subsections (4) and
6 (5), a person described in this subsection may provide a copy of
7 the results under subsection (1) concerning the individual to an
8 appropriate representative of another district, public school
9 academy, or nonpublic school. A person who violates this subsec-
10 tion is guilty of a misdemeanor punishable by a fine of not more
11 than \$10,000.00, but is not subject to the penalties under
12 section 1804.

13 (9) Within 30 days after receiving a proper request by a
14 school district, local act school district, intermediate school
15 district, public school academy, or nonpublic school for a crimi-
16 nal records check on an individual under this section, the crimi-
17 nal records division of the department of state police shall ini-
18 tiate the criminal records check. After conducting the criminal
19 records check for a school district, local act school district,
20 intermediate school district, or public school academy, the crim-
21 inal records division of the department of state police shall
22 provide the results of the criminal records check to the district
23 or public school academy. After conducting the criminal records
24 check for a nonpublic school, the criminal records division of
25 the department of state police shall notify the nonpublic school
26 of whether or not the criminal records check disclosed any

1 criminal history that is not disclosed in the report on the
2 individual provided to the nonpublic school under section 1230.
3 (10) As used in this section, "state board approval" means
4 that term as defined in section 1539b.