

SENATE BILL No. 1478

November 9, 2004, Introduced by Senators ALLEN, PRUSI, GOSCHKA and BIRKHOZL
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~~ for a position requiring state
8 board approval, **or for a position providing special education**
9 **services directly to pupils**, the district, public school academy,

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

6 (2) If the board of a school district, local act school
7 district, or intermediate school district or the governing body
8 of a public school academy or nonpublic school determines it
9 necessary 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
13 conditional employee under this subsection without first
14 receiving the report described in subsection (8) if all of the
15 following apply:

16 (a) The board or governing body requests the criminal history
17 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
21 agreeing that, if the report described in subsection (8) is not
22 the same as the individual's statement, his or her employment
23 contract 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
20 department to confirm that the individual does not have any
21 criminal history. If that confirmation is not available,
22 subsection (1) applies to an applicant for a position as a
23 substitute teacher.

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

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

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

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

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

1 district, public school academy, or nonpublic school. The report
2 shall contain any criminal history record information on the
3 applicant maintained by the criminal records division of the
4 department of state police.

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

1 representative of another district, public school academy, or
2 nonpublic school. A person who violates this subsection is
3 guilty of a misdemeanor punishable by a fine of not more than
4 \$10,000.00, but is not subject to the penalties under
5 section 1804.

6 (10) As used in this section:

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

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

13 Sec. 1230a. (1) In addition to the criminal history check
14 required under section 1230, the board of a school district,
15 local act school district, or intermediate school district or the
16 governing body of a public school academy or nonpublic school
17 shall request the department of state police to conduct a
18 criminal records check through the federal bureau of
19 investigation on an applicant for, or an individual who is hired
20 for, a position as a teacher or a school administrator, ~~or~~ a
21 position requiring state board approval, **or a position providing**
22 **special education services directly to pupils.** Except as
23 provided in subsection (2), a board or governing body shall not
24 employ an individual in a position described in this subsection
25 until after the board or governing body receives the results of
26 the criminal records check. A board or governing body requesting
27 a criminal records check under this section shall require the

1 applicant or individual to submit his or her fingerprints to the
2 department of state police for that purpose. The department of
3 state police may charge a fee for conducting the criminal records
4 check. A board or governing body shall require an individual to
5 submit his or her fingerprints for the purposes of this section
6 only at the time the individual initially applies for employment
7 with the board or governing body or is initially employed by the
8 board or governing body.

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

19 (a) The board or governing body requests the criminal records
20 check under subsection (1) before conditionally employing the
21 individual.

22 (b) The individual signs a statement that identifies all
23 crimes for which he or she has been convicted, if any, and
24 agreeing that, if the results of the criminal records check under
25 subsection (1) reveal information that is inconsistent with the
26 individual's statement, his or her employment contract will be
27 voidable at the option of the board or governing body. ~~Not~~

1 ~~later than September 30, 1995, the~~ **The** department shall develop
2 and distribute to districts and nonpublic schools a model form
3 for the statement required under this subdivision. The
4 department shall make the model form available to public school
5 academies. A district, public school academy, or nonpublic
6 school shall use the model form for the purposes of this
7 subsection.

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

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

1 substitute teacher.

2 (5) If an applicant for a position described in
3 subsection (1) is being considered for employment in such a
4 position by more than 1 school district, local act school
5 district, intermediate school district, public school academy, or
6 nonpublic school and if the applicant agrees in writing to allow
7 a district, public school academy, or nonpublic school to share
8 the results of the criminal records check with another district,
9 public school academy, or nonpublic school, then a district,
10 public school academy, or nonpublic school may satisfy the
11 requirements of subsection (1) by obtaining a copy of the results
12 of the criminal records check from another district, public
13 school academy, or nonpublic school.

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

18 (7) A school district, local act school district,
19 intermediate school district, public school academy, or nonpublic
20 school shall make a request to the department of state police for
21 a criminal records check under this section on a form and in a
22 manner prescribed by the department of state police.

23 (8) The results of a criminal records check under this
24 section shall be used by a school district, local act school
25 district, intermediate school district, public school academy, or
26 nonpublic school only for the purpose of evaluating an
27 individual's qualifications for employment in the position for

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

17 (9) Within 30 days after receiving a proper request by a
18 school district, local act school district, intermediate school
19 district, public school academy, or nonpublic school for a
20 criminal records check on an individual under this section, the
21 criminal records division of the department of state police shall
22 initiate the criminal records check. After conducting the
23 criminal records check for a school district, local act school
24 district, intermediate school district, or public school academy,
25 the criminal records division of the department of state police
26 shall provide the results of the criminal records check to the
27 district or public school academy. After conducting the criminal

1 records check for a nonpublic school, the criminal records
2 division of the department of state police shall notify the
3 nonpublic school of whether or not the criminal records check
4 disclosed any criminal history that is not disclosed in the
5 report on the individual provided to the nonpublic school under
6 section 1230.

7 (10) As used in this section, "state board approval" means
8 that term as defined in section 1539b.