

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4402

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1230. (1) ~~Beginning with hiring for the 1993-94 school~~
2 ~~year and subject to subsections (2), (4), and (5)~~ **EXCEPT AS**
3 **OTHERWISE PROVIDED IN THIS SECTION**, upon an offer of initial
4 employment being made by the board of a school district ~~—, local~~
5 ~~act school district,~~ or intermediate school district or the
6 governing body of a public school academy or nonpublic school to an
7 individual for ~~a position as a teacher or a school administrator~~
8 ~~or for a position requiring state board approval~~ **ANY FULL-TIME OR**
9 **PART-TIME EMPLOYMENT OR WHEN SCHOOL OFFICIALS LEARN THAT AN**

1 **INDIVIDUAL IS BEING ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK**
 2 **UNDER CONTRACT IN ANY OF ITS SCHOOLS**, the district, public school
 3 academy, or nonpublic school shall request from the criminal
 4 records division of the department of state police a criminal
 5 history check on the individual and, before employing the
 6 individual as a regular employee **OR ALLOWING THE INDIVIDUAL TO**
 7 **REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS**
 8 **SCHOOLS**, shall have received from the department of state police
 9 the report described in subsection (8).

10 (2) If the board of a school district ~~—, local act school~~
 11 ~~district,~~ or intermediate school district or the governing body of
 12 a public school academy or nonpublic school determines it necessary
 13 to ~~employ~~ **HIRE** an individual ~~for a position described in~~
 14 ~~subsection (1)~~ for a particular school year during that school
 15 year or within 30 days before the beginning of that school year,
 16 the board or governing body may employ the individual as a
 17 conditional employee under this subsection without first receiving
 18 the report described in subsection (8) if all of the following
 19 apply:

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

23 (b) The individual signs a statement ~~that identifies~~
 24 **IDENTIFYING** all crimes for which he or she has been convicted, if
 25 any, and agreeing that, if the report described in subsection (8)
 26 is not the same as the individual's statement, his or her
 27 employment contract ~~will be~~ **IS** voidable at the option of the

1 board or governing body. ~~Not later than July 28, 1993, the~~ **THE**
2 department shall develop and distribute to districts and nonpublic
3 schools a model form for the statement required under this
4 subdivision. The department shall make the model form available to
5 public school academies. A district, public school academy, or
6 nonpublic 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 report described in subsection (8) is
10 not the same as the individual's statement under subsection (2),
11 the board or governing body may void the individual's employment
12 contract. If an employment contract is voided under this
13 subsection, the individual's employment is terminated, a collective
14 bargaining agreement that would otherwise apply to the individual's
15 employment does not apply to the termination, and the district,
16 public school academy, or nonpublic school or the board or
17 governing body is not liable for the termination.

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

27 (5) If an applicant ~~for a position described in subsection~~

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

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

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

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

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

6 **(9) IF THE REPORT RECEIVED BY A SCHOOL DISTRICT, INTERMEDIATE**
7 **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL UNDER**
8 **SUBSECTION (8) DISCLOSES THAT AN INDIVIDUAL HAS BEEN CONVICTED OF A**
9 **LISTED OFFENSE, THEN THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL**
10 **DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL NOT**
11 **EMPLOY THE INDIVIDUAL IN ANY CAPACITY, AS PROVIDED UNDER SECTION**
12 **1230C, AND SHALL NOT ALLOW THE INDIVIDUAL TO REGULARLY AND**
13 **CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS SCHOOLS. IF THE**
14 **REPORT RECEIVED BY A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,**
15 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL UNDER SUBSECTION (8)**
16 **DISCLOSES THAT AN INDIVIDUAL HAS BEEN CONVICTED OF A FELONY OTHER**
17 **THAN A LISTED OFFENSE, THEN THE SCHOOL DISTRICT, INTERMEDIATE**
18 **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL**
19 **NOT EMPLOY THE INDIVIDUAL IN ANY CAPACITY OR ALLOW THE INDIVIDUAL**
20 **TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS**
21 **SCHOOLS UNLESS THE SUPERINTENDENT OR CHIEF ADMINISTRATOR AND THE**
22 **BOARD OR GOVERNING BODY OF THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL**
23 **DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL EACH**
24 **SPECIFICALLY APPROVE THE EMPLOYMENT OR WORK ASSIGNMENT IN WRITING.**
25 **AS USED IN THIS SUBSECTION, "LISTED OFFENSE" MEANS THAT TERM AS**
26 **DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA**
27 **295, MCL 28.722.**

1 **(10)** ~~—(9)—~~ Criminal history record information received from
 2 the criminal records division of the department of state police
 3 under subsection (8) shall be used by a school district, ~~local act~~
 4 ~~school district,~~ intermediate school district, public school
 5 academy, or nonpublic school only for the purpose of evaluating an
 6 applicant's **INDIVIDUAL'S** qualifications for employment **OR**
 7 **ASSIGNMENT** in the position for which he or she has applied **OR BEEN**
 8 **ASSIGNED** and for the purposes of ~~subsection (3)~~ **SUBSECTIONS (3),**
 9 **(4), AND (5).** A member of the board of a district or of the
 10 governing body of a public school academy or nonpublic school or an
 11 employee of a district, public school academy, or nonpublic school
 12 shall not disclose the report or its contents, except any felony
 13 conviction or a misdemeanor conviction involving sexual or physical
 14 abuse, to any person who is not directly involved in evaluating the
 15 applicant's qualifications for employment **OR ASSIGNMENT.** However,
 16 for the purposes of ~~subsection (4)~~ **SUBSECTIONS (4) AND (5),** a
 17 person described in this subsection may confirm to an employee of
 18 another district, public school academy, or nonpublic school that a
 19 report under subsection (8) has revealed that an individual does
 20 not have any criminal history or may disclose that no report under
 21 subsection (8) has been received concerning the individual, and for
 22 the purposes of subsection (5), a person described in this
 23 subsection may provide a copy of the report under subsection (8)
 24 concerning the individual to an appropriate representative of
 25 another district, public school academy, or nonpublic school. A
 26 person who violates this subsection is guilty of a misdemeanor
 27 punishable by a fine of not more than \$10,000.00, but is not

House Bill No. 4402 (S-1) as amended September 13, 2005
 subject to the penalties under section 1804.

(11) ~~-(10)-~~ As used in this section, ~~-(a)-~~ "Criminal
 "CRIMINAL history record information" means that term as defined in
 section 1a of ~~Act No. 289 of the Public Acts of 1925, being~~
~~section 28.241a of the Michigan Compiled Laws~~ 1925 PA 289, MCL
 28.241A.

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

SEC. 1230C. (1) IF A SCHOOL OFFICIAL OF A SCHOOL DISTRICT,
 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC
 SCHOOL HAS NOTICE [FROM AN AUTHORITATIVE SOURCE] THAT AN INDIVIDUAL HAS
 BEEN CONVICTED OF A LISTED
 OFFENSE, THE BOARD OF THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL
 DISTRICT, BOARD OF DIRECTORS OF THE PUBLIC SCHOOL ACADEMY, OR
 GOVERNING BOARD OF THE NONPUBLIC SCHOOL SHALL NOT EMPLOY THAT
 INDIVIDUAL IN ANY CAPACITY OR ALLOW THAT PERSON TO REGULARLY AND
 CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS SCHOOLS.

(2) AS USED IN THIS SECTION, "LISTED OFFENSE" MEANS THAT TERM
 AS DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994
 PA 295, MCL 28.722.

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) House Bill No. 4928.

(b) House Bill No. 4930.

(c) House Bill No. 4991.

- 1 (d) Senate Bill No. 601.
- 2 (e) Senate Bill No. 609.
- 3 (f) Senate Bill No. 611.