

HOUSE BILL No. 4004

January 27, 2005, Introduced by Rep. Caswell 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 school~~
2 ~~year and subject~~ **SUBJECT** to subsections (2), (4), and (5), upon an
3 offer of initial employment being made by the board of a school
4 district, local act school district, or intermediate school
5 district or the governing body of a public school academy or
6 nonpublic school to an individual for a position as a teacher or a

1 school administrator or for a position requiring state board
2 approval, the district, public school academy, or nonpublic school
3 shall request from the criminal records division of the department
4 of state police a criminal history check on the individual and,
5 before employing the individual as a regular employee, shall have
6 received from the department of state police the report described
7 in subsection (8).

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

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

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

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

4 (3) If an individual is employed as a conditional employee
5 under subsection (2) and the report described in subsection (8) is
6 not the same as the individual's statement under subsection (2),
7 the board or governing body may void the individual's employment
8 contract. If an employment contract is voided under this
9 subsection, the individual's employment is terminated, a collective
10 bargaining agreement that would otherwise apply to the individual's
11 employment does not apply to the termination, and the district,
12 public school academy, or nonpublic school or the board or
13 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 subsection
16 (1), a school district, local act school district, intermediate
17 school district, public school academy, or nonpublic school may use
18 a report received by another district, public school academy, or
19 nonpublic school or maintained by the department to confirm that
20 the individual does not have any criminal history. ~~If~~ **EXCEPT AS**
21 **OTHERWISE PROVIDED IN SUBSECTION (10), IF** that confirmation is not
22 available, subsection (1) applies to an applicant for a position as
23 a substitute teacher.

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

1 applicant agrees in writing to allow a district, public school
2 academy, or nonpublic school to share the report described in
3 subsection (8) with another district, public school academy, or
4 nonpublic school, a district, public school academy, or nonpublic
5 school may satisfy the requirements of subsection (1) by obtaining
6 a copy of the report described in subsection (8) from another
7 district, public school academy, or 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, intermediate
13 school district, public school academy, or nonpublic school shall
14 make a request to the criminal records division of the department
15 of state police for a criminal history check required under this
16 section on a form and in a manner prescribed by the criminal
17 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 criminal
21 history check on an applicant under this section, the criminal
22 records division of the department of state police shall conduct
23 the criminal history check and, after conducting the criminal
24 history check and within that time period, provide a report of the
25 results of the criminal history check to the district, public
26 school academy, or nonpublic school. The report shall contain any
27 criminal history record information on the applicant maintained by

1 the criminal records division of the department of state police.

2 (9) Criminal history record information received from the
3 criminal records division of the department of state police under
4 subsection (8) shall be used by a school district, local act school
5 district, intermediate school district, public school academy, or
6 nonpublic school only for the purpose of evaluating an applicant's
7 qualifications for employment in the position for which he or she
8 has applied and for the purposes of subsection (3). A member of the
9 board of a district or of the governing body of a public school
10 academy or nonpublic school or an employee of a district, public
11 school academy, or nonpublic school shall not disclose the report
12 or its contents except any felony conviction or a misdemeanor
13 conviction involving sexual or physical abuse to any person who is
14 not directly involved in evaluating the applicant's qualifications
15 for employment. However, for the purposes of subsection (4), a
16 person described in this subsection may confirm to an employee of
17 another district, public school academy, or nonpublic school that a
18 report under subsection (8) has revealed that an individual does
19 not have any criminal history or may disclose that no report under
20 subsection (8) has been received concerning the individual, and for
21 the purposes of subsection (5), a person described in this
22 subsection may provide a copy of the report under subsection (8)
23 concerning the individual to an appropriate representative of
24 another district, public school academy, or nonpublic school. A
25 person who violates this subsection is guilty of a misdemeanor
26 punishable by a fine of not more than \$10,000.00, but is not
27 subject to the penalties under section 1804.

1 (10) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL HIRED AS A
2 SUBSTITUTE TEACHER IF THAT INDIVIDUAL MEETS ALL OF THE FOLLOWING:

3 (A) WAS EMPLOYED AS A TEACHER BY A SCHOOL DISTRICT, LOCAL ACT
4 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
5 ACADEMY, OR NONPUBLIC SCHOOL AND HAS RETIRED FROM THAT EMPLOYMENT.

6 (B) IS HIRED AS A SUBSTITUTE TEACHER WITHIN 3 MONTHS AFTER HIS
7 OR HER RETIREMENT EFFECTIVE DATE.

8 (11) ~~—(10)—~~ As used in this section:

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

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

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

1 section shall require the applicant or individual to submit his or
2 her fingerprints to the department of state police for that
3 purpose. The department of state police may charge a fee for
4 conducting the criminal records check. A board or governing body
5 shall require an individual to submit his or her fingerprints for
6 the purposes of this section only at the time the individual
7 initially applies for employment with the board or governing body
8 or is initially employed by the 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 of
11 a public school academy or nonpublic school determines it necessary
12 to employ an individual for a position described in subsection (1)
13 for a particular school year during that school year or within 30
14 days before the beginning of that school year, the board or
15 governing body may employ the individual as a conditional employee
16 under this subsection without first receiving the results of the
17 criminal records check under subsection (1) if all of the following
18 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 agreeing
24 that, if the results of the criminal records check under subsection
25 (1) reveal information that is inconsistent with the individual's
26 statement, his or her employment contract will be voidable at the
27 option of the board or governing body. ~~Not later than September~~

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

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

18 (4) For an applicant for a position as a substitute teacher,
19 instead of requesting a criminal records 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 results 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—~~ **EXCEPT AS**
25 **OTHERWISE PROVIDED IN SUBSECTION (10), IF** that confirmation is not
26 available, subsection (1) applies to an applicant for a position as
27 a substitute teacher.

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

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

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

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

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

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

1 history that is not disclosed in the report on the individual
2 provided to the nonpublic school under section 1230.

3 (10) THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL HIRED AS A
4 SUBSTITUTE TEACHER IF THAT INDIVIDUAL MEETS ALL OF THE FOLLOWING:

5 (A) WAS EMPLOYED AS A TEACHER BY A SCHOOL DISTRICT, LOCAL ACT
6 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
7 ACADEMY, OR NONPUBLIC SCHOOL AND HAS RETIRED FROM THAT EMPLOYMENT.

8 (B) IS HIRED AS A SUBSTITUTE TEACHER WITHIN 3 MONTHS AFTER HIS
9 OR HER RETIREMENT EFFECTIVE DATE.

10 (11) ~~—(10)—~~ As used in this section, "state board approval"
11 means that term as defined in section 1539b.