

HOUSE BILL No. 4402

February 24, 2005, Introduced by Reps. Hansen, Rocca, Booher, Pearce, Gosselin, Proos, Pavlov, Elsenheimer, Moore, David Law, Kahn, Green, Amos, Mortimer, Cushingberry, Nitz, Jones, Taub, Walker, Stewart, Vander Veen, Casperson, Ball, Schuitmaker, Sheltroun, Tobocman and Lemmons, III 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
7 school administrator, ~~or~~ for a position requiring state board

1 approval, **OR FOR A POSITION PROVIDING SPECIAL EDUCATION SERVICES**
2 **DIRECTLY TO PUPILS**, the district, public school academy, or
3 nonpublic school shall request from the criminal records division
4 of the department of state police a criminal history check on the
5 individual and, before employing the individual as a regular
6 employee, shall have received from the department of state police
7 the report described 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 distribute
26 to districts and nonpublic schools a model form for the statement
27 required under this subdivision. The department shall make the

1 model form available to public school academies. A district, public
2 school academy, or nonpublic school shall use the model form for
3 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 that
21 confirmation is not available, subsection (1) applies to an
22 applicant for a position as a substitute teacher.

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

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

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

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

17 (8) 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 criminal
20 history check on an applicant under this section, the criminal
21 records division of the department of state police shall conduct
22 the criminal history check and, after conducting the criminal
23 history check and within that time period, provide a report of the
24 results of the criminal history check to the district, public
25 school academy, or nonpublic school. The report shall contain any
26 criminal history record information on the applicant maintained by
27 the criminal records division of the department of state police.

1 (9) IF THE RESULTS OF A CRIMINAL HISTORY CHECK REQUESTED UNDER
2 THIS SECTION REVEAL THAT THE APPLICANT HAS BEEN CONVICTED OF A
3 FELONY OR OF A MISDEMEANOR INVOLVING SEXUAL OR PHYSICAL ABUSE, THE
4 SCHOOL DISTRICT, LOCAL ACT SCHOOL DISTRICT, INTERMEDIATE SCHOOL
5 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL THAT REQUESTED
6 THE CRIMINAL HISTORY CHECK SHALL PROVIDE THE APPLICANT WITH WRITTEN
7 NOTICE THAT THE RESULTS OF THE CRIMINAL HISTORY CHECK INDICATE THAT
8 THE APPLICANT HAS BEEN CONVICTED OF A FELONY OR OF A MISDEMEANOR
9 INVOLVING SEXUAL OR PHYSICAL ABUSE.

10 (10) ~~(9)~~ Criminal history record information received from
11 the criminal records division of the department of state police
12 under subsection (8) shall be used by a school district, local act
13 school district, intermediate school district, public school
14 academy, or nonpublic school only for the purpose of evaluating an
15 applicant's qualifications for employment in the position for which
16 he or she has applied and for the purposes of subsection (3) **OR**
17 **(9)**. A member of the board of a district or of the governing body
18 of a public school academy or nonpublic school or an employee of a
19 district, public school academy, or nonpublic school shall not
20 disclose the report or its contents except any felony conviction or
21 a misdemeanor conviction involving sexual or physical abuse to any
22 person, **OTHER THAN THE APPLICANT**, who is not directly involved in
23 evaluating the applicant's qualifications for employment. However,
24 for the purposes of subsection (4), a person described in this
25 subsection may confirm to an employee of another district, public
26 school academy, or nonpublic school that a report under subsection
27 (8) has revealed that an individual does not have any criminal

1 history or may disclose that no report under subsection (8) has
2 been received concerning the individual, and for the purposes of
3 subsection (5), a person described in this subsection may provide a
4 copy of the report under subsection (8) concerning the individual
5 to an appropriate representative of another district, public school
6 academy, or nonpublic school. A person who violates this subsection
7 is guilty of a misdemeanor punishable by a fine of not more than
8 \$10,000.00, but is not subject to the penalties under section 1804.

9 (11) ~~(10)~~ As used in this section:

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

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

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

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

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

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

24 (b) The individual signs a statement that identifies all
25 crimes for which he or she has been convicted, if any, and agreeing
26 that, if the results of the criminal records check under subsection
27 (1) reveal information that is inconsistent with the individual's

1 statement, his or her employment contract will be voidable at the
2 option of the board or governing body. Not later than September 30,
3 1995, the department shall develop and distribute to districts and
4 nonpublic schools a model form for the statement required under
5 this subdivision. The department shall make the model form
6 available to public school academies. A district, public school
7 academy, or nonpublic school shall use the model form for the
8 purposes of this subsection.

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

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

1 applicant for a position as a substitute teacher.

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

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

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

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

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

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

1 whether or not the criminal records check disclosed any criminal
2 history that is not disclosed in the report on the individual
3 provided to the nonpublic school under section 1230.

4 (10) IF THE RESULTS OF A CRIMINAL RECORDS CHECK REQUESTED
5 UNDER THIS SECTION REVEAL THAT AN INDIVIDUAL HAS BEEN CONVICTED OF
6 A FELONY OR OF A MISDEMEANOR INVOLVING SEXUAL OR PHYSICAL ABUSE,
7 THE SCHOOL DISTRICT, LOCAL ACT SCHOOL DISTRICT, INTERMEDIATE SCHOOL
8 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL THAT REQUESTED
9 THE CRIMINAL RECORDS CHECK SHALL PROVIDE THE INDIVIDUAL WITH
10 WRITTEN NOTICE THAT THE RESULTS OF THE CRIMINAL RECORDS CHECK
11 INDICATE THAT THE INDIVIDUAL HAS BEEN CONVICTED OF A FELONY OR OF A
12 MISDEMEANOR INVOLVING SEXUAL OR PHYSICAL ABUSE.

13 (11) ~~(10)~~ As used in this section, "state board approval"
14 means that term as defined in section 1539b.