

HOUSE BILL No. 4620

April 18, 2001, Introduced by Reps. Shackleton, Vander Veen, Voorhees, Kuipers, Faunce and Van Woerkom 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 to subsections (2), (4), and (5)~~ EXCEPT
3 AS 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 gov-
6 erning 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
9 OR PART-TIME EMPLOYMENT, the district, public school academy, or

1 nonpublic school shall request from the criminal records division
2 of the department of state police a criminal history check on the
3 individual and, before employing the individual as a regular
4 employee, shall have received from the department of state police
5 the 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~~ HIRE 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~~
20 IDENTIFYING all crimes for which he or she has been convicted, if
21 any, and agreeing that, if the report described in subsection (8)
22 is not the same as the individual's statement, his or her employ-
23 ment contract ~~will be~~ IS voidable at the option of the board or
24 governing body. ~~Not later than July 28, 1993, the~~ THE depart-
25 ment shall develop and distribute to districts and nonpublic
26 schools a model form for the statement required under this
27 subdivision. The department shall make the model form available

1 to public school academies. A district, public school academy,
2 or nonpublic school shall use the model form for the purposes of
3 this 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~~ THE applicant. ~~for a position as a substitute~~
23 ~~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~~
10 ~~(1)~~ EMPLOYMENT shall give written consent at the time of appli-
11 cation for the criminal records division of the department of
12 state police to conduct the criminal history check required under
13 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 criminal records division of the
17 department of state police for a criminal history check required
18 under this section on a form and in a manner prescribed by the
19 criminal records division of the department of state 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 crimi-
23 nal history check on an applicant under this section, the crimi-
24 nal records division of the department of state police shall con-
25 duct the criminal history check and, after conducting the crimi-
26 nal history check and within that time period, provide a report
27 of the results of the criminal history check to the district,

1 public school academy, or nonpublic school. The report shall
2 contain any criminal history record information on the applicant
3 maintained by the criminal records division of the department of
4 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)~~ SUBSECTIONS (3), (4), AND (5). A member of the
13 board of a district or of the governing body of a public school
14 academy or nonpublic school or an employee of a district, public
15 school academy, or nonpublic school shall not disclose the report
16 or its contents, except any felony conviction or a misdemeanor
17 conviction involving sexual or physical abuse, to any person who
18 is not directly involved in evaluating the applicant's qualifica-
19 tions for employment. However, for the purposes of
20 ~~subsection (4)~~ SUBSECTIONS (4) AND (5), a person described in
21 this subsection may confirm to an employee of another district,
22 public school academy, or nonpublic school that a report under
23 subsection (8) has revealed that an individual does not have any
24 criminal history or may disclose that no report under
25 subsection (8) has been received concerning the individual, and
26 for the purposes of subsection (5), a person described in this
27 subsection may provide a copy of the report under subsection (8)

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

6 (10) As used in this section, ~~:(a) "Criminal "~~ "CRIMINAL
 7 history record information" means that term as defined in
 8 section 1a of ~~Act No. 289 of the Public Acts of 1925, being sec-~~
 9 ~~tion 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 crimi-
 18 nal records check through the federal bureau of investigation on
 19 an applicant for, or an individual who is hired for, ~~a position~~
 20 ~~as a teacher or a school administrator or a position requiring~~
 21 ~~state board approval~~ ANY FULL-TIME OR PART-TIME EMPLOYMENT.

22 Except as OTHERWISE provided in ~~subsection (2)~~ THIS SECTION, a
 23 board or governing body shall not employ an individual ~~in a~~
 24 ~~position described in this subsection~~ until after the board or
 25 governing body receives the results of the criminal records
 26 check. A board or governing body requesting a criminal records
 27 check under this section shall require the applicant or

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

9 (2) If the board of a school district, local act school dis-
10 trict, or intermediate school district or the governing body of a
11 public school academy or nonpublic school determines it necessary
12 to ~~employ~~ HIRE 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 condi-
16 tional employee under this subsection without first receiving the
17 results of the criminal records check under subsection (1) if all
18 of the following apply:

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

22 (b) The individual signs a statement ~~that identifies~~
23 IDENTIFYING all crimes for which he or she has been convicted, if
24 any, and agreeing that, if the results of the criminal records
25 check under subsection (1) reveal information that is inconsis-
26 tent with the individual's statement, his or her employment
27 contract ~~will be~~ IS voidable at the option of the board or

1 governing body. ~~Not later than September 30, 1995, the~~ THE
2 department shall develop and distribute to districts and nonpub-
3 lic schools a model form for the statement required under this
4 subdivision. The department shall make the model form available
5 to public school academies. A district, public school academy,
6 or nonpublic school shall use the model form for the purposes of
7 this 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 inconsis-
11 tent with the individual's statement under subsection (2), the
12 board or governing body may void the individual's employment
13 contract. If an employment contract is voided under this subsec-
14 tion, the individual's employment is terminated, a collective
15 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 depart-
25 ment to confirm that the individual does not have any criminal
26 history. If that confirmation is not available, subsection (1)

1 applies to ~~an~~ THE applicant. ~~for a position as a substitute~~
2 ~~teacher.~~

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

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

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

25 (8) The results of a criminal records check under this sec-
26 tion shall be used by a school district, local act school
27 district, intermediate school district, public school academy, or

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

19 (9) Within 30 days after receiving a proper request by a
20 school district, local act school district, intermediate school
21 district, public school academy, or nonpublic school for a crimi-
22 nal records check on an individual under this section, the crimi-
23 nal records division of the department of state police shall ini-
24 tiate the criminal records check THROUGH THE FEDERAL BUREAU OF
25 INVESTIGATION. After conducting the criminal records check
26 REQUIRED UNDER THIS SECTION for a school district, local act
27 school district, intermediate school district, or public school

1 academy, the criminal records division of the department of state
2 police shall provide the results of the criminal records check to
3 the district or public school academy. After conducting the
4 criminal records check REQUIRED UNDER THIS SECTION for a nonpub-
5 lic school, the criminal records division of the department of
6 state police shall notify the nonpublic school of whether or not
7 the criminal records check disclosed any criminal history that is
8 not disclosed in the report on the individual provided to the
9 nonpublic school under section 1230.

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