

HOUSE BILL No. 4783

May 28, 2003, Introduced by Reps. Caswell, Nitz, Brandenburg, Milosch, Hummel, Gaffney, LaJoy, Vander Veen and Acciavatti and referred to the Committee on Criminal Justice.

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 to subsections (2), (4), and (5), upon an offer
3 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
7 a school administrator or for a position requiring state board
8 approval, the district, public school academy, or nonpublic
9 school shall request from the criminal records division of the

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

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

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

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

1 school shall use the model form for the purposes of this
2 subsection.

3 (3) If an individual is employed as a conditional employee
4 under subsection (2) and the report described in subsection (8)
5 is not the same as the individual's statement under subsection
6 (2), the board or governing body may void the individual's
7 employment contract. If an employment contract is voided under
8 this subsection, the individual's employment is terminated, a
9 collective bargaining agreement that would otherwise apply to the
10 individual's employment does not apply to the termination, and
11 the district, public school academy, or nonpublic school or the
12 board or governing body is not liable for the termination.

13 (4) For an applicant for a position as a substitute teacher,
14 instead of requesting a criminal history check under
15 subsection (1), a school district, local act school district,
16 intermediate school district, public school academy, or nonpublic
17 school may use a report received by another district, public
18 school academy, or nonpublic school or maintained by the
19 department to confirm that the individual does not have any
20 criminal history. ~~If~~ **Except as otherwise provided in**
21 **subsection (10), 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) This section does not apply to an individual hired as a
7 substitute teacher if that individual meets all of the
8 following:

9 (a) Was employed as a teacher by a school district, local act
10 school district, intermediate school district, public school
11 academy, or nonpublic school and has retired from that
12 employment.

13 (b) Is hired as a substitute teacher within 3 months after
14 his or her retirement effective date.

15 (11) ~~—(10)—~~ As used in this section:

16 (a) "Criminal history record information" means that term as
17 defined in section 1a of ~~Act No. 289 of the Public Acts of 1925,~~
18 ~~being section 28.241a of the Michigan Compiled Laws 1925 PA 289,~~
19 MCL 28.241a.

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

22 Sec. 1230a. (1) In addition to the criminal history check
23 required under section 1230, the board of a school district,
24 local act school district, or intermediate school district or the
25 governing body of a public school academy or nonpublic school
26 shall request the department of state police to conduct a
27 criminal records check through the federal bureau of

1 investigation on an applicant for, or an individual who is hired
2 for, a position as a teacher or a school administrator or a
3 position requiring state board approval. Except as provided in
4 subsection (2), a board or governing body shall not employ an
5 individual in a position described in this subsection until after
6 the board or governing body receives the results of the criminal
7 records check. A board or governing body requesting a criminal
8 records check under this section shall require the applicant or
9 individual to submit his or her fingerprints to the department of
10 state police for that purpose. The department of state police
11 may charge a fee for conducting the criminal records check. A
12 board or governing body shall require an individual to submit his
13 or her fingerprints for the purposes of this section only at the
14 time the individual initially applies for employment with the
15 board or governing body or is initially employed by the board or
16 governing body.

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

27 (a) The board or governing body requests the criminal records

1 check under subsection (1) before conditionally employing the
2 individual.

3 (b) The individual signs a statement that identifies all
4 crimes for which he or she has been convicted, if any, and
5 agreeing that, if the results of the criminal records check under
6 subsection (1) reveal information that is inconsistent with the
7 individual's statement, his or her employment contract will be
8 voidable at the option of the board or governing body. ~~Not~~
9 ~~later than September 30, 1995, the~~ **The** department shall develop
10 and distribute to districts and nonpublic schools a model form
11 for the statement required under this subdivision. The
12 department shall make the model form available to public school
13 academies. A district, public school academy, or nonpublic
14 school shall use the model form for the purposes of this
15 subsection.

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

27 (4) For an applicant for a position as a substitute teacher,

1 instead of requesting a criminal records check under
2 subsection (1), a school district, local act school district,
3 intermediate school district, public school academy, or nonpublic
4 school may use results received by another district, public
5 school academy, or nonpublic school or maintained by the
6 department to confirm that the individual does not have any
7 criminal history. ~~If~~ **Except as otherwise provided in**
8 **subsection (10), if** that confirmation is not available,
9 subsection (1) applies to an applicant for a position as a
10 substitute teacher.

11 (5) If an applicant for a position described in
12 subsection (1) is being considered for employment in such a
13 position by more than 1 school district, local act school
14 district, intermediate school district, public school academy, or
15 nonpublic school and if the applicant agrees in writing to allow
16 a district, public school academy, or nonpublic school to share
17 the results of the criminal records check with another district,
18 public school academy, or nonpublic school, then a district,
19 public school academy, or nonpublic school may satisfy the
20 requirements of subsection (1) by obtaining a copy of the results
21 of the criminal records check from another district, public
22 school academy, or nonpublic school.

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

27 (7) A school district, local act school district,

1 intermediate school district, public school academy, or nonpublic
2 school shall make a request to the department of state police for
3 a criminal records check under this section on a form and in a
4 manner prescribed by the department of state police.

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

26 (9) Within 30 days after receiving a proper request by a
27 school district, local act school district, intermediate school

1 district, public school academy, or nonpublic school for a
2 criminal records check on an individual under this section, the
3 criminal records division of the department of state police shall
4 initiate the criminal records check. After conducting the
5 criminal records check for a school district, local act school
6 district, intermediate school district, or public school academy,
7 the criminal records division of the department of state police
8 shall provide the results of the criminal records check to the
9 district or public school academy. After conducting the criminal
10 records check for a nonpublic school, the criminal records
11 division of the department of state police shall notify the
12 nonpublic school of whether or not the criminal records check
13 disclosed any criminal history that is not disclosed in the
14 report on the individual provided to the nonpublic school under
15 section 1230.

16 **(10) This section does not apply to an individual hired as a**
17 **substitute teacher if that individual meets all of the**
18 **following:**

19 **(a) Was employed as a teacher by a school district, local act**
20 **school district, intermediate school district, public school**
21 **academy, or nonpublic school and has retired from that**
22 **employment.**

23 **(b) Is hired as a substitute teacher within 3 months after**
24 **his or her retirement effective date.**

25 **(11) ~~-(10)-~~ As used in this section, "state board approval"**
26 **means that term as defined in section 1539b.**