

# Legislative Analysis

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## REVISE CRIMINAL HISTORY CHECKS FOR SCHOOLS, CHILDCARE CENTERS, AND DAYCARE HOMES

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### House Bill 6173

Sponsor: Rep. Shelley Goodman Taub

### House Bill 6174

Sponsor: Rep. Tonya Schuitmaker

Committee: Education

Complete to 6-27-06

## A SUMMARY OF HOUSE BILLS 6173 AND 6174 AS INTRODUCED 6-8-06

House Bill 6173 would amend the Revised School Code, and House Bill 6174 would amend Public Act 116 of 1973, which concerns the licensing and regulation of childcare centers, to revise provisions addressing employee criminal history checks.

The proposed laws would require the Department of Education 1) to include on its list of registered educational personnel all individuals who are assigned to regularly and continuously work under contract; 2) prohibit a district from hiring an individual who did not cooperate with the fingerprint and criminal history and record requirements; 3) specify that a listed offense demonstrates that a person is unfit to teach in an elementary or secondary school in the state; and, 4) specify that new criminal history investigations would not be required if those working with students or children had successfully reported the results of an earlier check to their employers, and then moved to new and similar jobs without a break in service. A more detailed explanation of each bill follows.

House Bill 6173 would amend the Revised School Code (MCL 380.1230 et al) to add a new section that would require the Department of Education, not later than January 1, 2007, to include in its list of registered educational personnel, all individuals who are employed by a school district, intermediate school district, public school academy, or nonpublic school, and also all individuals who are assigned to regularly and continuously work under contract in a school.

The bill uses the act's current definitions. "At school" means in a classroom, elsewhere on school property, or on a school bus or other school-related vehicle. The phrase "regularly and continuously work under contract" is defined to mean either of the following: 1) to work at a school on a more than intermittent or sporadic basis *as an owner or employee of an entity that has a contract* with a school district, intermediate school district, public school academy, or nonpublic school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils; or 2) to work at a school on a more than intermittent or sporadic basis *as an individual under a contract* with a school district, intermediate school district, public school academy, or nonpublic

school to provide food, custodial, transportation, counseling, or administrative services, or to provide instructional services to pupils or related and auxiliary services to special education pupils.

Under the act, not later than July 1, 2008, a school district is required to do both of the following for full-time and part-time employees and all contract personnel listed above: 1) request from the criminal records division of the Department of State Police, a criminal history check on the individual; and 2) request the State Police to conduct a criminal records check on the individual through the Federal Bureau of Investigation. To this end, the governing board of the school must require the individual to submit his or her fingerprints to the State Police, and the State Police could charge a fee for conducting the criminal records check. Under the bill, if an individual did not give written consent for a criminal history and records check or submit fingerprints, or otherwise failed to cooperate, then the school district would be prohibited from employing that person in any capacity or from allowing them to regularly and continuously work under contract in any of its schools.

The bill also specifies that when a report received by a school district discloses that an individual has been convicted of a listed offense, that district must take steps to verify the information using public records, and if the information is verified, not employ the individual in any capacity. Further, within 30 days after receiving such results, the school district would be required to submit a report to the Department of Education, detailing any action taken by the district.

Under the law, a school district official can only divulge the results of a criminal history check that pertain to convictions involving sexual or physical abuse or any felony conviction. This information can only be disclosed with those directly involved in evaluating the applicant's qualifications for employment or assignment. A person may also confirm to an employee of another district that a report has revealed that an individual does not have any criminal history, or disclose that no report has been received, or may provide a copy of the report to an appropriate representative of another district. Under the bill, a copy of the results regarding an individual regularly and continuously working under contract could also be provided to an appropriate representative of the individual's employer.

The bill also specifies that if a criminal history check has been completed for an individual and the results reported to a school district, then another criminal history check would not be required for that person, as long as the individual remained, with no break in service, employed or regularly and continuously working under contract in any school district, intermediate school district, public school academy, or nonpublic school in Michigan.

The bill also would allow employing school districts to use the results of existing criminal records and history checks for applicants who seek positions as substitute teachers, or for those who would regularly and continuously work under contact in more

than one school district, if the applicant agreed in writing to have the results shared with another district.

The bill would eliminate a section of the law that requires the State Police to notify a nonpublic school whether or not the criminal records check it completed disclosed any criminal history that was not disclosed in the criminal history check report the State Police is required to provide to the nonpublic school.

Currently under the law, the Department of Information Technology must work with the Departments of Education and State Police to develop and implement an automated program that does a comparison of the Department of Education's list of registered educational personnel, with the conviction information received by the Department of State Police. The bill would retain this provision, but extend it to include any other list maintained by the Department of Education of individuals employed or regularly and continuously working under contract in a school.

Currently the law describes the protocols the state superintendent of public instruction must follow then taking action against a person's teaching certificate. Those provisions would be retained; however, the bill specifies that with regard to proceedings to suspend or revoke a teaching certificate, the state superintendent must appoint a designee to perform the investigatory and prosecutorial functions involved in the proceedings; and also that the superintendent must take final action with regard to a suspension or revocation of a person's teaching certificate.

The bill also explicitly states that conviction of a listed offense is reasonably and adversely related to a person's fitness to serve in an elementary or secondary school in Michigan, and demonstrates that the person is unfit to teach in an elementary or secondary school in the state.

House Bill 6174 would amend Public Act 116 of 1973 (MCL 722.115 et al) to specify that when a person, partnership, firm, corporation, association, or nongovernmental organization applied for or renewed a school-based child care or day care center license, the required criminal history and criminal records checks would be performed in compliance with the revised procedures noted in the Revised School Code, as proposed by House Bill 6173.

The bill also specifies that beginning January 1, 2006, if a person who renewed a license to operate a child care or day care center, or a certificate of registration to operate a family or group day care home had previously undergone a criminal history and record check, and had then remained continuously licensed or registered after it had been performed, that person would not be required to submit to another check upon renewal of the license.

## **FISCAL IMPACT:**

House Bill 6173 would have an indeterminate fiscal impact on the State and local school districts. It could increase local administrative costs by requiring a district to verify reports of an individual's prior conviction of a listed offense and submitting a report to the Department of Education detailing the information and action taken as a result of the investigation. The bill would also allow schools to use existing criminal history checks as long as the individual remained, with no break in service, employed or regularly and continuously working under contract in any school district, intermediate school district, public school academy, or nonpublic school in Michigan or for those who work in more than one district or school, thereby avoiding duplicating costs.

The bill would also increase administrative costs for the Department of Education and the Center for Educational Performance and Information (CEPI) by requiring it to expand the list of registered educational personnel to include all employees of and all individuals who are assigned to regularly and continuously work under contract in a school district, intermediate school district, public school academy or nonpublic school.

The Department of Information Technology could also see increased costs related to expanding an automated program which compares the list of registered educational personnel with conviction information to also include any other list the Department of Education maintains of individuals employed or regularly and continuously working under contract in a school.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.