



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 247 (as passed by the Senate)
Sponsor: Senator Jason E. Allen
Committee: Education

Date Completed: 8-12-05

RATIONALE

In April and May 2005, *The Detroit News* published a series of articles detailing the employment of sex offenders and other criminals by Michigan schools, day care centers, and other institutions in which employees have frequent contact with children. According to one article, the newspaper found that at least 35 Michigan school employees or recent hires had been charged with or convicted of sexual misconduct in the previous 15 months and had victimized approximately 50 children during that time ("State fails to stop teacher sex abuse", 4-24-05). One of the incidents reported in that article involved a special education paraprofessional who had worked in the Traverse Bay Area Intermediate School District and was recently sentenced to 30-60 years' imprisonment for raping a student. Since special education paraprofessionals are not required to undergo background checks, the man's previous conviction for which he served prison time, never surfaced. Some people believe that applicants for positions providing direct services to special education students should be subject to the same State and Federal criminal history background checks that presently are required for prospective teachers.

CONTENT

The bill would amend the Revised School Code to do the following:

- **Include special education personnel in requirements for State Police and FBI criminal history checks.**
- **Require a school district, public school academy, or nonpublic school to notify an applicant if a criminal history check revealed a felony conviction or a conviction of a**

misdemeanor involving sexual or physical abuse.

Under the Code, when the board of a school district, local act school district, or intermediate school district (ISD), or the governing body of a public school academy (PSA) or nonpublic school makes an offer of initial employment to an individual for a position as a teacher or school administrator, or for a position requiring State Board of Education approval, the district, PSA, or nonpublic school must request a criminal history check on the individual from the criminal records division of the Department of State Police. Before employing the individual as a regular employee, the district, PSA, or nonpublic school must have received the State Police report.

In addition, the board of a school district, local act school district, or ISD, or the governing body of a PSA or nonpublic school must request the State Police to conduct a criminal records check through the Federal Bureau of Investigation on an applicant for, or an individual who is hired for, a position as a teacher or school administrator, or a position requiring State Board approval.

Under the bill, these requirements also would apply to the employment of an individual for a position providing special education services directly to pupils. If the results of a State Police criminal history check or an FBI criminal records check revealed that the applicant or individual had been convicted of a felony or of a misdemeanor involving sexual or physical abuse, the bill would require the school district, local act school district, ISD, public school academy, or nonpublic school to give the person written notice of those results.

Presently, a school district, ISD, PSA, or nonpublic school may use State Police criminal history record information only for the purpose of evaluating a person's qualifications for employment. A district, PSA, or nonpublic school may use the results of an FBI criminal records check only for the purpose of evaluating the person's qualifications; voiding the person's employment contract, if he or she is employed as a conditional employee; sharing the results with another district or school for an applicant for a substitute teacher position; or sharing the results with another district or school with the applicant's consent. Under the bill, the criminal history information and criminal records check results also could be used for the purpose of notifying the individual of the results, as the bill would require.

In addition, the Code prohibits a school board member or school employee from disclosing a State Police report or FBI records check results, except any felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person who is not directly involved in evaluating the individual's qualifications for employment (subject to the exceptions for use of the FBI results). Under the bill, the State Police report and FBI results also could be disclosed to the applicant or the individual.

MCL 380.1230 & 380.1230a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Children, particularly those with physical, mental, emotional, and/or developmental disabilities, are among the most vulnerable members of society, and the State must do all it can to protect them from harm, especially in places like schools where they gather on a regular basis and from predatory adults who work in those settings. Also, parents deserve the assurance that their children's teachers and other service providers working in schools are not dangerous criminals. Child victims of sex crimes can suffer ill effects for years. According to *The Detroit News*, they may lose trust in authority figures, experience compromised physical health, and perform

poorly in school; later in life, the victims are more likely to abuse alcohol and drugs and may have difficulty forming intimate relationships ("Schools, Granholm pledge to curb abuse by teachers", 4-25-05).

Those with abusive tendencies toward children may seek employment at locations frequented by children, such as schools, because it can afford them easy access to potential victims. In addition, teachers and other school staff often are admired by the children they serve and are trusted by parents, allowing them ample opportunity to victimize children without scrutiny. This makes it imperative that school employees who provide direct services to children are thoroughly screened and that known criminals are kept out of schools.

In the incident in the Traverse Bay Area Intermediate Schools, Terry Neff, a special education service provider, was trusted by the parents of a 19-year-old developmentally disabled student to care for the girl one summer afternoon. Neff raped the girl, who had the mental capacity of an 18-month-old. According to testimony before the Senate Education Committee by the girl's father, it turned out that Neff was a sex offender in Alaska and Indiana. *The Detroit News* also reported that he had served prison time in Indiana for a felony drug conviction. Since special education paraprofessionals do not have to undergo a criminal history check under Michigan law, Neff's employers and the parents of students he served were unaware of his criminal past.

By including applicants for special education direct service positions in the requirements that prospective teachers undergo a State and FBI criminal background check, the bill would serve to protect disabled students from sexual predators and others with criminal records, and offer some peace of mind to parents.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

A0506\S247a

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.