

# HOUSE BILL No. 6173

June 8, 2006, Introduced by Rep. Taub and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled  
"The revised school code,"  
by amending sections 1230, 1230a, 1230c, 1230d, 1230g, 1535a, and  
1539b (MCL 380.1230, 380.1230a, 380.1230c, 380.1230d, 380.1230g,  
380.1535a, and 380.1539b), as amended by 2006 PA 84, and by adding  
section 1230e.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1230. (1) Except as otherwise provided in this section,  
2           upon an offer of initial employment being made by the board of a  
3           school district or intermediate school district or the governing  
4           body of a public school academy or nonpublic school to an  
5           individual for any full-time or part-time employment or when school  
6           officials learn that an individual is being assigned to regularly

1 and continuously work under contract in any of its schools, the  
2 district, public school academy, or nonpublic school shall request  
3 from the criminal records division of the department of state  
4 police a criminal history check on the individual and, before  
5 employing the individual as a regular employee or allowing the  
6 individual to regularly and continuously work under contract in any  
7 of its schools, shall have received from the department of state  
8 police the report described in subsection (8).

9 (2) If the board of a school district or intermediate school  
10 district or the governing body of a public school academy or  
11 nonpublic school determines it necessary to hire an individual **OR**  
12 **TO ALLOW AN INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER**  
13 **CONTRACT** for a particular school year during that school year or  
14 within 30 days before the beginning of that school year, the board  
15 or governing body may employ the individual as a conditional  
16 employee **OR CONDITIONALLY ALLOW THE INDIVIDUAL TO REGULARLY AND**  
17 **CONTINUOUSLY WORK UNDER CONTRACT** under this subsection without  
18 first receiving the report described in subsection (8) if all of  
19 the following apply:

20 (a) The board or governing body requests the criminal history  
21 check required under subsection (1) before conditionally employing  
22 the individual **OR CONDITIONALLY ALLOWING THE INDIVIDUAL TO**  
23 **REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS**  
24 **SCHOOLS.**

25 (b) The individual signs a statement identifying all crimes  
26 for which he or she has been convicted, if any, and agreeing that,  
27 if the report described in subsection (8) is not the same as the

1 individual's statement, his or her employment contract is voidable  
2 at the option of the board or governing body. The department shall  
3 develop and distribute to districts and nonpublic schools a model  
4 form for the statement required under this subdivision. The  
5 department shall make the model form available to public school  
6 academies. A district, public school academy, or nonpublic school  
7 shall use the model form for the purposes of this subsection.

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

18 (4) For an applicant for a position as a substitute teacher,  
19 **OR FOR AN INDIVIDUAL WHO REGULARLY AND CONTINUOUSLY WORKS UNDER**  
20 **CONTRACT IN MORE THAN 1 SCHOOL DISTRICT, INTERMEDIATE SCHOOL**  
21 **DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL, IF THE**  
22 **APPLICANT OR INDIVIDUAL AGREES IN WRITING TO ALLOW A DISTRICT,**  
23 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL TO SHARE THE RESULTS OF**  
24 **THE CRIMINAL HISTORY CHECK WITH ANOTHER DISTRICT, PUBLIC SCHOOL**  
25 **ACADEMY, OR NONPUBLIC SCHOOL, THEN** instead of requesting a criminal  
26 history check under subsection (1), a school district, intermediate  
27 school district, public school academy, or nonpublic school may use

1 a report received by another district, public school academy, or  
2 nonpublic school or maintained by the department to confirm that  
3 the **APPLICANT OR** individual does not have any criminal history. If  
4 that confirmation is not available, subsection (1) applies to the  
5 applicant **OR INDIVIDUAL**.

6 (5) If an applicant is being considered for employment by more  
7 than 1 school district, intermediate school district, public school  
8 academy, or nonpublic school and if the applicant agrees in writing  
9 to allow a district, public school academy, or nonpublic school to  
10 share the report described in subsection (8) with another district,  
11 public school academy, or nonpublic school, a district, public  
12 school academy, or nonpublic school may satisfy the requirements of  
13 subsection (1) by obtaining a copy of the report described in  
14 subsection (8) from another district, public school academy, or  
15 nonpublic school.

16 (6) An applicant for employment shall give written consent at  
17 the time of application for the criminal records division of the  
18 department of state police to conduct the criminal history check  
19 required under this section.

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

26 (8) Within 30 days after receiving a proper request by a  
27 school district, intermediate school district, public school

1 academy, or nonpublic school for a criminal history check on an  
2 individual under this section, the criminal records division of the  
3 department of state police shall conduct the criminal history check  
4 and, after conducting the criminal history check and within that  
5 time period, provide a report of the results of the criminal  
6 history check to the district, public school academy, or nonpublic  
7 school. The report shall contain any criminal history record  
8 information on the individual maintained by the criminal records  
9 division of the department of state police.

10 (9) If the report received by a school district, intermediate  
11 school district, public school academy, or nonpublic school under  
12 subsection (8), **OR A REPORT RECEIVED UNDER SECTION 1230A, 1230D(7),**  
13 **1535A(15), OR 1539B(15),** discloses that an individual has been  
14 convicted of a listed offense, then the school district,  
15 intermediate school district, public school academy, or nonpublic  
16 school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC**  
17 **RECORDS AND, IF THE INFORMATION IS VERIFIED,** shall not employ the  
18 individual in any capacity, as provided under section 1230c, and  
19 shall not allow the individual to regularly and continuously work  
20 under contract in any of its schools. If the report received by a  
21 school district, intermediate school district, public school  
22 academy, or nonpublic school under subsection (8), **OR A REPORT**  
23 **RECEIVED UNDER SECTION 1230A, 1230D(7), 1535A(15), OR 1539B(15),**  
24 discloses that an individual has been convicted of a felony other  
25 than a listed offense, then the school district, intermediate  
26 school district, public school academy, or nonpublic school **SHALL**  
27 **TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC RECORDS AND, IF**

1 **THE INFORMATION IS VERIFIED USING PUBLIC RECORDS**, shall not employ  
2 the individual in any capacity or allow the individual to regularly  
3 and continuously work under contract in any of its schools unless  
4 the superintendent or chief administrator and the **GOVERNING** board  
5 or governing body, **IF ANY**, of the school district, intermediate  
6 school district, public school academy, or nonpublic school each  
7 specifically ~~approve~~ **APPROVES** the employment or work assignment  
8 in writing. **IF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,**  
9 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL RECEIVES RESULTS**  
10 **DESCRIBED IN THIS SUBSECTION, WITHIN 30 DAYS AFTER RECEIVING THOSE**  
11 **RESULTS THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC**  
12 **SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT**  
13 **IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT A REPORT**  
14 **DETAILING THE INFORMATION AND ANY ACTION TAKEN AS A RESULT BY THE**  
15 **SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL**  
16 **ACADEMY, OR NONPUBLIC SCHOOL.**

17 (10) Criminal history record information received from the  
18 criminal records division of the department of state police under  
19 subsection (8) shall be used by a school district, intermediate  
20 school district, public school academy, or nonpublic school only  
21 for the purpose of evaluating an individual's qualifications for  
22 employment or assignment in the position for which he or she has  
23 applied or been assigned and for the purposes of subsections (3),  
24 (4), and (5). A member of the board of a district or of the  
25 governing body of a public school academy or nonpublic school or an  
26 employee of a district, public school academy, or nonpublic school  
27 shall not disclose the report or its contents, except a misdemeanor

1 conviction involving sexual or physical abuse or any felony  
2 conviction, to any person who is not directly involved in  
3 evaluating the applicant's qualifications for employment or  
4 assignment. However, for the purposes of subsections (4) and (5), a  
5 person described in this subsection may confirm to an employee of  
6 another district, public school academy, or nonpublic school that a  
7 report under subsection (8) has revealed that an individual does  
8 not have any criminal history or may disclose that no report under  
9 subsection (8) has been received concerning the individual, and for  
10 the purposes of subsection (5), a person described in this  
11 subsection may provide a copy of the report under subsection (8)  
12 concerning the individual to an appropriate representative of  
13 another district, public school academy, or nonpublic school. **ALSO,**  
14 **FOR AN INDIVIDUAL WHO IS REGULARLY AND CONTINUOUSLY WORKING UNDER**  
15 **CONTRACT, A PERSON DESCRIBED IN THIS SUBSECTION MAY PROVIDE A COPY**  
16 **OF THE RESULTS RECEIVED UNDER THIS SECTION CONCERNING THE**  
17 **INDIVIDUAL TO AN APPROPRIATE REPRESENTATIVE OF THE INDIVIDUAL'S**  
18 **EMPLOYER.** A person who violates this subsection is guilty of a  
19 misdemeanor punishable by a fine of not more than \$10,000.00, but  
20 is not subject to the penalties under section 1804.

21 (11) IF THE CRIMINAL HISTORY CHECK REQUIRED UNDER THIS SECTION  
22 HAS BEEN COMPLETED FOR A PARTICULAR INDIVIDUAL AND THE RESULTS  
23 REPORTED TO A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC  
24 SCHOOL ACADEMY, OR NONPUBLIC SCHOOL AS PROVIDED UNDER THIS SECTION,  
25 THEN ANOTHER CRIMINAL HISTORY CHECK IS NOT REQUIRED UNDER THIS  
26 SECTION FOR THAT INDIVIDUAL AS LONG AS THE INDIVIDUAL REMAINS, WITH  
27 NO BREAK IN SERVICE OTHER THAN NORMALLY SCHEDULED ACADEMIC CALENDAR

1 **BREAKS, EMPLOYED OR REGULARLY AND CONTINUOUSLY WORKING UNDER**  
2 **CONTRACT IN ANY SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,**  
3 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN THIS STATE.**

4 (12) ~~(11)~~ Subsection (1) does not apply to an individual who  
5 is being employed by or assigned to regularly and continuously work  
6 under contract in a school of a school district, intermediate  
7 school district, public school academy, or nonpublic school if the  
8 individual is not more than 19 years of age and is enrolled as a  
9 general education pupil of the school district, intermediate school  
10 district, public school academy, or nonpublic school or is not more  
11 than 26 years of age and is enrolled in special education programs  
12 or services in the school district, intermediate school district,  
13 public school academy, or nonpublic school. However, before  
14 employing the individual or assigning the individual to regularly  
15 and continuously work under contract in a school, the school  
16 district, intermediate school district, public school academy, or  
17 nonpublic school shall perform a criminal history check on that  
18 person using the department of state police's internet criminal  
19 history access tool (ICHAT). If a search of the department of state  
20 police's ICHAT reveals that the individual has been convicted of a  
21 listed offense, then the school district, intermediate school  
22 district, public school academy, or nonpublic school **SHALL TAKE**  
23 **STEPS TO VERIFY THAT INFORMATION USING PUBLIC RECORDS AND, IF THE**  
24 **INFORMATION IS VERIFIED USING PUBLIC RECORDS,** shall not employ the  
25 individual in any capacity, as provided under section 1230c, and  
26 shall not allow the individual to regularly and continuously work  
27 under contract in any of its schools. If a search of the department



1 of state police's ICHAT reveals that the individual has been  
2 convicted of a felony other than a listed offense, then the school  
3 district, intermediate school district, public school academy, or  
4 nonpublic school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING**  
5 **PUBLIC RECORDS AND, IF THE INFORMATION IS VERIFIED USING PUBLIC**  
6 **RECORDS,** shall not employ the individual in any capacity or allow  
7 the individual to regularly and continuously work under contract in  
8 any of its schools unless the superintendent or chief administrator  
9 and the board or governing body, **IF ANY,** of the school district,  
10 intermediate school district, public school academy, or nonpublic  
11 school each specifically approves the employment or work assignment  
12 in writing.

13 (13) ~~(12)~~ As used in this section:

14 (a) "At school" means in a classroom, elsewhere on school  
15 property, or on a school bus or other school-related vehicle.

16 (b) "Criminal history record information" means that term as  
17 defined in section 1a of 1925 PA 289, MCL 28.241a.

18 (C) **"FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF**  
19 **CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL**  
20 **761.1.**

21 (D) ~~(e)~~ "Listed offense" means that term as defined in  
22 section 2 of the sex offenders registration act, 1994 PA 295, MCL  
23 28.722.

24 (E) ~~(d)~~ "Regularly and continuously work under contract"  
25 means either of the following:

26 (i) To work at school on a more than intermittent or sporadic  
27 basis as an owner or employee of an entity that has a contract with

1 a school district, intermediate school district, public school  
2 academy, or nonpublic school to provide food, custodial,  
3 transportation, counseling, or administrative services, or to  
4 provide instructional services to pupils or related and auxiliary  
5 services to special education pupils.

6 (ii) To work at school on a more than intermittent or sporadic  
7 basis as an individual under a contract with a school district,  
8 intermediate school district, public school academy, or nonpublic  
9 school to provide food, custodial, transportation, counseling, or  
10 administrative services, or to provide instructional services to  
11 pupils or related and auxiliary services to special education  
12 pupils.

13 (F) ~~(e)~~ "School property" means that term as defined in  
14 section 33 of the sex offenders registration act, 1994 PA 295, MCL  
15 28.733.

16 Sec. 1230a. (1) In addition to the criminal history check  
17 required under section 1230, the board of a school district or  
18 intermediate school district or the governing body of a public  
19 school academy or nonpublic school shall request the department of  
20 state police to conduct a criminal records check through the  
21 federal bureau of investigation on an applicant for, or an  
22 individual who is hired for, any full-time or part-time employment  
23 or who is assigned to regularly and continuously work under  
24 contract in any of its schools. Except as otherwise provided in  
25 this section, a board or governing body shall not employ an  
26 individual or allow an individual to regularly and continuously  
27 work under contract in any of its schools until after the board or

1 governing body receives the results of the criminal records check.  
2 A board or governing body requesting a criminal records check under  
3 this section shall require the individual to submit his or her  
4 fingerprints to the department of state police for that purpose.  
5 The department of state police may charge a fee for conducting the  
6 criminal records check. Subject to section 1230g, a board or  
7 governing body shall require an individual to submit his or her  
8 fingerprints for the purposes of this section only at the time the  
9 individual initially applies for employment with the board or  
10 governing body or is initially employed by the board or governing  
11 body or is initially assigned to regularly and continuously work  
12 under contract in any of its schools.

13 (2) If the board of a school district or intermediate school  
14 district or the governing body of a public school academy or  
15 nonpublic school determines it necessary to hire an individual **OR**  
16 **TO ALLOW AN INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER**  
17 **CONTRACT** for a particular school year during that school year or  
18 within 30 days before the beginning of that school year, the board  
19 or governing body may employ the individual as a conditional  
20 employee **OR CONDITIONALLY ALLOW THE INDIVIDUAL TO REGULARLY AND**  
21 **CONTINUOUSLY WORK UNDER CONTRACT** under this subsection without  
22 first receiving the results of the criminal records check under  
23 subsection (1) if all of the following apply:

24 (a) The board or governing body requests the criminal records  
25 check under subsection (1) before conditionally employing the  
26 individual **OR CONDITIONALLY ALLOWING THE INDIVIDUAL TO REGULARLY**  
27 **AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY OF ITS SCHOOLS.**

1 (b) The individual signs a statement identifying all crimes  
2 for which he or she has been convicted, if any, and agreeing that,  
3 if the results of the criminal records check under subsection (1)  
4 reveal information that is inconsistent with the individual's  
5 statement, his or her employment contract is voidable at the option  
6 of the board or governing body. The department shall develop and  
7 distribute to districts and nonpublic schools a model form for the  
8 statement required under this subdivision. The department shall  
9 make the model form available to public school academies. A  
10 district, public school academy, or nonpublic school shall use the  
11 model form for the purposes of this subsection.

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

23 (4) For an applicant for a position as a substitute teacher,  
24 **OR FOR AN INDIVIDUAL WHO REGULARLY AND CONTINUOUSLY WORKS UNDER**  
25 **CONTRACT IN MORE THAN 1 SCHOOL DISTRICT, INTERMEDIATE SCHOOL**  
26 **DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL, IF THE**  
27 **APPLICANT OR INDIVIDUAL AGREES IN WRITING TO ALLOW A DISTRICT,**

1 PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL TO SHARE THE RESULTS OF  
2 THE CRIMINAL RECORDS CHECK WITH ANOTHER DISTRICT, PUBLIC SCHOOL  
3 ACADEMY, OR NONPUBLIC SCHOOL, THEN instead of requesting a criminal  
4 records check under subsection (1), a school district, intermediate  
5 school district, public school academy, or nonpublic school may use  
6 results received by another district, public school academy, or  
7 nonpublic school or maintained by the department to confirm that  
8 the **APPLICANT OR** individual does not have any criminal history. If  
9 that confirmation is not available, subsection (1) applies to the  
10 applicant **OR INDIVIDUAL**.

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

21 (6) An applicant for employment shall give written consent at  
22 the time of application for the criminal records division of the  
23 department of state police to conduct the criminal records check  
24 required under this section.

25 (7) A school district, intermediate school district, public  
26 school academy, or nonpublic school shall make a request to the  
27 department of state police for a criminal records check under this

1 section on a form and in a manner prescribed by the department of  
2 state police.

3 (8) The results of a criminal records check under this section  
4 shall be used by a school district, intermediate school district,  
5 public school academy, or nonpublic school only for the purpose of  
6 evaluating an individual's qualifications for employment or  
7 assignment in the position for which he or she has applied or been  
8 assigned and for the purposes of subsections (3), (4), and (5). A  
9 member of the board of a district or of the governing body of a  
10 public school academy or nonpublic school or an employee of a  
11 district, public school academy, or nonpublic school shall not  
12 disclose those results, except a misdemeanor conviction involving  
13 sexual or physical abuse or any felony conviction, to any person  
14 who is not directly involved in evaluating the individual's  
15 qualifications for employment or assignment. However, for the  
16 purposes of subsections (4) and (5), a person described in this  
17 subsection may provide a copy of the results ~~under subsection (1)~~  
18 **RECEIVED UNDER THIS SECTION** concerning the individual to an  
19 appropriate representative of another district, public school  
20 academy, or nonpublic school. **ALSO, FOR AN INDIVIDUAL WHO IS**  
21 **REGULARLY AND CONTINUOUSLY WORKING UNDER CONTRACT, A PERSON**  
22 **DESCRIBED IN THIS SUBSECTION MAY PROVIDE A COPY OF THE RESULTS**  
23 **RECEIVED UNDER THIS SECTION CONCERNING THE INDIVIDUAL TO AN**  
24 **APPROPRIATE REPRESENTATIVE OF THE INDIVIDUAL'S EMPLOYER.** A person  
25 who violates this subsection is guilty of a misdemeanor punishable  
26 by a fine of not more than \$10,000.00, but is not subject to the  
27 penalties under section 1804.

1           (9) Within 30 days after receiving a proper request by a  
2 school district, intermediate school district, public school  
3 academy, or nonpublic school for a criminal records check on an  
4 individual under this section, the criminal records division of the  
5 department of state police shall initiate the criminal records  
6 check through the federal bureau of investigation. After conducting  
7 the criminal records check required under this section for a school  
8 district, intermediate school district, ~~or~~ public school academy,  
9 **OR NONPUBLIC SCHOOL**, the criminal records division of the  
10 department of state police shall provide the results of the  
11 criminal records check to the district, ~~or~~ public school academy,  
12 **OR NONPUBLIC SCHOOL**. ~~After conducting the criminal records check~~  
13 ~~required under this section for a nonpublic school, the criminal~~  
14 ~~records division of the department of state police shall notify the~~  
15 ~~nonpublic school of whether or not the criminal records check~~  
16 ~~disclosed any criminal history that is not disclosed in the report~~  
17 ~~on the individual provided to the nonpublic school under section~~  
18 ~~1230.~~

19           (10) If the results received by a school district,  
20 intermediate school district, public school academy, or nonpublic  
21 school under subsection (9), **OR A REPORT RECEIVED UNDER SECTION**  
22 **1230, 1230D(7), 1535A(15), OR 1539B(15)**, disclose that an  
23 individual has been convicted of a listed offense, then the school  
24 district, intermediate school district, public school academy, or  
25 nonpublic school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING**  
26 **PUBLIC RECORDS AND, IF THE INFORMATION IS VERIFIED**, shall not  
27 employ the individual in any capacity, as provided under section

1 1230c, and shall not allow the individual to regularly and  
2 continuously work under contract in any of its schools. If the  
3 results received by a school district, intermediate school  
4 district, public school academy, or nonpublic school under  
5 subsection (9), **OR A REPORT RECEIVED UNDER SECTION 1230, 1230D(7),**  
6 **1535A(15), OR 1539B(15),** disclose that an individual has been  
7 convicted of a felony other than a listed offense, then the school  
8 district, intermediate school district, public school academy, or  
9 nonpublic school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING**  
10 **PUBLIC RECORDS AND, IF THE INFORMATION IS VERIFIED USING PUBLIC**  
11 **RECORDS,** shall not employ the individual in any capacity or allow  
12 the individual to regularly and continuously work under contract in  
13 any of its schools unless the superintendent or chief administrator  
14 and the **GOVERNING** board or governing body, **IF ANY,** of the school  
15 district, intermediate school district, public school academy, or  
16 nonpublic school each specifically ~~approve~~ **APPROVES** the  
17 employment or work assignment in writing. **IF A SCHOOL DISTRICT,**  
18 **INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC**  
19 **SCHOOL RECEIVES RESULTS DESCRIBED IN THIS SUBSECTION, WITHIN 30**  
20 **DAYS AFTER RECEIVING THOSE RESULTS THE SCHOOL DISTRICT,**  
21 **INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC**  
22 **SCHOOL SHALL SUBMIT TO THE DEPARTMENT IN THE FORM AND MANNER**  
23 **PRESCRIBED BY THE DEPARTMENT A REPORT DETAILING THE INFORMATION AND**  
24 **ANY ACTION TAKEN AS A RESULT BY THE SCHOOL DISTRICT, INTERMEDIATE**  
25 **SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL.**

26 (11) IF THE CRIMINAL RECORDS CHECK REQUIRED UNDER THIS SECTION  
27 HAS BEEN COMPLETED FOR A PARTICULAR INDIVIDUAL AND THE RESULTS



1 REPORTED TO A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC  
2 SCHOOL ACADEMY, OR NONPUBLIC SCHOOL AS PROVIDED UNDER THIS SECTION,  
3 THEN ANOTHER CRIMINAL RECORDS CHECK IS NOT REQUIRED UNDER THIS  
4 SECTION FOR THAT INDIVIDUAL AS LONG AS THE INDIVIDUAL REMAINS, WITH  
5 NO BREAK IN SERVICE OTHER THAN NORMALLY SCHEDULED ACADEMIC CALENDAR  
6 BREAKS, EMPLOYED OR REGULARLY AND CONTINUOUSLY WORKING UNDER  
7 CONTRACT IN A SCHOOL IN ANY SCHOOL DISTRICT, INTERMEDIATE SCHOOL  
8 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN THIS STATE.

9 (12) ~~-(11)-~~ Subsection (1) does not apply to an individual who  
10 is being employed by or assigned to regularly and continuously work  
11 under contract in a school of a school district, intermediate  
12 school district, public school academy, or nonpublic school if the  
13 individual is not more than 19 years of age and is enrolled as a  
14 general education pupil of the school district, intermediate school  
15 district, public school academy, or nonpublic school or is not more  
16 than 26 years of age and is enrolled in special education programs  
17 or services in the school district, intermediate school district,  
18 public school academy, or nonpublic school. However, before  
19 employing the individual or assigning the individual to regularly  
20 and continuously work under contract in a school, the school  
21 district, intermediate school district, public school academy, or  
22 nonpublic school shall perform a criminal history check on that  
23 person using the department of state police's internet criminal  
24 history access tool (ICHAT). If a search of the department of state  
25 police's ICHAT reveals that the individual has been convicted of a  
26 listed offense, then the school district, intermediate school  
27 district, public school academy, or nonpublic school **SHALL TAKE**

1 **STEPS TO VERIFY THAT INFORMATION USING PUBLIC RECORDS AND, IF THE**  
2 **INFORMATION IS VERIFIED USING PUBLIC RECORDS,** shall not employ the  
3 individual in any capacity, as provided under section 1230c, and  
4 shall not allow the individual to regularly and continuously work  
5 under contract in any of its schools. If a search of the department  
6 of state police's ICHAT reveals that the individual has been  
7 convicted of a felony other than a listed offense, then the school  
8 district, intermediate school district, public school academy, or  
9 nonpublic school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING**  
10 **PUBLIC RECORDS AND, IF THE INFORMATION IS VERIFIED USING PUBLIC**  
11 **RECORDS,** shall not employ the individual in any capacity or allow  
12 the individual to regularly and continuously work under contract in  
13 any of its schools unless the superintendent or chief administrator  
14 and the board or governing body of the school district,  
15 intermediate school district, public school academy, or nonpublic  
16 school each specifically approves the employment or work assignment  
17 in writing.

18 (13) ~~(12)~~ As used in this section:

19 (a) "At school" means in a classroom, elsewhere on school  
20 property, or on a school bus or other school-related vehicle.

21 (B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF  
22 CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL  
23 761.1.

24 (C) ~~(b)~~ "Listed offense" means that term as defined in  
25 section 2 of the sex offenders registration act, 1994 PA 295, MCL  
26 28.722.

27 (D) ~~(e)~~ "Regularly and continuously work under contract"

1 means either of the following:

2 (i) To work at school on a more than intermittent or sporadic  
3 basis as an owner or employee of an entity that has a contract with  
4 a school district, intermediate school district, public school  
5 academy, or nonpublic school to provide food, custodial,  
6 transportation, counseling, or administrative services, or to  
7 provide instructional services to pupils or related and auxiliary  
8 services to special education pupils.

9 (ii) To work at school on a more than intermittent or sporadic  
10 basis as an individual under a contract with a school district,  
11 intermediate school district, public school academy, or nonpublic  
12 school to provide food, custodial, transportation, counseling, or  
13 administrative services, or to provide instructional services to  
14 pupils or related and auxiliary services to special education  
15 pupils.

16 (E) ~~-(d)-~~ "School property" means that term as defined in  
17 section 33 of the sex offenders registration act, 1994 PA 295, MCL  
18 28.733.

19 Sec. 1230c. (1) If a school official of a school district,  
20 intermediate school district, public school academy, or nonpublic  
21 school has notice from an authoritative source that an individual  
22 has been convicted of a listed offense, the board of the school  
23 district or intermediate school district, board of directors of the  
24 public school academy, or governing board of the nonpublic school  
25 shall take steps to verify that information using public records  
26 and, if the information is verified using public records, shall not  
27 employ that individual in any capacity or allow that person to

1 regularly and continuously work under contract in any of its  
2 schools. **IF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC**  
3 **SCHOOL ACADEMY, OR NONPUBLIC SCHOOL RECEIVES NOTICE DESCRIBED IN**  
4 **THIS SUBSECTION, WITHIN 30 DAYS AFTER RECEIVING THAT NOTICE THE**  
5 **SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL**  
6 **ACADEMY, OR NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT IN THE**  
7 **FORM AND MANNER PRESCRIBED BY THE DEPARTMENT A REPORT DETAILING THE**  
8 **INFORMATION RECEIVED AND ANY ACTION TAKEN AS A RESULT BY THE SCHOOL**  
9 **DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR**  
10 **NONPUBLIC SCHOOL.**

11 (2) As used in this section:

12 (a) "At school" means in a classroom, elsewhere on school  
13 property, or on a school bus or other school-related vehicle.

14 (b) "Listed offense" means that term as defined in section 2  
15 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

16 (c) "Regularly and continuously work under contract" means  
17 either of the following:

18 (i) To work at school on a more than intermittent or sporadic  
19 basis as an owner or employee of an entity that has a contract with  
20 a school district, intermediate school district, public school  
21 academy, or nonpublic school to provide food, custodial,  
22 transportation, counseling, or administrative services, or to  
23 provide instructional services to pupils or related and auxiliary  
24 services to special education pupils.

25 (ii) To work at school on a more than intermittent or sporadic  
26 basis as an individual under a contract with a school district,  
27 intermediate school district, public school academy, or nonpublic

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

5 (d) "School property" means that term as defined in section 33  
6 of the sex offenders registration act, 1994 PA 295, MCL 28.733.

7 Sec. 1230d. (1) If a person who is employed in any capacity by  
8 a school district, intermediate school district, public school  
9 academy, or nonpublic school; who has applied for a position with a  
10 school district, intermediate school district, public school  
11 academy, or nonpublic school and has had an initial criminal  
12 history check under section 1230 or criminal records check under  
13 section 1230a; or who is regularly and continuously working under  
14 contract in a school district, intermediate school district, public  
15 school academy, or nonpublic school, is charged with a crime listed  
16 in section 1535a(1) or 1539b(1) or a violation of a substantially  
17 similar law of another state, a political subdivision of this state  
18 or another state, or of the United States, the person shall report  
19 to the department and to the school district, intermediate school  
20 district, public school academy, or nonpublic school that he or she  
21 has been charged with the crime. All of the following apply to this  
22 reporting requirement:

23 (a) The person shall make the report on a form prescribed by  
24 the department.

25 (b) The person shall submit the report to the department and  
26 to the superintendent of the school district or intermediate school  
27 district or chief administrator of the public school academy or

1 nonpublic school.

2 (c) The person shall submit the report within 3 business days  
3 after being arraigned for the crime.

4 (2) If a person who is employed in any capacity by or is  
5 regularly and continuously working under contract in a school  
6 district, intermediate school district, public school academy, or  
7 nonpublic school enters a plea of guilt or no contest to or is the  
8 subject of a finding of guilt by a judge or jury of any crime after  
9 having been initially charged with a crime described in section  
10 1535a(1) or 1539b(1), then the person immediately shall disclose to  
11 the court, on a form prescribed by the state court administrative  
12 office, that he or she is employed by or regularly and continuously  
13 working under contract in a school district, intermediate school  
14 district, public school academy, or nonpublic school. The person  
15 shall immediately provide a copy of the form to the prosecuting  
16 attorney in charge of the case, to the superintendent of public  
17 instruction, and to the superintendent or chief administrator of  
18 the school district, intermediate school district, public school  
19 academy, or nonpublic school.

20 (3) A person who violates subsection (1) or (2) is guilty of a  
21 crime, as follows:

22 (a) If the person violates either subsection (1) or (2) and  
23 the crime involved in the violation is a misdemeanor that is a  
24 listed offense or is a felony, the person is guilty of a felony  
25 punishable by imprisonment for not more than 2 years or a fine of  
26 not more than \$2,000.00, or both.

27 (b) If the person violates either subsection (1) or (2) and

1 the crime involved in the violation is a misdemeanor that is not a  
2 listed offense, the person is guilty of a misdemeanor punishable by  
3 imprisonment for not more than 1 year or a fine of not more than  
4 \$1,000.00, or both.

5 (4) A person who violates subsection (1) or (2) may be  
6 discharged from his or her employment or have his or her contract  
7 terminated. If the board of a school district or intermediate  
8 school district or board of directors of a public school academy  
9 finds, after providing notice and the opportunity for a hearing,  
10 that a person employed by the school district, intermediate school  
11 district, or public school academy has violated subsection (1) or  
12 (2), the board or board of directors may discharge the person from  
13 his or her employment. However, if a collective bargaining  
14 agreement that applies to the affected person is in effect as of  
15 ~~the effective date of this section~~ **JANUARY 1, 2006**, and if that  
16 collective bargaining agreement is not in compliance with this  
17 subsection, then this subsection does not apply to that school  
18 district, intermediate school district, or public school academy  
19 until after the expiration of that collective bargaining agreement.

20 (5) If a person submits a report that he or she has been  
21 charged with a crime, as required under subsection (1), and the  
22 person is subsequently not convicted of any crime after the  
23 completion of judicial proceedings resulting from that charge, then  
24 the person may request the department and the school district,  
25 intermediate school district, public school academy, or nonpublic  
26 school to delete the report from its records concerning the person.  
27 Upon receipt of the request from the person and of documentation

1 verifying that the person was not convicted of any crime after the  
2 completion of judicial proceedings resulting from that charge, the  
3 department or a school district, intermediate school district,  
4 public school academy, or nonpublic school shall delete the report  
5 from its records concerning the person.

6 (6) If the prosecuting attorney in charge of a case receives a  
7 form as provided under subsection (2), the prosecuting attorney  
8 shall notify the superintendent of public instruction and the  
9 superintendent or chief administrator of any school district,  
10 intermediate school district, public school academy, or nonpublic  
11 school in which the person is employed by forwarding a copy of the  
12 form to each of them not later than 7 days after receiving the  
13 form. If the court receives a form as provided under subsection  
14 (2), the court shall notify the superintendent of public  
15 instruction and the superintendent or chief administrator of any  
16 school district, intermediate school district, public school  
17 academy, or nonpublic school in which the person is employed by  
18 forwarding to each of them a copy of the form and information  
19 regarding the sentence imposed on the person not later than 7 days  
20 after the date of sentencing, even if the court is maintaining the  
21 file as a nonpublic record.

22 (7) The department of information technology shall work with  
23 the department and the department of state police to develop and  
24 implement an automated program that does a comparison of the  
25 department's list of registered educational personnel, **AND OF ANY**  
26 **OTHER LIST MAINTAINED BY THE DEPARTMENT OF INDIVIDUALS EMPLOYED OR**  
27 **REGULARLY AND CONTINUOUSLY WORKING UNDER CONTRACT IN A SCHOOL,** with



1 the conviction information received by the department of state  
2 police. This comparison shall only include individuals who are  
3 actually school employees at the time of the comparison or who are  
4 regularly and continuously working under contract at the time of  
5 the comparison. Unless otherwise prohibited by law, this comparison  
6 shall include convictions contained in a nonpublic record. The  
7 department and the department of state police shall perform this  
8 comparison during January and June of each year until July 1, 2008.  
9 The department of state police shall take all reasonable and  
10 necessary measures using the available technology to ensure the  
11 accuracy of this comparison before transmitting the information  
12 under this subsection to the department. The department shall take  
13 all reasonable and necessary measures using the available  
14 technology to ensure the accuracy of this comparison before  
15 notifying a school district, intermediate school district, public  
16 school academy, or nonpublic school of a conviction. If a  
17 comparison discloses that a person on the department's list of  
18 registered educational personnel has been convicted of a crime, the  
19 department shall notify the superintendent or chief administrator  
20 and the board or governing body of the school district,  
21 intermediate school district, public school academy, or nonpublic  
22 school in which the person is employed of that conviction.

23 (8) Not later than May 1, 2006, the department shall submit a  
24 report to the legislature that details the number of individuals  
25 who were on the department's list of registered educational  
26 personnel as of January 1, 2006, who were school employees or  
27 regularly and continuously working under contract as of January 1,

1 2006, and who have been convicted of a listed offense or any  
2 felony.

3 (9) IF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC  
4 SCHOOL ACADEMY, OR NONPUBLIC SCHOOL RECEIVES A REPORT UNDER THIS  
5 SECTION OF A CONVICTION, WITHIN 30 DAYS AFTER RECEIVING THE REPORT  
6 THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL  
7 ACADEMY, OR NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT IN THE  
8 FORM AND MANNER PRESCRIBED BY THE DEPARTMENT A REPORT DETAILING THE  
9 INFORMATION RECEIVED AND ANY ACTION TAKEN AS A RESULT BY THE SCHOOL  
10 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR  
11 NONPUBLIC SCHOOL.

12 (10) ~~(9)~~ As used in this section:

13 (a) "At school" means in a classroom, elsewhere on school  
14 property, or on a school bus or other school-related vehicle.

15 (B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF  
16 CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL  
17 761.1.

18 (C) ~~(b)~~ "Listed offense" means that term as defined in  
19 section 2 of the sex offenders registration act, 1994 PA 295, MCL  
20 28.722.

21 (D) ~~(e)~~ "Regularly and continuously work under contract"  
22 means either of the following:

23 (i) To work at school on a more than intermittent or sporadic  
24 basis as an owner or employee of an entity that has a contract with  
25 a school district, intermediate school district, public school  
26 academy, or nonpublic school to provide food, custodial,  
27 transportation, counseling, or administrative services, or to

1 provide instructional services to pupils or related and auxiliary  
2 services to special education pupils.

3 (ii) To work at school on a more than intermittent or sporadic  
4 basis as an individual under a contract with a school district,  
5 intermediate school district, public school academy, or nonpublic  
6 school to provide food, custodial, transportation, counseling, or  
7 administrative services, or to provide instructional services to  
8 pupils or related and auxiliary services to special education  
9 pupils.

10 (E) ~~(d)~~ "School property" means that term as defined in  
11 section 33 of the sex offenders registration act, 1994 PA 295, MCL  
12 28.733.

13 SEC. 1230E. (1) NOT LATER THAN JANUARY 1, 2007, THE DEPARTMENT  
14 SHALL INCLUDE IN ITS LIST OF REGISTERED EDUCATIONAL PERSONNEL ALL  
15 INDIVIDUALS WHO ARE EMPLOYED BY A SCHOOL DISTRICT, INTERMEDIATE  
16 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL AND ALL  
17 INDIVIDUALS WHO ARE ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK  
18 UNDER CONTRACT IN A SCHOOL OPERATED BY A SCHOOL DISTRICT,  
19 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC  
20 SCHOOL.

21 (2) AS USED IN THIS SECTION:

22 (A) "AT SCHOOL" MEANS IN A CLASSROOM, ELSEWHERE ON SCHOOL  
23 PROPERTY, OR ON A SCHOOL BUS OR OTHER SCHOOL-RELATED VEHICLE.

24 (B) "REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT" MEANS  
25 EITHER OF THE FOLLOWING:

26 (i) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC  
27 BASIS AS AN OWNER OR EMPLOYEE OF AN ENTITY THAT HAS A CONTRACT WITH

1 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL  
2 ACADEMY, OR NONPUBLIC SCHOOL TO PROVIDE FOOD, CUSTODIAL,  
3 TRANSPORTATION, COUNSELING, OR ADMINISTRATIVE SERVICES, OR TO  
4 PROVIDE INSTRUCTIONAL SERVICES TO PUPILS OR RELATED AND AUXILIARY  
5 SERVICES TO SPECIAL EDUCATION PUPILS.

6 (ii) TO WORK AT SCHOOL ON A MORE THAN INTERMITTENT OR SPORADIC  
7 BASIS AS AN INDIVIDUAL UNDER A CONTRACT WITH A SCHOOL DISTRICT,  
8 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC  
9 SCHOOL TO PROVIDE FOOD, CUSTODIAL, TRANSPORTATION, COUNSELING, OR  
10 ADMINISTRATIVE SERVICES, OR TO PROVIDE INSTRUCTIONAL SERVICES TO  
11 PUPILS OR RELATED AND AUXILIARY SERVICES TO SPECIAL EDUCATION  
12 PUPILS.

13 (C) "SCHOOL PROPERTY" MEANS THAT TERM AS DEFINED IN SECTION 33  
14 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.733.

15 Sec. 1230g. (1) Not later than July 1, 2008, the board of a  
16 school district or intermediate school district, the board of  
17 directors of a public school academy, or the governing body of a  
18 nonpublic school shall do both of the following for each individual  
19 who, as of ~~January 1, 2006~~ **NOVEMBER 15, 2005**, is either a full-  
20 time or part-time employee of the school district, intermediate  
21 school district, public school academy, or nonpublic school or is  
22 assigned to regularly and continuously work under contract in any  
23 of its schools **AND WHO, AS OF THE DATE OF INITIATION OF THE**  
24 **CRIMINAL HISTORY AND CRIMINAL RECORDS CHECKS UNDER THIS SECTION, IS**  
25 **STILL EITHER A FULL-TIME OR PART-TIME EMPLOYEE OF THE SCHOOL**  
26 **DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR**  
27 **NONPUBLIC SCHOOL OR IS ASSIGNED TO REGULARLY AND CONTINUOUSLY WORK**

1 **UNDER CONTRACT IN A SCHOOL IN ANY OF ITS SCHOOLS:**

2 (a) Request from the criminal records division of the  
3 department of state police a criminal history check on the  
4 individual.

5 (b) Request the department of state police to conduct a  
6 criminal records check on the individual through the federal bureau  
7 of investigation. The board, board of directors, or governing board  
8 shall require the individual to submit his or her fingerprints to  
9 the department of state police for the purposes of this  
10 subdivision. The department of state police may charge a fee for  
11 conducting the criminal records check.

12 (2) For an individual employed or regularly and continuously  
13 working under contract as a substitute teacher, instead of  
14 requesting a criminal history check and criminal records check  
15 under subsection (1), a school district, intermediate school  
16 district, public school academy, or nonpublic school may use  
17 results received by another district, public school academy, or  
18 nonpublic school or maintained by the department to confirm that  
19 the individual does not have any criminal history. If that  
20 confirmation is not available, subsection (1) applies to the  
21 individual.

22 (3) If an individual described in subsection (1) is employed  
23 by or regularly and continuously working under contract in more  
24 than 1 school district, intermediate school district, public school  
25 academy, or nonpublic school and if the individual agrees in  
26 writing to allow a district, public school academy, or nonpublic  
27 school to share the results of the criminal history check or

1 criminal records check with another district, public school  
2 academy, or nonpublic school, then a district, public school  
3 academy, or nonpublic school may satisfy the requirements of  
4 subsection (1) by obtaining a copy of the results of the criminal  
5 history check or criminal records check from another district,  
6 public school academy, or nonpublic school.

7 (4) An individual described in subsection (1) shall give  
8 written consent for the criminal records division of the department  
9 of state police to conduct the criminal history check and criminal  
10 records check required under this section and shall submit his or  
11 her fingerprints to the department of state police for the purposes  
12 of the criminal records check. **IF AN INDIVIDUAL DOES NOT COMPLY  
13 WITH THIS SUBSECTION OR OTHERWISE FAILS TO COOPERATE WITH A SCHOOL  
14 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR  
15 NONPUBLIC SCHOOL THAT IS SEEKING TO COMPLY WITH SUBSECTION (1)  
16 CONCERNING THE INDIVIDUAL, THEN THE SCHOOL DISTRICT, INTERMEDIATE  
17 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL  
18 NOT EMPLOY THE INDIVIDUAL IN ANY CAPACITY AND SHALL NOT ALLOW THE  
19 INDIVIDUAL TO REGULARLY AND CONTINUOUSLY WORK UNDER CONTRACT IN ANY  
20 OF ITS SCHOOLS.**

21 (5) A school district, intermediate school district, public  
22 school academy, or nonpublic school shall make a request to the  
23 department of state police for the criminal history check and  
24 criminal records check under this section on a form and in a manner  
25 prescribed by the department of state police.

26 (6) The results of a criminal history check and criminal  
27 records check under this section shall be used by a school

1 district, intermediate school district, public school academy, or  
2 nonpublic school only for the purpose of evaluating an individual's  
3 qualifications for employment or assignment in his or her position  
4 and for the purposes of subsections (2) and (3). A member of the  
5 board of a school district or intermediate school district, of the  
6 board of directors of a public school academy, or of the governing  
7 body of a nonpublic school or an employee of a district, public  
8 school academy, or nonpublic school shall not disclose those  
9 results, except a misdemeanor conviction involving sexual or  
10 physical abuse or any felony conviction, to any person who is not  
11 directly involved in evaluating the individual's qualifications for  
12 employment or assignment. However, for the purposes of subsections  
13 (2) and (3), a person described in this subsection may provide a  
14 copy of the results ~~under subsection (1)~~ **RECEIVED UNDER THIS**  
15 **SECTION** concerning the individual to an appropriate representative  
16 of another district, public school academy, or nonpublic school.  
17 **ALSO, FOR AN INDIVIDUAL WHO IS REGULARLY AND CONTINUOUSLY WORKING**  
18 **UNDER CONTRACT, A PERSON DESCRIBED IN THIS SUBSECTION MAY PROVIDE A**  
19 **COPY OF THE RESULTS RECEIVED UNDER THIS SECTION CONCERNING THE**  
20 **INDIVIDUAL TO AN APPROPRIATE REPRESENTATIVE OF THE INDIVIDUAL'S**  
21 **EMPLOYER.** A person who violates this subsection is guilty of a  
22 misdemeanor punishable by a fine of not more than \$10,000.00, but  
23 is not subject to the penalties under section 1804.

24 (7) Within 30 days after receiving a proper request by a  
25 school district, intermediate school district, public school  
26 academy, or nonpublic school for a criminal history check and  
27 criminal records check on an individual under this section, the

1 criminal records division of the department of state police shall  
2 do both of the following:

3 (a) Conduct the criminal history check and, after conducting  
4 the criminal history check and within that time period, provide a  
5 report of the results of the criminal history check to the  
6 district, public school academy, or nonpublic school. The report  
7 shall contain any criminal history record information on the  
8 individual that is maintained by the criminal records division of  
9 the department of state police.

10 (b) Initiate the criminal records check through the federal  
11 bureau of investigation. After conducting the criminal records  
12 check required under this section for a school district,  
13 intermediate school district, ~~or~~ public school academy, **OR**  
14 **NONPUBLIC SCHOOL**, the criminal records division of the department  
15 of state police shall provide the results of the criminal records  
16 check to the district, ~~or~~ public school academy, **OR NONPUBLIC**  
17 **SCHOOL**. ~~After conducting the criminal records check required under~~  
18 ~~this section for a nonpublic school, the criminal records division~~  
19 ~~of the department of state police shall notify the nonpublic school~~  
20 ~~of whether or not the criminal records check disclosed any criminal~~  
21 ~~history that is not disclosed in the criminal history check report~~  
22 ~~on the individual provided to the nonpublic school under~~  
23 ~~subdivision (a).~~

24 (8) If the results received by a school district, intermediate  
25 school district, public school academy, or nonpublic school under  
26 subsection (7), **OR A REPORT RECEIVED UNDER SECTION 1230A, 1230D(7),**  
27 **1535A(15), OR 1539B(15)**, disclose that an individual has been



1 convicted of a listed offense, then the school district,  
2 intermediate school district, public school academy, or nonpublic  
3 school **SHALL TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC**  
4 **RECORDS AND, IF THE INFORMATION IS VERIFIED,** shall not employ the  
5 individual in any capacity, as provided under section 1230c, and  
6 shall not allow the individual to regularly and continuously work  
7 under contract in any of its schools. If the results received by a  
8 school district, intermediate school district, public school  
9 academy, or nonpublic school under subsection (7), **OR A REPORT**  
10 **RECEIVED UNDER SECTION 1230A, 1230D(7), 1535A(15), OR 1539B(15),**  
11 disclose that an individual has been convicted of a felony other  
12 than a listed offense, then the school district, intermediate  
13 school district, public school academy, or nonpublic school **SHALL**  
14 **TAKE STEPS TO VERIFY THAT INFORMATION USING PUBLIC RECORDS AND, IF**  
15 **THE INFORMATION IS VERIFIED USING PUBLIC RECORDS,** shall not employ  
16 the individual in any capacity or allow the individual to regularly  
17 and continuously work under contract in any of its schools unless  
18 the superintendent or chief administrator and the **GOVERNING** board  
19 or governing body, **IF ANY,** of the school district, intermediate  
20 school district, public school academy, or nonpublic school each  
21 specifically ~~approve~~ **APPROVES** the employment or work assignment  
22 in writing. **IF A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,**  
23 **PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL RECEIVES RESULTS**  
24 **DESCRIBED IN THIS SUBSECTION, WITHIN 30 DAYS AFTER RECEIVING THOSE**  
25 **RESULTS THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC**  
26 **SCHOOL ACADEMY, OR NONPUBLIC SCHOOL SHALL SUBMIT TO THE DEPARTMENT**  
27 **IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT A REPORT**

1 DETAILING THE INFORMATION RECEIVED AND ANY ACTION TAKEN AS A RESULT  
2 BY THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL  
3 ACADEMY, OR NONPUBLIC SCHOOL.

4 (9) IF THE CRIMINAL HISTORY CHECK AND CRIMINAL RECORDS CHECK  
5 REQUIRED UNDER THIS SECTION HAVE BEEN COMPLETED FOR A PARTICULAR  
6 INDIVIDUAL AND THE RESULTS REPORTED TO A SCHOOL DISTRICT,  
7 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC  
8 SCHOOL AS PROVIDED UNDER THIS SECTION, THEN ANOTHER CRIMINAL  
9 HISTORY CHECK OR CRIMINAL RECORDS CHECK IS NOT REQUIRED UNDER THIS  
10 SECTION FOR THAT INDIVIDUAL AS LONG AS THE INDIVIDUAL REMAINS, WITH  
11 NO BREAK IN SERVICE OTHER THAN NORMALLY SCHEDULED ACADEMIC CALENDAR  
12 BREAKS, EMPLOYED OR REGULARLY AND CONTINUOUSLY WORKING UNDER  
13 CONTRACT IN A SCHOOL IN ANY SCHOOL DISTRICT, INTERMEDIATE SCHOOL  
14 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN THIS STATE.

15 (10) ~~-(9)-~~ Subsection (1) does not apply to an individual who  
16 is an employee or is assigned to regularly and continuously work  
17 under contract in a school of a school district, intermediate  
18 school district, public school academy, or nonpublic school if the  
19 individual is not more than 19 years of age and is enrolled as a  
20 general education pupil of the school district, intermediate school  
21 district, public school academy, or nonpublic school or is not more  
22 than 26 years of age and is enrolled in special education programs  
23 or services in the school district, intermediate school district,  
24 public school academy, or nonpublic school. However, the school  
25 district, intermediate school district, public school academy, or  
26 nonpublic school shall perform a criminal history check on that  
27 person using the department of state police's internet criminal

1 history access tool (ICHAT). If a search of the department of state  
2 police's ICHAT reveals that the individual has been convicted of a  
3 listed offense, then the school district, intermediate school  
4 district, public school academy, or nonpublic school shall not  
5 employ the individual in any capacity, as provided under section  
6 1230c, and shall not allow the individual to regularly and  
7 continuously work under contract in any of its schools. If a search  
8 of the department of state police's ICHAT reveals that the  
9 individual has been convicted of a felony other than a listed  
10 offense, then the school district, intermediate school district,  
11 public school academy, or nonpublic school shall not employ the  
12 individual in any capacity or allow the individual to regularly and  
13 continuously work under contract in any of its schools unless the  
14 superintendent or chief administrator and the board or governing  
15 body of the school district, intermediate school district, public  
16 school academy, or nonpublic school each specifically approves the  
17 employment or work assignment in writing.

18 (11) ~~(10)~~ As used in this section:

19 (a) "At school" means in a classroom, elsewhere on school  
20 property, or on a school bus or other school-related vehicle.

21 (B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF  
22 CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL  
23 761.1.

24 (C) ~~(b)~~ "Listed offense" means that term as defined in  
25 section 2 of the sex offenders registration act, 1994 PA 295, MCL  
26 28.722.

27 (D) ~~(e)~~ "Regularly and continuously work under contract"

1 means either of the following:

2 (i) To work at school on a more than intermittent or sporadic  
3 basis as an owner or employee of an entity that has a contract with  
4 a school district, intermediate school district, public school  
5 academy, or nonpublic school to provide food, custodial,  
6 transportation, counseling, or administrative services, or to  
7 provide instructional services to pupils or related and auxiliary  
8 services to special education pupils.

9 (ii) To work at school on a more than intermittent or sporadic  
10 basis as an individual under a contract with a school district,  
11 intermediate school district, public school academy, or nonpublic  
12 school to provide food, custodial, transportation, counseling, or  
13 administrative services, or to provide instructional services to  
14 pupils or related and auxiliary services to special education  
15 pupils.

16 (E) ~~(d)~~ "School property" means that term as defined in  
17 section 33 of the sex offenders registration act, 1994 PA 295, MCL  
18 28.733.

19 Sec. 1535a. (1) Subject to subsection (2), if a person who  
20 holds a teaching certificate that is valid in this state has been  
21 convicted of a crime described in this subsection, within 10  
22 working days after receiving notice of the conviction the  
23 superintendent of public instruction shall notify the person in  
24 writing that his or her teaching certificate may be suspended  
25 because of the conviction and of his or her right to a hearing  
26 before the superintendent of public instruction. The hearing shall  
27 be conducted as a contested case under the administrative

1 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the  
2 person does not avail himself or herself of this right to a hearing  
3 within 15 working days after receipt of this written notification,  
4 the teaching certificate of that person shall be suspended. If a  
5 hearing takes place, the superintendent of public instruction shall  
6 complete the proceedings and make a final decision and order within  
7 120 working days after receiving the request for a hearing. Subject  
8 to subsection (2), the superintendent of public instruction may  
9 suspend the person's teaching certificate based upon the issues and  
10 evidence presented at the hearing. This subsection applies to any  
11 of the following crimes:

12 (a) Any felony.

13 (b) Any of the following misdemeanors:

14 (i) Criminal sexual conduct in the fourth degree or an attempt  
15 to commit criminal sexual conduct in the fourth degree.

16 (ii) Child abuse in the third or fourth degree or an attempt to  
17 commit child abuse in the third or fourth degree.

18 (iii) A misdemeanor involving cruelty, torture, or indecent  
19 exposure involving a child.

20 (iv) A misdemeanor violation of section 7410 of the public  
21 health code, 1978 PA 368, MCL 333.7410.

22 (v) A violation of section 115, 141a, 145a, 335a, or 359 of  
23 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,  
24 750.145a, 750.335a, and 750.359, or a misdemeanor violation of  
25 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,  
26 MCL 750.81, 750.81a, and 750.145d.

27 (vi) A misdemeanor violation of section 701 of the Michigan

1 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

2 (vii) Any misdemeanor that is a listed offense.

3 (c) A violation of a substantially similar law of another  
4 state, of a political subdivision of this state or another state,  
5 or of the United States.

6 (2) If a person who holds a teaching certificate that is valid  
7 in this state has been convicted of a crime described in this  
8 subsection, the superintendent of public instruction shall find  
9 that the public health, safety, or welfare requires emergency  
10 action and shall order summary suspension of the person's teaching  
11 certificate under section 92 of the administrative procedures act  
12 of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an  
13 opportunity for a hearing as provided under that section. This  
14 subsection does not limit the superintendent of public  
15 instruction's ability to order summary suspension of a person's  
16 teaching certificate for a reason other than described in this  
17 subsection. This subsection applies to conviction of any of the  
18 following crimes:

19 (a) Criminal sexual conduct in any degree, assault with intent  
20 to commit criminal sexual conduct, or an attempt to commit criminal  
21 sexual conduct in any degree.

22 (b) Felonious assault on a child, child abuse in the first  
23 degree, or an attempt to commit child abuse in the first degree.

24 (c) Cruelty, torture, or indecent exposure involving a child.

25 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,  
26 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,  
27 333.7403, 333.7410, and 333.7416.

1 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,  
2 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,  
3 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,  
4 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony  
5 violation of section 145d of the Michigan penal code, 1931 PA 328,  
6 MCL 750.145d.

7 (f) A violation of section 158 of the Michigan penal code,  
8 1931 PA 328, MCL 750.158, if a victim is an individual less than 18  
9 years of age.

10 (g) Except for a juvenile disposition or adjudication, a  
11 violation of section 338, 338a, or 338b of the Michigan penal code,  
12 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an  
13 individual less than 18 years of age.

14 (h) A violation of section 349 of the Michigan penal code,  
15 1931 PA 328, MCL 750.349, if a victim is an individual less than 18  
16 years of age.

17 (i) An offense committed by a person who was, at the time of  
18 the offense, a sexually delinquent person as defined in section 10a  
19 of the Michigan penal code, 1931 PA 328, MCL 750.10a.

20 **(J) ANY OTHER CRIME THAT IS A LISTED OFFENSE.**

21 **(K) ~~(j)~~ An attempt or conspiracy to commit an offense listed**  
22 **in subdivision (a), (e), (f), (g), (h), ~~or~~ (i), OR (J).**

23 **(L) ~~(k)~~ A violation of a substantially similar law of another**  
24 **state, of a political subdivision of this state or another state,**  
25 **or of the United States.**

26 **(M) ~~(l)~~ Any other crime listed in subsection (1), if the**  
27 **superintendent of public instruction determines the public health,**

1 safety, or welfare requires emergency action based on the  
2 circumstances underlying the conviction.

3 (3) ALL OF THE FOLLOWING APPLY TO PROCEEDINGS TO SUSPEND OR  
4 REVOKE A PERSON'S TEACHING CERTIFICATE UNDER THIS SECTION:

5 (A) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL APPOINT A  
6 DESIGNEE TO PERFORM THE INVESTIGATORY AND PROSECUTORIAL FUNCTIONS  
7 INVOLVED IN THE PROCEEDINGS.

8 (B) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL TAKE FINAL  
9 ACTION WITH REGARD TO A SUSPENSION OR REVOCATION OF A PERSON'S  
10 TEACHING CERTIFICATE.

11 (C) The superintendent of public instruction after a hearing  
12 shall not take action against a person's teaching certificate under  
13 subsection (1) or (2) unless the superintendent of public  
14 instruction finds that the conviction is reasonably and adversely  
15 related to the person's present fitness to serve in an elementary  
16 or secondary school in this state or that the conviction  
17 demonstrates that the person is unfit to teach in an elementary or  
18 secondary school in this state. Further, the superintendent of  
19 public instruction may take action against a person's teaching  
20 certificate under subsection (1) or (2) based on a conviction that  
21 occurred before ~~the effective date of the amendatory act that~~  
22 ~~added this subsection~~ **APRIL 1, 2004** if the superintendent of  
23 public instruction finds that the conviction is reasonably and  
24 adversely related to the person's present fitness to serve in an  
25 elementary or secondary school in this state or that the conviction  
26 demonstrates that the person is unfit to teach in an elementary or  
27 secondary school in this state. **FOR THE PURPOSES OF THIS SECTION,**



1 CONVICTION OF A LISTED OFFENSE IS REASONABLY AND ADVERSELY RELATED  
2 TO THE PERSON'S FITNESS TO SERVE IN AN ELEMENTARY OR SECONDARY  
3 SCHOOL IN THIS STATE AND DEMONSTRATES THAT THE PERSON IS UNFIT TO  
4 TEACH IN AN ELEMENTARY OR SECONDARY SCHOOL IN THIS STATE.

5 (4) If a person who has entered a plea of guilt or no contest  
6 to or who is the subject of a finding of guilt by a judge or jury  
7 of a crime listed in subsection (2) has been suspended from active  
8 performance of duty by a public school, school district,  
9 intermediate school district, or nonpublic school during the  
10 pendency of proceedings under this section, the public school,  
11 school district, intermediate school district, or nonpublic school  
12 employing the person shall discontinue the person's compensation  
13 until the superintendent of public instruction has made a final  
14 determination of whether or not to suspend or revoke the person's  
15 teaching certificate. If the superintendent of public instruction  
16 does not suspend or revoke the person's teaching certificate, the  
17 public school, school district, intermediate school district, or  
18 nonpublic school shall make the person whole for lost compensation,  
19 without interest. However, if a collective bargaining agreement is  
20 in effect as of ~~the effective date of this subsection~~ **JANUARY 1,**  
21 **2006** for employees of a school district, intermediate school  
22 district, or public school academy, and if the terms of that  
23 collective bargaining agreement are inconsistent with this  
24 subsection, then this subsection does not apply to that school  
25 district, intermediate school district, or public school academy  
26 until after the expiration of that collective bargaining agreement.

27 (5) Except as otherwise provided in this subsection, after the

1 completion of a person's sentence, the person may request a hearing  
2 ~~before the superintendent of public instruction~~ on reinstatement  
3 of his or her teaching certificate. Based upon the issues and  
4 evidence presented at the hearing, the superintendent of public  
5 instruction may reinstate, continue the suspension of, or  
6 permanently revoke the person's teaching certificate. The  
7 superintendent of public instruction shall not reinstate a person's  
8 teaching certificate unless the superintendent of public  
9 instruction finds that the person is currently fit to serve in an  
10 elementary or secondary school in this state and that reinstatement  
11 of the person's teaching certificate will not adversely affect the  
12 health, safety, and welfare of pupils. If a person's conviction was  
13 for a listed offense, the person is not entitled to request a  
14 hearing on reinstatement under this subsection, and the  
15 superintendent of public instruction shall not reinstate the  
16 person's teaching certificate under this subsection.

17 (6) All of the following apply to a person described in this  
18 section whose conviction is reversed upon final appeal:

19 (a) The person's teaching certificate shall be reinstated upon  
20 his or her notification to the superintendent of public instruction  
21 of the reversal.

22 (b) If the suspension of the person's teaching certificate  
23 under this section was the sole cause of his or her discharge from  
24 employment, the person shall be reinstated, upon his or her  
25 notification to the appropriate local or intermediate school board  
26 of the reversal, with full rights and benefits, to the position he  
27 or she would have had if he or she had been continuously employed.

1           (c) If the person's compensation was discontinued under  
2 subsection (4), the public school, school district, intermediate  
3 school district, or nonpublic school shall make the person whole  
4 for lost compensation.

5           (7) If the prosecuting attorney in charge of a case receives a  
6 form as provided under section 1230d, the prosecuting attorney  
7 shall notify the superintendent of public instruction, and any  
8 public school, school district, intermediate school district, or  
9 nonpublic school in which the person is employed by forwarding a  
10 copy of the form to each of them not later than 7 days after  
11 receiving the form. If the court receives a form as provided under  
12 section 1230d, the court shall notify the superintendent of public  
13 instruction and any public school, school district, intermediate  
14 school district, or nonpublic school in which the person is  
15 employed by forwarding to each of them a copy of the form and  
16 information regarding the sentence imposed on the person not later  
17 than 7 days after the date of sentencing, even if the court is  
18 maintaining the file as a nonpublic record.

19           (8) Not later than 7 days after receiving notification from  
20 the prosecuting attorney or the court under subsection (7) or  
21 learning through an authoritative source that a person who holds a  
22 teaching certificate has been convicted of a crime listed in  
23 subsection (1), the superintendent of public instruction shall  
24 request the court to provide a certified copy of the judgment of  
25 conviction and sentence or other document regarding the disposition  
26 of the case to the superintendent of public instruction and shall  
27 pay any fees required by the court. The court shall provide this

1 certified copy within 7 days after receiving the request and fees  
2 under this section or after entry of the judgment or other  
3 document, whichever is later, even if the court is maintaining the  
4 judgment or other document as a nonpublic record.

5 (9) If the superintendent of a school district or intermediate  
6 school district, the chief administrative officer of a nonpublic  
7 school, the president of the board of a school district or  
8 intermediate school district, or the president of the governing  
9 board of a nonpublic school is notified or learns through an  
10 authoritative source that a person who holds a teaching certificate  
11 and who is employed by the school district, intermediate school  
12 district, or nonpublic school has been convicted of a crime  
13 described in subsection (1) or (2), the superintendent, chief  
14 administrative officer, or board president shall notify the  
15 superintendent of public instruction of that conviction within 15  
16 days after learning of the conviction.

17 (10) For the purposes of this section, a certified copy of the  
18 judgment of conviction and sentence is conclusive evidence of  
19 conviction of a crime described in this section. For the purposes  
20 of this section, conviction of a crime described in this section is  
21 considered to be reasonably and adversely related to the ability of  
22 the person to serve in an elementary or secondary school and is  
23 sufficient grounds for suspension or revocation of the person's  
24 teaching certificate.

25 (11) For any hearing under subsection (1), if the  
26 superintendent of public instruction does not ~~complete the hearing~~  
27 ~~procedures and~~ make a final decision and order within 120 working

1 days after receiving the request for the hearing, as required under  
2 subsection (1), the superintendent of public instruction shall  
3 submit a report detailing the reasons for the delay to the standing  
4 committees and appropriations subcommittees of the senate and house  
5 of representatives that have jurisdiction over education and  
6 education appropriations. The failure of the superintendent of  
7 public instruction to ~~complete the hearing procedures and~~ make a  
8 final decision and order within this 120 working day time limit, or  
9 the failure of any other official or agency to meet a time limit  
10 prescribed in this section, does not affect the validity of an  
11 action taken under this section affecting a person's teaching  
12 certificate.

13 (12) Beginning July 1, 2004, the superintendent of public  
14 instruction shall submit to the legislature a quarterly report of  
15 all final actions he or she has taken under this section affecting  
16 a person's teaching certificate during the preceding quarter. The  
17 report shall contain at least all of the following with respect to  
18 each person whose teaching certificate has been affected:

19 (a) The person's name, as it appears on the teaching  
20 certificate.

21 (b) The school district, intermediate school district, public  
22 school academy, or nonpublic school in which the person was  
23 employed at the time of the conviction, if any.

24 (c) The offense for which the person was convicted and the  
25 date of the offense and date of the conviction.

26 (d) Whether the action taken by the superintendent of public  
27 instruction was a summary suspension, suspension due to failure to

1 request a hearing, suspension, revocation, or reinstatement of the  
2 teaching certificate.

3 (13) This section does not do any of the following:

4 (a) Prohibit a person who holds a teaching certificate from  
5 seeking monetary compensation from a school board or intermediate  
6 school board if that right is available under a collective  
7 bargaining agreement or another statute.

8 (b) Limit the rights and powers granted to a school district  
9 or intermediate school district under a collective bargaining  
10 agreement, this act, or another statute to discipline or discharge  
11 a person who holds a teaching certificate.

12 (14) The superintendent of public instruction may promulgate,  
13 as necessary, rules to implement this section pursuant to the  
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
15 24.328.

16 (15) The department of information technology shall work with  
17 the department and the department of state police to develop and  
18 implement an automated program that does a comparison of the  
19 department's list of individuals holding a teaching certificate or  
20 state board approval, **AND OF ANY OTHER LIST MAINTAINED BY THE**  
21 **DEPARTMENT OF INDIVIDUALS EMPLOYED OR REGULARLY AND CONTINUOUSLY**  
22 **WORKING UNDER CONTRACT IN A SCHOOL**, with the conviction information  
23 received by the department of state police. This comparison shall  
24 only include individuals who are actually school employees at the  
25 time of the comparison or who are regularly and continuously  
26 working under contract at the time of the comparison. Unless  
27 otherwise prohibited by law, this comparison shall include

1 convictions contained in a nonpublic record. The department and the  
2 department of state police shall perform this comparison during  
3 January and June of each year until July 1, 2008. The department of  
4 state police shall take all reasonable and necessary measures using  
5 the available technology to ensure the accuracy of this comparison  
6 before transmitting the information under this subsection to the  
7 department. The department shall take all reasonable and necessary  
8 measures using the available technology to ensure the accuracy of  
9 this comparison before notifying a school district, intermediate  
10 school district, public school academy, or nonpublic school of a  
11 conviction. If a comparison discloses that a person on the  
12 department's list of individuals holding a teaching certificate or  
13 state board approval has been convicted of a crime, the department  
14 shall notify the superintendent or chief administrator and the  
15 board or governing body of the school district, intermediate school  
16 district, public school academy, or nonpublic school in which the  
17 person is employed of that conviction.

18 (16) Not later than May 1, 2006, the department shall submit a  
19 report to the legislature that details the number of individuals  
20 holding a teaching certificate or state board approval who were  
21 school employees or regularly and continuously working under  
22 contract as of January 1, 2006 and who have been convicted of a  
23 listed offense or any felony.

24 (17) As used in this section:

25 (a) "Conviction" means a judgment entered by a court upon a  
26 plea of guilty, guilty but mentally ill, or nolo contendere or upon  
27 a jury verdict or court finding that a defendant is guilty or

1 guilty but mentally ill.

2 (B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF  
3 CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL  
4 761.1.

5 (C) ~~-(b)-~~ "Listed offense" means that term as defined in  
6 section 2 of the sex offenders registration act, 1994 PA 295, MCL  
7 28.722.

8 (D) ~~-(e)-~~ "Prosecuting attorney" means the prosecuting  
9 attorney for a county, an assistant prosecuting attorney for a  
10 county, the attorney general, the deputy attorney general, an  
11 assistant attorney general, a special prosecuting attorney, or, in  
12 connection with the prosecution of an ordinance violation, an  
13 attorney for the political subdivision that enacted the ordinance  
14 upon which the violation is based.

15 (E) ~~-(d)-~~ "Regularly and continuously work under contract"  
16 means that term as defined in section 1230d.

17 Sec. 1539b. (1) Subject to subsection (2), if a person who  
18 holds state board approval has been convicted of a crime described  
19 in this subsection, within 10 working days after receiving notice  
20 of the conviction the superintendent of public instruction shall  
21 notify the person in writing that his or her state board approval  
22 may be suspended because of the conviction and of his or her right  
23 to a hearing before the superintendent of public instruction. The  
24 hearing shall be conducted as a contested case under the  
25 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
26 24.328. If the person does not avail himself or herself of this  
27 right to a hearing within 15 working days after receipt of this



1 written notification, the person's state board approval shall be  
2 suspended. If a hearing takes place, the superintendent of public  
3 instruction shall complete the proceedings and make a final  
4 decision and order within 120 working days after receiving the  
5 request for a hearing. Subject to subsection (2), the  
6 superintendent of public instruction may suspend the person's state  
7 board approval, based upon the issues and evidence presented at the  
8 hearing. This subsection applies to any of the following crimes:

9 (a) Any felony.

10 (b) Any of the following misdemeanors:

11 (i) Criminal sexual conduct in the fourth degree or an attempt  
12 to commit criminal sexual conduct in the fourth degree.

13 (ii) Child abuse in the third or fourth degree or an attempt to  
14 commit child abuse in the third or fourth degree.

15 (iii) A misdemeanor involving cruelty, torture, or indecent  
16 exposure involving a child.

17 (iv) A misdemeanor violation of section 7410 of the public  
18 health code, 1978 PA 368, MCL 333.7410.

19 (v) A violation of section 115, 141a, 145a, 335a, or 359 of  
20 the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a,  
21 750.145a, 750.335a, and 750.359, or a misdemeanor violation of  
22 section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328,  
23 MCL 750.81, 750.81a, and 750.145d.

24 (vi) A misdemeanor violation of section 701 of the Michigan  
25 liquor control code of 1998, 1998 PA 58, MCL 436.1701.

26 (vii) Any misdemeanor that is a listed offense.

27 (c) A violation of a substantially similar law of another

1 state, of a political subdivision of this state or another state,  
2 or of the United States.

3 (2) If a person who holds state board approval has been  
4 convicted of a crime described in this subsection, the  
5 superintendent of public instruction shall find that the public  
6 health, safety, or welfare requires emergency action and shall  
7 order summary suspension of the person's state board approval under  
8 section 92 of the administrative procedures act of 1969, 1969 PA  
9 306, MCL 24.292, and shall subsequently provide an opportunity for  
10 a hearing as required under that section. This subsection does not  
11 limit the superintendent of public instruction's ability to order  
12 summary suspension of a person's state board approval for a reason  
13 other than described in this subsection. This subsection applies to  
14 conviction of any of the following crimes:

15 (a) Criminal sexual conduct in any degree, assault with intent  
16 to commit criminal sexual conduct, or an attempt to commit criminal  
17 sexual conduct in any degree.

18 (b) Felonious assault on a child, child abuse in the first  
19 degree, or an attempt to commit child abuse in the first degree.

20 (c) Cruelty, torture, or indecent exposure involving a child.

21 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,  
22 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,  
23 333.7403, 333.7410, and 333.7416.

24 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,  
25 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,  
26 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,  
27 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony

1 violation of section 145d of the Michigan penal code, 1931 PA 328,  
2 MCL 750.145d.

3 (f) A violation of section 158 of the Michigan penal code,  
4 1931 PA 328, MCL 750.158, if a victim is an individual less than 18  
5 years of age.

6 (g) Except for a juvenile disposition or adjudication, a  
7 violation of section 338, 338a, or 338b of the Michigan penal code,  
8 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an  
9 individual less than 18 years of age.

10 (h) A violation of section 349 of the Michigan penal code,  
11 1931 PA 328, MCL 750.349, if a victim is an individual less than 18  
12 years of age.

13 (i) An offense committed by a person who was, at the time of  
14 the offense, a sexually delinquent person as defined in section 10a  
15 of the Michigan penal code, 1931 PA 328, MCL 750.10a.

16 **(J) ANY OTHER CRIME THAT IS A LISTED OFFENSE.**

17 **(K) —(j)—** An attempt or conspiracy to commit an offense listed  
18 in subdivision (a), (e), (f), (g), (h), ~~or~~ (i), **OR (J).**

19 **(l) —(k)—** A violation of a substantially similar law of another  
20 state, of a political subdivision of this state or another state,  
21 or of the United States.

22 **(M) —(l)—** Any other crime listed in subsection (1), if the  
23 superintendent of public instruction determines the public health,  
24 safety, or welfare requires emergency action based on the  
25 circumstances underlying the conviction.

26 **(3) ALL OF THE FOLLOWING APPLY TO PROCEEDINGS TO SUSPEND OR**  
27 **REVOKE A PERSON'S STATE BOARD APPROVAL UNDER THIS SECTION:**

1           (A) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL APPOINT A  
2 DESIGNEE TO PERFORM THE INVESTIGATORY AND PROSECUTORIAL FUNCTIONS  
3 INVOLVED IN THE PROCEEDINGS.

4           (B) THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL TAKE FINAL  
5 ACTION WITH REGARD TO A SUSPENSION OR REVOCATION OF A PERSON'S  
6 STATE BOARD APPROVAL.

7           (C) The superintendent of public instruction after a hearing  
8 shall not take action against a person's state board approval under  
9 subsection (1) or (2) unless the superintendent of public  
10 instruction finds that the conviction is reasonably and adversely  
11 related to the person's present fitness to serve in an elementary  
12 or secondary school in this state or that the conviction  
13 demonstrates that the person is unfit to teach in an elementary or  
14 secondary school in this state. Further, the superintendent of  
15 public instruction may take action against a person's state board  
16 approval under subsection (1) or (2) based on a conviction that  
17 occurred before ~~the effective date of the amendatory act that~~  
18 ~~added this subsection~~ **APRIL 1, 2004** if the superintendent of  
19 public instruction finds that the conviction is reasonably and  
20 adversely related to the person's present fitness to serve in an  
21 elementary or secondary school in this state. **FOR THE PURPOSES OF**  
22 **THIS SECTION, CONVICTION OF A LISTED OFFENSE IS REASONABLY AND**  
23 **ADVERSELY RELATED TO THE PERSON'S FITNESS TO SERVE IN AN ELEMENTARY**  
24 **OR SECONDARY SCHOOL IN THIS STATE AND DEMONSTRATES THAT THE PERSON**  
25 **IS UNFIT TO TEACH IN AN ELEMENTARY OR SECONDARY SCHOOL IN THIS**  
26 **STATE.**

27           (4) If a person who has entered a plea of guilt or no contest

1 to or who is the subject of a finding of guilt by a judge or jury  
2 of a crime listed in subsection (2) has been suspended from active  
3 performance of duty by a public school, school district,  
4 intermediate school district, or nonpublic school during the  
5 pendency of proceedings under this section, the public school,  
6 school district, intermediate school district, or nonpublic school  
7 employing the person shall discontinue the person's compensation  
8 until the superintendent of public instruction has made a final  
9 determination of whether or not to suspend or revoke the person's  
10 state board approval. If the superintendent of public instruction  
11 does not suspend or revoke the person's state board approval, the  
12 public school, school district, intermediate school district, or  
13 nonpublic school shall make the person whole for lost compensation,  
14 without interest. However, if a collective bargaining agreement is  
15 in effect as of ~~the effective date of this subsection~~ **JANUARY 1,**  
16 **2006** for employees of a school district, intermediate school  
17 district, or public school academy, and if the terms of that  
18 collective bargaining agreement are inconsistent with this  
19 subsection, then this subsection does not apply to that school  
20 district, intermediate school district, or public school academy  
21 until after the expiration of that collective bargaining agreement.

22 (5) Except as otherwise provided in this subsection, after the  
23 completion of the person's sentence, the person may request a  
24 hearing ~~before the superintendent of public instruction~~ on  
25 reinstatement of his or her state board approval. Based upon the  
26 issues and evidence presented at the hearing, the superintendent of  
27 public instruction may reinstate, continue the suspension of, or

1 permanently revoke the person's state board approval. The  
2 superintendent of public instruction shall not reinstate a person's  
3 state board approval unless the superintendent of public  
4 instruction finds that the person is currently fit to serve in an  
5 elementary or secondary school in this state and that reinstatement  
6 of the person's state board approval will not adversely affect the  
7 health, safety, and welfare of pupils. If a person's conviction was  
8 for a listed offense, the person is not entitled to request a  
9 hearing on reinstatement under this subsection, and the  
10 superintendent of public instruction shall not reinstate the  
11 person's state board approval under this subsection.

12 (6) All of the following apply to a person described in this  
13 section whose conviction is reversed upon final appeal:

14 (a) The person's state board approval shall be reinstated upon  
15 his or her notification to the superintendent of public instruction  
16 of the reversal.

17 (b) If the suspension of the state board approval was the sole  
18 cause of his or her discharge from employment, the person shall be  
19 reinstated upon his or her notification to the appropriate local or  
20 intermediate school board of the reversal, with full rights and  
21 benefits, to the position he or she would have had if he or she had  
22 been continuously employed.

23 (c) If the person's compensation was discontinued under  
24 subsection (4), the public school, school district, intermediate  
25 school district, or nonpublic school shall make the person whole  
26 for lost compensation.

27 (7) If the prosecuting attorney in charge of a case receives a

1 form as provided under section 1230d, the prosecuting attorney  
2 shall notify the superintendent of public instruction, and any  
3 public school, school district, intermediate school district, or  
4 nonpublic school in which the person is employed by forwarding a  
5 copy of the form to each of them not later than 7 days after  
6 receiving the form. If the court receives a form as provided under  
7 section 1230d, the court shall notify the superintendent of public  
8 instruction and any public school, school district, intermediate  
9 school district, or nonpublic school in which the person is  
10 employed by forwarding to each of them a copy of the form and  
11 information regarding the sentence imposed on the person not later  
12 than 7 days after the date of the sentencing, even if the court is  
13 maintaining the file as a nonpublic record.

14 (8) Not later than 7 days after receiving notification from  
15 the prosecuting attorney or the court under subsection (7) or  
16 learning through an authoritative source that a person who holds  
17 state board approval has been convicted of a crime listed in  
18 subsection (1), the superintendent of public instruction shall  
19 request the court to provide a certified copy of the judgment of  
20 conviction and sentence or other document regarding the disposition  
21 of the case to the superintendent of public instruction and shall  
22 pay any fees required by the court. The court shall provide this  
23 certified copy within 7 days after receiving the request and fees  
24 under this section or after entry of the judgment or other  
25 document, whichever is later, even if the court is maintaining the  
26 judgment or other document as a nonpublic record.

27 (9) If the superintendent of a school district or intermediate

1 school district, the chief administrative officer of a nonpublic  
2 school, the president of the board of a school district or  
3 intermediate school district, or the president of the governing  
4 board of a nonpublic school is notified or learns through an  
5 authoritative source that a person who holds state board approval  
6 and who is employed by the school district, intermediate school  
7 district, or nonpublic school has been convicted of a crime  
8 described in subsection (1) or (2), the superintendent, chief  
9 administrative officer, or board president shall notify the  
10 superintendent of public instruction of that conviction within 15  
11 days after learning of the conviction.

12 (10) For the purposes of this section, a certified copy of the  
13 judgment of conviction and sentence is conclusive evidence of  
14 conviction of a crime described in this section. For the purposes  
15 of this section, conviction of a crime described in this section is  
16 considered to be reasonably and adversely related to the ability of  
17 the person to serve in an elementary or secondary school and is  
18 sufficient grounds for suspension or revocation of the person's  
19 state board approval.

20 (11) For any hearing under subsection (1), if the  
21 superintendent of public instruction does not ~~complete the hearing~~  
22 ~~procedures and~~ make a final decision and order within 120 working  
23 days after receiving the request for the hearing, as required under  
24 subsection (1), the superintendent of public instruction shall  
25 submit a report detailing the reasons for the delay to the standing  
26 committees and appropriations subcommittees of the senate and house  
27 of representatives that have jurisdiction over education and



1 education appropriations. The failure of the superintendent of  
2 public instruction to ~~complete the hearing procedures and~~ make a  
3 final decision and order within this 120 working day time limit, or  
4 the failure of any other official or agency to meet a time limit  
5 prescribed in this section, does not affect the validity of an  
6 action taken under this section affecting a person's state board  
7 approval.

8 (12) Beginning July 1, 2004, the superintendent of public  
9 instruction shall submit to the legislature a quarterly report of  
10 all final actions he or she has taken under this section affecting  
11 a person's state board approval during the preceding quarter. The  
12 report shall contain at least all of the following with respect to  
13 each person whose state board approval has been affected:

14 (a) The person's name, as it appears on the state board  
15 approval.

16 (b) The school district, intermediate school district, public  
17 school academy, or nonpublic school in which the person was  
18 employed at the time of the conviction, if any.

19 (c) The offense for which the person was convicted and the  
20 date of the offense and date of the conviction.

21 (d) Whether the action taken by the superintendent of public  
22 instruction was a summary suspension, suspension due to failure to  
23 request a hearing, suspension, revocation, or reinstatement of the  
24 state board approval.

25 (13) This section does not do any of the following:

26 (a) Prohibit a person who holds state board approval from  
27 seeking monetary compensation from a school board or intermediate

1 school board if that right is available under a collective  
2 bargaining agreement or another statute.

3 (b) Limit the rights and powers granted to a school district  
4 or intermediate school district under a collective bargaining  
5 agreement, this act, or another statute to discipline or discharge  
6 a person who holds state board approval.

7 (c) Exempt a person who holds state board approval from the  
8 operation of section 1535a if the person holds a certificate  
9 subject to that section.

10 (d) Limit the ability of a state licensing body to take action  
11 against a person's license or registration for the same conviction.

12 (14) The superintendent of public instruction may promulgate,  
13 as necessary, rules to implement this section pursuant to the  
14 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
15 24.328.

16 (15) The department of information technology shall work with  
17 the department and the department of state police to develop and  
18 implement an automated program that does a comparison of the  
19 department's list of individuals holding a teaching certificate or  
20 state board approval, **AND OF ANY OTHER LIST MAINTAINED BY THE**  
21 **DEPARTMENT OF INDIVIDUALS EMPLOYED OR REGULARLY AND CONTINUOUSLY**  
22 **WORKING UNDER CONTRACT IN A SCHOOL**, with the conviction information  
23 received by the department of state police. This comparison shall  
24 only include individuals who are actually school employees at the  
25 time of the comparison or who are regularly and continuously  
26 working under contract at the time of the comparison. Unless  
27 otherwise prohibited by law, this comparison shall include

1 convictions contained in a nonpublic record. The department and the  
2 department of state police shall perform this comparison during  
3 January and June of each year until July 1, 2008. The department of  
4 state police shall take all reasonable and necessary measures using  
5 the available technology to ensure the accuracy of this comparison  
6 before transmitting the information under this subsection to the  
7 department. The department shall take all reasonable and necessary  
8 measures using the available technology to ensure the accuracy of  
9 this comparison before notifying a school district, intermediate  
10 school district, public school academy, or nonpublic school of a  
11 conviction. If a comparison discloses that a person on the  
12 department's list of individuals holding a teaching certificate or  
13 state board approval has been convicted of a crime, the department  
14 shall notify the superintendent or chief administrator and the  
15 board or governing body of the school district, intermediate school  
16 district, public school academy, or nonpublic school in which the  
17 person is employed of that conviction.

18 (16) Not later than May 1, 2006, the department shall submit a  
19 report to the legislature that details the number of individuals  
20 holding a teaching certificate or state board approval who were  
21 school employees or regularly and continuously working under  
22 contract as of January 1, 2006 and who have been convicted of a  
23 listed offense or any felony.

24 (17) As used in this section:

25 (a) "Conviction" means a judgment entered by a court upon a  
26 plea of guilty, guilty but mentally ill, or nolo contendere or upon  
27 a jury verdict or court finding that a defendant is guilty or

1 guilty but mentally ill.

2           **(B) "FELONY" MEANS THAT TERM AS DEFINED IN SECTION 1 OF**  
3 **CHAPTER I OF THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL**  
4 **761.1.**

5           **(C) ~~-(b)-~~** "Listed offense" means that term as defined in  
6 section 2 of the sex offenders registration act, 1994 PA 295, MCL  
7 28.722.

8           **(D) ~~-(e)-~~** "Prosecuting attorney" means the prosecuting  
9 attorney for a county, an assistant prosecuting attorney for a  
10 county, the attorney general, the deputy attorney general, an  
11 assistant attorney general, a special prosecuting attorney, or, in  
12 connection with the prosecution of an ordinance violation, an  
13 attorney for the political subdivision that enacted the ordinance  
14 upon which the violation is based.

15           **(E) ~~-(d)-~~** "Regularly and continuously work under contract"  
16 means that term as defined in section 1230d.

17           **(F) ~~-(e)-~~** "State board approval" means a license, certificate,  
18 approval not requiring a teaching certificate, or other evidence of  
19 qualifications to hold a particular position in a school district  
20 or intermediate school district or in a nonpublic school, other  
21 than a teacher's certificate subject to section 1535a, that is  
22 issued to a person by the state board or the superintendent of  
23 public instruction under this act or a rule promulgated under this  
24 act.