

SENATE BILL No. 1252

(As amended, September 24, 2008)

April 15, 2008, Introduced by Senators GLEASON, KUIPERS, VAN WOERKOM, WHITMER, CLARKE, CLARK-COLEMAN, BASHAM, ANDERSON, CHERRY, OLSHOVE, BARCIA, HUNTER, SCOTT, BRATER, PRUSI, SWITALSKI, GEORGE, JACOBS, PAPPAGEORGE, BIRKHOLZ, RICHARDVILLE, HARDIMAN, SCHAUER and CROPSEY and referred to the Committee on Education.

<<A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending sections 1230, 1230a, and 1230g (MCL 380.1230,
380.1230a, and 380.1230g), as amended by 2006 PA 680; and to repeal acts
and parts of acts.>>

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
7 and continuously work under contract in any of its schools, the
8 district, public school academy, or nonpublic school shall request
9 from the criminal records division of the department of state
10 police a criminal history check on the individual and, before

1 employing the individual as a regular employee or allowing the
2 individual to regularly and continuously work under contract in any
3 of its schools, shall have received from the department of state
4 police the report described in subsection (8).

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

16 (a) The board or governing body requests the criminal history
17 check required under subsection (1) before conditionally employing
18 the individual or conditionally allowing the individual to
19 regularly and continuously work under contract in any of its
20 schools.

21 (b) The individual signs a statement identifying all crimes
22 for which he or she has been convicted, if any, and agreeing that,
23 if the report described in subsection (8) is not the same as the
24 individual's statement, his or her employment contract is voidable
25 at the option of the board or governing body. The department shall
26 develop and distribute to districts and nonpublic schools a model
27 form for the statement required under this subdivision. The

1 department shall make the model form available to public school
2 academies. A district, public school academy, or nonpublic school
3 shall use the model form for the purposes of this subsection.

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

14 (4) For an applicant for a position as a substitute teacher **OR**
15 **SUBSTITUTE BUS DRIVER**, or for an individual who regularly and
16 continuously works under contract in more than 1 school district,
17 intermediate school district, public school academy, or nonpublic
18 school, if the applicant or individual agrees in writing to allow a
19 district, public school academy, or nonpublic school to share the
20 results of the criminal history check with another district, public
21 school academy, or nonpublic school, then instead of requesting a
22 criminal history check under subsection (1), a school district,
23 intermediate school district, public school academy, or nonpublic
24 school may use a report received by another district, public school
25 academy, or nonpublic school or maintained by the department to
26 confirm that the applicant or individual does not have any criminal
27 history. If that confirmation is not available, subsection (1)

1 applies to the applicant or individual.

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

12 (6) An applicant for employment shall give written consent at
13 the time of application for the criminal records division of the
14 department of state police to conduct the criminal history check
15 required under this section.

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

22 (8) Within 30 days after receiving a proper request by a
23 school district, intermediate school district, public school
24 academy, or nonpublic school for a criminal history check on an
25 individual under this section, the criminal records division of the
26 department of state police shall conduct the criminal history check
27 and, after conducting the criminal history check and within that

1 time period, provide a report of the results of the criminal
2 history check to the district, public school academy, or nonpublic
3 school. The report shall contain any criminal history record
4 information on the individual maintained by the criminal records
5 division of the department of state police. A school district,
6 intermediate school district, public school academy, or nonpublic
7 school that receives a report from the department of state police
8 under this subsection shall retain that report in the individual's
9 employment records.

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 approves the employment or work assignment in writing.
8 If a school district, intermediate school district, public school
9 academy, or nonpublic school receives results described in this
10 subsection, within 60 days after receiving those results the school
11 district, intermediate school district, public school academy, or
12 nonpublic school shall submit to the department in the form and
13 manner prescribed by the department a report detailing the
14 information and any action taken as a result by the school
15 district, intermediate school district, public school academy, or
16 nonpublic school. The department shall maintain a copy of this
17 report for at least 6 years.

18 (10) Criminal history record information received from the
19 criminal records division of the department of state police under
20 subsection (8) shall be used by a school district, intermediate
21 school district, public school academy, or nonpublic school only
22 for the purpose of evaluating an individual's qualifications for
23 employment or assignment in the position for which he or she has
24 applied or been assigned and for the purposes of subsections (3),
25 (4), (5), and (12). A member of the board of a district or of the
26 governing body of a public school academy or nonpublic school or an
27 employee of a district, public school academy, or nonpublic school

1 shall not disclose the report or its contents received under this
2 section, except a misdemeanor conviction involving sexual or
3 physical abuse or any felony conviction, to any person who is not
4 directly involved in evaluating the applicant's qualifications for
5 employment or assignment. However, for the purposes of subsections
6 (4) and (5), a person described in this subsection may confirm to
7 an employee of another district, public school academy, or
8 nonpublic school that a report under subsection (8) has revealed
9 that an individual does not have any criminal history or may
10 disclose that no report under subsection (8) has been received
11 concerning the individual, and for the purposes of subsections (4),
12 (5), and (12), a person described in this subsection may provide a
13 copy of the report under subsection (8) concerning the individual
14 to an appropriate representative of another district, public school
15 academy, or nonpublic school. For an individual who is regularly
16 and continuously working under contract, if the individual agrees
17 in writing, a district, public school academy, or nonpublic school
18 may provide a copy of the results received under this section
19 concerning the individual to an appropriate representative of the
20 individual's employer. A representative of the individual's
21 employer who receives a copy of a report, or receives results of a
22 report from another source as authorized by this subsection, shall
23 not disclose the report or its contents or the results of the
24 report to any person outside of the employer's business or to any
25 of the employer's personnel who are not directly involved in
26 evaluating the individual's qualifications for employment or
27 assignment. A person who violates this subsection is guilty of a

1 misdemeanor punishable by a fine of not more than \$10,000.00, but
2 is not subject to the penalties under section 1804. As used in this
3 subsection, "misdemeanor conviction involving sexual or physical
4 abuse" includes, but is not limited to, a misdemeanor conviction
5 for a listed offense; a misdemeanor conviction for violation of
6 section 617a of the Michigan vehicle code, 1949 PA 300, MCL
7 257.617a; a misdemeanor conviction for violation of section 701 of
8 the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701;
9 a misdemeanor conviction for violation of section 81, 81a, 81c,
10 90c, 136b, 141a, 145, 145d, 145n, 233, 335a, or 411h of the
11 Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, 750.81c,
12 750.90c, 750.136b, 750.141a, 750.145, 750.145d, 750.145n, 750.233,
13 750.335a, and 750.411h; a misdemeanor conviction of section 6 of
14 1979 PA 53, MCL 752.796; or a misdemeanor conviction for violation
15 of a substantially similar law of another state, of a political
16 subdivision of this state or another state, or of the United
17 States.

18 (11) Subject to subsection (12), if the criminal history check
19 required under this section has been completed for a particular
20 individual and the results reported to a school district,
21 intermediate school district, public school academy, or nonpublic
22 school as provided under this section, then another criminal
23 history check is not required under this section for that
24 individual as long as the individual remains employed with no
25 separation from service by any school district, intermediate school
26 district, public school academy, or nonpublic school in this state
27 or remains regularly and continuously working under contract with

1 no separation from service for the same employer in any school
2 district, intermediate school district, public school academy, or
3 nonpublic school in this state. For the purposes of this
4 subsection, an employee is not considered to have a separation from
5 service in any of the following circumstances:

6 (a) The employee is laid off or placed on a leave of absence
7 by his or her employer and returns to active employment with the
8 same employer within 1 year after being laid off or placed on the
9 leave of absence.

10 (b) The employee transfers to another school district,
11 intermediate school district, public school academy, or nonpublic
12 school and remains continuously employed by any school district,
13 intermediate school district, public school academy, or nonpublic
14 school in this state.

15 (12) If an individual described in subsection (11) is an
16 applicant for employment in a different school district,
17 intermediate school district, public school academy, or nonpublic
18 school than the one that originally received the results of the
19 criminal history check or that currently is in possession of the
20 results of the criminal history check, or is being assigned to
21 regularly and continuously work under contract in a different
22 school district, intermediate school district, public school
23 academy, or nonpublic school than the one that originally received
24 the results of the criminal history check or that currently is in
25 possession of the results of the criminal history check, then all
26 of the following apply:

27 (a) If the results of the individual's criminal history check

1 have not already been forwarded to the new school district,
2 intermediate school district, public school academy, or nonpublic
3 school, the new school district, intermediate school district,
4 public school academy, or nonpublic school shall request the school
5 district, intermediate school district, public school academy, or
6 nonpublic school that has the results to forward them to the new
7 school district, intermediate school district, public school
8 academy, or nonpublic school. Upon receipt of such a request, a
9 school district, intermediate school district, public school
10 academy, or nonpublic school that has the results shall forward
11 them to the requesting school district, intermediate school
12 district, public school academy, or nonpublic school.

13 (b) If the results of the individual's criminal history check
14 are not received by the new school district, intermediate school
15 district, public school academy, or nonpublic school under this
16 subsection or otherwise, then this section applies to the
17 individual to the same extent as if he or she has had a separation
18 from service.

19 (c) If the results of the individual's criminal history check
20 are received by the new school district, intermediate school
21 district, public school academy, or nonpublic school under this
22 subsection or otherwise, then that school district, intermediate
23 school district, public school academy, or nonpublic school shall
24 perform a criminal history check on that individual using the
25 department of state police's internet criminal history access tool
26 (ICHAT), ensuring that this criminal history check is based on the
27 personal identifying information, including at least the

1 individual's name, sex, and date of birth, that was associated with
2 the results received from the previous school district,
3 intermediate school district, public school academy, or nonpublic
4 school.

5 (d) If the search of the department of state police's ICHAT
6 under subdivision (c) reveals that the individual has been
7 convicted of a listed offense, then the school district,
8 intermediate school district, public school academy, or nonpublic
9 school shall take steps to verify that information using public
10 records and, if the information is verified using public records,
11 shall not employ the individual in any capacity, as provided under
12 section 1230c, and shall not allow the individual to regularly and
13 continuously work under contract in any of its schools. If a search
14 of the department of state police's ICHAT under subdivision (c)
15 reveals that the individual has been convicted of a felony other
16 than a listed offense, then the school district, intermediate
17 school district, public school academy, or nonpublic school shall
18 take steps to verify that information using public records and, if
19 the information is verified using public records, shall not employ
20 the individual in any capacity or allow the individual to regularly
21 and continuously work under contract in any of its schools unless
22 the superintendent or chief administrator and the board or
23 governing body, if any, of the school district, intermediate school
24 district, public school academy, or nonpublic school each
25 specifically approves the employment or work assignment in writing.

26 (13) Subsection (1) does not apply to an individual who is
27 being employed by or assigned to regularly and continuously work

1 under contract in a school of a school district, intermediate
2 school district, public school academy, or nonpublic school if the
3 individual is not more than 19 years of age and is enrolled as a
4 general education pupil of a school district, intermediate school
5 district, public school academy, or nonpublic school or is not more
6 than 26 years of age and is enrolled in special education programs
7 or services in a school district, intermediate school district,
8 public school academy, or nonpublic school. However, before
9 employing the individual or assigning the individual to regularly
10 and continuously work under contract in a school, the school
11 district, intermediate school district, public school academy, or
12 nonpublic school shall perform a criminal history check on that
13 person using the department of state police's internet criminal
14 history access tool (ICHAT). If a search of the department of state
15 police's ICHAT reveals that the individual has been convicted of a
16 listed offense, then the school district, intermediate school
17 district, public school academy, or nonpublic school shall take
18 steps to verify that information using public records and, if the
19 information is verified using public records, shall not employ the
20 individual in any capacity, as provided under section 1230c, and
21 shall not allow the individual to regularly and continuously work
22 under contract in any of its schools. If a search of the department
23 of state police's ICHAT reveals that the individual has been
24 convicted of a felony other than a listed offense, then the school
25 district, intermediate school district, public school academy, or
26 nonpublic school shall take steps to verify that information using
27 public records and, if the information is verified using public

1 records, shall not employ the individual in any capacity or allow
2 the individual to regularly and continuously work under contract in
3 any of its schools unless the superintendent or chief administrator
4 and the board or governing body, if any, of the school district,
5 intermediate school district, public school academy, or nonpublic
6 school each specifically approves the employment or work assignment
7 in writing.

8 (14) For the purposes of subsections (9) and (13), the
9 department shall make available to school districts, intermediate
10 school districts, public school academies, and nonpublic schools
11 information on how to verify a conviction using public records.

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

17 (c) "Felony" means that term as defined in section 1 of
18 chapter I of the code of criminal procedure, 1927 PA 175, MCL
19 761.1.

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

22 (e) "Regularly and continuously work under contract" means any
23 of the following:

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

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

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

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

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

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

10 (2) If the board of a school district or intermediate school
11 district or the governing body of a public school academy or
12 nonpublic school determines it necessary to hire an individual or
13 to allow an individual to regularly and continuously work under
14 contract for a particular school year during that school year or
15 within 30 days before the beginning of that school year, the board
16 or governing body may employ the individual as a conditional
17 employee or conditionally allow the individual to regularly and
18 continuously work under contract under this subsection without
19 first receiving the results of the criminal records check under
20 subsection (1) if all of the following apply:

21 (a) The board or governing body requests the criminal records
22 check under subsection (1) before conditionally employing the
23 individual or conditionally allowing the individual to regularly
24 and continuously work under contract in any of its 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 results of the criminal records check under subsection (1)

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

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

20 (4) For an applicant for a position as a substitute teacher **OR**
21 **SUBSTITUTE BUS DRIVER**, or for an individual who regularly and
22 continuously works under contract in more than 1 school district,
23 intermediate school district, public school academy, or nonpublic
24 school, if the applicant or individual agrees in writing to allow a
25 district, public school academy, or nonpublic school to share the
26 results of the criminal records check with another district, public
27 school academy, or nonpublic school, then instead of requesting a

1 criminal records check under subsection (1), a school district,
2 intermediate school district, public school academy, or nonpublic
3 school may use results received by another district, public school
4 academy, or nonpublic school or maintained by the department to
5 confirm that the applicant or individual does not have any criminal
6 history. If that confirmation is not available, subsection (1)
7 applies to the applicant or individual.

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

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

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

27 (8) The results of a criminal records check under this section

1 shall be used by a school district, intermediate school district,
2 public school academy, or nonpublic school only for the purpose of
3 evaluating an individual's qualifications for employment or
4 assignment in the position for which he or she has applied or been
5 assigned and for the purposes of subsections (3), (4), (5), and
6 (12). A member of the board of a district or of the governing body
7 of a public school academy or nonpublic school or an employee of a
8 district, public school academy, or nonpublic school shall not
9 disclose those results received under this section, except a
10 misdemeanor conviction involving sexual or physical abuse or any
11 felony conviction, to any person who is not directly involved in
12 evaluating the individual's qualifications for employment or
13 assignment. However, for the purposes of subsections (4), (5), and
14 (12) a person described in this subsection may provide a copy of
15 the results received under this section concerning the individual
16 to an appropriate representative of another district, public school
17 academy, or nonpublic school. For an individual who is regularly
18 and continuously working under contract, if the individual agrees
19 in writing, a district, public school academy, or nonpublic school
20 may provide a copy of the results received under this section
21 concerning the individual to an appropriate representative of the
22 individual's employer. A representative of the individual's
23 employer who receives a copy of the results, or receives the
24 results from another source as authorized by this subsection, shall
25 not disclose the results to any person outside of the employer's
26 business or to any of the employer's personnel who are not directly
27 involved in evaluating the individual's qualifications for

1 employment or assignment. A person who violates this subsection is
2 guilty of a misdemeanor punishable by a fine of not more than
3 \$10,000.00, but is not subject to the penalties under section 1804.
4 As used in this subsection, "misdemeanor conviction involving
5 sexual or physical abuse" includes, but is not limited to, a
6 misdemeanor conviction for a listed offense; a misdemeanor
7 conviction for violation of section 617a of the Michigan vehicle
8 code, 1949 PA 300, MCL 257.617a; a misdemeanor conviction for
9 violation of section 701 of the Michigan liquor control code of
10 1998, 1998 PA 58, MCL 436.1701; a misdemeanor conviction for
11 violation of section 81, 81a, 81c, 90c, 136b, 141a, 145, 145d,
12 145n, 233, 335a, or 411h of the Michigan penal code, 1931 PA 328,
13 MCL 750.81, 750.81a, 750.81c, 750.90c, 750.136b, 750.141a, 750.145,
14 750.145d, 750.145n, 750.233, 750.335a, and 750.411h; a misdemeanor
15 conviction of section 6 of 1979 PA 53, MCL 752.796; or a
16 misdemeanor conviction for violation of a substantially similar law
17 of another state, of a political subdivision of this state or
18 another state, or of the United States.

19 (9) Within 30 days after receiving a proper request by a
20 school district, intermediate school district, public school
21 academy, or nonpublic school for a criminal records check on an
22 individual under this section, the criminal records division of the
23 department of state police shall initiate the criminal records
24 check through the federal bureau of investigation. After conducting
25 the criminal records check required under this section for a school
26 district, intermediate school district, public school academy, or
27 nonpublic school, the criminal records division of the department

1 of state police shall provide the results of the criminal records
2 check to the district, public school academy, or nonpublic school.
3 A school district, intermediate school district, public school
4 academy, or nonpublic school that receives results from the
5 department of state police under this subsection shall retain those
6 results in the individual's employment records.

7 (10) If the results received by a school district,
8 intermediate school district, public school academy, or nonpublic
9 school under subsection (9), or a report received under section
10 1230, 1230d(7), 1535a(15), or 1539b(15), disclose that an
11 individual has been convicted of a listed offense, then the school
12 district, intermediate school district, public school academy, or
13 nonpublic school shall take steps to verify that information using
14 public records and, if the information is verified, shall not
15 employ the individual in any capacity, as provided under section
16 1230c, and shall not allow the individual to regularly and
17 continuously work under contract in any of its schools. If the
18 results received by a school district, intermediate school
19 district, public school academy, or nonpublic school under
20 subsection (9), or a report received under section 1230, 1230d(7),
21 1535a(15), or 1539b(15), disclose that an individual has been
22 convicted of a felony other than a listed offense, then the school
23 district, intermediate school district, public school academy, or
24 nonpublic school shall take steps to verify that information using
25 public records and, if the information is verified using public
26 records, shall not employ the individual in any capacity or allow
27 the individual to regularly and continuously work under contract in

1 any of its schools unless the superintendent or chief administrator
2 and the governing board or governing body, if any, of the school
3 district, intermediate school district, public school academy, or
4 nonpublic school each specifically approves the employment or work
5 assignment in writing. If a school district, intermediate school
6 district, public school academy, or nonpublic school receives
7 results described in this subsection, within 60 days after
8 receiving those results the school district, intermediate school
9 district, public school academy, or nonpublic school shall submit
10 to the department in the form and manner prescribed by the
11 department a report detailing the information and any action taken
12 as a result by the school district, intermediate school district,
13 public school academy, or nonpublic school. The department shall
14 maintain a copy of this report for at least 6 years.

15 (11) Subject to subsection (12), if the criminal records check
16 required under this section has been completed for a particular
17 individual and the results reported to a school district,
18 intermediate school district, public school academy, or nonpublic
19 school as provided under this section, then another criminal
20 records check is not required under this section for that
21 individual as long as the individual remains employed with no
22 separation from service by any school district, intermediate school
23 district, public school academy, or nonpublic school in this state
24 or remains regularly and continuously working under contract with
25 no separation from service for the same employer in any school
26 district, intermediate school district, public school academy, or
27 nonpublic school in this state. For the purposes of this

1 subsection, an employee is not considered to have a separation from
2 service in any of the following circumstances:

3 (a) The employee is laid off or placed on a leave of absence
4 by his or her employer and returns to active employment with the
5 same employer within 1 year after being laid off or placed on the
6 leave of absence.

7 (b) The employee transfers to another school district,
8 intermediate school district, public school academy, or nonpublic
9 school and remains continuously employed by any school district,
10 intermediate school district, public school academy, or nonpublic
11 school in this state.

12 (12) If an individual described in subsection (11) is an
13 applicant for employment in a different school district,
14 intermediate school district, public school academy, or nonpublic
15 school than the one that originally received the results of the
16 criminal records check or that currently is in possession of the
17 results of the criminal records check, or is being assigned to
18 regularly and continuously work under contract in a different
19 school district, intermediate school district, public school
20 academy, or nonpublic school than the one that originally received
21 the results of the criminal records check or that currently is in
22 possession of the results of the criminal records check, then all
23 of the following apply:

24 (a) If the results of the individual's criminal records check
25 have not already been forwarded to the new school district,
26 intermediate school district, public school academy, or nonpublic
27 school, the new school district, intermediate school district,

1 public school academy, or nonpublic school shall request the school
2 district, intermediate school district, public school academy, or
3 nonpublic school that has the results to forward them to the new
4 school district, intermediate school district, public school
5 academy, or nonpublic school. Upon receipt of such a request, a
6 school district, intermediate school district, public school
7 academy, or nonpublic school that has the results shall forward
8 them to the requesting school district, intermediate school
9 district, public school academy, or nonpublic school.

10 (b) If the results of the individual's criminal records check
11 are not received by the new school district, intermediate school
12 district, public school academy, or nonpublic school under this
13 subsection or otherwise, then this section applies to the
14 individual to the same extent as if he or she has had a separation
15 from service.

16 (13) Subsection (1) does not apply to an individual who is
17 being employed by or assigned to regularly and continuously work
18 under contract in a school of a school district, intermediate
19 school district, public school academy, or nonpublic school if the
20 individual is not more than 19 years of age and is enrolled as a
21 general education pupil of a school district, intermediate school
22 district, public school academy, or nonpublic school or is not more
23 than 26 years of age and is enrolled in special education programs
24 or services in a school district, intermediate school district,
25 public school academy, or nonpublic school. However, before
26 employing the individual or assigning the individual to regularly
27 and continuously work under contract in a school, the school

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

25 (14) For the purposes of subsections (10) and (13), the
26 department shall make available to school districts, intermediate
27 school districts, public school academies, and nonpublic schools

1 information on how to verify a conviction using public records.

2 (15) As used in this section:

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

5 (b) "Felony" means that term as defined in section 1 of
6 chapter I of the code of criminal procedure, 1927 PA 175, MCL
7 761.1.

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

10 (d) "Regularly and continuously work under contract" means any
11 of the following:

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

19 (ii) To work at school on a more than intermittent or sporadic
20 basis as an individual under a contract with a school district,
21 intermediate school district, public school academy, or nonpublic
22 school to provide food, custodial, transportation, counseling, or
23 administrative services, or to provide instructional services to
24 pupils or related and auxiliary services to special education
25 pupils.

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

1 Sec. 1230g. (1) Not later than July 1, 2008, the board of a
2 school district or intermediate school district, the board of
3 directors of a public school academy, or the governing body of a
4 nonpublic school shall do both of the following for each individual
5 who, as of December 1, 2005, is either a full-time or part-time
6 employee of the school district, intermediate school district,
7 public school academy, or nonpublic school or is assigned to
8 regularly and continuously work under contract in any of its
9 schools and who either is still a full-time or part-time employee
10 of the school district, intermediate school district, public school
11 academy, or nonpublic school on the date that the criminal history
12 and criminal records checks under this section are initiated or is
13 still assigned to regularly and continuously work under contract in
14 any of its schools on the date that the criminal history and
15 criminal records checks under this section are initiated:

16 (a) Request from the criminal records division of the
17 department of state police a criminal history check on the
18 individual.

19 (b) Request the department of state police to conduct a
20 criminal records check on the individual through the federal bureau
21 of investigation. The board, board of directors, or governing board
22 shall require the individual to submit his or her fingerprints to
23 the department of state police for the purposes of this
24 subdivision. The department of state police may charge a fee for
25 conducting the criminal records check.

26 (2) For an individual employed or regularly and continuously
27 working under contract as a substitute teacher **OR SUBSTITUTE BUS**

1 **DRIVER**, if the individual agrees in writing to allow a district,
2 public school academy, or nonpublic school to share the results of
3 the criminal history check or criminal records check with another
4 district, public school academy, or nonpublic school, then instead
5 of requesting a criminal history check and criminal records check
6 under subsection (1), a school district, intermediate school
7 district, public school academy, or nonpublic school may use
8 results received by another district, public school academy, or
9 nonpublic school to confirm that the individual does not have any
10 criminal history. Alternatively, a school district, intermediate
11 school district, public school academy, or nonpublic school may use
12 results maintained by the department to confirm that the individual
13 does not have any criminal history. If confirmation is not
14 available from any of these sources, subsection (1) applies to the
15 individual.

16 (3) If an individual described in subsection (1) is employed
17 by or regularly and continuously working under contract in more
18 than 1 school district, intermediate school district, public school
19 academy, or nonpublic school and if the individual agrees in
20 writing to allow a district, public school academy, or nonpublic
21 school to share the results of the criminal history check or
22 criminal records check with another district, public school
23 academy, or nonpublic school, then a district, public school
24 academy, or nonpublic school may satisfy the requirements of
25 subsection (1) by obtaining a copy of the results of the criminal
26 history check or criminal records check from another district,
27 public school academy, or nonpublic school.

1 (4) An individual described in subsection (1) shall give
2 written consent for the criminal records division of the department
3 of state police to conduct the criminal history check and criminal
4 records check required under this section and shall submit his or
5 her fingerprints to the department of state police for the purposes
6 of the criminal records check. If an individual does not comply
7 with this subsection or otherwise fails to cooperate with a school
8 district, intermediate school district, public school academy, or
9 nonpublic school that is seeking to comply with subsection (1)
10 concerning the individual, then the school district, intermediate
11 school district, public school academy, or nonpublic school shall
12 not employ the individual in any capacity and shall not allow the
13 individual to regularly and continuously work under contract in any
14 of its schools.

15 (5) A school district, intermediate school district, public
16 school academy, or nonpublic school shall make a request to the
17 department of state police for the criminal history check and
18 criminal records check under this section on a form and in a manner
19 prescribed by the department of state police.

20 (6) The results of a criminal history check and criminal
21 records check under this section shall be used by a school
22 district, intermediate school district, public school academy, or
23 nonpublic school only for the purpose of evaluating an individual's
24 qualifications for employment or assignment in his or her position
25 and for the purposes of subsections (2) and (3). A member of the
26 board of a school district or intermediate school district, of the
27 board of directors of a public school academy, or of the governing

1 body of a nonpublic school or an employee of a district, public
2 school academy, or nonpublic school shall not disclose those
3 results received under this section, except a misdemeanor
4 conviction involving sexual or physical abuse or any felony
5 conviction, to any person who is not directly involved in
6 evaluating the individual's qualifications for employment or
7 assignment. However, for the purposes of subsections (2) and (3), a
8 person described in this subsection may provide a copy of the
9 results received under this section concerning the individual to an
10 appropriate representative of another district, public school
11 academy, or nonpublic school. For an individual who is regularly
12 and continuously working under contract, if the individual agrees
13 in writing, a district, public school academy, or nonpublic school
14 may provide a copy of the results received under this section
15 concerning the individual to an appropriate representative of the
16 individual's employer. A representative of the individual's
17 employer who receives a copy of the results, or receives the
18 results from another source as authorized by this subsection, shall
19 not disclose the results to any person outside of the employer's
20 business or to any of the employer's personnel who are not directly
21 involved in evaluating the individual's qualifications for
22 employment or assignment. A person who violates this subsection is
23 guilty of a misdemeanor punishable by a fine of not more than
24 \$10,000.00, but is not subject to the penalties under section 1804.
25 As used in this subsection, "misdemeanor conviction involving
26 sexual or physical abuse" includes, but is not limited to, a
27 misdemeanor conviction for a listed offense; a misdemeanor

1 conviction for violation of section 617a of the Michigan vehicle
2 code, 1949 PA 300, MCL 257.617a; a misdemeanor conviction for
3 violation of section 701 of the Michigan liquor control code of
4 1998, 1998 PA 58, MCL 436.1701; a misdemeanor conviction for
5 violation of section 81, 81a, 81c, 90c, 136b, 141a, 145, 145d,
6 145n, 233, 335a, or 411h of the Michigan penal code, 1931 PA 328,
7 MCL 750.81, 750.81a, 750.81c, 750.90c, 750.136b, 750.141a, 750.145,
8 750.145d, 750.145n, 750.233, 750.335a, and 750.411h; a misdemeanor
9 conviction of section 6 of 1979 PA 53, MCL 752.796; or a
10 misdemeanor conviction for violation of a substantially similar law
11 of another state, of a political subdivision of this state or
12 another state, or of the United States.

13 (7) Within 30 days after receiving a proper request by a
14 school district, intermediate school district, public school
15 academy, or nonpublic school for a criminal history check and
16 criminal records check on an individual under this section, the
17 criminal records division of the department of state police shall
18 do both of the following:

19 (a) Conduct the criminal history check and, after conducting
20 the criminal history check and within that time period, provide a
21 report of the results of the criminal history check to the
22 district, public school academy, or nonpublic school. The report
23 shall contain any criminal history record information on the
24 individual that is maintained by the criminal records division of
25 the department of state police. A school district, intermediate
26 school district, public school academy, or nonpublic school that
27 receives a report from the department of state police under this

1 subdivision shall retain that report in the individual's employment
2 records.

3 (b) Initiate the criminal records check through the federal
4 bureau of investigation. After conducting the criminal records
5 check required under this section for a school district,
6 intermediate school district, public school academy, or nonpublic
7 school, the criminal records division of the department of state
8 police shall provide the results of the criminal records check to
9 the district, public school academy, or nonpublic school. A school
10 district, intermediate school district, public school academy, or
11 nonpublic school that receives results from the department of state
12 police under this subdivision shall retain those results in the
13 individual's employment records.

14 (8) If the results received by a school district, intermediate
15 school district, public school academy, or nonpublic school under
16 subsection (7), or a report received under section 1230a, 1230d(7),
17 1535a(15), or 1539b(15), disclose that an individual has been
18 convicted of a listed offense, then the school district,
19 intermediate school district, public school academy, or nonpublic
20 school shall take steps to verify that information using public
21 records and, if the information is verified using public records,
22 shall not employ the individual in any capacity, as provided under
23 section 1230c, and shall not allow the individual to regularly and
24 continuously work under contract in any of its schools. If the
25 results received by a school district, intermediate school
26 district, public school academy, or nonpublic school under
27 subsection (7), or a report received under section 1230a, 1230d(7),

1 1535a(15), or 1539b(15), disclose that an 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 governing board or governing body, if any, of the school
10 district, intermediate school district, public school academy, or
11 nonpublic school each specifically approves the employment or work
12 assignment in writing. If a school district, intermediate school
13 district, public school academy, or nonpublic school receives
14 results described in this subsection, within 60 days after
15 receiving those results the school district, intermediate school
16 district, public school academy, or nonpublic school shall submit
17 to the department in the form and manner prescribed by the
18 department a report detailing the information received and any
19 action taken as a result by the school district, intermediate
20 school district, public school academy, or nonpublic school. The
21 department shall maintain a copy of this report for at least 6
22 years.

23 (9) If the criminal history check and criminal records check
24 required under this section have been completed for a particular
25 individual and the results reported to a school district,
26 intermediate school district, public school academy, or nonpublic
27 school as provided under this section, then another criminal

1 history check or criminal records check is not required under this
2 section for that individual as long as the individual remains
3 employed with no separation from service by any school district,
4 intermediate school district, public school academy, or nonpublic
5 school in this state or remains regularly and continuously working
6 under contract with no separation from service for the same
7 employer in any school district, intermediate school district,
8 public school academy, or nonpublic school in this state. For the
9 purposes of this subsection, an employee is not considered to have
10 a separation from service in any of the following circumstances:

11 (a) The employee is laid off or placed on a leave of absence
12 by his or her employer and returns to active employment with the
13 same employer within 1 year after being laid off or placed on the
14 leave of absence.

15 (b) The employee transfers to another school district,
16 intermediate school district, public school academy, or nonpublic
17 school and remains continuously employed by any school district,
18 intermediate school district, public school academy, or nonpublic
19 school in this state.

20 (10) Subsection (1) does not apply to an individual who is an
21 employee or is assigned to regularly and continuously work under
22 contract in a school of a school district, intermediate school
23 district, public school academy, or nonpublic school if the
24 individual is not more than 19 years of age and is enrolled as a
25 general education pupil of a school district, intermediate school
26 district, public school academy, or nonpublic school or is not more
27 than 26 years of age and is enrolled in special education programs

1 or services in a school district, intermediate school district,
2 public school academy, or nonpublic school. However, the school
3 district, intermediate school district, public school academy, or
4 nonpublic school shall perform a criminal history check on that
5 person using the department of state police's internet criminal
6 history access tool (ICHAT). If a search of the department of state
7 police's ICHAT reveals that the individual has been convicted of a
8 listed offense, then the school district, intermediate school
9 district, public school academy, or nonpublic school shall take
10 steps to verify that information using public records and, if the
11 information is verified using public records, shall not employ the
12 individual in any capacity, as provided under section 1230c, and
13 shall not allow the individual to regularly and continuously work
14 under contract in any of its schools. If a search of the department
15 of state police's ICHAT reveals that the individual has been
16 convicted of a felony other than a listed offense, then the school
17 district, intermediate school district, public school academy, or
18 nonpublic school shall take steps to verify that information using
19 public records and, if the information is verified using public
20 records, shall not employ the individual in any capacity or allow
21 the individual to regularly and continuously work under contract in
22 any of its schools unless the superintendent or chief administrator
23 and the board or governing body of the school district,
24 intermediate school district, public school academy, or nonpublic
25 school each specifically approves the employment or work assignment
26 in writing.

27 (11) For the purposes of subsections (8) and (10), the

1 department shall make available to school districts, intermediate
2 school districts, public school academies, and nonpublic schools
3 information on how to verify a conviction using public records.

4 (12) As used in this section:

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

7 (b) "Felony" means that term as defined in section 1 of
8 chapter I of the code of criminal procedure, 1927 PA 175, MCL
9 761.1.

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

12 (d) "Regularly and continuously work under contract" means any
13 of the following:

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

21 (ii) To work at school on a more than intermittent or sporadic
22 basis as an individual under a contract with a school district,
23 intermediate school district, public school academy, or nonpublic
24 school to provide food, custodial, transportation, counseling, or
25 administrative services, or to provide instructional services to
26 pupils or related and auxiliary services to special education
27 pupils.

Senate Bill No. 1252 as amended September 24, 2008
as amended December 19, 2008

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