

# HOUSE BILL No. 5318

January 31, 2012, Introduced by Rep. Goike and referred to the Committee on Education.

A bill to amend 1931 PA 328, entitled  
 "The Michigan penal code,"  
 by amending section 492 (MCL 750.492), as amended by 2002 PA 672.

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

1           Sec. 492. (1) Any officer having ~~the~~ custody of any county,  
 2 city, or township records in this state **OR SCHOOL BOARD RECORDS**  
 3 **UNDER SECTION 1202 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL**  
 4 **380.1202**, who ~~shall when requested fail~~ **FAILS** or neglect ~~NEGLECTS~~  
 5 **WHEN REQUESTED** to furnish proper and reasonable facilities for the  
 6 inspection and examination of the records and files in his or her  
 7 office and for making memoranda of transcripts ~~therefrom~~ **FROM THOSE**  
 8 **RECORDS AND FILES** during ~~the~~ usual business hours, which shall not  
 9 be less than 4 hours per day, to any person ~~having occasion to make~~

1 ~~examination of~~ **WHO HAS REQUESTED TO EXAMINE** them for any lawful  
2 purpose is guilty of a misdemeanor punishable by imprisonment for  
3 not more than 1 year or a fine of not more than \$1,000.00, **OR BOTH.**

4 (2) The custodian of ~~said~~ **THE** records and files **DESCRIBED IN**  
5 **SUBSECTION (1)** may make ~~such~~ reasonable rules with reference to the  
6 inspection and examination of ~~them~~ **THE RECORDS AND FILES** as ~~shall~~  
7 ~~be~~ **ARE** necessary for the protection of ~~said~~ **THOSE** records and files  
8 and to prevent interference with the regular discharge of the  
9 duties of ~~such~~ **THAT** officer. The officer shall prohibit the use of  
10 pen and ink in making copies or notes of **THOSE** records and files.  
11 ~~in his or her office. No books, records, and~~ **OR** files shall be  
12 removed from the office of the ~~custodian thereof,~~ **OFFICER** except by  
13 ~~the~~ **AS FOLLOWS:**

14 (A) **BY COURT** order. ~~of the judge of any court of competent~~  
15 ~~jurisdiction, or in response~~

16 (B) **PURSUANT** to a **LAWFULLY ISSUED** subpoena. ~~duces tecum issued~~  
17 ~~therefrom, or for~~

18 (C) **FOR AN** audit ~~purposes~~ conducted ~~pursuant to~~ **UNDER** 1919 PA  
19 71, MCL 21.41 to 21.55, 1929 PA 52, MCL 14.141 to 14.145, or **THE**  
20 **UNIFORM BUDGETING AND ACCOUNTING ACT**, 1968 PA 2, MCL 141.421 to  
21 141.440a, with the permission of the official having custody of the  
22 records if the official is given a receipt listing the records  
23 being removed.

24 (3) **IF AN OFFICER DESCRIBED IN SUBSECTION (1) FAILS TO COMPLY**  
25 **WITH THE REQUIREMENTS OF THIS SECTION, THE ATTORNEY GENERAL, THE**  
26 **PROSECUTING ATTORNEY OF THE COUNTY IN WHICH THE OFFICER SERVES, OR**  
27 **ANY OTHER PERSON MAY COMMENCE A CIVIL ACTION TO COMPEL COMPLIANCE**

1 OR TO ENJOIN FURTHER NONCOMPLIANCE WITH THIS SECTION.

2 (4) AN ACTION FOR INJUNCTIVE RELIEF UNDER THIS SECTION SHALL  
3 BE COMMENCED IN THE CIRCUIT COURT IN THE COUNTY IN WHICH THE  
4 OFFICER SERVES. IF A PERSON COMMENCES AN ACTION FOR INJUNCTIVE  
5 RELIEF UNDER THIS SECTION, THAT PERSON SHALL NOT BE REQUIRED TO  
6 POST SECURITY AS A CONDITION FOR OBTAINING A PRELIMINARY INJUNCTION  
7 OR A TEMPORARY RESTRAINING ORDER.

8 (5) IF A PERSON COMMENCES A CIVIL ACTION UNDER THIS SECTION  
9 AGAINST AN OFFICER FOR INJUNCTIVE RELIEF TO COMPEL COMPLIANCE OR TO  
10 ENJOIN FURTHER NONCOMPLIANCE AND SUCCEEDS IN OBTAINING RELIEF IN  
11 THE ACTION, THE PERSON SHALL RECOVER COURT COSTS AND ACTUAL  
12 ATTORNEY FEES FOR THE ACTION.