

SUBSTITUTE FOR
HOUSE BILL NO. 4930

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1230d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1230D. (1) IF A PERSON WHO IS EMPLOYED IN ANY CAPACITY BY
2 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
3 ACADEMY, OR NONPUBLIC SCHOOL; WHO HAS APPLIED FOR A POSITION WITH A
4 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
5 ACADEMY, OR NONPUBLIC SCHOOL AND HAS HAD AN INITIAL CRIMINAL
6 HISTORY CHECK UNDER SECTION 1230 OR CRIMINAL RECORDS CHECK UNDER
7 SECTION 1230A; OR WHO IS REGULARLY AND CONTINUOUSLY WORKING UNDER
8 CONTRACT IN A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC
9 SCHOOL ACADEMY, OR NONPUBLIC SCHOOL, IS CHARGED WITH A CRIME LISTED
10 IN SECTION 1535A(1) OR A VIOLATION OF A SUBSTANTIALLY SIMILAR LAW

1 OF ANOTHER STATE, A POLITICAL SUBDIVISION OF THIS STATE OR ANOTHER
2 STATE, OR OF THE UNITED STATES, THE PERSON SHALL REPORT TO THE
3 DEPARTMENT AND TO THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL
4 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL THAT HE OR SHE
5 HAS BEEN CHARGED WITH THE CRIME. ALL OF THE FOLLOWING APPLY TO THIS
6 REPORTING REQUIREMENT:

7 (A) THE PERSON SHALL MAKE THE REPORT ON A FORM PRESCRIBED BY
8 THE DEPARTMENT.

9 (B) THE PERSON SHALL SUBMIT THE REPORT TO THE DEPARTMENT AND
10 TO THE SUPERINTENDENT OF THE SCHOOL DISTRICT OR INTERMEDIATE SCHOOL
11 DISTRICT OR CHIEF ADMINISTRATOR OF THE PUBLIC SCHOOL ACADEMY OR
12 NONPUBLIC SCHOOL.

13 (C) THE PERSON SHALL SUBMIT THE REPORT WITHIN 3 BUSINESS DAYS
14 AFTER BEING CHARGED WITH THE CRIME.

15 (2) IF A PERSON WHO IS EMPLOYED IN ANY CAPACITY BY OR IS
16 REGULARLY AND CONTINUOUSLY WORKING UNDER CONTRACT IN A SCHOOL
17 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR
18 NONPUBLIC SCHOOL ENTERS A PLEA OF GUILT OR NO CONTEST TO OR IS THE
19 SUBJECT OF A FINDING OF GUILT BY A JUDGE OR JURY OF ANY CRIME AFTER
20 HAVING BEEN INITIALLY CHARGED WITH A CRIME DESCRIBED IN SECTION
21 1535A(1) OR 1539B(1), THEN THE PERSON IMMEDIATELY SHALL DISCLOSE TO
22 THE COURT, ON A FORM PRESCRIBED BY THE STATE COURT ADMINISTRATIVE
23 OFFICE, THAT HE OR SHE IS EMPLOYED BY OR WORKING UNDER CONTRACT IN
24 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
25 ACADEMY, OR NONPUBLIC SCHOOL. THE PERSON SHALL IMMEDIATELY PROVIDE
26 A COPY OF THE FORM TO THE PROSECUTING ATTORNEY IN CHARGE OF THE
27 CASE, TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION, AND TO THE

1 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
2 ACADEMY, OR NONPUBLIC SCHOOL.

3 (3) A PERSON WHO VIOLATES SUBSECTION (1) OR (2) IS GUILTY OF A
4 CRIME, AS FOLLOWS:

5 (A) IF THE PERSON VIOLATES EITHER SUBSECTION (1) OR (2) AND
6 THE CRIME INVOLVED IN THE VIOLATION IS A LISTED OFFENSE, THE PERSON
7 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
8 2 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

9 (B) IF THE PERSON VIOLATES EITHER SUBSECTION (1) OR (2) AND
10 THE CRIME INVOLVED IN THE VIOLATION IS A CRIME OTHER THAN A LISTED
11 OFFENSE, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
12 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
13 \$1,000.00, OR BOTH.

14 (4) A PERSON WHO VIOLATES SUBSECTION (1) OR (2) IS SUBJECT TO
15 DISCHARGE FROM HIS OR HER EMPLOYMENT OR TERMINATION OF HIS OR HER
16 CONTRACT. IF THE BOARD OF A SCHOOL DISTRICT OR INTERMEDIATE SCHOOL
17 DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC SCHOOL ACADEMY FINDS,
18 AFTER PROVIDING NOTICE AND THE OPPORTUNITY FOR A HEARING, THAT A
19 PERSON EMPLOYED BY THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL
20 DISTRICT, OR PUBLIC SCHOOL ACADEMY HAS VIOLATED THIS SECTION, THE
21 BOARD OR BOARD OF DIRECTORS MAY DISCHARGE THE PERSON FROM HIS OR
22 HER EMPLOYMENT. HOWEVER, IF A COLLECTIVE BARGAINING AGREEMENT THAT
23 APPLIES TO THE AFFECTED PERSON IS IN EFFECT AS OF THE EFFECTIVE
24 DATE OF THIS SECTION, AND IF THAT COLLECTIVE BARGAINING AGREEMENT
25 IS NOT IN COMPLIANCE WITH THIS SUBSECTION, THEN THIS SUBSECTION
26 DOES NOT APPLY TO THAT SCHOOL DISTRICT, INTERMEDIATE SCHOOL
27 DISTRICT, OR PUBLIC SCHOOL ACADEMY UNTIL AFTER THE EXPIRATION OF

1 THAT COLLECTIVE BARGAINING AGREEMENT.

2 (5) IF A PERSON SUBMITS A REPORT THAT HE OR SHE HAS BEEN
3 CHARGED WITH A CRIME, AS REQUIRED UNDER SUBSECTION (1), AND THE
4 PERSON IS SUBSEQUENTLY NOT CONVICTED OF THAT CRIME, THEN THE PERSON
5 MAY REQUEST THE DEPARTMENT AND THE SCHOOL DISTRICT, INTERMEDIATE
6 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL TO
7 DELETE THE REPORT FROM ITS RECORDS CONCERNING THE PERSON. UPON
8 RECEIPT OF THE REQUEST FROM THE PERSON AND OF DOCUMENTATION
9 VERIFYING THAT THE PERSON WAS NOT CONVICTED OF THE CRIME AFTER THE
10 COMPLETION OF JUDICIAL PROCEEDINGS ON THE CHARGE, THE DEPARTMENT OR
11 A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
12 ACADEMY, OR NONPUBLIC SCHOOL SHALL DELETE THE REPORT FROM ITS
13 RECORDS CONCERNING THE PERSON.

14 (6) IF THE PROSECUTING ATTORNEY IN CHARGE OF A CASE RECEIVES A
15 FORM AS PROVIDED UNDER SUBSECTION (2), THE PROSECUTING ATTORNEY
16 SHALL NOTIFY ANY SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT,
17 PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN WHICH THE PERSON IS
18 EMPLOYED BY FORWARDING A COPY OF THE FORM TO EACH OF THEM NOT LATER
19 THAN 7 DAYS AFTER RECEIVING THE FORM. IF THE COURT RECEIVES A FORM
20 AS PROVIDED UNDER SUBSECTION (2), THE COURT SHALL NOTIFY ANY SCHOOL
21 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR
22 NONPUBLIC SCHOOL IN WHICH THE PERSON IS EMPLOYED BY FORWARDING TO
23 EACH OF THEM A COPY OF THE FORM AND INFORMATION REGARDING THE
24 SENTENCE IMPOSED ON THE PERSON NOT LATER THAN 7 DAYS AFTER THE DATE
25 OF SENTENCING, EVEN IF THE COURT IS MAINTAINING THE FILE AS A
26 NONPUBLIC RECORD.

27 (7) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL WORK WITH

1 THE DEPARTMENT AND THE DEPARTMENT OF STATE POLICE TO DEVELOP AND
2 IMPLEMENT AN AUTOMATED PROGRAM THAT DOES A MONTHLY COMPARISON OF
3 THE DEPARTMENT'S LIST OF REGISTERED EDUCATIONAL PERSONNEL WITH THE
4 CONVICTION INFORMATION RECEIVED BY THE DEPARTMENT OF STATE POLICE,
5 INCLUDING CONVICTIONS CONTAINED IN A NONPUBLIC RECORD. AFTER
6 IMPLEMENTATION OF THIS PROGRAM, IF THE MONTHLY COMPARISON DISCLOSES
7 THAT A PERSON ON THE DEPARTMENT'S LIST OF REGISTERED EDUCATIONAL
8 PERSONNEL HAS BEEN CONVICTED OF A CRIME, THE DEPARTMENT OF STATE
9 POLICE SHALL NOTIFY THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL
10 DISTRICT, PUBLIC SCHOOL ACADEMY, OR NONPUBLIC SCHOOL IN WHICH THE
11 PERSON IS EMPLOYED OF THAT CONVICTION.

12 (8) AS USED IN THIS SECTION, "LISTED OFFENSE" MEANS THAT TERM
13 AS DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994
14 PA 295, MCL 28.722.

15 Enacting section 1. This amendatory act takes effect October
16 15, 2005.

17 Enacting section 2. This amendatory act does not take effect
18 unless all of the following bills of the 93rd Legislature are
19 enacted into law:

20 (a) House Bill No. 4402.

21 (b) House Bill No. 4928.

22 (c) House Bill No. 4929.