

# 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

- 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.  
    <<Enacting section 1. Enacting section 1 of 2008 PA 1 is  
    repealed.>>