

HOUSE BILL NO. 5861

June 26, 2024, Introduced by Rep. Paquette and referred to the Committee on Government Operations.

A bill to amend 1976 PA 451, entitled "The revised school code," by amending section 1535a (MCL 380.1535a), as amended by 2016 PA 532, and by adding section 1179c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 1179c. (1) The office of the student victims' rights**
2 **ombudsman is created in the department.**

3 **(2) The superintendent of public instruction shall designate**
4 **an individual as the student victims' rights ombudsman, who shall**
5 **serve as the principal executive officer of the office of the**

1 student victims' rights ombudsman. The department may appoint
2 employees and other agents of the office of the student victims'
3 rights ombudsman and prescribe their duties, consistent with this
4 section.

5 (3) The duties of the office of the student victims' rights
6 ombudsman include, but are not limited to, all of the following:

7 (a) Assist students and parents and legal guardians of
8 students in understanding their rights and responsibilities under
9 school policies and local, state, and federal law related to sexual
10 misconduct by school employees.

11 (b) Subject to state and federal laws, based on a request as
12 described in subsection (4) or at the direction of the
13 superintendent of public instruction, investigate and report to all
14 interested parties and the superintendent of public instruction
15 findings of potential violations of a school's policies and local,
16 state, and federal law.

17 (c) Investigate school district and school policies related to
18 sexual misconduct to ensure compliance with local, state, and
19 federal law and ensure that the policies do not discourage
20 reporting of sexual misconduct.

21 (d) Issue statewide guidance on state and federal laws related
22 to sexual misconduct and best practices to address sexual
23 misconduct against students.

24 (4) A student or the parent or legal guardian of a student may
25 submit a request, in the form and manner prescribed by the office
26 of the student victims' rights ombudsman, to the office of the
27 student victims' rights ombudsman seeking aid in addressing
28 concerns and grievances related to sexual misconduct by school
29 employees.

1 (5) Subject to state and federal laws, a school district,
 2 intermediate school district, public school academy, nonpublic
 3 school, the board of a school district or intermediate school
 4 district, the board of directors of a public school academy, or the
 5 governing body of a nonpublic school shall cooperate with the
 6 office of the student victims' rights ombudsman for an
 7 investigation conducted under this section and release all
 8 information requested by the office of the student victims' rights
 9 ombudsman for an investigation conducted under this section to the
 10 office of the student victims' rights ombudsman.

11 Sec. 1535a. (1) Subject to subsection (2), if a ~~person~~**an**
 12 **individual** who holds a teaching certificate that is valid in this
 13 state has been convicted of a crime described in this subsection,
 14 within 10 working days after receiving notice of the conviction the
 15 superintendent of public instruction shall notify the ~~person~~
 16 **individual** in writing that ~~his or her~~**the individual's** teaching
 17 certificate may be suspended because of the conviction and of ~~his~~
 18 ~~or her~~**the individual's** right to a hearing before the
 19 superintendent of public instruction. The hearing ~~shall~~**must** be
 20 conducted as a contested case under the administrative procedures
 21 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the ~~person~~
 22 **individual** does not avail ~~himself or herself~~**themselves** of this
 23 right to a hearing within 15 working days after receipt of this
 24 written notification, the teaching certificate of that ~~person~~**shall**
 25 **individual must** be suspended. If a hearing takes place, the
 26 superintendent of public instruction shall complete the proceedings
 27 and make a final decision and order within 120 working days after
 28 receiving the request for a hearing. Subject to subsection (2), the
 29 superintendent of public instruction may suspend the ~~person's~~

1 **individual's** teaching certificate based ~~upon~~**on** the issues and
2 evidence presented at the hearing. This subsection applies to any
3 of the following crimes:

4 (a) Any felony.

5 (b) Any of the following misdemeanors:

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

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

10 (iii) A misdemeanor involving cruelty, torture, or indecent
11 exposure involving a child.

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

14 (v) A violation of section 115, 141a, 335a, or 359 of the
15 Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.335a,
16 and 750.359, or a misdemeanor violation of section 81, 81a, or 145d
17 of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and
18 750.145d.

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

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

22 (c) A violation of a substantially similar law of another
23 state, of a political subdivision of this state or another state,
24 or of the United States.

25 (2) If ~~a person~~**an individual** who holds a teaching certificate
26 that is valid in this state has been convicted of a crime described
27 in this subsection, the superintendent of public instruction shall
28 find that the public health, safety, or welfare requires emergency
29 action and shall order summary suspension of the ~~person's~~

1 **individual's** teaching certificate under section 92 of the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.292, and
3 shall subsequently provide an opportunity for a hearing as provided
4 under that section. This subsection does not limit the
5 superintendent of public instruction's ability to order summary
6 suspension of ~~a person's~~ **an individual's** teaching certificate for a
7 reason other than described in this subsection. This subsection
8 applies to conviction of any of the following crimes:

9 (a) Criminal sexual conduct in any degree, assault with intent
10 to commit criminal sexual conduct, or an attempt to commit criminal
11 sexual conduct in any degree.

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

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

15 (d) A violation of section 7401(2)(a)(i), 7403(2)(a)(i), 7410,
16 or 7416 of the public health code, 1978 PA 368, MCL 333.7401,
17 333.7403, 333.7410, and 333.7416.

18 (e) A violation of section 83, 89, 91, 145a, 145b, 145c, 316,
19 317, 350, 448, 455, or 529 of the Michigan penal code, 1931 PA 328,
20 MCL 750.83, 750.89, 750.91, 750.145a, 750.145b, 750.145c, 750.316,
21 750.317, 750.350, 750.448, 750.455, and 750.529, or a felony
22 violation of section 145d of the Michigan penal code, 1931 PA 328,
23 MCL 750.145d.

24 (f) A violation of section 158 of the Michigan penal code,
25 1931 PA 328, MCL 750.158, if a victim is an individual less than 18
26 years of age.

27 (g) Except for a juvenile disposition or adjudication, a
28 violation of section 338, 338a, or 338b of the Michigan penal code,
29 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an

1 individual less than 18 years of age.

2 (h) A violation of section 349 of the Michigan penal code,
3 1931 PA 328, MCL 750.349, if a victim is an individual less than 18
4 years of age.

5 (i) An offense committed by ~~a person~~**an individual** who was, at
6 the time of the offense, a sexually delinquent person as defined in
7 section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

8 (j) Any other crime that is a listed offense.

9 (k) An attempt or conspiracy to commit an offense listed in
10 subdivision (a), (e), (f), (g), (h), (i), or (j).

11 (l) A violation of a substantially similar law of another
12 state, of a political subdivision of this state or another state,
13 or of the United States.

14 (m) Any other crime listed in subsection (1), if the
15 superintendent of public instruction determines the public health,
16 safety, or welfare requires emergency action based on the
17 circumstances underlying the conviction.

18 (3) All of the following apply to any proceedings affecting a
19 ~~person's~~**an individual's** teaching certificate under this section:

20 (a) The superintendent of public instruction shall appoint a
21 designee to perform the investigatory and prosecutorial functions
22 involved in the proceedings. However, the superintendent of public
23 instruction must approve any settlement, conditional agreement, or
24 other decision not to proceed with charges.

25 (b) Any final action that affects the status of ~~a person's~~**an**
26 **individual's** teaching certificate shall be taken by the
27 superintendent of public instruction.

28 (c) The superintendent of public instruction after a hearing
29 shall not take action against ~~a person's~~**an individual's** teaching

1 certificate under subsection (1) or (2) unless the superintendent
2 of public instruction finds that the conviction is reasonably and
3 adversely related to the ~~person's~~**individual's** present fitness to
4 serve in an elementary or secondary school in this state or that
5 the conviction demonstrates that the ~~person~~**individual** is unfit to
6 teach in an elementary or secondary school in this state. Further,
7 the superintendent of public instruction may take action against a
8 ~~person's~~**an individual's** teaching certificate under subsection (1)
9 or (2) based on a conviction that occurred before April 1, 2004 if
10 the superintendent of public instruction finds that the conviction
11 is reasonably and adversely related to the ~~person's~~**individual's**
12 present fitness to serve in an elementary or secondary school in
13 this state or that the conviction demonstrates that the ~~person~~
14 **individual** is unfit to teach in an elementary or secondary school
15 in this state. For the purposes of this section, conviction of a
16 listed offense is reasonably and adversely related to the ~~person's~~
17 **individual's** fitness to serve in an elementary or secondary school
18 in this state and demonstrates that the ~~person~~**individual** is unfit
19 to teach in an elementary or secondary school in this state.

20 (4) If a ~~person~~**an individual** who has entered a plea of guilt
21 or no contest to or who is the subject of a finding of guilt by a
22 judge or jury of a crime listed in subsection (2) has been
23 suspended from active performance of duty by a public school,
24 school district, intermediate school district, or nonpublic school
25 during the pendency of proceedings under this section, the public
26 school, school district, intermediate school district, or nonpublic
27 school employing the ~~person~~**individual** shall discontinue the
28 ~~person's~~**individual's** compensation until the superintendent of
29 public instruction has made a final determination of whether or not

1 to suspend or revoke the ~~person's~~**individual's** teaching
2 certificate. If the superintendent of public instruction does not
3 suspend or revoke the ~~person's~~**individual's** teaching certificate,
4 the public school, school district, intermediate school district,
5 or nonpublic school shall make the ~~person~~**individual** whole for lost
6 compensation, without interest.

7 (5) Except as otherwise provided in this subsection, after the
8 completion of a ~~person's~~**an individual's** sentence, the ~~person~~
9 **individual** may request a hearing on reinstatement of ~~his or her~~**the**
10 **individual's** teaching certificate. Based upon the issues and
11 evidence presented at the hearing, the superintendent of public
12 instruction may reinstate, continue the suspension of, or
13 permanently revoke the ~~person's~~**individual's** teaching certificate.
14 The superintendent of public instruction shall not reinstate a
15 ~~person's~~**an individual's** teaching certificate unless the
16 superintendent of public instruction finds that the ~~person~~
17 **individual** is currently fit to serve in an elementary or secondary
18 school in this state and that reinstatement of the ~~person's~~
19 **individual's** teaching certificate will not adversely affect the
20 health, safety, and welfare of pupils. If a ~~person's~~**an**
21 **individual's** conviction was for a listed offense, the ~~person~~
22 **individual** is not entitled to request a hearing on reinstatement
23 under this subsection, and the superintendent of public instruction
24 shall not reinstate the ~~person's~~**individual's** teaching certificate
25 under this subsection.

26 (6) All of the following apply to a ~~person~~**an individual**
27 described in this section whose conviction is reversed upon final
28 appeal:

29 (a) The ~~person's~~**individual's** teaching certificate shall be

1 reinstated upon ~~his or her~~ **the individual's** notification to the
2 superintendent of public instruction of the reversal.

3 (b) If the suspension of the ~~person's~~ **individual's** teaching
4 certificate under this section was the sole cause of ~~his or her~~ **the**
5 **individual's** discharge from employment, the ~~person~~ **individual** shall
6 be reinstated, upon ~~his or her~~ **the individual's** notification to the
7 appropriate local or intermediate school board of the reversal,
8 with full rights and benefits, to the position ~~he or she~~ **the**
9 **individual** would have had if ~~he or she~~ **the individual** had been
10 continuously employed.

11 (c) If the ~~person's~~ **individual's** compensation was discontinued
12 under subsection (4), the public school, school district,
13 intermediate school district, or nonpublic school shall make the
14 ~~person~~ **individual** whole for lost compensation.

15 (7) If the prosecuting attorney in charge of a case receives a
16 form as provided under section 1230d, the prosecuting attorney
17 shall notify the superintendent of public instruction, and any
18 public school, school district, intermediate school district, or
19 nonpublic school in which the ~~person~~ **individual** is employed by
20 forwarding a copy of the form to each of them not later than 7 days
21 after receiving the form. If the court receives a form as provided
22 under section 1230d, the court shall notify the superintendent of
23 public instruction and any public school, school district,
24 intermediate school district, or nonpublic school in which the
25 ~~person~~ **individual** is employed by forwarding to each of them a copy
26 of the form and information regarding the sentence imposed on the
27 ~~person~~ **individual** not later than 7 days after the date of
28 sentencing, even if the court is maintaining the file as a
29 nonpublic record.

1 (8) Not later than 7 days after receiving notification from
2 the prosecuting attorney or the court under subsection (7) or
3 learning through an authoritative source that ~~a person~~**an**
4 **individual** who holds a teaching certificate has been convicted of a
5 crime listed in subsection (1), the superintendent of public
6 instruction shall request the court to provide a certified copy of
7 the judgment of conviction and sentence or other document regarding
8 the disposition of the case to the superintendent of public
9 instruction and shall pay any fees required by the court. The court
10 shall provide this certified copy within 7 days after receiving the
11 request and fees under this section or after entry of the judgment
12 or other document, whichever is later, even if the court is
13 maintaining the judgment or other document as a nonpublic record.

14 (9) If the superintendent of a school district or intermediate
15 school district, the chief administrative officer of a nonpublic
16 school, the president of the board of a school district or
17 intermediate school district, or the president of the governing
18 board of a nonpublic school is notified or learns through an
19 authoritative source that ~~a person~~**an individual** who holds a
20 teaching certificate and who is employed by the school district,
21 intermediate school district, or nonpublic school has been
22 convicted of a crime described in subsection (1) or (2), the
23 superintendent, chief administrative officer, or board president
24 shall notify the superintendent of public instruction of that
25 conviction within 15 days after learning of the conviction.

26 (10) For the purposes of this section, a certified copy of the
27 judgment of conviction and sentence is conclusive evidence of
28 conviction of a crime described in this section. For the purposes
29 of this section, conviction of a crime described in this section is

1 considered to be reasonably and adversely related to the ability of
2 the ~~person~~**individual** to serve in an elementary or secondary school
3 and is sufficient grounds for suspension or revocation of the
4 ~~person's~~**individual's** teaching certificate.

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

19 (12) The superintendent of public instruction shall submit to
20 the legislature an annual report of all final actions ~~he or she~~**the**
21 **superintendent of public instruction** has taken under this section
22 affecting ~~a person's~~**an individual's** teaching certificate during
23 the preceding year. The report shall contain at least all of the
24 following with respect to each ~~person~~**individual** whose teaching
25 certificate has been affected:

26 (a) The ~~person's~~**individual's** name, as it appears on the
27 teaching certificate.

28 (b) The school district, intermediate school district, public
29 school academy, or nonpublic school in which the ~~person~~**individual**

1 was employed at the time of the conviction, if any.

2 (c) The offense for which the ~~person~~**individual** was convicted
3 and the date of the offense and date of the conviction.

4 (d) Whether the action taken by the superintendent of public
5 instruction was a summary suspension, suspension due to failure to
6 request a hearing, suspension, revocation, or reinstatement of the
7 teaching certificate.

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

9 (a) Prohibit a ~~person~~**an individual** who holds a teaching
10 certificate from seeking monetary compensation from a school board
11 or intermediate school board if that right is available under a
12 collective bargaining agreement or another statute.

13 (b) Limit the rights and powers granted to a school district
14 or intermediate school district under a collective bargaining
15 agreement, this act, or another statute to discipline or discharge
16 a ~~person~~**an individual** who holds a teaching certificate.

17 (14) The superintendent of public instruction may promulgate,
18 as necessary, rules to implement this section pursuant to the
19 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
20 24.328.

21 (15) The department of technology, management, and budget
22 shall work with the department and the department of state police
23 to develop and implement an automated program that does a
24 comparison of the department's list of individuals holding a
25 teaching certificate or state board approval, and of any other list
26 maintained by the department of individuals employed or regularly
27 and continuously working under contract in a school, with the
28 conviction information received by the department of state police.
29 This comparison shall only include individuals who are actually

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

25 (16) As used in this section:

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

1 (b) "Felony" means that term as defined in section 1 of
2 chapter I of the code of criminal procedure, 1927 PA 175, MCL
3 761.1.

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

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

13 (e) "Regularly and continuously work under contract" means
14 that term as defined in section 1230d.