

**Student Safety Package – Sex Offender Package
Fall 2005**

Bill #	Public Act #	Effective Date	Description	Actions	Contact Person
HB 4402	PA #129	Jan. 1, 2006	<p>Criminal Background Checks-LEIN:</p> <ul style="list-style-type: none"> ◆Amends 380.1230 and creates a new 380.1230c. ◆This legislation requires <u>ALL applicants</u> (upon offer of initial employment) for positions in schools to have criminal background checks - LIEN (current law requires only for certain staff). ◆Results must be received prior to hiring the individual; <u>if they are not available, an individual must sign a statement</u> identifying all crimes for which s/he has been convicted (as applicable) (per SB 601 PA #138). 	<ul style="list-style-type: none"> ◆HR policies and processes will be impacted by this legislation. ◆If the individual has been convicted of a crime listed on the Sex Offender Registry (SOR), that person MAY NOT be hired. ◆If the individual shows a felony not on the SOR, the hiring must be approved in writing by the board AND superintendent. ◆If the school has notice from <i>“an authoritative source”</i> that the individual has been convicted of a listed offense, that individual MAY NOT be hired. 	

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HB 4928	PA #130	Effective Jan. 1, 2006; Completed by July 1, 2008	<p>Fingerprinting - FBI:</p> <ul style="list-style-type: none"> ◆Creates new 380.1230f, 1230g; amends 380.1535a ◆This legislation requires <u>ALL employees</u> (full- or part-time) to be fingerprinted ◆<u>Anyone fingerprinted prior to January 1, 2006 must be fingerprinted again</u> (records no longer exist). ◆Note: substitute teacher information may be shared. Contract and other staff information may be shared with their release. ◆MSP is required to begin action for such employees within 30 days. ◆Legislation does not apply to volunteers. ◆There are no statutes of limitation for these SOR and listed offenses. ◆An individual has no redress under Michigan’s Teacher Tenure Act (under SB 601 / PA # 138) re: SOR listed offenses. ◆If the existing contract (as of January 1, 2006) is inconsistent with these statutes, the contract is followed until its expiration. <p>Note: this legislation is silent on the party responsible for the cost of the fingerprinting processing (\$70 +/-).</p>	<ul style="list-style-type: none"> ◆HR policies and processes will be impacted by this legislation. ◆If the check reveals an employee has been convicted of a SOR crime, the school district can not continue to employ. Their certificate (if applicable) will be revoked and cannot be reinstated. ◆ If the check shows a felony other than an SOR listed offense, the board and superintendent have to approve continued employment in writing. ◆The legislation also requires discontinuation of compensation of certain employees (primarily teachers pending hearings) if they have pled guilty or have been convicted of certain crimes (noted in Section 1535a (2)). ◆If an individual holds a teaching certification, the State Superintendent, within 10 days, will notify the individual that they may lose their teaching certificate; a hearing process is provided. 	

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				<ul style="list-style-type: none"> ◆The State Superintendent is solely responsible for the investigation, consideration, hearing, etc. relative to the revocation of a teaching certificate. The State Superintendent is responsible for contacting school districts re: the outcome of a revocation process. ◆If the certificate is not revoked (for non-SOR offenses), the district is required to make the person whole without interest as if continuously employed. ◆If the certificate is revoked, immediate dismissal of the employee is required. ◆MDE is required to work with MSP and run the REP against the conviction database. Beginning July 1, 2008, bi-annual checks will be run and districts will be notified of new offenses 	
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SB 601	PA #138	Jan. 1, 2006	<p>FBI checks:</p> <ul style="list-style-type: none"> ◆ Amends 380.1230a ◆ This legislation also requires criminal history checks for <u>ALL applicants</u> upon an offer of initial employment. ◆ This legislation clarifies that these statutes also <u>include “contracted employees”</u>; individuals “regularly and continuously working under contract”. ◆ The legislation clarifies that the results are to be obtained prior to employment; however, if not available upon hiring date, the applicant shall sign a statement identifying all crimes for which s/he has been convicted. 	<ul style="list-style-type: none"> ◆ HR policies and processes will be impacted by this legislation. ◆ Similar to the previous acts, this legislation states that individuals convicted of SOR listed offenses <u>can not be hired or working under any circumstances.</u> ◆ The conditional employment can be voided if the criminal history report discloses convictions not previously reported. ◆ If the individual is convicted of other than SOR offenses, the individual can only be hired or working if approved by both the Board and Superintendent in writing. 	

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HB 4930	PA #131	Jan. 1, 2006	<p>Self-Reporting:</p> <ul style="list-style-type: none"> ◆Creates a new 380.1230d ◆This legislation requires ANY employee, NEW applicants or other individual under regular contract SHALL report to both MDE and the district if s/he has been charged with a SOR, any felony, misdemeanors involving sex abuse or cruelty to children or drug/alcohol crime within 3 days after being arraigned. ◆When such individual is convicted, must disclose they are a school employee to the court. ◆Such individual shall also report <i>any other</i> crime if the charge has been pled down (from above crimes). ◆Such individual shall provide the “reporting form” (including the plea/conviction information) to the prosecutor, State Superintendent and to the district. ◆Penalties are provided for non-reporting. ◆The Court / Prosecutor is required to report such information to the State Superintendent or district within 7 days after sentencing. 	<ul style="list-style-type: none"> ◆Districts will need to ensure that their HR system has a cross-reference for this data. ◆If an individual does not report required information, in addition to state penalties, school districts should consider contract language that provides for disciplinary action up to dismissal (hearings may be considered). ◆If an individual does report such criminal charges and IS NOT convicted, the individual can request such information to be redacted from their records. If information is validated at the state level, both the State Superintendent and district must redact. ◆MSP and DIT are required to implement an automated cross-check against the REP. If such check shows a person has been convicted, MSP is required to contact the State Superintendent and district. 	

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HB 4932	PA #127	Jan. 1, 2006	<p>Student Safety Zone:</p> <ul style="list-style-type: none"> ◆Creates a new section within the SOR statutes ◆This legislation stipulates a “student safety zone” which is 1,000 feet or less from school property. ◆School property is defined as a building, facility, structure or real property owned/leased by a school. Such facility is used for educational instruction or for use by for sports or recreational activities. Note: it does not include school buses or bus stops. ◆Any individual convicted of SOR crimes, shall not work or loiter in a Student Safety Zone (SSZ). Penalties are provided. ◆Exemptions are provided for: <ul style="list-style-type: none"> - individuals working within a SSZ prior to enactment; exemption is lost for any individual that elicits child contact in a SSZ - individuals whose employment is within a SSZ because a school is relocated or newly established - individuals who intermittently enters a SSZ for work; again they loose the exemption if they elicit child contact in a SSZ 	<ul style="list-style-type: none"> ◆Actions are really required of the individual in self-reporting. ◆School districts should be aware of individuals living within the SSZ that are on the SOR list. ◆School districts should post SSZs similar to postings for the Gun Free School Zone and the Drug Free School Zone (they are all the same). ◆School officials should clarify with transportation staff that, while this legislation does not include busses and school bus stops, they should be aware of any individual at or near a bus stop that is on the SOR list. 	

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SB 617	PA 139	Jan. 1, 2006	<p>Student Safety Zone:</p> <ul style="list-style-type: none"> ◆ This legislation also prohibits individuals listed on the SOR from residing, working or loitering within a School Safety Zone ◆ Note: this legislation adds “reside” within a SSZ ◆ This legislation also provides exemptions (similar to HB 4932) adding: <ul style="list-style-type: none"> - individuals residing in a SSZ prior to enactment - individuals under 18 years old living with parent(s) or guardian - a patient in a hospital or hospice ◆ This legislation provides penalties for violations. ◆ This legislation defines “school”: <ul style="list-style-type: none"> - A building, facility owned /leased for public, private, denominational or parochial school offering DK through Grade 12 instruction as well as a facility used for students under age 19 for sports or recreational activities [initially the definitions were different but they are now in consort] 	<ul style="list-style-type: none"> ◆ Actions taken should be similar to those in HB 4932. 	

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HB 4991	PA #136	Jan. 1, 2006	<p>Tenure Act:</p> <ul style="list-style-type: none"> ◆Amends Section 1 of Article IV ◆This legislation clarifies the impact of the Teacher Tenure Act – actions can be taken only for “just and reasonable cause” EXCEPT as provided in Section 1a (under SB 609 or PA #124). 		
SB 609	PA #124	Jan. 1, 2006	<p>Tenure Act:</p> <ul style="list-style-type: none"> ◆This legislation impacts the Tenure Act as follows: <ul style="list-style-type: none"> – teacher convicted of listed offense cannot have certificate reinstated – teacher may be discharged if convicted of failure to report under 1230d – pay shall be discontinued if suspended teacher is convicted of 1535a(2) crime ◆This legislation also indicates that an individual’s <u>violation of provisions in HB 4928 or 4930</u> creates a rebuttable presumption of unfitness to teach and grounds for discharge upon conviction of 1230d violation or a 1535a(1) crime ◆requires/allows discontinuance of pay upon conviction of certain crimes ◆excludes discontinuance of pay under this provision from definition of "demote" 	<ul style="list-style-type: none"> ◆HR policies and processes will be impacted by this legislation. 	