

**Student Safety Package – Sex Offender Package  
Fall 2005; Amended April 2006**

Bill #	Public Act #	Effective Date	Description	Actions	PA 84 of '06 Changes (pg. 9-10)
HB 4402	PA #129	Jan. 1, 2006	<p><b>Criminal Background Checks-LEIN:</b></p> <ul style="list-style-type: none"> <li>◆Amends 380.1230 and creates a new 380.1230c.</li> <li>◆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).</li> <li>◆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).</li> </ul>	<ul style="list-style-type: none"> <li>◆HR policies and processes will be impacted by this legislation.</li> <li>◆If the individual has been <b>convicted of a crime</b> listed on the <b>Sex Offender Registry (SOR)</b>, that person <b>MAY NOT be hired</b>.</li> <li>◆If the individual shows a <b>felony not on the SOR</b>, the hiring <b>must be approved</b> in writing by the board AND superintendent.</li> <li>◆If the school has notice from <b>“an authoritative source”</b> that the individual has been convicted of a listed offense, that individual <b>MAY NOT be hired</b>.</li> </ul>	<ul style="list-style-type: none"> <li>◆MSP &amp; MDE are required to use due diligence in ensuring accuracy in the lists released to schools</li> <li>◆The information from an “authoritative source” must be supported by public records</li> <li>◆Self reporting has not changed</li> </ul>

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

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

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HB 4930	PA #131	Jan. 1, 2006	<p><b>Self-Reporting:</b></p> <ul style="list-style-type: none"> <li>◆Creates a new 380.1230d</li> <li>◆This legislation requires ANY employee, NEW applicants or other individual under regular contract <b>SHALL</b> 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.</li> <li>◆When such individual is convicted, <b>must disclose they are a school employee</b> to the court.</li> <li>◆Such individual shall also report <i>any other</i> crime if the charge has been pled down (from above crimes).</li> <li>◆Such individual <b>shall provide</b> the “reporting form” (including the plea/conviction information) to the prosecutor, State Superintendent and <b>to the district</b>.</li> <li>◆Penalties are provided for non-reporting.</li> <li>◆The Court / Prosecutor is required to report such information to the State Superintendent or district within 7 days after sentencing.</li> </ul>	<ul style="list-style-type: none"> <li>◆Districts will need to ensure that their <b>HR system has a cross-reference</b> for this data.</li> <li>◆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).</li> <li>◆If an individual does report such criminal charges and IS NOT convicted, the individual can request such information to be redacted from their records. <b>If information is validated at the state level, both the State Superintendent and district must redact.</b></li> <li>◆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.</li> </ul>	<ul style="list-style-type: none"> <li>◆No changes in this section except that list provided by MSP/MDE will only include individuals that are school employees at the time of comparison and that the agencies ensure accuracy.</li> </ul>

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Bill #	Public Act #	Effective Date	Description	Actions	PA 84 of '06 Changes (pg. 9-10)
HB 4932	PA #127	Jan. 1, 2006	<p><b>Student Safety Zone:</b></p> <ul style="list-style-type: none"> <li>◆Creates a new section within the SOR statutes</li> <li>◆This legislation stipulates a <b>“student safety zone” which is 1,000 feet or less from school property.</b></li> <li>◆<b>School property is defined</b> as a building, facility, structure or real property owned/leased by a school. Such facility is used for educational <b>instruction or for use by for sports or recreational</b> activities. Note: it does not include school buses or bus stops.</li> <li>◆Any individual convicted of <b>SOR</b> crimes, <b>shall not work or loiter in a Student Safety Zone (SSZ).</b> Penalties are provided.</li> <li>◆<b>Exemptions</b> are provided for:               <ul style="list-style-type: none"> <li>– individuals working within a SSZ prior to enactment; exemption is lost for any individual that elicits child contact in a SSZ</li> <li>– individuals whose employment is within a SSZ because a school is relocated or newly established</li> <li>– individuals who intermittently enters a SSZ for work; again they loose the exemption if they elicit child contact in a SSZ</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>◆Actions are really required of the individual in self-reporting.</li> <li>◆School districts should be aware of <b>individuals living within the SSZ</b> that are on the SOR list.</li> <li>◆<b>School districts should post SSZs</b> similar to postings for the Gun Free School Zone and the Drug Free School Zone (they are all the same).</li> <li>◆School officials should clarify with transportation staff that, while this legislation <b>does not include busses and school bus stops</b>, they should be aware of any individual at or near a bus stop that is on the SOR list.</li> </ul>	<ul style="list-style-type: none"> <li>◆No changes in this section.</li> </ul>

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SB 617	PA 139	Jan. 1, 2006	<p><b>Student Safety Zone:</b></p> <ul style="list-style-type: none"> <li>◆ This legislation also prohibits individuals listed on the SOR from <b>residing, working or loitering</b> within a <b>School Safety Zone</b></li> <li>◆ Note: this legislation adds “reside” within a SSZ</li> <li>◆ This legislation also provides <b>exemptions</b> (similar to HB 4932) adding:               <ul style="list-style-type: none"> <li>- individuals residing in a SSZ prior to enactment</li> <li>- individuals under 18 years old living with parent(s) or guardian</li> <li>- a patient in a hospital or hospice</li> </ul> </li> <li>◆ This legislation provides penalties for violations.</li> <li>◆ This legislation <b>defines “school”</b>:               <ul style="list-style-type: none"> <li>- A building, facility owned /leased for public, private, denominational or parochial school <b>offering DK</b> 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]</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>◆ Actions taken should be similar to those in HB 4932.</li> </ul>	<ul style="list-style-type: none"> <li>◆ No changes in this section.</li> </ul>

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HB 4991	PA #136	Jan. 1, 2006	<p><b>Tenure Act:</b></p> <ul style="list-style-type: none"> <li>◆Amends Section 1 of Article IV</li> <li>◆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).</li> </ul>		◆No changes in this section.
SB 609	PA #124	Jan. 1, 2006	<p><b>Tenure Act:</b></p> <ul style="list-style-type: none"> <li>◆This legislation <b>impacts the Tenure Act as follows:</b> <ul style="list-style-type: none"> <li>– teacher convicted of listed offense cannot have certificate reinstated</li> <li>– teacher may be discharged if convicted of failure to report under 1230d</li> <li>– pay shall be discontinued if suspended teacher is convicted of 1535a(2) crime</li> </ul> </li> <li>◆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</li> <li>◆requires/allows discontinuance of pay upon conviction of certain crimes</li> <li>◆excludes discontinuance of pay under this provision from definition of "demote"</li> </ul>	◆HR policies and processes will be impacted by this legislation.	◆No changes in this section

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<b>HB 5675</b>	<b>PA #84</b>	<b>April 2006</b>	<b>Criminal History Checks FBI Checks</b>	<ul style="list-style-type: none"> <li>◆The list that will be provided to schools will include only individuals currently employed at the time of comparison</li> <li>◆The list will include all employees for all convictions for all crimes (listed SOR and other than listed felonies as well as all misdemeanors)</li> <li>◆MDE is required to provide a report to the Legislature re: lists</li> </ul>	
			<b>Individual Reporting</b>	<ul style="list-style-type: none"> <li>◆No changes; school employees or contractors are required to report to MDE and school district any charges or convictions</li> </ul>	
<b>HB 5675</b>	<b>PA #84</b>	<b>April 2006</b>	<b>FOIA (by reference)</b>	<ul style="list-style-type: none"> <li>◆The list from MDE and MSP now requires their due diligence to ensure accuracy</li> <li>◆The list received by schools will be held for a 15-day window to review for accuracy If any information is deemed to be inaccurate, it will be redacted from the list</li> </ul>	

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HB 5675	PA #84	April 2006	<b>FOIA (by reference) – cont’d</b>	<ul style="list-style-type: none"> <li>◆ Information on the list will be released as follows:               <ul style="list-style-type: none"> <li>○ ANY felony or misdemeanor (involving physical or sexual abuse) will be disclosed to the public</li> <li>○ Any other misdemeanor will be disclosed to the public by district without personally identifiable information (crimes will be reported without names)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>◆ This list is subject to release by each school district</li> <li>◆ This list is subject to release only by state agency</li> </ul>
HB 5675	PA #84	April 2006	<b>Contractor – “person regularly and continuously working under contract”</b>	<ul style="list-style-type: none"> <li>◆ This section has been clarified to include only the owner of such a service or an individual under contract for the following services:               <ul style="list-style-type: none"> <li>○ Food service</li> <li>○ Custodial service</li> <li>○ Transportation</li> <li>○ Instructional service</li> <li>○ Counseling service</li> <li>○ Administrative service</li> </ul> </li> <li>◆ Student <b>Employees</b> would be required to have an ICHAT only if they are 19 or over (general ed) or 26 or over (special ed)</li> </ul>	

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