

- (d) Senate Bill No. 601.
- (e) Senate Bill No. 609.
- (f) Senate Bill No. 611.

This act is ordered to take immediate effect.
Approved September 28, 2005.
Filed with Secretary of State September 29, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

House Bill No. 4928 was filed with the Secretary of State September 29, 2005, and became 2005 PA 130, Eff. Jan. 1, 2006.
House Bill No. 4930 was filed with the Secretary of State September 29, 2005, and became 2005 PA 131, Eff. Jan. 1, 2006.
House Bill No. 4991 was filed with the Secretary of State September 29, 2005, and became 2005 PA 136, Eff. Jan. 1, 2006.
Senate Bill No. 601 was filed with the Secretary of State September 29, 2005, and became 2005 PA 138, Eff. Jan. 1, 2006.
Senate Bill No. 609 was filed with the Secretary of State September 29, 2005, and became 2005 PA 124, Eff. Jan. 1, 2006.
Senate Bill No. 611 was filed with the Secretary of State September 29, 2005, and became 2005 PA 125, Imd. Eff. Sept. 29, 2005.

[No. 130]

(HB 4928)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 1535a and 1539b (MCL 380.1535a and 380.1539b), as amended by 2004 PA 51, and by adding sections 1230f and 1230g.

The People of the State of Michigan enact:

380.1230f Fingerprints submitted under MCL 380.1230a and 380.1230g; maintenance in AFIS database.

Sec. 1230f. The department of information technology shall work with the department of state police to establish a system for the department of state police to save and maintain in its automated fingerprint identification system (AFIS) database all fingerprints that are submitted to the department of state police under sections 1230a and 1230g. If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under section 1230a or 1230g and stored in the AFIS database, the department of state police shall notify the department.

380.1230g Individual employed or working under contract; criminal history check or records check; use of results received by another district; consent; request; use of results for limited purpose; duties of department of state police; disclosure of conviction for listed offense or other felony; "listed offense" defined.

Sec. 1230g. (1) Not later than July 1, 2008, the board of a school district or intermediate school district, the board of directors of a public school academy, or the governing body of a nonpublic school shall do both of the following for each individual who, as of January 1, 2006, is either a full-time or part-time employee of the school district, intermediate school district, public school academy, or nonpublic school or is assigned to regularly and continuously work under contract in any of its schools:

(a) Request from the criminal records division of the department of state police a criminal history check on the individual.

(b) Request the department of state police to conduct a criminal records check on the individual through the federal bureau of investigation. The board, board of directors, or governing board shall require the individual to submit his or her fingerprints to the department of state police for the purposes of this subdivision. The department of state police may charge a fee for conducting the criminal records check.

(2) For an individual employed or working under contract as a substitute teacher, instead of requesting a criminal history check and criminal records check under subsection (1), a school district, intermediate school district, public school academy, or nonpublic school may use results received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to the individual.

(3) If an individual described in subsection (1) is employed by or working under contract in more than 1 school district, intermediate school district, public school academy, or nonpublic school and if the individual agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal history check or criminal records check with another district, public school academy, or nonpublic school, then a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the results of the criminal history check or criminal records check from another district, public school academy, or nonpublic school.

(4) An individual described in subsection (1) shall give written consent for the criminal records division of the department of state police to conduct the criminal history check and criminal records check required under this section and shall submit his or her fingerprints to the department of state police for the purposes of the criminal records check.

(5) A school district, intermediate school district, public school academy, or nonpublic school shall make a request to the department of state police for the criminal history check and criminal records check under this section on a form and in a manner prescribed by the department of state police.

(6) The results of a criminal history check and criminal records check under this section shall be used by a school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual's qualifications for employment or assignment in his or her position and for the purposes of subsections (2) and (3). A member of the board of a school district or intermediate school district, of the board of directors of a public school academy, or of the governing body of a nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose those results, except any felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person who is not directly involved in evaluating the individual's qualifications for employment or assignment. However, for the purposes of subsections (2) and (3), a person described in this subsection may provide a

copy of the results under subsection (1) concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804.

(7) Within 30 days after receiving a proper request by a school district, intermediate school district, public school academy, or nonpublic school for a criminal history check and criminal records check on an individual under this section, the criminal records division of the department of state police shall do both of the following:

(a) Conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the district, public school academy, or nonpublic school. The report shall contain any criminal history record information on the individual that is maintained by the criminal records division of the department of state police.

(b) Initiate the criminal records check through the federal bureau of investigation. After conducting the criminal records check required under this section for a school district, intermediate school district, or public school academy, the criminal records division of the department of state police shall provide the results of the criminal records check to the district or public school academy. After conducting the criminal records check required under this section for a nonpublic school, the criminal records division of the department of state police shall notify the nonpublic school of whether or not the criminal records check disclosed any criminal history that is not disclosed in the criminal history check report on the individual provided to the nonpublic school under subdivision (a).

(8) If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (7) disclose that an individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (7) disclose that an individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school each specifically approve the employment or work assignment in writing. As used in this subsection, "listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

380.1535a Conviction of teacher for certain crimes; notice of right to hearing; suspension of teaching certificate; summary suspension; findings for action under subsection (1) or (2); compensation; reinstatement, continued suspension, or permanent revocation of teaching certificate; effect of reversal of conviction on final appeal; notice of conviction; evidence of conviction; failure to complete hearing procedures; construction of section; rules; comparison of individuals holding teaching certificate with conviction information; definitions.

Sec. 1535a. (1) Subject to subsection (2), if a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, within

10 working days after receiving notice of the conviction the superintendent of public instruction shall notify the person in writing that his or her teaching certificate may be suspended because of the conviction and of his or her right to a hearing before the superintendent of public instruction. The hearing shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the person does not avail himself or herself of this right to a hearing within 15 working days after receipt of this written notification, the teaching certificate of that person shall be suspended. If a hearing takes place, the superintendent of public instruction shall complete the proceedings and make a final decision and order within 120 working days after receiving the request for a hearing. Subject to subsection (2), the superintendent of public instruction may suspend the person's teaching certificate based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

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

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

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

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

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

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

(vii) Any misdemeanor that is a listed offense.

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

(2) If a person who holds a teaching certificate that is valid in this state has been convicted of a crime described in this subsection, the superintendent of public instruction shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's teaching certificate under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an opportunity for a hearing as provided under that section. This subsection does not limit the superintendent of public instruction's ability to order summary suspension of a person's teaching certificate for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

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

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

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

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

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

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

(g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

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

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

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

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

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

(3) The superintendent of public instruction after a hearing shall not take action against a person's teaching certificate under subsection (1) or (2) unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's teaching certificate under subsection (1) or (2) based on a conviction that occurred before the effective date of the amendatory act that added this subsection if the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state.

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not to suspend or revoke the person's teaching certificate. If the superintendent of public instruction does not suspend or revoke the person's teaching certificate, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest. However, if a collective bargaining agreement is in effect as of the effective date of this subsection for employees of a school district, intermediate school district, or public school academy, and if the terms of that collective bargaining agreement are inconsistent with this subsection, then this subsection does not apply to that school district, intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) Except as otherwise provided in this subsection, after the completion of a person's sentence, the person may request a hearing before the superintendent of public instruction on reinstatement of his or her teaching certificate. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's teaching certificate. The superintendent of public instruction shall not reinstate a person's teaching certificate unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's teaching certificate will not adversely affect the health, safety, and welfare of pupils. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the person's teaching certificate under this subsection.

(6) All of the following apply to a person described in this section whose conviction is reversed upon final appeal:

(a) The person's teaching certificate shall be reinstated upon his or her notification to the superintendent of public instruction of the reversal.

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

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case receives a form as provided under section 1230d, the prosecuting attorney shall notify the superintendent of public instruction, and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under section 1230d, the court shall notify the superintendent of public instruction and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of sentencing, even if the court is maintaining the file as a nonpublic record.

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

(9) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified or learns through an authoritative source that a person who holds a

teaching certificate and who is employed by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1) or (2), the superintendent, chief administrative officer, or board president shall notify the superintendent of public instruction of that conviction within 15 days after learning of the conviction.

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's teaching certificate.

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

(12) Beginning July 1, 2004, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's teaching certificate during the preceding quarter. The report shall contain at least all of the following with respect to each person whose teaching certificate has been affected:

- (a) The person's name, as it appears on the teaching certificate.
- (b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.
- (c) The offense for which the person was convicted and the date of the offense and date of the conviction.
- (d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the teaching certificate.

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

- (a) Prohibit a person who holds a teaching certificate from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.
- (b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds a teaching certificate.

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

(15) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state

board approval with the conviction information received by the department of state police. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

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

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

(c) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

380.1539b Conviction of person holding board approval for certain crimes; notice of right to hearing; suspension; summary suspension; compensation; reinstatement, continued suspension, or permanent revocation of state board approval; notice of conviction; evidence of conviction; failure to complete hearing procedures; construction of section; rules; comparison of individuals holding teaching certificate with conviction information; definitions.

Sec. 1539b. (1) Subject to subsection (2), if a person who holds state board approval has been convicted of a crime described in this subsection, within 10 working days after receiving notice of the conviction the superintendent of public instruction shall notify the person in writing that his or her state board approval may be suspended because of the conviction and of his or her right to a hearing before the superintendent of public instruction. The hearing shall be conducted as a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the person does not avail himself or herself of this right to a hearing within 15 working days after receipt of this written notification, the person's state board approval shall be suspended. If a hearing takes place, the superintendent of public instruction shall complete the proceedings and make a final decision and order within 120 working days after receiving the request for a hearing. Subject to subsection (2), the superintendent of public instruction may suspend the person's state board approval, based upon the issues and evidence presented at the hearing. This subsection applies to any of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

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

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

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

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

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

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

(vii) Any misdemeanor that is a listed offense.

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

(2) If a person who holds state board approval has been convicted of a crime described in this subsection, the superintendent of public instruction shall find that the public health, safety, or welfare requires emergency action and shall order summary suspension of the person's state board approval under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, and shall subsequently provide an opportunity for a hearing as required under that section. This subsection does not limit the superintendent of public instruction's ability to order summary suspension of a person's state board approval for a reason other than described in this subsection. This subsection applies to conviction of any of the following crimes:

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

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

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

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

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

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

(g) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

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

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

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

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

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

(3) The superintendent of public instruction after a hearing shall not take action against a person's state board approval under subsection (1) or (2) unless the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state or that the conviction demonstrates that the person is unfit to teach in an elementary or secondary school in this state. Further, the superintendent of public instruction may take action against a person's state board approval under subsection (1) or (2) based on a conviction that occurred before the effective date of the amendatory act that added this subsection if the superintendent of public instruction finds that the conviction is reasonably and adversely related to the person's present fitness to serve in an elementary or secondary school in this state.

(4) If a person who has entered a plea of guilt or no contest to or who is the subject of a finding of guilt by a judge or jury of a crime listed in subsection (2) has been suspended from active performance of duty by a public school, school district, intermediate school district, or nonpublic school during the pendency of proceedings under this section, the public school, school district, intermediate school district, or nonpublic school employing the person shall discontinue the person's compensation until the superintendent of public instruction has made a final determination of whether or not to suspend or revoke the person's state board approval. If the superintendent of public instruction does not suspend or revoke the person's state board approval, the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation, without interest. However, if a collective bargaining agreement is in effect as of the effective date of this subsection for employees of a school district, intermediate school district, or public school academy, and if the terms of that collective bargaining agreement are inconsistent with this subsection, then this subsection does not apply to that school district, intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) Except as otherwise provided in this subsection, after the completion of the person's sentence, the person may request a hearing before the superintendent of public instruction on reinstatement of his or her state board approval. Based upon the issues and evidence presented at the hearing, the superintendent of public instruction may reinstate, continue the suspension of, or permanently revoke the person's state board approval. The superintendent of public instruction shall not reinstate a person's state board approval unless the superintendent of public instruction finds that the person is currently fit to serve in an elementary or secondary school in this state and that reinstatement of the person's state board approval will not adversely affect the health, safety, and welfare of pupils. If a person's conviction was for a listed offense, the person is not entitled to request a hearing on reinstatement under this subsection, and the superintendent of public instruction shall not reinstate the person's state board approval under this subsection.

(6) All of the following apply to a person described in this section whose conviction is reversed upon final appeal:

(a) The person's state board approval shall be reinstated upon his or her notification to the superintendent of public instruction of the reversal.

(b) If the suspension of the state board approval was the sole cause of his or her discharge from employment, the person shall be reinstated upon his or her notification to

the appropriate local or intermediate school board of the reversal, with full rights and benefits, to the position he or she would have had if he or she had been continuously employed.

(c) If the person's compensation was discontinued under subsection (4), the public school, school district, intermediate school district, or nonpublic school shall make the person whole for lost compensation.

(7) If the prosecuting attorney in charge of a case receives a form as provided under section 1230d, the prosecuting attorney shall notify the superintendent of public instruction, and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under section 1230d, the court shall notify the superintendent of public instruction and any public school, school district, intermediate school district, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of the sentencing, even if the court is maintaining the file as a nonpublic record.

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

(9) If the superintendent of a school district or intermediate school district, the chief administrative officer of a nonpublic school, the president of the board of a school district or intermediate school district, or the president of the governing board of a nonpublic school is notified or learns through an authoritative source that a person who holds state board approval and who is employed by the school district, intermediate school district, or nonpublic school has been convicted of a crime described in subsection (1) or (2), the superintendent, chief administrative officer, or board president shall notify the superintendent of public instruction of that conviction within 15 days after learning of the conviction.

(10) For the purposes of this section, a certified copy of the judgment of conviction and sentence is conclusive evidence of conviction of a crime described in this section. For the purposes of this section, conviction of a crime described in this section is considered to be reasonably and adversely related to the ability of the person to serve in an elementary or secondary school and is sufficient grounds for suspension or revocation of the person's state board approval.

(11) For any hearing under subsection (1), if the superintendent of public instruction does not complete the hearing procedures and make a final decision and order within 120 working days after receiving the request for the hearing, as required under subsection (1), the superintendent of public instruction shall submit a report detailing the reasons for the delay to the standing committees and appropriations subcommittees of the senate and house of representatives that have jurisdiction over education and education appropriations. The failure of the superintendent of public instruction to complete the hearing procedures and make a final decision and order within this 120 working day time limit, or

the failure of any other official or agency to meet a time limit prescribed in this section, does not affect the validity of an action taken under this section affecting a person's state board approval.

(12) Beginning July 1, 2004, the superintendent of public instruction shall submit to the legislature a quarterly report of all final actions he or she has taken under this section affecting a person's state board approval during the preceding quarter. The report shall contain at least all of the following with respect to each person whose state board approval has been affected:

(a) The person's name, as it appears on the state board approval.

(b) The school district, intermediate school district, public school academy, or nonpublic school in which the person was employed at the time of the conviction, if any.

(c) The offense for which the person was convicted and the date of the offense and date of the conviction.

(d) Whether the action taken by the superintendent of public instruction was a summary suspension, suspension due to failure to request a hearing, suspension, revocation, or reinstatement of the state board approval.

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

(a) Prohibit a person who holds state board approval from seeking monetary compensation from a school board or intermediate school board if that right is available under a collective bargaining agreement or another statute.

(b) Limit the rights and powers granted to a school district or intermediate school district under a collective bargaining agreement, this act, or another statute to discipline or discharge a person who holds state board approval.

(c) Exempt a person who holds state board approval from the operation of section 1535a if the person holds a certificate subject to that section.

(d) Limit the ability of a state licensing body to take action against a person's license or registration for the same conviction.

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

(15) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of individuals holding a teaching certificate or state board approval with the conviction information received by the department of state police. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. If a comparison discloses that a person on the department's list of individuals holding a teaching certificate or state board approval has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(16) As used in this section:

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

(b) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(c) “Prosecuting attorney” means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, or, in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(d) “State board approval” means a license, certificate, approval not requiring a teaching certificate, or other evidence of qualifications to hold a particular position in a school district or intermediate school district or in a nonpublic school, other than a teacher’s certificate subject to section 1535a, that is issued to a person by the state board or the superintendent of public instruction under this act or a rule promulgated under this act.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

Conditional effective date.

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

- (a) Senate Bill No. 601.
- (b) Senate Bill No. 609.
- (c) Senate Bill No. 611.
- (d) House Bill No. 4402.
- (e) House Bill No. 4930.
- (f) House Bill No. 4991.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

Compiler’s note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 601 was filed with the Secretary of State September 29, 2005, and became 2005 PA 138, Eff. Jan. 1, 2006.

Senate Bill No. 609 was filed with the Secretary of State September 29, 2005, and became 2005 PA 124, Eff. Jan. 1, 2006.

Senate Bill No. 611 was filed with the Secretary of State September 29, 2005, and became 2005 PA 125, Imd. Eff. Sept. 29, 2005.

House Bill No. 4402 was filed with the Secretary of State September 29, 2005, and became 2005 PA 129, Eff. Jan. 1, 2006.

House Bill No. 4930 was filed with the Secretary of State September 29, 2005, and became 2005 PA 131, Eff. Jan. 1, 2006.

House Bill No. 4991 was filed with the Secretary of State September 29, 2005, and became 2005 PA 136, Eff. Jan. 1, 2006.

[No. 131]

(HB 4930)

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide

for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” (MCL 380.1 to 380.1852) by adding section 1230d.

The People of the State of Michigan enact:

380.1230d Employee or applicant for employment of school district, intermediate school district, public school academy, or nonpublic school charged with crime; requirements; violation of subsection (1) or (2); person not convicted of crime; forwarding of form; development and implementation of automated program; “listed offense” defined.

Sec. 1230d. (1) If a person who is employed in any capacity by a school district, intermediate school district, public school academy, or nonpublic school; who has applied for a position with a school district, intermediate school district, public school academy, or nonpublic school and has had an initial criminal history check under section 1230 or criminal records check under section 1230a; or who is regularly and continuously working under contract in a school district, intermediate school district, public school academy, or nonpublic school, is charged with a crime listed in section 1535a(1) or a violation of a substantially similar law of another state, a political subdivision of this state or another state, or of the United States, the person shall report to the department and to the school district, intermediate school district, public school academy, or nonpublic school that he or she has been charged with the crime. All of the following apply to this reporting requirement:

(a) The person shall make the report on a form prescribed by the department.

(b) The person shall submit the report to the department and to the superintendent of the school district or intermediate school district or chief administrator of the public school academy or nonpublic school.

(c) The person shall submit the report within 3 business days after being arraigned for the crime.

(2) If a person who is employed in any capacity by or is regularly and continuously working under contract in a school district, intermediate school district, public school academy, or nonpublic school enters a plea of guilt or no contest to or is the subject of a finding of guilt by a judge or jury of any crime after having been initially charged with a crime described in section 1535a(1) or 1539b(1), then the person immediately shall disclose to the court, on a form prescribed by the state court administrative office, that he or she is employed by or working under contract in a school district, intermediate school district, public school academy, or nonpublic school. The person shall immediately provide a copy of the form to the prosecuting attorney in charge of the case, to the superintendent of public instruction, and to the superintendent or chief administrator of the school district, intermediate school district, public school academy, or nonpublic school.

(3) A person who violates subsection (1) or (2) is guilty of a crime, as follows:

(a) If the person violates either subsection (1) or (2) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(b) If the person violates either subsection (1) or (2) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(4) A person who violates subsection (1) or (2) may be discharged from his or her employment or have his or her contract terminated. If the board of a school district or intermediate school district or board of directors of a public school academy finds, after providing notice and the opportunity for a hearing, that a person employed by the school district, intermediate school district, or public school academy has violated subsection (1) or (2), the board or board of directors may discharge the person from his or her employment. However, if a collective bargaining agreement that applies to the affected person is in effect as of the effective date of this section, and if that collective bargaining agreement is not in compliance with this subsection, then this subsection does not apply to that school district, intermediate school district, or public school academy until after the expiration of that collective bargaining agreement.

(5) If a person submits a report that he or she has been charged with a crime, as required under subsection (1), and the person is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that charge, then the person may request the department and the school district, intermediate school district, public school academy, or nonpublic school to delete the report from its records concerning the person. Upon receipt of the request from the person and of documentation verifying that the person was not convicted of any crime after the completion of judicial proceedings resulting from that charge, the department or a school district, intermediate school district, public school academy, or nonpublic school shall delete the report from its records concerning the person.

(6) If the prosecuting attorney in charge of a case receives a form as provided under subsection (2), the prosecuting attorney shall notify the superintendent of public instruction and the superintendent or chief administrator of any school district, intermediate school district, public school academy, or nonpublic school in which the person is employed by forwarding a copy of the form to each of them not later than 7 days after receiving the form. If the court receives a form as provided under subsection (2), the court shall notify the superintendent of public instruction and the superintendent or chief administrator of any school district, intermediate school district, public school academy, or nonpublic school in which the person is employed by forwarding to each of them a copy of the form and information regarding the sentence imposed on the person not later than 7 days after the date of sentencing, even if the court is maintaining the file as a nonpublic record.

(7) The department of information technology shall work with the department and the department of state police to develop and implement an automated program that does a comparison of the department's list of registered educational personnel with the conviction information received by the department of state police. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department and the department of state police shall perform this comparison during January and June of each year until July 1, 2008. If a comparison discloses that a person on the department's list of registered educational personnel has been convicted of a crime, the department shall notify the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school in which the person is employed of that conviction.

(8) As used in this section, "listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

Conditional effective date.

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

- (a) Senate Bill No. 601.
- (b) Senate Bill No. 609.
- (c) Senate Bill No. 611.
- (d) House Bill No. 4402.
- (e) House Bill No. 4928.
- (f) House Bill No. 4991.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 601 was filed with the Secretary of State September 29, 2005, and became 2005 PA 138, Eff. Jan. 1, 2006.

Senate Bill No. 609 was filed with the Secretary of State September 29, 2005, and became 2005 PA 124, Eff. Jan. 1, 2006.

Senate Bill No. 611 was filed with the Secretary of State September 29, 2005, and became 2005 PA 125, Imd. Eff. Sept. 29, 2005.

House Bill No. 4402 was filed with the Secretary of State September 29, 2005, and became 2005 PA 129, Eff. Jan. 1, 2006.

House Bill No. 4928 was filed with the Secretary of State September 29, 2005, and became 2005 PA 130, Eff. Jan. 1, 2006.

House Bill No. 4991 was filed with the Secretary of State September 29, 2005, and became 2005 PA 136, Eff. Jan. 1, 2006.

[No. 132]

(HB 4934)

AN ACT to amend 1994 PA 295, entitled "An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions," by amending sections 5 and 9 (MCL 28.725 and 28.729), section 5 as amended by 2004 PA 240 and section 9 as amended by 2004 PA 237.

The People of the State of Michigan enact:

28.725 Change of domicile or residence; notice requirements.

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile:

- (a) The individual changes or vacates his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.
- (b) The individual is paroled.
- (c) Final release of the individual from the jurisdiction of the department of corrections.

(2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction

over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(3) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(4) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(5) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(6) Except as provided in subsections (7) and (8), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(7) Except as provided in subsection (8), an individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

(a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.

(d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).

(g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

(8) An individual who is ordered to register as provided in section 8d shall register subject to that section.

28.729 Registration required; violations; penalties.

Sec. 9. (1) Except as provided in subsections (2), (3), and (4), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, other than a failure to comply with section 5a, by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(2) An individual who fails to comply with section 5a, other than payment of the fee required under section 5a(7) is guilty of a crime punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(c) If the individual has 2 or more prior convictions for a violation of this act, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

(3) An individual who willfully fails to sign a registration, notice, or verification as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(4) An individual who willfully refuses or fails to pay the registration fee prescribed in section 5a(7) or section 7(1) within 90 days of the date the individual reports under section 4a or 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days.

(5) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(6) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

(7) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

(8) An individual's failure to register as required by this act or a violation of section 5(1), (3), or (4) may be prosecuted in the judicial district of any of the following:

- (a) The individual's last registered address or residence.
- (b) The individual's actual address or residence.
- (c) Where the individual was arrested for the violation.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

[No. 133]**(HB 4936)**

AN ACT to amend 1973 PA 116, entitled “An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,” by amending section 5 (MCL 722.115), as amended by 2004 PA 315, and by adding sections 5c, 5d, and 5e.

The People of the State of Michigan enact:

722.115 License or certificate of registration required; application; forms; investigations; on-site visit; issuance or renewal of license; “good moral character” defined; issuance of certificate of registration; certifying compliance, services, and facilities; orientation session; limitations on certificate; investigation and certification of foster family home or group home; placement of children in foster family home, family group home, unlicensed residence, adult foster care family home, or adult foster care small group home; certification; supervisory responsibility; records; exceptions; receipt of completed application; issuance of license within certain period of time; inspections; report; “completed application” defined; criminal history or criminal records check.

Sec. 5. (1) A person, partnership, firm, corporation, association, or nongovernmental organization shall not establish or maintain a child care organization unless licensed or registered by the department. Application for a license or certificate of registration shall be made on forms provided, and in the manner prescribed, by the department. Before issuing or renewing a license, the department shall investigate the applicant’s activities and proposed standards of care and shall make an on-site visit of the proposed or established organization. If the department is satisfied as to the need for a child care organization, its financial stability, the applicant’s good moral character, and that the services and facilities are conducive to the welfare of the children, the department shall issue or renew the license. As used in this subsection, “good moral character” means that term as defined in and determined under 1974 PA 381, MCL 338.41 to 338.47. If a county juvenile agency as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622, certifies to the department that it intends to contract with an applicant for a new license, the department shall issue or deny the license within 60 days after it receives a complete application as provided in section 5b.

(2) The department shall issue a certificate of registration to a person who has successfully completed an orientation session offered by the department and who certifies to the department that the family day care home has complied with and will continue to comply with the rules promulgated under this act and will provide services and facilities, as determined by the department, conducive to the welfare of children. The department shall make available to applicants for registration an orientation session to applicants for registration regarding this act, the rules promulgated under this act, and the needs of children in family day care before issuing a certificate of registration. The department shall issue a certificate of registration to a specific person at a specific location. A certificate of registration is nontransferable and remains the property of the department. Within 90 days after initial registration, the department shall make an on-site visit of the family day care home.

(3) The department may authorize a licensed child placing agency or an approved governmental unit to investigate a foster family home or a foster family group home according to subsection (1) and to certify that the foster family home or foster family group home meets the licensing requirements prescribed by this act. A foster family home or a foster family group home shall be certified for licensing by the department by only 1 child placing agency or approved governmental unit. Other child placing agencies may place children in a foster family home or foster family group home only upon the approval of the certifying agency or governmental unit.

(4) The department may authorize a licensed child placing agency or an approved governmental unit to place a child who is 16 or 17 years of age in his or her own unlicensed residence, or in the unlicensed residence of an adult who has no supervisory responsibility for the child, if a child placing agency or governmental unit retains supervisory responsibility for the child.

(5) A licensed child placing agency, child caring institution, and an approved governmental unit shall provide the state court administrative office and a local foster care review board established under 1984 PA 422, MCL 722.131 to 722.139a, those records requested pertaining to children in foster care placement for more than 6 months.

(6) The department may authorize a licensed child placing agency or an approved governmental unit to place a child who is 16 or 17 years old in an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if a licensed child placing agency or approved governmental unit retains supervisory responsibility for the child and certifies to the department all of the following:

(a) The placement is in the best interests of the child.

(b) The child's needs can be adequately met by the adult foster care family home or small group home.

(c) The child will be compatible with other residents of the adult foster care family home or small group home.

(d) The child placing agency or approved governmental unit will periodically reevaluate the placement of a child under this subsection to determine that the criteria for placement in subdivisions (a) through (c) continue to be met.

(7) On an exception basis, the director of the department, or his or her designee, may authorize a licensed child placing agency or an approved governmental unit to place an adult in a foster family home if a licensed child placing agency or approved governmental unit certifies to the department all of the following:

(a) The adult is a person with a developmental disability as defined by section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a person who is otherwise neurologically disabled and is also physically limited to a degree that requires complete physical assistance with mobility and activities of daily living.

(b) The placement is in the best interests of the adult and will not adversely affect the interests of the foster child or children residing in the foster family home.

(c) The identified needs of the adult can be met by the foster family home.

(d) The adult will be compatible with other residents of the foster family home.

(e) The child placing agency or approved governmental unit will periodically reevaluate the placement of an adult under this subsection to determine that the criteria for placement in subdivisions (a) through (d) continue to be met and document that the adult is receiving care consistent with the administrative rules for a child placing agency.

(8) On an exception basis, the director of the department, or his or her designee, may authorize a licensed child placing agency or an approved governmental unit to place a child in an adult foster care family home or an adult foster care small group home licensed under the adult foster care licensing act, 1979 PA 218, MCL 400.701 to 400.737, if the licensed child placing agency or approved governmental unit certifies to the department all of the following:

- (a) The placement is in the best interests of the child.
- (b) The placement has the concurrence of the parent or guardian of the child.
- (c) The identified needs of the child can be met adequately by the adult foster care family home or small group home.
- (d) The child's psychosocial and clinical needs are compatible with those of other residents of the adult foster care family home or small group home.
- (e) The clinical treatment of the child's condition is similar to that of the other residents of the adult foster care family home or small group home.
- (f) The child's cognitive level is consistent with the cognitive level of the other residents of the adult foster care family home or small group home.
- (g) The child is neurologically disabled and is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.
- (h) The child placing agency or approved governmental unit will periodically reevaluate the placement of a child under this subsection to determine that the criteria for placement in subdivisions (a) to (g) continue to be met.

(9) Beginning October 1, 2007, except as provided in subsection (1) and section 5b, the department shall issue an initial or renewal license or registration under this act for child care centers, group day care homes, and family day care homes not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. This subsection does not affect the time period within which an on-site visit to a family day care home shall be made. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

- (a) Upon notification by the department of a deficiency, until the date the requested information is received by the department.
- (b) Upon notification by the department that a corrective action plan is required, until the date the department determines the requirements of the corrective action plan have been met.

(10) The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility on an applicant determined otherwise ineligible for issuance of a license.

(11) Except as provided in subsection (1) and section 5b, if the department fails to issue or deny a license or registration to a child care center, group day care home, or family day care home within the time required by this section, the department shall return the license or registration fee and shall reduce the license or registration fee for the applicant's next renewal application, if any, by 15%. Failure to issue or deny a license to a child care center, group day care home, or family day care home within the time period required under this

section does not allow the department to otherwise delay the processing of the application. A completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(12) If, on a continual basis, inspections performed by a local health department delay the department in issuing or denying licenses or registrations for child care centers, group day care homes, and family day care homes under this act within the 6-month period, the department may use department staff to complete the inspections instead of the local health department causing the delays.

(13) Beginning October 1, 2008, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with human services and children's issues. The director shall include all of the following information regarding applications for licenses and registrations only for child care centers, group day care homes, and family day care homes filed under this act in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 6-month time period described in subsection (9).

(b) The number of applications requiring a request for additional information.

(c) The number of applications rejected.

(d) The number of licenses and registrations not issued within the 6-month period.

(e) The average processing time for initial and renewal licenses and registrations granted after the 6-month period.

(14) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing or registration fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state. A completed application does not include a health inspection performed by a local health department.

(15) The department shall not issue to or renew the license of a child care center or day care center under this act without requesting a criminal history check and criminal records check as required by section 5c. If a criminal history check or criminal records check performed under section 5c reveals that an applicant for a license under this act has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history check or criminal records check performed under section 5c reveals that an applicant for renewal of a license under this act has been convicted of a listed offense, the department shall not renew that license. If a criminal history check or criminal records check performed under section 5c reveals that a current licensee has been convicted of a listed offense, the department shall revoke the license of that licensee.

(16) The department shall not issue or renew a certificate of registration to a family day care home or a license to a group day care home under this act without requesting a criminal history check and criminal records check as required by section 5f and a department of state police ICHAT check required by section 5g. If a criminal history check or criminal records check performed under section 5f or an ICHAT check performed under section 5g reveals that an applicant for a certificate of registration or license under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not issue a certificate of registration or license to that applicant. If a criminal history check or criminal records check performed

under section 5f or an ICHAT check performed under section 5g reveals that an applicant for renewal of a certificate of registration or license under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not renew a certificate of registration or license to that applicant. If a criminal history check or criminal records check performed under section 5f or an ICHAT check performed under section 5g reveals that a current registrant or licensee under this act or a person over 18 years of age residing in that registrant's or licensee's home has been convicted of a listed offense, the department shall revoke that registrant's certificate of registration or licensee's license.

722.115c Applicant for child care center or day care center license; criminal history and criminal records check; requirements; fee; definitions.

Sec. 5c. (1) When a person, partnership, firm, corporation, association, or nongovernmental organization applies for or to renew a license for a child care center or day care center under section 5, the department shall request the department of state police to perform both of the following on the person or each partner, officer, or manager of the child care center or day care center applying for the license:

(a) Conduct a criminal history check on the person.

(b) Conduct a criminal records check through the federal bureau of investigation on the person.

(2) Each person applying for a license to operate a child care center or day care center shall give written consent at the time of the license application for the department of state police to conduct the criminal history check and criminal records check required under this section. The department shall require the person to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsection (1).

(3) The department shall request a criminal history check and criminal records check required under this section on a form and in the manner prescribed by the department of state police.

(4) Within a reasonable time after receiving a complete request by the department for a criminal history check on a person under this section, the department of state police shall conduct the criminal history check and provide a report of the results to the department. The report shall contain any criminal history record information on the person maintained by the department of state police.

(5) Within a reasonable time after receiving a proper request by the department for a criminal records check on a person under this section, the department of state police shall initiate the criminal records check. After receiving the results of the criminal records check from the federal bureau of investigation, the department of state police shall provide a report of the results to the department.

(6) The department of state police may charge the department a fee for a criminal history check or a criminal records check required under this section that does not exceed the actual and reasonable cost of conducting the check. The department may pass along to the licensee or applicant the actual cost or fee charged by the department of state police for performing a criminal history check or a criminal records check required under this section.

(7) As used in this section and sections 5, 5d, 5e, 5f, and 5g:

(a) "Criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

(b) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

722.115d Offer of employment to person at child care center or day care center; criminal history and criminal records check; current employees; cost.

Sec. 5d. (1) Before a child care center or day care center makes an offer of employment to a person or allows a person to regularly and continuously work under contract at the child care center or day care center, the child care center or day care center shall perform a criminal history check on that person using the department of state police’s internet criminal history access tool (ICHAT).

(2) If a search of the department of state police’s ICHAT reveals that the person described in subsection (1) has been convicted of a listed offense, the child care center or day care center shall not make an offer of employment to that person or allow that person to regularly and continuously work under contract at the child care center or day care center. If a search of the department of state police’s ICHAT reveals that a current employee has been convicted of a listed offense, the child care center or day care center shall not continue to employ that person. If a search of the department of state police’s ICHAT reveals that a person who regularly and continuously works under contract at the child care center or day care center has been convicted of a listed offense, the child care center or day care center shall not allow that person to regularly or continuously work under contract at the child care center or day care center.

(3) Not later than 1 year after the effective date of the amendatory act that added this section, the child care center or day care center shall conduct a criminal history check on all current employees using the department of state police’s ICHAT.

(4) A child care center or day care center may pass along the actual cost of a search of the department of state police’s ICHAT to the employee or applicant on whom the search is being performed.

722.115e Arraignment of licensee or employee; report; crimes; licensee or employee not convicted of crime; deletion of information from records; notice requirements.

Sec. 5e. (1) A child care center or day care center licensee shall report to the department and an employee of a child care center or day care center shall report to that child care center or day care center within 3 business days after he or she has been arraigned for 1 or more of the following crimes:

(a) Any felony.

(b) Any of the following misdemeanors:

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

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

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

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

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

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

(vii) Any misdemeanor that is a listed offense.

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

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(b) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) The department shall delete from the licensee's records all information relating to an arraignment required to be reported under subsection (1) if the department receives documentation that the licensee is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(4) A child care center or day care center shall delete from the employee's records all information relating to an arraignment required to be reported under subsection (1) if it receives documentation that the employee is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.

(5) Not later than 30 days after the effective date of the amendatory act that added this section, the department shall inform all licensees and applicants for licenses of the requirement under this section to report when he or she is arraigned for certain crimes and the penalty for not reporting.

(6) Not later than 30 days after the effective date of the amendatory act that added this section, a child care center or day care center shall inform all current employees and all persons who work regularly and continuously under contract at the child care center or day care center of the requirement under this section to report when he or she is arraigned for certain crimes and the penalty for not reporting.

(7) At the time a child care center or day care center makes an offer of employment to a person or allows a person to regularly and continuously work under contract at the child care center or day care center, the child care center or day care center shall notify that person of the requirement under this section to report when he or she is arraigned for certain crimes and the penalty for not reporting.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 615 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

[No. 134]**(HB 4958)**

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 15g of chapter XVII (MCL 777.15g), as added by 2002 PA 206.

The People of the State of Michigan enact:

CHAPTER XVII

777.15g Chapters 721 to 730 of Michigan Compiled Laws; felonies to which chapters applicable.

Sec. 15g. This chapter applies to the following felonies enumerated in chapters 721 to 730 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
722.115e(2)(a)	Pub saf	G	Failure to report arraignment for criminal charges — child care centers, day care centers, and employees	2
722.115f(8)(a)	Pub saf	G	Failure to report arraignment for criminal charges — family day care homes and group day care homes	2
722.633(5)(b)	Person	F	Intentional false report of child abuse constituting a felony	Variable
722.675	Pub ord	E	Distributing obscene matter to children	2

722.857	Person	E	Surrogate parenting contracts involving minors, mentally retarded, etc.	5
722.859(3)	Person	E	Surrogate parenting contracts for compensation	5

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

Conditional effective date.

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

- (a) Senate Bill No. 615.
- (b) House Bill No. 4936.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

Compiler's note: Senate Bill No. 615, referred to in enacting section 2, was filed with the Secretary of State September 29, 2005, and became 2005 PA 128, Eff. Jan. 1, 2006.

House Bill No. 4936, also referred to in enacting section 2, was filed with the Secretary of State September 29, 2005, and became 2005 PA 133, Eff. Jan. 1, 2006.

[No. 135]

(HB 4937)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 777.69) by adding section 27a to chapter VIII.

The People of the State of Michigan enact:

CHAPTER VIII

768.27a Evidence that defendant committed another listed offense against minor; admissibility; disclosure of evidence to defendant; definitions.

Sec. 27a. (1) Notwithstanding section 27, in a criminal case in which the defendant is accused of committing a listed offense against a minor, evidence that the defendant committed another listed offense against a minor is admissible and may be considered for its bearing on any matter to which it is relevant. If the prosecuting attorney intends to offer evidence under this section, the prosecuting attorney shall disclose the evidence to the defendant at least 15 days before the scheduled date of trial or at a later time as allowed by the court for good cause shown, including the statements of witnesses or a summary of the substance of any testimony that is expected to be offered.

(2) As used in this section:

(a) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) “Minor” means an individual less than 18 years of age.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

[No. 136]

(HB 4991)

AN ACT to amend 1937 (Ex Sess) PA 4, entitled “An act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act,” by amending section 1 of article IV (MCL 38.101), as amended by 1993 PA 60.

The People of the State of Michigan enact:

ARTICLE IV

38.101 Teacher on continuing tenure; discharge, demotion, or retirement; continuation of contracts of teachers over retirement age.

Sec. 1. Except as otherwise provided in section 1a of this article, discharge or demotion of a teacher on continuing tenure may be made only for reasonable and just cause and only as provided in this act. This act does not prevent any controlling board from establishing a reasonable policy for retirement to apply equally to all teachers who are eligible for retirement under the public school employees retirement act of 1979, 1980 PA 300, MCL

38.1301 to 38.1408, or, having established a reasonable retirement age policy, from temporarily continuing on a year-to-year basis on criteria equally applied to all teachers the contract of any teacher whom the controlling board might wish to retain beyond the established retirement age for the benefit of the school system.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

Conditional effective date.

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

- (a) House Bill No. 4402.
- (b) House Bill No. 4928.
- (c) House Bill No. 4930.
- (d) Senate Bill No. 601.
- (e) Senate Bill No. 609.
- (f) Senate Bill No. 611.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

House Bill No. 4402 was filed with the Secretary of State September 29, 2005, and became 2005 PA 129, Eff. Jan. 1, 2006.

House Bill No. 4928 was filed with the Secretary of State September 29, 2005, and became 2005 PA 130, Eff. Jan. 1, 2006.

House Bill No. 4930 was filed with the Secretary of State September 29, 2005, and became 2005 PA 131, Eff. Jan. 1, 2006.

Senate Bill No. 601 was filed with the Secretary of State September 29, 2005, and became 2005 PA 138, Eff. Jan. 1, 2006.

Senate Bill No. 609 was filed with the Secretary of State September 29, 2005, and became 2005 PA 124, Eff. Jan. 1, 2006.

Senate Bill No. 611 was filed with the Secretary of State September 29, 2005, and became 2005 PA 125, Imd. Eff. Sept. 29, 2005.

[No. 137]

(SB 83)

AN ACT to amend 1964 PA 287, entitled "An act to provide for the organization and functions of the state boards of education under the constitutions of 1908 and 1963; to provide for the appointment and functions of the superintendent of public instruction under the constitution of 1963; and to repeal certain acts and parts of acts," by amending section 9a (MCL 388.1009a), as amended by 1983 PA 240.

The People of the State of Michigan enact:

388.1009a Special education advisory committee; creation; appointment and terms of members; ex officio members; chairperson; expenses; duty.

Sec. 9a. The special education advisory committee is created in the department of education and shall consist of not less than 9 and not more than 33 members appointed by the state board of education for terms of 3 years. The person within the department directly responsible for special education programs and other persons as appointed by the committee to represent other departments, agencies, and 4-year colleges and universities, upon consultation with those departments, agencies, and colleges and universities, shall be

ex officio members of the committee. Each year the committee shall elect a chairperson and other officers as it considers necessary. Members of the committee may be reimbursed, to the extent provided by the state board, for expenses incurred in performing their functions. The committee shall act as an adviser to the state board of education in the field of special education.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

[No. 138]

(SB 601)

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” by amending section 1230a (MCL 380.1230a), as added by 1995 PA 83.

The People of the State of Michigan enact:

380.1230a Criminal records check through federal bureau of investigation; employment as conditional employee; voiding contract and terminating employment; application as substitute teacher; obtaining copy of results from another district, public school academy, or nonpublic school; consent; form and manner of request; use and disclosure of results; violation as misdemeanor; penalty; initiation of criminal records check by department of state police; disclosure that individual convicted of listed offense or other felony; “listed offense” defined.

Sec. 1230a. (1) In addition to the criminal history check required under section 1230, the board of a school district or intermediate school district or the governing body of a public school academy or nonpublic school shall request the department of state police to conduct a criminal records check through the federal bureau of investigation on an applicant for, or an individual who is hired for, any full-time or part-time employment or who is assigned to regularly and continuously work under contract in any of its schools. Except as otherwise provided in this section, a board or governing body shall not employ an individual or allow an individual to regularly and continuously work under contract in any of its schools until after the board or governing body receives the results of the criminal

records check. A board or governing body requesting a criminal records check under this section shall require the individual to submit his or her fingerprints to the department of state police for that purpose. The department of state police may charge a fee for conducting the criminal records check. A board or governing body shall require an individual to submit his or her fingerprints for the purposes of this section only at the time the individual initially applies for employment with the board or governing body or is initially employed by the board or governing body or is initially assigned to work under contract in any of its schools.

(2) If the board of a school district or intermediate school district or the governing body of a public school academy or nonpublic school determines it necessary to hire an individual for a particular school year during that school year or within 30 days before the beginning of that school year, the board or governing body may employ the individual as a conditional employee under this subsection without first receiving the results of the criminal records check under subsection (1) if all of the following apply:

(a) The board or governing body requests the criminal records check under subsection (1) before conditionally employing the individual.

(b) The individual signs a statement identifying all crimes for which he or she has been convicted, if any, and agreeing that, if the results of the criminal records check under subsection (1) reveal information that is inconsistent with the individual's statement, his or her employment contract is voidable at the option of the board or governing body. The department shall develop and distribute to districts and nonpublic schools a model form for the statement required under this subdivision. The department shall make the model form available to public school academies. A district, public school academy, or nonpublic school shall use the model form for the purposes of this subsection.

(3) If an individual is employed as a conditional employee under subsection (2) and the results of the criminal records check under subsection (1) reveal information that is inconsistent with the individual's statement under subsection (2), the board or governing body may void the individual's employment contract. If an employment contract is voided under this subsection, the individual's employment is terminated, a collective bargaining agreement that would otherwise apply to the individual's employment does not apply to the termination, and the district, public school academy, or nonpublic school or the board or governing body is not liable for the termination.

(4) For an applicant for a position as a substitute teacher, instead of requesting a criminal records check under subsection (1), a school district, intermediate school district, public school academy, or nonpublic school may use results received by another district, public school academy, or nonpublic school or maintained by the department to confirm that the individual does not have any criminal history. If that confirmation is not available, subsection (1) applies to the applicant.

(5) If an applicant is being considered for employment by more than 1 school district, intermediate school district, public school academy, or nonpublic school and if the applicant agrees in writing to allow a district, public school academy, or nonpublic school to share the results of the criminal records check with another district, public school academy, or nonpublic school, then a district, public school academy, or nonpublic school may satisfy the requirements of subsection (1) by obtaining a copy of the results of the criminal records check from another district, public school academy, or nonpublic school.

(6) An applicant for employment shall give written consent at the time of application for the criminal records division of the department of state police to conduct the criminal records check required under this section.

(7) A school district, intermediate school district, public school academy, or nonpublic school shall make a request to the department of state police for a criminal records check under this section on a form and in a manner prescribed by the department of state police.

(8) The results of a criminal records check under this section shall be used by a school district, intermediate school district, public school academy, or nonpublic school only for the purpose of evaluating an individual's qualifications for employment or assignment in the position for which he or she has applied or been assigned and for the purposes of subsections (3), (4), and (5). A member of the board of a district or of the governing body of a public school academy or nonpublic school or an employee of a district, public school academy, or nonpublic school shall not disclose those results, except any felony conviction or a misdemeanor conviction involving sexual or physical abuse, to any person who is not directly involved in evaluating the individual's qualifications for employment or assignment. However, for the purposes of subsections (4) and (5), a person described in this subsection may provide a copy of the results under subsection (1) concerning the individual to an appropriate representative of another district, public school academy, or nonpublic school. A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00, but is not subject to the penalties under section 1804.

(9) Within 30 days after receiving a proper request by a school district, intermediate school district, public school academy, or nonpublic school for a criminal records check on an individual under this section, the criminal records division of the department of state police shall initiate the criminal records check through the federal bureau of investigation. After conducting the criminal records check required under this section for a school district, intermediate school district, or public school academy, the criminal records division of the department of state police shall provide the results of the criminal records check to the district or public school academy. After conducting the criminal records check required under this section for a nonpublic school, the criminal records division of the department of state police shall notify the nonpublic school of whether or not the criminal records check disclosed any criminal history that is not disclosed in the report on the individual provided to the nonpublic school under section 1230.

(10) If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (9) disclose that an individual has been convicted of a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity, as provided under section 1230c, and shall not allow the individual to regularly and continuously work under contract in any of its schools. If the results received by a school district, intermediate school district, public school academy, or nonpublic school under subsection (9) disclose that an individual has been convicted of a felony other than a listed offense, then the school district, intermediate school district, public school academy, or nonpublic school shall not employ the individual in any capacity or allow the individual to regularly and continuously work under contract in any of its schools unless the superintendent or chief administrator and the board or governing body of the school district, intermediate school district, public school academy, or nonpublic school each specifically approve the employment or work assignment in writing.

(11) As used in this section, "listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

Conditional effective date.

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

- (a) Senate Bill No. 609.
- (b) Senate Bill No. 611.
- (c) House Bill No. 4402.
- (d) House Bill No. 4928.
- (e) House Bill No. 4930.
- (f) House Bill No. 4991.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:

Senate Bill No. 609 was filed with the Secretary of State September 29, 2005, and became 2005 PA 124, Eff. Jan. 1, 2006.

Senate Bill No. 611 was filed with the Secretary of State September 29, 2005, and became 2005 PA 125, Imd. Eff. Sept. 29, 2005.

House Bill No. 4402 was filed with the Secretary of State September 29, 2005, and became 2005 PA 129, Eff. Jan. 1, 2006.

House Bill No. 4928 was filed with the Secretary of State September 29, 2005, and became 2005 PA 130, Eff. Jan. 1, 2006.

House Bill No. 4930 was filed with the Secretary of State September 29, 2005, and became 2005 PA 131, Eff. Jan. 1, 2006.

House Bill No. 4991 was filed with the Secretary of State September 29, 2005, and became 2005 PA 136, Eff. Jan. 1, 2006.

[No. 139]

(SB 616)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 11b of chapter XVII (MCL 777.11b), as amended by 2004 PA 150.

The People of the State of Michigan enact:

CHAPTER XVII

777.11b Chapter 28 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
28.214	Pub trst	F	Unauthorized disclosure of information from LEIN — subsequent offense	4
28.293(1)	Pub ord	E	False information when applying for state ID	5
28.293(2)	Pub ord	D	False information when applying for state ID — second offense	7
28.293(3)	Pub ord	C	False information when applying for state ID — third or subsequent offense	15
28.295(1)(a)	Pub ord	D	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for 10 years or more	10
28.295(1)(b)	Pub ord	E	Counterfeiting or forging state ID card or using counterfeited or forged state ID card to commit felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by more than 6 months	5
28.295(2)	Pub ord	E	Selling counterfeited or forged state ID card or possessing counterfeited or forged state ID card with intent to deliver to another person or possessing 2 or more counterfeited or forged state ID cards	5
28.295(5)	Property	H	Using stolen state ID card to commit felony	Variable
28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information — second offense	7
28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information — third or subsequent offense	15
28.422	Pub saf	F	Pistols — license application forgery	4

28.422a(4)	Pub saf	F	False statement on pistol sales record	4
28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
28.425j(2)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(5)(c)	Pub saf	F	Carrying concealed pistol in prohibited place — third or subsequent offense	4
28.435(14)(c)	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container — third or subsequent offense	2
28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4
28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7
28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10
28.729(2)(c)	Pub ord	F	Failure to update sex offender registration information — third or subsequent offense	4
28.734(2)(b)	Pub trst	G	Student safety zone violation involving work or loitering — second or subsequent offense	2
28.735(2)(b)	Pub trst	G	Student safety zone violation involving residency — second or subsequent violation	2

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2006.

Conditional effective date.

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

- (a) Senate Bill No. 617.
- (b) House Bill No. 4932.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed with Secretary of State September 29, 2005.

Compiler's note: Senate Bill No. 617, referred to in enacting section 2, was filed with the Secretary of State September 29, 2005, and became 2005 PA 121, Eff. Jan. 1, 2006.

House Bill No. 4932, also referred to in enacting section 2, was filed with the Secretary of State September 29, 2005, and became 2005 PA 127, Eff. Jan. 1, 2006.

[No. 140]

(HB 4469)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the

classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 10104 (MCL 333.10104), as amended by 2003 PA 62.

The People of the State of Michigan enact:

333.10104 Gift by will or document other than will.

Sec. 10104. (1) A gift of all or a physical part of the donor's body under section 10102(1) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if the will is declared invalid for testamentary purposes, the gift, to the extent that the gift has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or a physical part of the donor's body under section 10102(1) may also be made by document of gift other than a will. A gift made by a document of gift described in this subsection becomes effective upon the death of the donor. Subject to subsections (3) and (4), a document of gift other than a will may be 1 or more of the following:

(a) A personal identification card issued to the donor by the secretary of state under 1972 PA 222, MCL 28.291 to 28.300, that contains a statement that the holder of the personal identification card is an organ and tissue donor under this part, along with the signature of the holder and the signature of at least 1 witness to the holder's signature, as described in section 2 of 1972 PA 222, MCL 28.292, or, beginning January 1, 2007, a heart insignia.

(b) A motor vehicle operator's or chauffeur's license issued to the donor by the secretary of state under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, that contains a statement that the licensee is an organ and tissue donor under this part, along with the signature of the licensee and the signature of at least 1 witness to the licensee's signature, as described in section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310, or, beginning January 1, 2007, a heart insignia.

(c) A document of gift that conforms substantially to the following form:

Uniform Donor Card

of

Print or type name of donor

In the hope that I may help others, I hereby make this anatomical gift if medically acceptable, to take effect upon my death. The words and marks below indicate my desires.

I give: (a) any needed organs or physical parts
(b) only the following organs or physical parts

Specify the organ(s) or physical part(s)

For the purposes of transplantation, therapy, medical research or education;
(c) my body for anatomical study if needed.

Limitations or special wishes, if any: _____

Signed by the donor and at least 1 witness, in the presence of each other:

Signature of donor

Date of birth of donor

Date signed

City and state

Witness

Witness

(3) If a donor does not specify a gift of his or her entire body in the statement described in subsection (2)(a) or (b) on the individual’s personal identification card or motor vehicle operator’s or chauffeur’s license, the gift is limited to physical parts of the donor’s body and does not include the donor’s entire body.

(4) A gift under section 10102 may be made to a specified or unspecified donee. If the donee is not specified, the attending physician may accept the gift as donee upon or following the donor’s death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician may, upon or following the donor’s death, and in the absence of any expressed indication that the donor desired otherwise, accept the gift as donee. An attending physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a physical part.

(5) Notwithstanding section 10108(4), the donor may designate in his or her will or other document of gift described in subsection (2) the physician who is to carry out the procedures necessary to effectuate the gift. In the absence of a designation under this subsection or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize another physician for the purpose of effectuating the gift.

(6) A donor who is unable to sign a document of gift may direct another individual to sign the document of gift on his or her behalf if the signature of the other individual is made in the donor’s presence and in the presence of at least 1 witness. The witness shall also sign the document of gift in the donor’s presence.

(7) A gift of all or a physical part of a donor’s body made by will as authorized by subsection (1) or by a document of gift other than a will as authorized by subsection (2) is not revocable after the death of the donor regardless of the expressed desires of the deceased donor’s next of kin who may oppose the donor’s organ, tissue, or eye donation.

(8) A gift by an individual designated in section 10102(2) shall be made by a document signed by the individual or made by the individual’s telegraphic, electronic, recorded telephonic, or other recorded message.

(9) A document of gift executed in another state or foreign country and in accord with the laws of that state or country is valid as a document of gift in this state, even if the document does not conform substantially to the form set forth in subsection (2)(c).

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 4082.
- (b) House Bill No. 4470.
- (c) Senate Bill No. 301.

This act is ordered to take immediate effect.

Approved September 29, 2005.

Filed with Secretary of State September 29, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows: House Bill No. 4082 was filed with the Secretary of State September 29, 2005, and became 2005 PA 141, Imd. Eff. Sept. 29, 2005. House Bill No. 4470 was filed with the Secretary of State September 29, 2005, and became 2005 PA 142, Imd. Eff. Sept. 29, 2005. Senate Bill No. 301 was filed with the Secretary of State September 29, 2005, and became 2005 PA 143, Imd. Eff. Sept. 29, 2005.

[No. 141]

(HB 4082)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 310, 806, 809, and 810b (MCL 257.310, 257.806, 257.809, and 257.810b), section 310 as amended by 2004 PA 495, section 806 as amended by 2003 PA 152, section 809 as amended by 1987 PA 238, and section 810b as amended by 2004 PA 52.

The People of the State of Michigan enact:

257.310 Operator's or chauffeur's license; issuance; applicant for motorcycle indorsement or vehicle group designation; contents of license; digitized license; unlawful acts; penalties; temporary driver's permit; medical data or anatomical gift; designation of patient advocate or emancipated status; duplicates of license; emergency medical information card; participation in organ, tissue, and eye donor registry.

Sec. 310. (1) The secretary of state shall issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur. An

applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed. On and after July 1, 2003, an original license or the first renewal of an existing license issued to a person less than 21 years of age shall be portrait or vertical in form and a license issued to a person 21 years of age or over shall be landscape or horizontal in form.

(2) The license issued under subsection (1) shall contain all of the following information:

(a) The distinguishing number permanently assigned to the licensee.

(b) The full name, date of birth, address of residence, height, eye color, sex, image, and signature of the licensee.

(c) Until January 1, 2007, a place for the licensee to indicate 1 or more of the following:

(i) The blood type of the licensee.

(ii) Immunization data of the licensee.

(iii) Medication data of the licensee.

(iv) A statement that the licensee is deaf.

(v) Until January 1, 2007, a statement that the licensee is an organ and tissue donor under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(vi) Emergency contact information of the licensee.

(vii) A sticker or decal as specified by the secretary of state to indicate that the licensee has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506, or a statement that the licensee carries an emergency medical information card.

(d) Until January 1, 2007, if the licensee has made a statement described in subdivision (c)(v), the signature of the licensee following the indication of his or her organ and tissue donor intent identified in subdivision (c)(v), along with the signature of at least 1 witness.

(e) In the case of a licensee who is less than 18 years of age at the time of issuance of the license, the date on which the licensee will become 18 years of age and 21 years of age.

(f) In the case of a licensee who is at least 18 years of age but less than 21 years of age at the time of issuance of the license, the date on which the licensee will become 21 years of age.

(g) Beginning January 1, 2007, in the case of a licensee who has indicated his or her wish to participate in the organ and tissue donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109, a heart insignia on the front of the license.

(3) Except as otherwise required under this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.

(4) The license shall not contain a fingerprint or finger image of the licensee.

(5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The license shall identify the encoded information.

(6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required under 49 CFR part 383.

(7) Except as provided in subsection (11), a person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, image, license, or electronic data contained on a license or a part of a license or who uses a license, image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than \$20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use is to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(8) Except as provided in subsections (11) and (16), a person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(9) Except as provided in subsections (11) and (16), a person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(10) Except as provided in subsection (16), a person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue the applicant a temporary driver's permit. The temporary driver's permit entitles the applicant, while having the permit in his or her immediate possession, to drive a motor vehicle upon the highway for a period not exceeding 60 days before the secretary of state has issued the applicant an operator's or chauffeur's license. The secretary of state may establish a longer duration

for the validity of a temporary driver's permit if necessary to accommodate the process of obtaining a background check that is required for an applicant by federal law.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the licensee is deaf, or, until January 1, 2007, a statement that the licensee is an organ and tissue donor and has made an anatomical gift under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5513 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5513.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated under 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(16) Subsections (8), (9), and (10) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of a license to document the identity of the licensee for a legitimate business purpose.

(17) The sticker or decal described in subsection (2)(c)(vii) may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The emergency medical information card may contain the information described in subsection (2)(c)(vi), information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.

(18) Beginning January 1, 2007, the secretary of state shall inquire of each licensee, in person or by mail, whether the licensee agrees to participate in the organ, tissue, and eye donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(19) A licensee who has agreed to participate in the organ, tissue, and eye donor registry under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109, shall not be considered to have revoked that agreement solely because the licensee's license has been revoked or suspended or has expired. Enrollment in the organ, tissue, and eye donor registry constitutes a legal agreement that remains binding and in effect after the donor's death regardless of the expressed desires of the deceased donor's next of kin who may oppose the donor's organ, tissue, or eye donation.

257.806 Certificate of title or duplicate certificate of title; deposit; expeditious treatment; special identifying number; fees; payment and disposition of tire disposal surcharge.

Sec. 806. (1) Until October 1, 2009, a fee of \$10.00 shall accompany each application for a certificate of title required by this act or for a duplicate of a certificate of title. An additional fee of \$5.00 shall accompany an application if the applicant requests that the application be given special expeditious treatment. A \$3.00 service fee shall be collected, in addition to the other fees collected under this subsection, for each title issued. The \$5.00 expeditious treatment fee collected on and after October 1, 2004 through September 30, 2005 shall be deposited into the transportation administration collection fund created under section 810b. The \$5.00 expeditious treatment fee collected on and after October 1, 2005 shall be deposited into the Michigan transportation fund established under section 10

of 1951 PA 51, MCL 247.660. The \$3.00 service fee shall be deposited into the transportation administration collection fund created under section 810b.

(2) A fee of \$10.00 shall accompany an application for a special identifying number as provided in section 230.

(3) In addition to paying the fees required by subsection (1), until December 31, 2007, each person who applies for a certificate of title, a salvage vehicle certificate of title, or a scrap certificate of title, under this act shall pay a tire disposal surcharge of \$1.50 for each certificate of title or duplicate of a certificate of title that person receives. The secretary of state shall deposit money received under this subsection into the scrap tire regulatory fund created in section 16908 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16908.

257.809 Application for transfer of registration; fee; payment of difference in fees; deposit.

Sec. 809. (1) An application for transfer of registration from a vehicle subject to section 801(1)(a) to another vehicle subject to that section shall be accompanied by a fee of \$8.00. In addition to the fee of \$8.00, if the registration is transferred from a passenger vehicle to a motor home and if the registration fee for the motor home is greater than the fee paid upon registration of the vehicle from which the registration was removed, then the difference in fee shall be paid by the applicant. If the fee is less than that paid for the registration of the vehicle from which the plates were removed, the difference shall not be refunded. The fees required by this subsection shall be considered to include all fees or charges imposed by this act for the transfer of registration, except those which may be assessed under section 234.

(2) An application for a transfer of registration, other than a transfer described in subsection (1), shall be accompanied by a fee of \$8.00. In addition to the fee of \$8.00, if the registration plates are transferred to another vehicle, as provided in section 233, and if the plate fee for a 12-month registration for the vehicle to which the registration is transferred is greater than the plate fee paid upon registration of the vehicle from which the registration was removed, then the difference shall be paid by the applicant for the new registration. If the fee is less than that paid for registration of the vehicle from which the registration was removed, the difference shall not be refunded.

(3) A transfer of registration fee collected under this section on and after October 1, 2004 through September 30, 2006 shall be deposited into the transportation administration collection fund created under section 810b. A transfer of registration fee collected under this section on and after October 1, 2006 shall be deposited into the Michigan transportation fund established under section 10 of 1951 PA 51, MCL 247.660.

257.810b Transportation administration collection fund; creation; investment, disposition, and expenditure of money.

Sec. 810b. (1) The transportation administration collection fund is created within the state treasury.

(2) The state treasurer may receive money from the collections authorized under this act for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall not lapse into the Michigan transportation fund.

(4) Upon appropriation, the department of state shall expend money from the fund that is credited to the fund from revenue collected under sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810, only to pay the necessary collection expenses incurred by the department of state in the administration and enforcement of sections 801 to 810 of the Michigan vehicle code, 1949 PA 300, MCL 257.801 to 257.810.

(5) The department of treasury shall expend money in the fund, upon appropriation, only to defray the costs of collecting motor fuel taxes.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 301.
- (b) House Bill No. 4469.
- (c) House Bill No. 4470.

This act is ordered to take immediate effect.

Approved September 29, 2005.

Filed with Secretary of State September 29, 2005.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 301 was filed with the Secretary of State September 29, 2005, and became 2005 PA 143, Imd. Eff. Sept. 29, 2005.

House Bill No. 4469 was filed with the Secretary of State September 29, 2005, and became 2005 PA 140, Imd. Eff. Sept. 29, 2005.

House Bill No. 4470 was filed with the Secretary of State September 29, 2005, and became 2005 PA 142, Imd. Eff. Sept. 29, 2005.

[No. 142]

(HB 4470)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 303, 307, and 812 (MCL 257.303, 257.307, and 257.812), sections 303 and 812 as amended by 2004 PA 362 and section 307 as amended by 2004 PA 502, and by adding section 252c; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

257.252c Removal of vehicle from private property; actions of custodian; entry of information into law enforcement information network; receipt of notification by police agency; payment of towing and storage fees; release of vehicle; abandonment of vehicle.

Sec. 252c. (1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) is not claimed by the owner within 7 days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 252a(4)(c) to (9) apply.

257.303 Operator's or chauffeur's license; issuance; prohibitions; revocation; denial of license; "felony in which a motor vehicle was used" defined.

Sec. 303. (1) The secretary of state shall not issue a license under this act to any of the following persons:

(a) A person, as an operator, who is less than 18 years of age, except as otherwise provided in this act.

(b) A person, as a chauffeur, who is less than 18 years of age, except as otherwise provided in this act.

(c) A person whose license is suspended, revoked, denied, or canceled in any state. If the suspension, revocation, denial, or cancellation is not from the jurisdiction that issued the last license to the person, the secretary of state may issue a license after the expiration of 5 years from the effective date of the most recent suspension, revocation, denial, or cancellation.

(d) A person who in the opinion of the secretary of state is afflicted with or suffering from a physical or mental disability or disease preventing that person from exercising reasonable and ordinary control over a motor vehicle while operating the motor vehicle upon the highways.

(e) A person who is unable to understand highway warning or direction signs in the English language.

(f) A person who is unable to pass a knowledge, skill, or ability test administered by the secretary of state in connection with the issuance of an original operator's or chauffeur's license, original motorcycle indorsement, or an original or renewal of a vehicle group designation or vehicle indorsement.

(g) A person who has been convicted of, has received a juvenile disposition for, or has been determined responsible for 2 or more moving violations under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state within the preceding 3 years, if the violations occurred before issuance of an original license to the person in this state, another state, or another country.

(h) A nonresident including a foreign exchange student.

(i) A person who has failed to answer a citation or notice to appear in court or for any matter pending or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, in violation of section 321a, until that person answers the citation or notice to appear in court or for any matter pending or complies with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, as provided under section 321a.

(j) A person not licensed under this act who has been convicted of, has received a juvenile disposition for, or has been determined responsible for a crime or civil infraction described in section 319, 324, or 904. A person shall be denied a license under this subdivision for the length of time corresponding to the period of the licensing sanction that would have been imposed under section 319, 324, or 904 if the person had been licensed at the time of the violation.

(k) A person not licensed under this act who has been convicted of or received a juvenile disposition for committing a crime described in section 319e. A person shall be denied a license under this subdivision for the length of time that corresponds to the period of the licensing sanction that would have been imposed under section 319e if the person had been licensed at the time of the violation.

(l) A person not licensed under this act who is determined to have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b of this act. The person shall be denied a license under this subdivision for a period of time that corresponds to the period of the licensing sanction that would have been imposed under those sections had the person been licensed at the time of the violation.

(2) Upon receiving the appropriate records of conviction, the secretary of state shall revoke the operator's or chauffeur's license of a person and deny issuance of an operator's or chauffeur's license to a person having any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Any combination of 2 convictions within 7 years for reckless driving in violation of section 626.

(b) Any combination of 2 or more convictions within 7 years for any of the following:

(i) A felony in which a motor vehicle was used.

(ii) A violation or attempted violation of section 601b(2) or (3), section 601c(1) or (2), section 602a(4) or (5), section 617, section 653a(3) or (4), or section 904(4) or (5).

(iii) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(iv) A violation or attempted violation of section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(c) Any combination of 2 convictions within 7 years for any of the following or a combination of 1 conviction for a violation or attempted violation of section 625(6) and 1 conviction for any of the following within 7 years:

(i) A violation or attempted violation of section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(ii) A violation or attempted violation of section 625m.

(iii) Former section 625b.

(d) One conviction for a violation or attempted violation of section 315(5), section 601b(3), section 601c(2), section 602a(4) or (5), section 617, section 625(4) or (5), section 653a(4), or section 904(4) or (5).

(e) One conviction of negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(f) One conviction for a violation or attempted violation of section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(g) Any combination of 3 convictions within 10 years for any of the following or 1 conviction for a violation or attempted violation of section 625(6) and any combination of 2 convictions for any of the following within 10 years, if any of the convictions resulted from an arrest on or after January 1, 1992:

(i) A violation or attempted violation of section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.

(ii) A violation or attempted violation of section 625m.

(iii) Former section 625b.

(3) The secretary of state shall revoke a license under subsection (2) notwithstanding a court order unless the court order complies with section 323.

(4) The secretary of state shall not issue a license under this act to a person whose license has been revoked under this act or revoked and denied under subsection (2) until all of the following occur, as applicable:

(a) The later of the following:

(i) The expiration of not less than 1 year after the license was revoked or denied.

(ii) The expiration of not less than 5 years after the date of a subsequent revocation or denial occurring within 7 years after the date of any prior revocation or denial.

(b) For a denial under subsection (2)(a), (b), (c), and (g), the person rebuts by clear and convincing evidence the presumption resulting from the prima facie evidence that he or she is a habitual offender. The convictions that resulted in the revocation and denial constitute prima facie evidence that he or she is a habitual offender.

(c) The person meets the requirements of the department.

(5) The secretary of state may deny issuance of an operator's license as follows:

(a) Until the age of 17, to a person not licensed under this act who was convicted of or received a juvenile disposition for violating or attempting to violate section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school when he or she was less than 14 years of age. A person not issued a license under this subdivision is not eligible to begin graduated licensing training until he or she attains 16 years of age.

(b) To a person less than 21 years of age not licensed under this act who was convicted of or received a juvenile disposition for violating or attempting to violate section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school when he or she was less than 14 years of age or older, until 3 years after the date of the conviction or juvenile disposition. A person not issued a license under this subdivision is not eligible to begin graduated licensing training or otherwise obtain an original operator's or chauffeur's license until 3 years after the date of the conviction or juvenile disposition.

(6) The secretary of state shall deny issuance of a vehicle group designation to a person if the person has been disqualified by the United States secretary of transportation from operating a commercial motor vehicle.

(7) Multiple convictions or civil infraction determinations resulting from the same incident shall be treated as a single violation for purposes of denial or revocation of a license under this section.

(8) As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

- (a) The vehicle was used as an instrument of the felony.
- (b) The vehicle was used to transport a victim of the felony.
- (c) The vehicle was used to flee the scene of the felony.
- (d) The vehicle was necessary for the commission of the felony.

257.307 Application for operator's or chauffeur's license; manner; contents; image and signature; equipment; use of image and information; access by law enforcement agency; signature and certification; fee; refund; organ donor registration; driving record from another jurisdiction; application for original, renewal, or upgrade of vehicle group designation or indorsement; issuing renewal license by mail or other methods; information manual; disclosure or display of social security number; electronic access to organ, tissue, and eye donor registry.

Sec. 307. (1) An applicant for an operator's or chauffeur's license shall supply a birth certificate attesting to his or her age or other sufficient documents or identification as the secretary of state may require. An application for an operator's or chauffeur's license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant's full name, date of birth, residence address, height, sex, eye color, signature, and, beginning January 1, 2007, intent to be an organ donor, other information required or permitted on the license under this chapter, and, to the extent required to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant's residence address on the qualified voter file for voter registration and voting:

"NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide

in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located.”.

(c) For an original or renewal operator’s or chauffeur’s license with a vehicle group designation or indorsement, the names of all states where the applicant has been licensed to drive any type of motor vehicle during the previous 10 years.

(d) For an operator’s or chauffeur’s license with a vehicle group designation or indorsement, the following certifications by the applicant:

(i) The applicant meets the applicable federal driver qualification requirements under 49 CFR part 391 if the applicant operates or intends to operate in interstate commerce or meets the applicable qualifications under the rules promulgated by the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, if the applicant operates or intends to operate in intrastate commerce.

(ii) The vehicle in which the applicant will take the driving skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(iii) The applicant is not subject to disqualification by the United States secretary of transportation, or a suspension, revocation, or cancellation under any state law for conviction of an offense described in section 312f or 319b.

(iv) The applicant does not have a driver’s license from more than 1 state or jurisdiction.

(e) An applicant for an operator’s or chauffeur’s license with a vehicle group designation and a hazardous material indorsement shall provide his or her fingerprints as prescribed by state and federal law.

(2) Except as provided in this subsection, an applicant for an operator’s or chauffeur’s license may have his or her image and signature captured or reproduced when the application for the license is made. An applicant required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator’s or chauffeur’s license or official state personal identification card shall have his or her image and signature captured or reproduced when the application for the license is made. The secretary of state shall acquire by purchase or lease the equipment for capturing the images and signatures and may furnish the equipment to a local unit authorized by the secretary of state to license drivers. The secretary of state shall acquire equipment purchased or leased pursuant to this section under standard purchasing procedures of the department of management and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. An image and signature captured pursuant to this section shall appear on the applicant’s operator’s or chauffeur’s license. Except as provided in this subsection, the secretary of state may retain and use a person’s image and signature described in this subsection only for programs administered by the secretary of state. Except as provided in this subsection, the secretary of state shall not use a person’s image or signature, or both, unless the person grants written permission for that purpose to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state has access to information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless

otherwise prohibited by law. The department of state police shall provide to the secretary of state updated lists of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, and the secretary of state shall make the images of those persons available to the department of state police as provided in that act.

(3) An application shall contain a signature or verification and certification by the applicant, as determined by the secretary of state, and shall be accompanied by the proper fee. The secretary of state shall collect the application fee with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license.

(4) In conjunction with the application for or, until January 1, 2007, the issuance of an operator's or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(i) Information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(ii) Information describing the organ, tissue, and eye donor registry program. The information required under this subparagraph includes the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization.

(iii) Information giving the applicant the opportunity to be placed on the registry described in subparagraph (ii).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the registry described in subdivision (a)(ii), the secretary of state will mark the applicant's record for the registry.

(d) Provide the applicant with the opportunity to make a donation of \$1.00 or more to the organ and tissue donation education fund created under section 217o. A donation made under this subdivision shall be deposited in the state treasury to the credit of the organ and tissue donation education fund.

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) Until January 1, 2007, if an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (4)(a)(ii), the secretary of state shall within 10 days forward the applicant's name, address, and date of birth to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of the name or address of an individual who indicates a

willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry that is obtained by the secretary of state under subsection (4) and forwarded under this subsection is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243. Beginning January 1, 2007, the secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the registry described in subsection (4)(a)(ii). Information about an applicant's indication of a willingness to have his or her name placed on the registry that is obtained by the secretary of state under subsection (4) and forwarded under subsection (14) is exempt from disclosure under section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state.

(8) If an application is received for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall request the person's complete driving record from all states where the applicant was previously licensed to drive any type of motor vehicle over the last 10 years before issuing a vehicle group designation or indorsement to the applicant. If the applicant does not hold a valid commercial motor vehicle driver license from a state where he or she was licensed in the last 10 years, this complete driving record request must be made not earlier than 24 hours before the secretary of state issues the applicant a vehicle group designation or indorsement. For all other drivers, this request must be made not earlier than 10 days before the secretary of state issues the applicant a vehicle group designation or indorsement. The secretary of state shall also check the applicant's driving record with the national driver register and the federal commercial driver license information system before issuing that group designation or indorsement. If the application is for the renewal of a vehicle group designation or indorsement, and if the secretary of state enters on the person's historical driving record maintained under section 204a a notation that the request was made and the date of the request, the secretary of state is required to request the applicant's complete driving record from other states only once under this section.

(9) Except for a vehicle group designation or indorsement or as provided in this subsection, the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period by mail or by other methods prescribed by the secretary of state. The secretary of state may check the applicant's driving record through the national driver register and the commercial driver license information system before issuing a license under this section. The secretary of state shall issue a renewal license only in person if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(10) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 CFR part 383.