

PUPIL PROTECTION PACKAGE OF PUBLIC ACTS

PA 121. (SB 617)

A person required to be registered under the Sexual Offenders Registration Act (SORA), with certain exceptions, may not reside within a school safety zone.

Exceptions:

- 19 years or younger attending school while living at home
- 26 years or younger special education student attending school while living at home
- Living in a zone when the law was enacted (September 28, 2005)
- As a patient of a hospital or hospice within the zone
- As a resident of a correctional facility or mental health facility under an order of commitment.

SORA offenses:

- (e) "Listed offense" means any of the following:
- (i) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, [MCL 750.145a](#), **Accosting, enticing or soliciting child for immoral purposes;** [750.145b](#), **Accosting, enticing or soliciting child for immoral purposes; second or subsequent offenses;** and [750.145c](#) **Child sexually abusive activity or material.**
 - (ii) A violation of section 158 of the Michigan penal code, 1931 PA 328, [MCL 750.158](#), **Crime against nature or sodomy;** if a victim is an individual less than 18 years of age.
 - (iii) A third or subsequent violation of any combination of the following:
 - (A) Section 167(1)(f) of the Michigan penal code, 1931 PA 328, [MCL 750.167](#), **"Disorderly person" defined; subsequent violations by person convicted of refusing or neglecting to support family.**
 - (B) Section 335a of the Michigan penal code, 1931 PA 328, [MCL 750.335a](#), **Indecent exposure.**
 - (C) A local ordinance of a municipality substantially corresponding to a section described in sub-

subparagraph (A) or (B).

- (iv) 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](#), **Gross indecency; between male persons**; [750.338a](#), **Gross indecency; female persons**; and [750.338b](#), **Gross indecency; between male and female persons**; if a victim is an individual less than 18 years of age.
- (v) A violation of section 349 of the Michigan penal code, 1931 PA 328, [MCL 750.349](#), **Kidnaping**, if a victim is an individual less than 18 years of age.
- (vi) A violation of section 350 of the Michigan penal code, 1931 PA 328, [MCL 750.350](#). **Kidnaping; child under 14.**
- (vii) A violation of section 448 of the Michigan penal code, 1931 PA 328, [MCL 750.448](#), **Soliciting and accosting**, if a victim is an individual less than 18 years of age.
- (viii) A violation of section 455 of the Michigan penal code, 1931 PA 328, [MCL 750.455](#), **Pandering.**
- (ix) A violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, [MCL 750.520b](#), **First degree criminal sexual conduct**; [750.520c](#), **Second degree criminal sexual conduct**; [750.520d](#), **Third degree criminal sexual conduct**; [750.520e](#), **Fourth degree criminal sexual conduct**; and [750.520g](#), **Assault with intent to commit criminal sexual conduct.**
- (x) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.
- (xi) 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](#), **Sexually delinquent person.** “The term ‘sexually delinquent person’ when used in this act shall mean any person whose sexual behavior is characterized by repetitive or compulsive acts which indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sex relations

of either a heterosexual or homosexual nature, or by the commission of sexual aggressions against children under the age of 16.”

- (xii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (xi).
- (xiii) An offense substantially similar to an offense described in subparagraphs (i) to (xii) under a law of the United States, any state, or any country or under tribal or military law.

PA 124. (SB 609)

A conviction for a violation of Section 1230d of the School Code, MCLA 380.1230d, (failure to report being charged with a Section 1535a crime) or one of the crimes listed in Section 1535a (1) of the School Code is considered to be reasonably and adversely related to the person’s ability to serve in school and is sufficient grounds for the discharge or demotion of a tenured teacher. (The Tenure Commission will construe this as a rebuttable presumption.)

Section 1535a 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, **Delivery or distribution of a controlled substance to a minor or within 1000 feet of a school.**
 - (v) A violation of section 115, 141a, 145a, 335a, or 359 of the Michigan penal code, MCL 750.115, **Breaking and entering or entering without permission certain buildings, including an ice shanty valued over \$100;** MCL 750.141a, **Knowingly allowing a minor to possess or use alcohol or a controlled substance;** MCL 750.145a, **Soliciting a**

child under age 16 for immoral purposes; MCL 750.335a, **Indecent exposure;** and MCL 750.359, **Stealing or destroying any fixture or part of a vacant building or structure;** or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 750.81, **Assault and battery;** MCL 750.81a, **Aggravated assault;** and MCL 750.145d, **Use of the internet to commit a crime involving a minor.**

- (vi) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, MCL 436.1701, **Selling or furnishing alcohol to a minor.**

If a tenured teacher is convicted of a felony, the teacher's salary may be discontinued as of the date of conviction. A board must discontinue the salary of a teacher convicted of a SORA offense.

PA 126. (SB 129)

A sentencing court may place a person convicted of a SORA listed offense on probation for a minimum of 5 years and shall order the person not to reside, work, or loiter within a school safety zone.

Exceptions:

- As a patient of a hospital or hospice within the zone
- 19 years or younger attending school while living at home
- 26 years or younger special education student attending school while living at home
- Living in a zone when law was enacted (September 28, 2005)
The limitation on working within the zone could not be imposed on a person living within the zone when the law was enacted or if the person only intermittently or sporadically entered the zone for work.

PA 127. (HB 4932)

Prohibits a person convicted of a SORA listed offense from working or loitering within a school safety zone.

Exceptions:

- Working in a school safety zone when this amendment was enacted into law. (September 28, 2005).
- Where the residence or work is in a safety zone only because a school was subsequently located there.
- A person only intermittently or sporadically enters the zone for work.

PA 129. (HB 4402)

Requires a background check upon the initial offer of employment of all school employees and those who are to work “regularly and continuously” under contract with the school district. The district may use a report received by another school district for a substitute teacher. A school may not employ a person convicted of a SORA listed offense or a similar law of another jurisdiction. A person convicted of any other felony may only be employed upon the written approval of the Superintendent and Board of Education.

PA 130. (HB 4928)

State Police to establish a system for maintaining automated fingerprint identification system for all school employee fingerprints and state police shall notify the Department of Education when criminal arrest fingerprint card matches one stored in system.

Not later than July 1, 2008, a school district shall have the State Police conduct a criminal records check, including an FBI check, for all school employees employed as of January 1, 2006.

A school may not employ a person convicted of a SORA listed offense or a similar law of another jurisdiction. A person convicted of any other felony may only be employed upon the Superintendent and Board of Education specifically approving in writing.

The Superintendent of Public Instruction must notify a person of a possible suspension of his or her teaching certificate and of the right to a hearing for teachers convicted of certain listed crimes and shall suspend, pending a hearing, for conviction of other specific crimes.

Those crimes where the Superintendent of Public Instruction shall notify of a possible suspension are:

- (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](#), **Delivery or distribution to minors, students, near school property; distribution of marihuana.**
- (v) A violation of section 115, 141a, 145a, 335a, or 359 of the Michigan penal code, 1931 PA 328, [MCL 750.115](#), **Breaking and entering or entering without breaking; buildings, tents, boats, railroad cars; entering public buildings when expressly denied; [750.141a](#), Consumption or possession of alcohol by minors or controlled substances at social gatherings; [750.145a](#), Accosting, enticing or soliciting child for immoral purposes; [750.335a](#), Indecent exposure; and [750.359](#), Removal or damage of fixture, attachment, or other property belonging to, connected with, or used in construction of vacant building or structure** or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, [MCL 750.81](#), **Assault and assault and battery; domestic assault; [750.81a](#), Assault and infliction of serious injury; and [750.145d](#), Internet use; restrictions, purpose of committing crime against minor.**
- (vi) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, [MCL 436.1701](#), **Prohibition of sales to minors.**
- (vii) Any misdemeanor that is a listed offense under SORA.
- (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.

The Superintendent of Public Instruction shall suspend the teaching certificate of those convicted 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](#), **Unlawful manufacture, delivery, or possession with intent to deliver; unlawful dispensing, prescription, or administration of a controlled substance; [333.7403](#), Possession of controlled substance, controlled substance analogue, or prescription form; [333.7410](#), Delivery or distribution to minors, students, near school property; distribution of marihuana; and [333.7416](#), Recruiting or inducing a minor to commit a felony.**
- (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](#), **Assault with intent to commit murder; [750.89](#), Assault with intent to rob and steal; armed; [750.91](#), Attempt to murder; [750.145a](#), Accosting, enticing or soliciting child for immoral purposes; [750.145b](#), Accosting, enticing or soliciting child for immoral purposes; second or subsequent offenses; [750.145c](#), Child sexually abusive activity or material; offenses; [750.316](#), First degree murder; [750.317](#), Second degree murder; [750.350](#), Kidnaping; child under 14; [750.448](#), Soliciting and accosting; [750.455](#), Pandering; and [750.529](#), Armed robbery; or a felony violation of section 145d of the Michigan penal code, 1931 PA 328, [MCL 750.145d](#), **Internet use; restrictions, purpose of committing crime against minor.****
- (f) A violation of section 158 of the Michigan penal code, 1931 PA 328, [MCL 750.158](#), **Crime against nature or sodomy**, 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](#), **Gross indecency; between male persons; [750.338a](#), Gross indecency; female persons; and [750.338b](#), Gross indecency; between male and female persons;** 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](#), **Kidnaping**, 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](#), **Sexually delinquent person.**

- (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.

The Superintendent of Public Instruction may initiate suspension of state board approval for persons holding state board approval convicted of the same crimes listed above and shall suspend, pending a hearing, for conviction of the other specific crimes listed above.

PA 131. (HB 4930)

Any person employed by a school district must report being *charged* with a crime listed in Section 1535a (1) or a substantially similar law of another jurisdiction. The report must be made to the Department of Education and the Superintendent of the employing school district within 3 business days after being arraigned for the crime. A school employee convicted of a crime listed in Sections 1535a(1) or 1539b(1) must, upon conviction, advise the court of school employment and advise the prosecutor, Superintendent of Public Instruction, and the Superintendent of the employing school district. A person who is not convicted of *any crime* may request that the notice be removed from the Department of Education and school records and those records shall be deleted.

A person found guilty of violating this section is subject to discharge.

The Department of Education and State Police shall compare lists of registered educational personnel with lists of conviction information during January and June of each year until July 1, 2008. If the comparison discloses a person on the list of educational personnel who has been convicted of a crime, the Department of Education shall notify the Superintendent of the employing school district.