



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 55 (as introduced 1-23-03)  
Sponsor: Senator Shirley Johnson  
Committee: Education

Date Completed: 12-15-03

**CONTENT**

**The bill would amend the Revised School Code to:**

- Include domestic violence involving a child, certain drug offenses, and operating a vehicle under the influence of a controlled substance among the types of misdemeanor convictions that require the Superintendent of Public Instruction to give a teacher or administrator notice that his or her certificate may be suspended because of the conviction, and that require a prosecuting attorney to notify a school district, intermediate school district (ISD), public school academy, or nonpublic school that a teacher or administrator has been convicted.**
- Extend the notice and inquiry requirements to the conviction of any person employed by a school district, ISD, public school academy, or nonpublic school.**

Under the Code, if a person who holds a teaching certificate or a school administrator's certificate that is valid in the State or holds State Board of Education approval, is convicted of any felony or a misdemeanor listed in the Code, the Superintendent of Public Instruction must notify the person in writing that his or her certificate or approval may be suspended because of the conviction and that he or she has the right to a hearing before the State Board. The Code also requires the prosecuting attorney of the county in which the person was convicted to notify the State Superintendent and any public school, school district, ISD, or nonpublic school in which the person is employed of that conviction and of the sentence imposed on the person. A prosecuting attorney is required to ask of each person convicted in the county of a crime described in the Code whether he or she holds a teaching or administrator's certificate or State Board approval.

The bill would refer to the prosecuting attorney handling the case, rather than the prosecuting attorney of the county.

The Code's notification provisions apply to people convicted of certain misdemeanors, including a misdemeanor involving cruelty, torture, or indecent exposure involving a child. Under the bill, the notification provisions would apply to a misdemeanor involving any of the following: cruelty or torture involving a child, indecent exposure or other lewd behavior, use or possession of marijuana or another controlled substance, or operating a vehicle under the influence of, or impaired by, a controlled substance. The notification provisions also apply to people convicted of child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree. The bill would add domestic violence involving a child to the notification provisions.

Also, under the bill, if a person employed by a school district, ISD, public school academy, or nonpublic school were convicted of a felony or misdemeanor described in the Code, the prosecuting attorney handling the case would have to notify the Superintendent of Public

Instruction and the person's employing school district, ISD, public school academy, or nonpublic school of that conviction and of the sentence imposed on the person. A prosecuting attorney handling a case in which a person was convicted of a crime, as described in the Code, would have to inquire whether the person was employed by a school district, ISD, public school academy, or nonpublic school. The bill specifies that these provisions would not apply to a person who was subject to the Code's notification provisions for persons who hold a teaching or administrator's certificate or State Board of Education approval. Notification concerning convictions of those persons would have to occur as provided for in the Code.

Under the bill, if the prosecution of a crime described in the Code were not authorized by the prosecuting attorney under a section of the Code of Criminal Procedure (MCL 764.1), then the court in which the conviction occurred would have to fulfill the duties of the prosecuting attorney. This would apply to current and proposed provisions requiring the prosecutor to give notice to schools and ask convicted individuals whether they are school employees or hold a teaching certificate or State Board approval. (Under MCL 764.1, a prosecutor may authorize the issuance of an arrest warrant, which will initiate the prosecution.)

(The bill would define "prosecuting attorney" as 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 was based. "Conviction" would mean 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 was guilty or guilty but mentally ill.)

MCL 380.1535a et al.

Legislative Analyst: Claire Layman

### **FISCAL IMPACT**

The bill would have an indeterminate impact on local prosecuting attorneys and the Attorney General regarding the additional notifications and inquiry requirements in the bill.

The inclusion of additional types of convictions that could result in a formal process to suspend or revoke teaching and school administrator certificates also would result in additional administrative costs to the Department of Education. According to the Department of Education, between January 1, 2000, and December 1, 2003, two individuals had their teaching certificates revoked, seven had their certificates suspended, and 10 voluntarily surrendered their certificates as a result of criminal convictions. The Department of Education was not able to provide the actual number of notifications by prosecutors. No statewide data regarding convictions by occupation (teachers/school administrators) are available for the additional misdemeanor convictions included in the bill.

Fiscal Analyst: Bill Bowerman  
Kathryn Summers-Coty

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.