

## MICHIGAN

- Compulsory Attendance Ages:** “age of 6 to the child’s 16th birthday.” Michigan Compiled Laws Annotated (MCLA) § 380.1561.
- Required Days of Instruction:** No specific number of days is mandated, see *Houghton Lake v. Board of Educ.* 425 N.W.2d 80 (1988).
- Required Subjects:** Reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar if operating under the home school law. For those operating a nonpublic school the subjects must be “comparable to those taught in the public schools.”

*Home schools have two options. They can either operate under the home school statute or qualify as a non-public school.*

**Option I: Home School Statute Option.** MCLA § 380.1561(3)(f) (effective July 1, 1996).

1. “A child is not required to attend a public school if:

“The child is being educated at the child’s home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar.”

2. There are no requirements to notify, seek approval, test, file forms, or have any certain teacher qualifications. The burden is on the state to prove that the parents are not teaching their children. Teacher certification is unconstitutional. In *People v. DeJonge*, 501 N.W.2d 127 (Mich. 1993), the Michigan Supreme Court overturned all lower cases and struck down teacher certification for private and homeschools as unconstitutional. The Court held: “We hold that the teacher certification requirement is an unconstitutional violation of the free exercise clause of the First Amendment as applied to families whose religious convictions prohibit the use of certified instructors. Such families, therefore, are exempt from the dictates of the teacher certification requirement.”

**Parental Rights Act:** MCLA § 380.10. “It is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching, and education of their children.” This effectively reversed the Michigan Supreme Court in HSLDA’s case *People v. Bennett* which ruled the parental right to direct the education of one’s homeschooled child was not fundamental. This act further establishes the right of parents to choose to home school their children.

**Alternative Statute Allowing for Home Schools:**

**Option II: Nonpublic School Option.** MCLA § 380.1561(3)(a). “A child who is attending regularly and is being taught in a state approved, nonpublic school, which teaches subjects comparable to those taught in the public schools to children of corresponding age and grade, as determined by the course of study for the public schools within which the nonpublic school is located” is exempt from public school attendance. A home school is considered a nonpublic school (see *People v. Bennett*, 501 N.W.2d 106 (Mich. 1993)). All nonpublic schools must use certified teachers. Even though the homeschool law above was enacted in 1996, it does not

prohibit any parent from choosing this option of operating their home school as a nonpublic school. If a home school chooses this option, it must do the following:

1. Home schools must furnish the local public school superintendent or the intermediate superintendent with the following information at the beginning of each school year (MCLA § 380.1578):
  - (a) The name and age of each child enrolled at the school,
  - (b) The number or name of the school district and the city or township and county where the parent lives,
  - (c) The name and address of the parent, and
  - (d) The name and age of any child enrolled in the school who is not in regular attendance.
2. If requested by the Michigan Department of Education, homeschoolers operating as nonpublic schools need to submit records of enrollment of pupils, courses of study (language arts, math, social studies, science, civics, Michigan history, physical education, art, and health), and qualifications of teachers. MCLA § 388.555. However, home schools are not required to furnish the information on the SM-4325 form developed by the Department of Education.
3. Homeschools which do not have a religious objection to teacher certification are required to have all hours of instruction in the home school done by a certified teacher (see *Clonlara v. State Board of Education*, 501 N.W.2d 88 (Mich. 1993)). However, the home school does not have to operate for 180 days.

Homeschoolers who are opposed to teacher certification based on sincerely held religious beliefs are exempt from this requirement. Therefore, all families who object to teacher certification on religious grounds may claim a religious exemption pursuant to the *DeJonge* case. This HSLDA case, after eight years of appeals, served as a “death blow” to teacher certification in Michigan.

4. Homeschools do not need to be approved according to HSLDA’s case *DeJonge v. Superintendent of Public Instruction*, No. 85-56712-AW, Ingham Circuit Court, July 22, 1986. “[T]here is no approval or licensing procedure pursuant to any state statute or administrative rule which requires a private home school, or a private, nonpublic school of any kind, to be approved or licensed by the Department of Education prior to that school’s opening for operation or during the school’s ongoing operation. The Michigan Department of Education’s authority is limited to disapproval of private, nonpublic schools, pursuant to the administrative procedures under MCLA § 388.554 based upon a finding of noncompliance with state law by that school.” (Affirmed by the Michigan Supreme Court in HSLDA’s case, *People v. Bennett*.)

In *Bennett*, the Michigan Supreme Court stated that a homeschool is a legitimate nonpublic school until an administrative hearing produces a determination to the contrary. The court emphasized that a school district could not initiate criminal proceedings against parents who are homeschooling until an administrative hearing had been held by the State Superintendent of Instruction, which determined that the school did not meet the requirements of the law.

5. Also, any “compliance procedures” created by the Department of Education are only interpretive rules which have no force of law. “The Department of Education is not authorized, explicitly or implicitly, to promulgate rules relating to the Nonpublic School Act” (see *Bennett* case).