

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/20/09

A Bill

HOUSE BILL 1450

5 By: Representative Reynolds
6
7

For An Act To Be Entitled

9 AN ACT TO ENHANCE THE SAFETY OF CHILDREN BY
10 REQUIRING CENTRAL REGISTRY CHECKS FOR ALL PUBLIC
11 SCHOOL EMPLOYEES AND BUS DRIVERS; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 TO ENHANCE THE SAFETY OF CHILDREN BY
15 REQUIRING CENTRAL REGISTRY CHECKS FOR
16 ALL PUBLIC SCHOOL EMPLOYEES AND BUS
17 DRIVERS.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 *SECTION 1. Arkansas Code § 6-17-410(a), concerning teacher licensure*
24 *applicants, is amended to add an additional subdivision to read as follows:*

25 *(3)(A) Each first-time applicant for a license issued by the*
26 *State Board of Education and each applicant for his or her first license*
27 *renewal on or after July 1, 1997, shall be required to request through the*
28 *Department of Education a child maltreatment central registry check to be*
29 *conducted by the Department of Human Services.*

30 *(B) The applicant shall sign a release of information to*
31 *the Department of Education and shall be responsible for the payment of any*
32 *fee associated with the child maltreatment central registry check.*

33 *(C) The Department of Human Services shall forward all*
34 *releasable information concerning the applicant to the Department of*
35 *Education upon completion of the child maltreatment central registry check.*
36



1 SECTION 2. Arkansas Code § 6-17-410(b)(1) concerning provisional
2 eligibility of teacher licensure applicants is amended to read as follows:

3 (b)(1) The state board ~~is authorized to~~ may issue a six-month
4 nonrenewable letter of provisional eligibility for licensure to a first-time
5 applicant pending the results of the criminal records check and the child
6 maltreatment central registry check. However, the Commissioner of Education
7 may extend the period of provisional eligibility to the end of that contract
8 year if:

9 (A) The applicant is employed by a local school district;
10 and

11 (B) The results of the criminal records check or the child
12 maltreatment central registry check are delayed.

13
14
15 SECTION 3. Arkansas Code § 6-17-410(b), concerning provisional
16 eligibility of teacher licensure applicants, is amended to add an additional
17 subdivision to read as follows:

18 (3) If the Department of Education receives information from the
19 Department of Human Services that the person holding a letter of provisional
20 eligibility for teacher licensure has a true report in the child maltreatment
21 central registry, the State Board of Education shall immediately revoke the
22 provisional eligibility of the teacher licensure applicant.

23
24 SECTION 4. Arkansas Code § 6-17-410(c) concerning nonrenewal or
25 revocation of teacher licensure is amended to read as follows:

26 (c) The state board shall not issue a first-time license nor renew an
27 existing license and shall revoke any existing license not up for renewal of
28 any person who has a true report in the child maltreatment central registry
29 or has ~~pleaded~~ pled guilty or nolo contendere to or has been found guilty of
30 any of the following offenses by any court in the State of Arkansas or of any
31 similar offense by a court in another state or of any similar offense by a
32 federal court:

33 (1) Capital murder as prohibited in § 5-10-101;

34 (2) Murder in the first degree as prohibited in § 5-10-102 and
35 murder in the second degree as prohibited in § 5-10-103;

36 (3) Manslaughter as prohibited in § 5-10-104;

- 1 (4) *Battery in the first degree as prohibited in § 5-13-201 and*
2 *battery in the second degree as prohibited in § 5-13-202;*
- 3 (5) *Aggravated assault as prohibited in § 5-13-204;*
- 4 (6) *Terroristic threatening in the first degree as prohibited in*
5 *§ 5-13-301;*
- 6 (7) *Kidnapping as prohibited in § 5-11-102;*
- 7 (8) *Rape as prohibited in § 5-14-103;*
- 8 (9) *Sexual assault in the first degree, second degree, third*
9 *degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;*
- 10 (10) *Incest as prohibited in § 5-26-202;*
- 11 (11) *Engaging children in sexually explicit conduct for use in*
12 *visual or print media, transportation of minors for prohibited sexual*
13 *conduct, employing or consenting to the use of a child in a sexual*
14 *performance, or producing, directing, or promoting a sexual performance by a*
15 *child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;*
- 16 (12) *Distribution to minors as prohibited in § 5-64-406;*
- 17 (13) *Any felony in violation of the Uniform Controlled*
18 *Substances Act, § 5-64-101 et seq.;*
- 19 (14) *Sexual indecency with a child as prohibited in § 5-14-110;*
- 20 (15) *Endangering the welfare of a minor in the first degree as*
21 *prohibited in § 5-27-205;*
- 22 (16) *Pandering or possessing visual or print medium depicting*
23 *sexually explicit conduct involving a child as prohibited by § 5-27-304;*
- 24 (17) *False imprisonment in the first degree as prohibited in §*
25 *5-11-103;*
- 26 (18) *Permanent detention or restraint as prohibited in § 5-11-*
27 *106;*
- 28 (19) *Permitting abuse of a child as prohibited in § 5-27-221(a);*
- 29 (20) *Negligent homicide as prohibited by § 5-10-105(a);*
- 30 (21) *Assault in the first degree as prohibited by § 5-13-205;*
- 31 (22) *Coercion as prohibited by § 5-13-208;*
- 32 (23) *Public sexual indecency as prohibited by § 5-14-111;*
- 33 (24) *Indecent exposure as prohibited by § 5-14-112;*
- 34 (25) *Endangering the welfare of a minor in the second degree as*
35 *prohibited by § 5-27-206;*
- 36 (26) *Criminal attempt, criminal solicitation, or criminal*

1 conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to
2 commit any of the offenses listed in this subsection;

3 (27) Computer child pornography as prohibited in § 5-27-603;

4 (28) Computer exploitation of a child in the first degree as
5 prohibited in § 5-27-605;

6 (29) Felony theft as prohibited in §§ 5-36-103 – 5-36-106, and
7 5-36-202;

8 (30) Robbery as prohibited by §§ 5-12-102 and 5-12-103;

9 (31) Breaking or entering as prohibited by § 5-39-202;

10 (32) Burglary as prohibited by § 5-39-201;

11 (33) Forgery as prohibited by § 5-37-201; and

12 (34) Any felony not listed in this subsection (c) and involving
13 physical or sexual injury, mistreatment, or abuse against another.

14
15 SECTION 5. Arkansas Code § 6-17-410(d)(1)(A)(vii) and (viii),
16 concerning the definition of "cause", is amended to read as follows:

17 (vii) Knowingly submitting or providing false or
18 misleading information or knowingly failing to submit or provide information
19 requested or required by law to the Department of Education, the state board,
20 or the Division of Legislative Audit; ~~or~~

21 (viii) Knowingly falsifying or directing another to
22 falsify any grade given to a student, whether the grade was given for an
23 individual assignment or examination or at the conclusion of a regular
24 grading period; ~~and or~~

25 (ix) Having a true report in the child maltreatment
26 central registry; and

27
28 SECTION 6. Arkansas Code § 6-17-410(f)(2) concerning waivers is
29 amended to read as follows:

30 (2) Circumstances for which a waiver may be granted shall
31 include, ~~but not be limited to,~~ without limitation the following:

32 (A) The age at which the crime or incident was committed;

33 (B) The circumstances surrounding the crime or incident;

34 (C) The length of time since the crime or incident;

35 (D) Subsequent work history;

36 (E) Employment references;

- 1 (F) Character references; and
- 2 (G) Other evidence demonstrating that the applicant does
- 3 not pose a threat to the health or safety of school children or school
- 4 personnel.

5

6 SECTION 7. Arkansas Code § 6-17-410(g)(1) concerning reporting of

7 employees is amended to read as follows:

8 (g)(1) The superintendent of each school district shall report to the

9 state board the name of any person holding a license issued by the state

10 board and currently employed or employed during the two (2) previous school

11 years by the local school district who:

12 (A) Has pleaded guilty or nolo contendere to or has been

13 found guilty of a felony or any misdemeanor listed in subsection (c) of this

14 section;

15 (B) Holds a license obtained by fraudulent means;

16 (C) Has had a similar license revoked in another state;

17 (D) Has intentionally compromised the validity or security

18 of any student test or testing program administered or required by the

19 Department of Education;

20 (E) Has knowingly submitted falsified information or

21 failed to submit information requested or required by law to the Department

22 of Education, the state board, or the division; ~~or~~

23 (F) Has failed to establish or maintain the necessary

24 requirements and standards set forth in Arkansas law or Department of

25 Education rules for teacher licensure; or

26 (G) Has a true report in the child maltreatment central

27 registry.

28 SECTION 8. Arkansas Code § 6-17-410(h)(1) concerning information

29 received by the Department of Education is amended to read as follows:

30 (h)(1) Any information received by the Department of Education from

31 the Identification Bureau of the Department of Arkansas State Police or the

32 Department of Humans Services pursuant to subsection (a) of this section

33 shall not be available for examination except by the affected applicant for

34 licensure or his or her duly authorized representative, and no record, file,

35 or document shall be removed from the custody of the Department of Education.

36

1 SECTION 9. Arkansas Code § 6-17-411(a)(1)(A) concerning background
2 checks for certified personnel is amended to read as follows:

3 (a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section,
4 the board of directors of a local school district shall require as a
5 condition for initial employment by the school district that any person
6 holding a license issued by the State Board of Education and making
7 application for employment authorize release to the Department of Education
8 the results of:

9 (i) ~~statewide~~ Statewide and nationwide criminal
10 records checks by the Identification Bureau of the Department of Arkansas
11 State Police, which conform to the applicable federal standards and include
12 the taking of the applicant's fingerprints; and

13 (ii) The child maltreatment central registry check
14 by the Department of Human Services.

15
16 SECTION 10. Arkansas Code § 6-17-411(a)(2) concerning background
17 checks for certified personnel is amended to read as follows:

18 (2) Unless the employing school district's board of directors
19 has taken action to pay for the cost of criminal background checks or the
20 child maltreatment central registry checks required by this section, the
21 employment applicant shall be responsible for the payment of any fee
22 associated with the criminal records check and the child maltreatment central
23 registry check.

24
25 SECTION 11. Arkansas Code § 6-17-411(a)(4)(A) concerning information
26 received by the Department of Education is amended to read as follows:

27 (4)(A) Any information received by the Department of Education
28 from the Identification Bureau of the Department of Arkansas State Police or
29 the Department of Human Services pursuant to this section shall not be
30 available for examination except by the affected applicant for employment or
31 his or her duly authorized representative, and no record, file, or document
32 shall be removed from the custody of the Department of Education.

33
34 SECTION 12. Arkansas Code § 6-17-411(b)(1) concerning employment
35 eligibility is amended to read as follows:

36 (b)(1)(A) No person holding a license from the state board shall be

1 eligible for employment by a local school district if the results of the
2 criminal records check released to the Department of Education by the
3 applicant reveal that the applicant has pleaded guilty or nolo contendere to
4 or has been found guilty of any offense that will or may result in license
5 revocation by the state board under § 6-17-410.

6 (B) No person holding a license issued by the state board
7 shall be eligible for employment by a local school district if the results of
8 the child maltreatment central registry check released to the Department of
9 Education reveal that the applicant has a true report in the child
10 maltreatment central registry.

11
12 SECTION 13. Arkansas Code § 6-17-414(a), concerning background checks
13 for nonlicensed personnel, is amended to add an additional subdivision to
14 read as follows:

15 (3)(A) A school district board of directors or an educational
16 service cooperative shall require as a condition for initial employment or
17 noncontinuous reemployment of all nonlicensed personnel a child maltreatment
18 central registry check by the Department of Human Services.

19 (B) The applicant shall sign a release of information to
20 the Department of Education and shall be responsible for the payment of any
21 fee associated with the child maltreatment central registry check.

22 (C) The Department of Human Services shall forward all
23 releasable information concerning the applicant to the Department of
24 Education upon completion of the child maltreatment central registry check.

25
26 SECTION 14. Arkansas Code § 6-17-414(b) background checks for
27 nonlicensed personnel is amended to read as follows:

28 (b) No person, including without limitation nonlicensed persons who
29 provide services as a substitute teacher, shall be eligible for employment,
30 whether initial employment, reemployment, or continued employment, by a local
31 school district or education service cooperative in a nonlicensed staff
32 position if that person has a true report in the child maltreatment central
33 registry or has ~~pleaded~~ pled guilty or nolo contendere to or has been found
34 guilty of any of the following offenses by any court in the State of Arkansas
35 or of any similar offense by a court in another state or of any similar
36 offense by a federal court:

- 1 (1) Capital murder as prohibited in § 5-10-101;
- 2 (2) Murder in the first degree as prohibited in § 5-10-102 and
3 murder in the second degree as prohibited in § 5-10-103;
- 4 (3) Manslaughter as prohibited in § 5-10-104;
- 5 (4) Battery in the first degree as prohibited in § 5-13-201 and
6 battery in the second degree as prohibited in § 5-13-202;
- 7 (5) Aggravated assault as prohibited in § 5-13-204;
- 8 (6) Terroristic threatening in the first degree as prohibited in
9 § 5-13-301;
- 10 (7) Kidnapping as prohibited in § 5-11-102;
- 11 (8) Rape as prohibited in § 5-14-103;
- 12 (9) Sexual assault in the first degree, second degree, third
13 degree, and fourth degree, as prohibited in §§ 5-14-124 – 5-14-127;
- 14 (10) Incest as prohibited in § 5-26-202;
- 15 (11) Engaging children in sexually explicit conduct for use in
16 visual or print media, transportation of minors for prohibited sexual
17 conduct, employing or consenting to the use of a child in a sexual
18 performance, or producing, directing, or promoting a sexual performance by a
19 child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;
- 20 (12) Distribution to minors as prohibited in § 5-64-406;
- 21 (13) Any felony in violation of the Uniform Controlled
22 Substances Act, § 5-64-101 et seq.;
- 23 (14) Criminal attempt, criminal solicitation, or criminal
24 conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to
25 commit any of the offenses listed in this subsection (b);
- 26 (15) Sexual indecency with a child as prohibited in § 5-14-110;
- 27 (17) Pandering or possessing visual or print medium depicting
28 sexually explicit conduct involving a child as prohibited by § 5-27-304;
- 29 (18) False imprisonment in the first degree as prohibited in §
30 5-11-103;
- 31 (19) Permanent detention or restraint as prohibited in § 5-11-
32 106;
- 33 (20) Permitting abuse of a child as prohibited in § 5-27-221(a);
- 34 (21) Negligent homicide as prohibited by § 5-10-105(a);
- 35 (22) Assault in the first degree as prohibited by § 5-13-205;
- 36 (23) Coercion as prohibited by § 5-13-208;

- 1 (24) Public sexual indecency as prohibited by § 5-14-111;
 2 (25) Indecent exposure as prohibited by § 5-14-112;
 3 (26) Endangering the welfare of a minor in the second degree as
 4 prohibited by § 5-27-206;
 5 (27) Computer child pornography as prohibited in § 5-27-603;
 6 (28) Computer exploitation of a child in the first degree as
 7 prohibited in § 5-27-605;
 8 (29) Felony theft as prohibited in §§ 5-36-103 – 5-36-106, and
 9 5-36-203;
 10 (30) Robbery as prohibited by §§ 5-12-102 and 5-12-103;
 11 (31) Breaking or entering as prohibited by § 5-39-202;
 12 (32) Burglary as prohibited by § 5-39-201;
 13 (33) Forgery as prohibited by § 5-37-201; and
 14 (34) Any felony not listed in this subsection (b) and involving
 15 physical or sexual injury, mistreatment, or abuse against another.

16
 17 SECTION 15. Arkansas Code § 6-17-414(d)(1) concerning information
 18 received by the Department of Education is amended to read as follows:

19 (d)(1) Any information received by the Department of Education from
 20 the Identification Bureau of the Department of Arkansas State Police or the
 21 Department of Human Services pursuant to this section shall not be available
 22 for examination except by the affected applicant for employment or his or her
 23 duly authorized representative, and no record, file, or document shall be
 24 removed from the custody of the Department of Education.

25
 26 SECTION 16. Arkansas Code § 6-17-414(e)(3) and (4) concerning
 27 eligibility for employment is amended to read as follows:

28 (3) Knowingly submits or provides false or misleading
 29 information or knowingly fails to submit or provide information requested or
 30 required by law to the Department of Education, the state board, or the
 31 Division of Legislative Audit; ~~or~~

32 (4) Knowingly falsifies or directs another to falsify any grade
 33 given to a student, whether the grade was given for an individual assignment
 34 or examination or at the conclusion of a regular grading period; or

35 (5) Has a true report in the child maltreatment central
 36 registry.

1
2 SECTION 17. Arkansas Code § 6-17-414(f) concerning reporting is
3 amended to read as follows:

4 (f)(1) The superintendent of each school district shall report to the
5 state board the name of any person currently employed by the local school
6 district who:

7 (A) Has pleaded guilty or nolo contendere to or has been
8 found guilty of a felony or any misdemeanor listed in subsection (b) of this
9 section;

10 (B) Has intentionally compromised the validity or security
11 of any student test or testing program administered or required by the
12 Department of Education; ~~or~~

13 (C) Has knowingly submitted falsified information or
14 failed to submit information requested or required by law to the Department
15 of Education, the state board, or the division; or

16 (D) Has a true report in the child maltreatment central
17 registry.

18 (2) The failure of a superintendent to report information as
19 required by this subsection (f) may result in sanctions imposed by the state
20 board.

21 (g)(1) If an applicant for employment with a school district has been
22 determined ineligible for employment because the applicant has a true report
23 in the child maltreatment central registry, the local school board of
24 directors shall provide a written notice to the applicant and shall afford
25 the applicant the opportunity to request a waiver.

26 (2) The waiver shall be requested no more than thirty (30) days
27 after receipt of the notice of the denial of employment.

28 (3) The waiver may be requested by:

29 (A) The hiring official;

30 (B) The affected applicant; or

31 (C) The person subject to dismissal.

32 (4) Circumstances for which a waiver may be granted shall
33 include without limitation the following:

34 (A) The age at which the incident was committed;

35 (B) The circumstances surrounding the incident;

36 (C) The length of time since the incident ;

- 1 (D) Subsequent work history;
- 2 (E) Employment references;
- 3 (F) Character references; and
- 4 (G) Other evidence demonstrating that the applicant does
- 5 not pose a threat to the health or safety of school children or school
- 6 personnel.

7

8 SECTION 18. Arkansas Code § 6-17-415 is amended to read as follows:

9 6-17-415. Criminal records check and child maltreatment central

10 registry check for existing noncertified employees.

11 (a) It is the clear intent of the General Assembly to authorize each

12 public school district at its discretion to require criminal background

13 checks and child maltreatment central registry checks of existing

14 noncertified employees in the same manner and subject to the same terms and

15 conditions as set forth in this act for newly hired noncertified applicants.

16 (b) Any school district which by a vote of its local school board of

17 directors requires criminal background checks and child maltreatment central

18 registry checks for existing noncertified employees shall pay the full cost

19 of the criminal background checks and child maltreatment central registry

20 checks.

21

22 SECTION 19. Arkansas Code § 6-17-416 is amended to read as follows:

23 6-17-416. Criminal records check and child maltreatment central

24 registry check of employees of more than one school district.

25 Employees, whether new or existing, who have a contract with or work

26 for more than one (1) school district in one (1) year shall be required to

27 have only one (1) criminal background check and one (1) child maltreatment

28 central registry check to satisfy the requirements of all employing school

29 districts for that year.

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/s/ Reynolds