

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1544

5 By: Representative S. Meeks
6 By: Senator J. Sturch
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
10 GOVERNING BACKGROUND CHECKS FOR LICENSED AND
11 CLASSIFIED SCHOOL PERSONNEL; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND LAWS GOVERNING BACKGROUND CHECKS
16 FOR LICENSED AND CLASSIFIED SCHOOL
17 PERSONNEL.
18
19

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

22 SECTION 1. Arkansas Code § 6-17-410(b)(2)(B), concerning an expunged
23 or pardoned conviction of licensed personnel, is amended to read as follows:

24 (B) ~~As~~ A sealed, expunged, or pardoned conviction shall
25 not disqualify a person under this section if the conviction ~~is~~
26 ~~(i) Ten (10) or more years old; and~~
27 ~~(ii) Does~~ does not involve the physical or sexual
28 injury, mistreatment, or abuse of another.
29

30 SECTION 2. Arkansas Code § 6-17-410(c), concerning the prohibition on
31 the State Board of Education against issuing a first-time license or renewal
32 of a license upon notification of certain reports in a background check, is
33 amended to read as follows:

34 (c) The state board shall not issue a first-time license ~~nor~~ or renew
35 an existing license and shall revoke ~~any~~ an existing license not up for
36 renewal of ~~any~~ a person who has a true report in the Child Maltreatment



1 Central Registry or who has pled guilty or nolo contendere to or has been
 2 found guilty of any of the following offenses by ~~any~~ a court in the State of
 3 Arkansas or of any similar offense by a court in another state or ~~of any~~
 4 ~~similar offense~~ by a federal court:

- 5 (1) Capital murder as prohibited in § 5-10-101;
- 6 (2) Murder in the first degree as prohibited in § 5-10-102 and
 7 murder in the second degree as prohibited in § 5-10-103;
- 8 (3) Manslaughter as prohibited in § 5-10-104;
- 9 (4) Battery in the first degree as prohibited in § 5-13-201 and
 10 battery in the second degree as prohibited in § 5-13-202;
- 11 (5) Aggravated assault as prohibited in § 5-13-204, and assault
 12 in the first degree as prohibited by § 5-13-205;
- 13 (6) Terroristic threatening in the first degree as prohibited in
 14 § 5-13-301;
- 15 (7) Kidnapping as prohibited in § 5-11-102;
- 16 (8) Rape as prohibited in § 5-14-103;
- 17 (9) Sexual assault in the first degree, second degree, third
 18 degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;
- 19 (10) Incest as prohibited in § 5-26-202;
- 20 (11) ~~Engaging children in sexually explicit conduct for use in~~
 21 ~~visual or print media, transportation of minors for prohibited sexual~~
 22 ~~conduct, employing or consenting to the use of a child in a sexual~~
 23 ~~performance, or producing, directing, or promoting a sexual performance by a~~
 24 ~~child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403~~ A
 25 violation of the Arkansas Protection of Children Against Exploitation Act of
 26 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as
 27 prohibited by §§ 5-27-402 and 5-27-403;
- 28 (12) Distribution to minors as prohibited in § 5-64-406;
- 29 (13) Any felony in violation of the Uniform Controlled
 30 Substances Act, § 5-64-101 et seq.;
- 31 (14) Sexual indecency with a child as prohibited in § 5-14-110;
- 32 (15) Endangering the welfare of a minor in the first degree as
 33 prohibited in § 5-27-205, or endangering the welfare of a minor in the second
 34 degree as prohibited by § 5-27-206;
- 35 (16) ~~Pandering or possessing visual or print medium depicting~~
 36 ~~sexually explicit conduct involving a child as prohibited by § 5-27-304~~;

1 ~~(17)~~(16) False imprisonment in the first degree as prohibited in
2 § 5-11-103;

3 ~~(18)~~(17) Permanent detention or restraint as prohibited in § 5-
4 11-106;

5 ~~(19)~~(18) Permitting abuse of a child as prohibited in § 5-27-
6 221(a);

7 ~~(20)~~(19) Negligent homicide as prohibited by § 5-10-105(a);
8 ~~(21)~~ Assault in the first degree as prohibited by § 5-13-205;
9 ~~(22)~~(20) Coercion as prohibited by § 5-13-208;

10 ~~(23)~~(21) Public sexual indecency as prohibited by § 5-14-111;
11 ~~(24)~~(22) Indecent exposure as prohibited by § 5-14-112;

12 ~~(25)~~ Endangering the welfare of a minor in the second degree as
13 prohibited by § 5-27-206;

14 ~~(26)~~(23) Criminal attempt, criminal solicitation, or criminal
15 conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to
16 commit any of the offenses listed in this subsection;

17 ~~(27)~~(24) Computer child pornography as prohibited in § 5-27-603;
18 ~~(28)~~(25) Computer exploitation of a child in the first degree as
19 prohibited in § 5-27-605;

20 ~~(29)~~(26) Felony theft as prohibited in §§ 5-36-103 – 5-36-106
21 and 5-36-202;

22 ~~(30)~~(27) Robbery as prohibited by §§ 5-12-102 and 5-12-103;
23 ~~(31)~~(28) Breaking or entering as prohibited by § 5-39-202;
24 ~~(32)~~(29) Burglary as prohibited by § 5-39-201 and aggravated
25 residential burglary as prohibited by § 5-39-204;

26 ~~(33)~~(30) Forgery as prohibited by § 5-37-201;

27 ~~(34)~~(31) Video voyeurism as prohibited by § 5-16-101, and
28 voyeurism as prohibited under § 5-16-102;

29 ~~(35)~~(32) Domestic battering in the first degree as prohibited by
30 § 5-26-303;

31 ~~(36)~~(33) Domestic battering in the second degree as prohibited
32 by § 5-26-304;

33 ~~(37)~~(34) Felony violation of an order of protection as
34 prohibited by § 5-53-134;

35 ~~(38)~~(35) Prostitution as prohibited by § 5-70-102;

36 ~~(39)~~(36) Sexual solicitation as prohibited by § 5-70-103;

1 which the penalty is the suspension or revocation of an teacher's license; or
 2 (xii) Undergoing an involuntary commitment for a
 3 physical or mental illness that endangers the health, safety, welfare, or
 4 education of a student, as determined by a licensed health professional,
 5 until the person provides documentation from a licensed health professional
 6 of treatment of the physical or mental illness and the person's current
 7 fitness; and

8
 9 SECTION 5. Arkansas Code § 6-17-414(a)(2)(B), concerning an expunged
 10 or pardoned conviction of nonlicensed school personnel, is amended to read as
 11 follows:

12 (B) ~~As~~ A sealed, expunged, or pardoned conviction shall
 13 not disqualify a person under this section if the conviction ~~is+~~
 14 ~~(i) Ten (10) or more years old; and~~
 15 ~~(ii) Does~~ does not involve the physical or sexual
 16 injury, mistreatment, or abuse of another.

17
 18 SECTION 6. Arkansas Code § 6-17-414(b), concerning background checks
 19 for nonlicensed personnel, is amended to read as follows:

20 (b) ~~No~~ A person, including without limitation nonlicensed persons who
 21 provide services as a substitute teacher, shall not be eligible for
 22 employment, whether initial employment, reemployment, or continued
 23 employment, by an educational entity in a nonlicensed staff position if ~~that~~
 24 the person has a true report in the Child Maltreatment Central Registry or
 25 has pled guilty or nolo contendere to or has been found guilty of any of the
 26 following offenses by ~~any~~ a court in the State of Arkansas or of any similar
 27 offense by a court in another state or ~~of any similar offense~~ by a federal
 28 court:

- 29 (1) Capital murder as prohibited in § 5-10-101;
- 30 (2) Murder in the first degree as prohibited in § 5-10-102 and
 31 murder in the second degree as prohibited in § 5-10-103;
- 32 (3) Manslaughter as prohibited in § 5-10-104;
- 33 (4) Battery in the first degree as prohibited in § 5-13-201 and
 34 battery in the second degree as prohibited in § 5-13-202;
- 35 (5) Aggravated assault as prohibited in § 5-13-204, and assault
 36 in the first degree as prohibited by § 5-13-205;

1 (6) Terroristic threatening in the first degree as prohibited in
2 § 5-13-301;

3 (7) Kidnapping as prohibited in § 5-11-102;

4 (8) Rape as prohibited in § 5-14-103;

5 (9) Sexual assault in the first degree, second degree, third
6 degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;

7 (10) Incest as prohibited in § 5-26-202;

8 ~~(11) Engaging children in sexually explicit conduct for use in~~
9 ~~visual or print media, transportation of minors for prohibited sexual~~
10 ~~conduct, employing or consenting to the use of a child in a sexual~~
11 ~~performance, or producing, directing, or promoting a sexual performance by a~~
12 ~~child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403~~ A
13 violation of the Arkansas Protection of Children Against Exploitation Act of
14 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as
15 prohibited by §§ 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) Criminal attempt, criminal solicitation, or criminal
20 conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to
21 commit any of the offenses listed in this subsection;

22 (15) Sexual indecency with a child as prohibited in § 5-14-110;

23 (16) Endangering the welfare of a minor in the first degree as
24 prohibited in § 5-27-205, or endangering the welfare of a minor in the second
25 degree as prohibited by § 5-27-206;

26 ~~(17) Pandering or possessing visual or print medium depicting~~
27 ~~sexually explicit conduct involving a child as prohibited by § 5-27-304;~~

28 ~~(18)~~(17) False imprisonment in the first degree as prohibited in
29 § 5-11-103;

30 ~~(19)~~(18) Permanent detention or restraint as prohibited in § 5-
31 11-106;

32 ~~(20)~~(19) Permitting abuse of a child as prohibited in § 5-27-
33 221(a);

34 ~~(21)~~(20) Negligent homicide as prohibited by § 5-10-105(a);

35 ~~(22) Assault in the first degree as prohibited by § 5-13-205;~~

36 ~~(23)~~(21) Coercion as prohibited by § 5-13-208;

1 ~~(24)~~(22) Public sexual indecency as prohibited by § 5-14-111;
2 ~~(25)~~(23) 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)~~(24) Computer child pornography as prohibited in § 5-27-603;
6 ~~(28)~~(25) Computer exploitation of a child in the first degree as
7 prohibited in § 5-27-605;
8 ~~(29)~~(26) Felony theft as prohibited in §§ 5-36-103 – 5-36-106
9 and 5-36-202;
10 ~~(30)~~(27) Robbery as prohibited by §§ 5-12-102 and 5-12-103;
11 ~~(31)~~(28) Breaking or entering as prohibited by § 5-39-202;
12 ~~(32)~~(29) Burglary as prohibited by § 5-39-201 and aggravated
13 residential burglary as prohibited by § 5-39-204;
14 ~~(33)~~(30) Forgery as prohibited by § 5-37-201;
15 ~~(34)~~(31) Video voyeurism as prohibited by § 5-16-101, and
16 voyeurism as prohibited under § 5-16-102;
17 ~~(35)~~(32) Domestic battering in the first degree as prohibited by
18 § 5-26-303;
19 ~~(36)~~(33) Domestic battering in the second degree as prohibited
20 by § 5-26-304;
21 ~~(37)~~(34) Felony violation of an order of protection as
22 prohibited by § 5-53-134;
23 ~~(38)~~(35) Prostitution as prohibited by § 5-70-102;
24 ~~(39)~~(36) Sexual solicitation as prohibited by § 5-70-103;
25 ~~(40)~~(37) Promoting prostitution in the first degree as
26 prohibited by § 5-70-104;
27 ~~(41)~~(38) Promoting prostitution in the second degree as
28 prohibited by § 5-70-105;
29 ~~(42)~~(39) Stalking as prohibited by § 5-71-229;
30 ~~(43)~~(40) Failure to notify by a mandated reporter in the first
31 degree as prohibited by § 12-18-201;
32 ~~(44)~~(41) Any felony not listed in this subsection and involving
33 physical or sexual injury, mistreatment, or abuse against another person;
34 ~~(45)~~(42) Aggravated assault upon a law enforcement officer or an
35 employee of a correctional facility, § 5-13-211, if a Class Y felony;
36 ~~(46)~~(43) Sexual extortion, § 5-14-113; ~~and~~

1 ~~(47)~~(44) Failure to comply with the registration and reporting
 2 requirements of § 12-12-904~~+~~;

3 (45) Trafficking of a person as prohibited by § 5-18-103;

4 (46) Patronizing a victim of human trafficking as prohibited by
 5 § 5-18-104;

6 (47) Aggravated assault on a family member or household member
 7 as prohibited member as prohibited by § 5-26-306; and

8 (48) Computer crimes against a minor as prohibited by §§ 5-27-
 9 601 et seq.

10
 11 SECTION 7. Arkansas Code § 6-17-414(c), concerning provisional
 12 employment of nonlicensed personnel pending receipt of eligibility, is
 13 amended to read as follows:

14 (c) However, the board of directors of an educational entity is
 15 authorized to offer provisional employment to an applicant pending ~~receipt~~
 16 notification of eligibility information from the ~~Department of Education~~
 17 department, which may be provided in an electronic format.

18
 19 SECTION 8. Arkansas Code § 6-17-414(e)(5) and (6), concerning the
 20 determination that an applicant for employment in a nonlicensed staff
 21 position is ineligible, are amended to read as follows:

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

25 (6) Has a true report in the Child Maltreatment Central
 26 Registry~~+~~; or

27 (7) Has an involuntary commitment for a physical or mental
 28 illness that endangers the health, safety, welfare, or education of a
 29 student, as determined by a licensed health professional, until the person
 30 provides documentation from a licensed health professional of treatment of
 31 the physical or mental illness and the person's current fitness.

32
 33 SECTION 9. Arkansas Code § 6-17-414 is amended to add an additional
 34 subsection to read as follows:

35 (i) The state board shall adopt the necessary rules to implement this
 36 section.