

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.

Act 1173 of the Regular Session

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

8 **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

14 **Subtitle**

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



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

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

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

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

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

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

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

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

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

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

- 1 (3) *Manslaughter as prohibited in § 5-10-104;*
- 2 (4) *Battery in the first degree as prohibited in § 5-13-201 and*
3 *battery in the second degree as prohibited in § 5-13-202;*
- 4 (5) *Aggravated assault as prohibited in § 5-13-204;*
- 5 (6) *Terroristic threatening in the first degree as prohibited in*
6 *§ 5-13-301;*
- 7 (7) *Kidnapping as prohibited in § 5-11-102;*
- 8 (8) *Rape as prohibited in § 5-14-103;*
- 9 (9) *Sexual assault in the first degree, second degree, third*
10 *degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;*
- 11 (10) *Incest as prohibited in § 5-26-202;*
- 12 (11) *Engaging children in sexually explicit conduct for use in*
13 *visual or print media, transportation of minors for prohibited sexual*
14 *conduct, employing or consenting to the use of a child in a sexual*
15 *performance, or producing, directing, or promoting a sexual performance by a*
16 *child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;*
- 17 (12) *Distribution to minors as prohibited in § 5-64-406;*
- 18 (13) *Any felony in violation of the Uniform Controlled*
19 *Substances Act, § 5-64-101 et seq.;*
- 20 (14) *Sexual indecency with a child as prohibited in § 5-14-110;*
- 21 (15) *Endangering the welfare of a minor in the first degree as*
22 *prohibited in § 5-27-205;*
- 23 (16) *Pandering or possessing visual or print medium depicting*
24 *sexually explicit conduct involving a child as prohibited by § 5-27-304;*
- 25 (17) *False imprisonment in the first degree as prohibited in §*
26 *5-11-103;*
- 27 (18) *Permanent detention or restraint as prohibited in § 5-11-*
28 *106;*
- 29 (19) *Permitting abuse of a child as prohibited in § 5-27-221(a);*
- 30 (20) *Negligent homicide as prohibited by § 5-10-105(a);*
- 31 (21) *Assault in the first degree as prohibited by § 5-13-205;*
- 32 (22) *Coercion as prohibited by § 5-13-208;*
- 33 (23) *Public sexual indecency as prohibited by § 5-14-111;*
- 34 (24) *Indecent exposure as prohibited by § 5-14-112;*
- 35 (25) *Endangering the welfare of a minor in the second degree as*
36 *prohibited by § 5-27-206;*

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

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

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

7 (29) Felony theft as prohibited in §§ 5-36-103 – 5-36-106, and
8 5-36-202;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (D) Subsequent work history;

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

6
 7 SECTION 7. *Arkansas Code § 6-17-410(g)(1) concerning reporting of*
 8 *employees is amended to read as follows:*

9 (g)(1) *The superintendent of each school district shall report to the*
 10 *state board the name of any person holding a license issued by the state*
 11 *board and currently employed or employed during the two (2) previous school*
 12 *years by the local school district who:*

13 (A) *Has pleaded guilty or nolo contendere to or has been*
 14 *found guilty of a felony or any misdemeanor listed in subsection (c) of this*
 15 *section;*

16 (B) *Holds a license obtained by fraudulent means;*

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

18 (D) *Has intentionally compromised the validity or security*
 19 *of any student test or testing program administered or required by the*
 20 *Department of Education;*

21 (E) *Has knowingly submitted falsified information or*
 22 *failed to submit information requested or required by law to the Department*
 23 *of Education, the state board, or the division; ~~or~~*

24 (F) *Has failed to establish or maintain the necessary*
 25 *requirements and standards set forth in Arkansas law or Department of*
 26 *Education rules for teacher licensure; or*

27 (G) *Has a true report in the child maltreatment central*
 28 *registry.*

29 SECTION 8. *Arkansas Code § 6-17-410(h)(1) concerning information*
 30 *received by the Department of Education is amended to read as follows:*

31 (h)(1) *Any information received by the Department of Education from*
 32 *the Identification Bureau of the Department of Arkansas State Police or the*
 33 *Department of Humans Services pursuant to subsection (a) of this section*
 34 *shall not be available for examination except by the affected applicant for*
 35 *licensure or his or her duly authorized representative, and no record, file,*
 36 *or document shall be removed from the custody of the Department of Education.*

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

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

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

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

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

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

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

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

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

1 **(b)(1)(A)** *No person holding a license from the state board shall be*
2 *eligible for employment by a local school district if the results of the*
3 *criminal records check released to the Department of Education by the*
4 *applicant reveal that the applicant has pleaded guilty or nolo contendere to*
5 *or has been found guilty of any offense that will or may result in license*
6 *revocation by the state board under § 6-17-410.*

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

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

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

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

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

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

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

1 *offense by a federal court:*

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

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

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

6 *(4) Battery in the first degree as prohibited in § 5-13-201 and*
7 *battery in the second degree as prohibited in § 5-13-202;*

8 *(5) Aggravated assault as prohibited in § 5-13-204;*

9 *(6) Terroristic threatening in the first degree as prohibited in*
10 *§ 5-13-301;*

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

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

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

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

16 *(11) Engaging children in sexually explicit conduct for use in*
17 *visual or print media, transportation of minors for prohibited sexual*
18 *conduct, employing or consenting to the use of a child in a sexual*
19 *performance, or producing, directing, or promoting a sexual performance by a*
20 *child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;*

21 *(12) Distribution to minors as prohibited in § 5-64-406;*

22 *(13) Any felony in violation of the Uniform Controlled*
23 *Substances Act, § 5-64-101 et seq.;*

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

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

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

30 *(18) False imprisonment in the first degree as prohibited in §*
31 *5-11-103;*

32 *(19) Permanent detention or restraint as prohibited in § 5-11-*
33 *106;*

34 *(20) Permitting abuse of a child as prohibited in § 5-27-221(a);*

35 *(21) Negligent homicide as prohibited by § 5-10-105(a);*

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

- 1 (23) Coercion as prohibited by § 5-13-208;
- 2 (24) Public sexual indecency as prohibited by § 5-14-111;
- 3 (25) Indecent exposure as prohibited by § 5-14-112;
- 4 (26) Endangering the welfare of a minor in the second degree as
- 5 prohibited by § 5-27-206;
- 6 (27) Computer child pornography as prohibited in § 5-27-603;
- 7 (28) Computer exploitation of a child in the first degree as
- 8 prohibited in § 5-27-605;
- 9 (29) Felony theft as prohibited in §§ 5-36-103 – 5-36-106, and
- 10 5-36-203;
- 11 (30) Robbery as prohibited by §§ 5-12-102 and 5-12-103;
- 12 (31) Breaking or entering as prohibited by § 5-39-202;
- 13 (32) Burglary as prohibited by § 5-39-201;
- 14 (33) Forgery as prohibited by § 5-37-201; and
- 15 (34) Any felony not listed in this subsection (b) and involving
- 16 physical or sexual injury, mistreatment, or abuse against another.

17

18 SECTION 15. Arkansas Code § 6-17-414(d)(1) concerning information

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

20 (d)(1) Any information received by the Department of Education from

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

22 Department of Human Services pursuant to this section shall not be available

23 for examination except by the affected applicant for employment or his or her

24 duly authorized representative, and no record, file, or document shall be

25 removed from the custody of the Department of Education.

26

27 SECTION 16. Arkansas Code § 6-17-414(e)(3) and (4) concerning

28 eligibility for employment is amended to read as follows:

29 (3) Knowingly submits or provides false or misleading

30 information or knowingly fails to submit or provide information requested or

31 required by law to the Department of Education, the state board, or the

32 Division of Legislative Audit; ~~or~~

33 (4) Knowingly falsifies or directs another to falsify any grade

34 given to a student, whether the grade was given for an individual assignment

35 or examination or at the conclusion of a regular grading period; or

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

1 registry.

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

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

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

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

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

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

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

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

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

29 (3) The waiver may be requested by:

30 (A) The hiring official;

31 (B) The affected applicant; or

32 (C) The person subject to dismissal.

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

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

36 (B) The circumstances surrounding the incident;

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

8

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

10 6-17-415. Criminal records check and child maltreatment central

11 registry check for existing noncertified employees.

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

13 public school district at its discretion to require criminal background

14 checks and child maltreatment central registry checks of existing

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

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

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

18 directors requires criminal background checks and child maltreatment central

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

20 of the criminal background checks and child maltreatment central registry

21 checks.

22

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

24 6-17-416. Criminal records check and child maltreatment central

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

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

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

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

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

30 districts for that year.

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/s/ Reynolds

APPROVED: 4/7/2009