State of Arkansas  
92nd General Assembly  
Regular Session, 2019  

By: Representative S. Meeks  
By: Senator J. Sturch  

A Bill  

HOUSE BILL 1544

For An Act To Be Entitled  
AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE GOVERNING BACKGROUND CHECKS FOR LICENSED AND CLASSIFIED SCHOOL PERSONNEL; AND FOR OTHER PURPOSES.

Subtitle  
TO AMEND LAWS GOVERNING BACKGROUND CHECKS FOR LICENSED AND CLASSIFIED SCHOOL PERSONNEL.

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

SECTION 1. Arkansas Code § 6-17-410(b)(2)(B), concerning an expunged or pardoned conviction of licensed personnel, is amended to read as follows:  
(B) An A sealed, expunged, or pardoned conviction shall not disqualify a person under this section if the conviction is:  
(i) Ten (10) or more years old; and  
(ii) Does does not involve the physical or sexual injury, mistreatment, or abuse of another.

SECTION 2. Arkansas Code § 6-17-410(c), concerning the prohibition on the State Board of Education against issuing a first-time license or renewal of a license upon notification of certain reports in a background check, is amended to read as follows:  
(c) The state board shall not issue a first-time license nor or renew an existing license and shall revoke any an existing license not up for renewal of any a person who has a true report in the Child Maltreatment
Central Registry or who has pled guilty or nolo contendere to or has been found guilty of any of the following offenses by any a court in the State of Arkansas or of any similar offense by a court in another state or of any similar offense by a federal court:

(1) Capital murder as prohibited in § 5-10-101;
(2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
(3) Manslaughter as prohibited in § 5-10-104;
(4) Battery in the first degree as prohibited in § 5-13-201 and battery in the second degree as prohibited in § 5-13-202;
(5) Aggravated assault as prohibited in § 5-13-204, and assault in the first degree as prohibited by § 5-13-205;
(6) Terroristic threatening in the first degree as prohibited in § 5-13-301;
(7) Kidnapping as prohibited in § 5-11-102;
(8) Rape as prohibited in § 5-14-103;
(9) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;
(10) Incest as prohibited in § 5-26-202;
(11) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, or producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403 A violation of the Arkansas Protection of Children Against Exploitation Act of 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as prohibited by §§ 5-27-402 and 5-27-403;
(12) Distribution to minors as prohibited in § 5-64-406;
(13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;
(14) Sexual indecency with a child as prohibited in § 5-14-110;
(15) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205, or endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
(16) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child as prohibited by § 5-27-304;
False imprisonment in the first degree as prohibited in § 5-11-103;
Permanent detention or restraint as prohibited in § 5-11-106;
Permitting abuse of a child as prohibited in § 5-27-221(a);
Negligent homicide as prohibited by § 5-10-105(a);
Assault in the first degree as prohibited by § 5-13-205;
Coercion as prohibited by § 5-13-208;
Public sexual indecency as prohibited by § 5-14-111;
Indecent exposure as prohibited by § 5-14-112;
Endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;
Computer child pornography as prohibited in § 5-27-603;
Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
Felony theft as prohibited in §§ 5-36-103 – 5-36-106 and 5-36-202;
Robbery as prohibited by §§ 5-12-102 and 5-12-103;
Breaking or entering as prohibited by § 5-39-202;
Burglary as prohibited by § 5-39-201 and aggravated residential burglary as prohibited by § 5-39-204;
Forger as prohibited by § 5-37-201;
Video voyeurism as prohibited by § 5-16-101, and voyeurism as prohibited under § 5-16-102;
Domestic battering in the first degree as prohibited by § 5-26-303;
Domestic battering in the second degree as prohibited by § 5-26-304;
Felony violation of an order of protection as prohibited by § 5-53-134;
Prostitution as prohibited by § 5-70-102;
Sexual solicitation as prohibited by § 5-70-103;
Promoting prostitution in the first degree as prohibited by § 5-70-104;
Promoting prostitution in the second degree as prohibited by § 5-70-105;
Stalking as prohibited by § 5-71-229;
Failure to notify by a mandated reporter in the first degree as prohibited by § 12-18-201;
Any felony not listed in this subsection and involving physical or sexual injury, mistreatment, or abuse against another person;
Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
Sexual extortion, § 5-14-113; and
Failure to comply with the registration and reporting requirements of § 12-12-904-i
Trafficking of a person as prohibited by § 5-18-103;
Patronizing a victim of human trafficking as prohibited by § 5-18-104;
Aggravated assault on a family member or household member as prohibited member as prohibited by § 5-26-306; and
Computer crimes against a minor as prohibited by §§ 5-27-601 et seq.

SECTION 3. Arkansas Code § 6-17-410(d)(1)(A)(v), concerning the definition of "for cause" with respect to disciplinary action taken by the State Board of Education against a teacher’s license, is amended to read as follows:

(v) Having a sealed, an expunged, or a pardoned conviction for any sexual or physical abuse offense committed against a child or any offense in subsection (c) of this section that involves the physical or sexual injury, mistreatment, or abuse of another person;

SECTION 4. Arkansas Code § 6-17-410(d)(1)(A), concerning the definition of "for cause" with respect to disciplinary action taken by the State Board of Education against a teacher’s license, is amended to add additional subdivisions to read as follows:

(xi) Violating any other provision of state law for
which the penalty is the suspension or revocation of a teacher's license; or

(xii) Undergoing an involuntary commitment for a physical or mental illness that endangers the health, safety, welfare, or education of a student, as determined by a licensed health professional, until the person provides documentation from a licensed health professional of treatment of the physical or mental illness and the person's current fitness; and

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

(B) An A sealed, expunged, or pardoned conviction shall not disqualify a person under this section if the conviction is:

(i) Ten (10) or more years old; and

(ii) Does not involve the physical or sexual injury, mistreatment, or abuse of another.

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

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

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

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

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

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

(5) Aggravated assault as prohibited in § 5-13-204, and assault in the first degree as prohibited by § 5-13-205;
(6) Terroristic threatening in the first degree as prohibited in § 5-13-301;
(7) Kidnapping as prohibited in § 5-11-102;
(8) Rape as prohibited in § 5-14-103;
(9) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;
(10) Incest as prohibited in § 5-26-202;
(11) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, or producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403; A violation of the Arkansas Protection of Children Against Exploitation Act of 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as prohibited by §§ 5-27-402 and 5-27-403;
(12) Distribution to minors as prohibited in § 5-64-406;
(13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;
(14) Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;
(15) Sexual indecency with a child as prohibited in § 5-14-110;
(16) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205, or endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
(17) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child as prohibited by § 5-27-304;
(18) False imprisonment in the first degree as prohibited in § 5-11-103;
(19) Permanent detention or restraint as prohibited in § 5-11-106;
(20) Permitting abuse of a child as prohibited in § 5-27-221(a);
(21) Negligent homicide as prohibited by § 5-10-105(a);
(22) Assault in the first degree as prohibited by § 5-13-205;
(23) Coercion as prohibited by § 5-13-208;
Public sexual indecency as prohibited by § 5-14-111;
Indecent exposure as prohibited by § 5-14-112;
Endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
Computer child pornography as prohibited in § 5-27-603;
Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
Felony theft as prohibited in §§ 5-36-103 – 5-36-106 and 5-36-202;
Robbery as prohibited by §§ 5-12-102 and 5-12-103;
Breaking or entering as prohibited by § 5-39-202;
Burglary as prohibited by § 5-39-201 and aggravated residential burglary as prohibited by § 5-39-204;
Forgery as prohibited by § 5-37-201;
Video voyeurism as prohibited by § 5-16-101, and
voyeurism as prohibited under § 5-16-102;
Domestic battering in the first degree as prohibited by § 5-26-303;
Domestic battering in the second degree as prohibited by § 5-26-304;
Felony violation of an order of protection as prohibited by § 5-53-134;
Prostitution as prohibited by § 5-70-102;
Sexual solicitation as prohibited by § 5-70-103;
Promoting prostitution in the first degree as prohibited by § 5-70-104;
Promoting prostitution in the second degree as prohibited by § 5-70-105;
Stalking as prohibited by § 5-71-229;
Failure to notify by a mandated reporter in the first degree as prohibited by § 12-18-201;
Any felony not listed in this subsection and involving physical or sexual injury, mistreatment, or abuse against another person;
Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
Sexual extortion, § 5-14-113; and
Failure to comply with the registration and reporting requirements of § 12-12-904-i;

Trafficking of a person as prohibited by § 5-18-103;

Patronizing a victim of human trafficking as prohibited by § 5-18-104;

Aggravated assault on a family member or household member as prohibited by § 5-26-306; and

Computer crimes against a minor as prohibited by §§ 5-27-601 et seq.

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

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

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

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

(6) Has a true report in the Child Maltreatment Central Registry-

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

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

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

APPROVED: 3/20/19