

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) ~~An~~ 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.

APPROVED: 3/20/19