

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1650

5 By: Representatives Ratliff, Baltz
6 By: Senator B. Pierce
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
10 CONCERNING BACKGROUND CHECKS FOR LICENSED PERSONNEL
11 AND CLASSIFIED EMPLOYEES OF PUBLIC SCHOOLS; AND FOR
12 OTHER PURPOSES.
13
14

Subtitle

15 TO AMEND PROVISIONS OF THE ARKANSAS CODE
16 CONCERNING BACKGROUND CHECKS FOR LICENSED
17 PERSONNEL AND CLASSIFIED EMPLOYEES OF
18 PUBLIC SCHOOLS.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 6-17-410(a)(1)(A), concerning background
25 checks for licensed personnel, is amended to read as follows:

26 (a)(1)(A)(i) An applicant for a license issued by the State Board of
27 Education ~~and~~, an applicant for license renewal, and a preservice teacher
28 shall ~~be required to~~ apply to the Identification Bureau of the Department of
29 Arkansas State Police for a statewide and nationwide criminal records check,
30 to be conducted by the Department of Arkansas State Police and the Federal
31 Bureau of Investigation.

32 (ii) The check shall conform to the applicable
33 federal standards and shall include the taking of fingerprints.

34 (iii) The Identification Bureau of the Department of
35 Arkansas State Police may maintain these fingerprints in the automated
36 fingerprint identification system.



1 (iv) ~~The Federal Bureau of Investigation shall~~
 2 ~~promptly destroy the fingerprint card of the applicant~~ An institution of
 3 higher education is not required to bar a student from enrollment in an
 4 educator preparation program due to a disqualifying offense.

5
 6 SECTION 2. Arkansas Code § 6-17-410(a)(3), concerning background
 7 checks for licensed personnel, is amended to read as follows:

8 (3)(A) An applicant for a license issued by the State Board of
 9 Education ~~and~~, an applicant for license renewal, and a preservice teacher
 10 ~~shall be~~ are required to request through the Department of Education a Child
 11 Maltreatment Central Registry check to be conducted by the Department of
 12 Human Services.

13 (B) The applicant shall sign a release of information to
 14 the Department of Education and is responsible for the payment of any fee
 15 associated with the Child Maltreatment Central Registry check.

16 (C) The Department of Human Services shall forward all
 17 releasable information concerning the applicant to the Department of
 18 Education upon completion of the Child Maltreatment Central Registry check.

19 (D) An institution of higher education is not required to
 20 bar a student from enrollment in an educator preparation program due to a
 21 true report in the Child Maltreatment Central Registry.

22
 23 SECTION 3. Arkansas Code § 6-17-410(d)(1)(A)(v), concerning expunged,
 24 sealed, or pardoned records, is amended to read as follows:

25 (v)(a) Having an expunged or a pardoned conviction
 26 for any sexual or physical abuse offense committed against a child or any
 27 offense in subsection (c) of this section.

28 (b) An expunged or pardoned conviction shall
 29 not disqualify a person under this section if the conviction is ten (10) or
 30 more years old and does not involve the physical or sexual injury,
 31 mistreatment, or abuse of another;

32
 33 SECTION 4. Arkansas Code § 6-17-410(f)(1), concerning the waiver of
 34 revocation of a teaching license for a disqualifying offense, is amended to
 35 read as follows:

36 (f)(1)(A) The revocation provisions of subsection (c) of this section

1 may be waived, or a license may be suspended or placed on probation by the
 2 state board upon request by:

3 ~~(A)(i)~~ The board of directors of a school district or open-
 4 enrollment public charter school;

5 ~~(B)(ii)~~ An affected applicant for licensure;

6 ~~(C)(iii)~~ The person holding a license subject to
 7 revocation; or

8 ~~(D)(iv)~~ An unlicensed individual admitted to a teacher
 9 preparation program approved by the Department of Education.

10 (B) A waiver granted under subdivision (f)(1)(A) of this
 11 section shall operate as a waiver of the disqualification for employment for
 12 the same offense under § 6-17-411.

13
 14 SECTION 5. Arkansas Code § 6-17-410, concerning background checks for
 15 licensed personnel, is amended to add an additional subsection to read as
 16 follows:

17 (j) As used in this section:

18 (1) "Preservice teacher" means an unlicensed individual who is
 19 accepted or enrolled in a teacher preparation program approved by the
 20 Department of Education; and

21 (2) "Supervised clinical practice" means the placement of a pre-
 22 service teacher by a teacher education program approved by the Department of
 23 Education at the educational entity for the purpose of the student completing
 24 an internship or a student teaching experience required by the teacher
 25 education program.

26
 27 SECTION 6. Arkansas Code § 6-17-411(b)(2), concerning background
 28 checks for employment of licensed personnel, is amended to read as follows:

29 (2) However, the board of directors of an educational entity is
 30 authorized to offer provisional employment to the affected applicant pending
 31 ~~receipt of eligibility information~~ notification from the Department of
 32 Education that the:

33 (A) Applicant is eligible for employment based on the
 34 background checks; or

35 (B) State board has waived the disqualifying offense or
 36 placement on the Child Maltreatment Central Registry.

1
 2 SECTION 7. Arkansas Code § 6-17-411(c), concerning background checks
 3 for the employment of licensed personnel, is amended to read as follows:

4 (c) The board of directors of an educational entity shall require as a
 5 condition for supervised clinical practice at the educational entity that a
 6 preservice teacher seeking to conduct his or her supervised clinical practice
 7 shall authorize the release to the Department of Education the results of the
 8 criminal records background check and Child Maltreatment Central Registry
 9 check required under subdivision (a)(1)(A) of this section.

10 (d) As used in this section:

11 (1) ~~“educational~~ Educational entity” means ~~a school district,~~
 12 ~~open-enrollment public charter school, education service cooperative, or the:~~

13 (A) The Department of Education; or

14 (B) An entity that is identified by the Department of
 15 Education as a local education agency, except that for a public school
 16 operated by a school district the school district is the educational entity;

17 (2) “Preservice teacher” means an unlicensed individual who is
 18 accepted or enrolled in a teacher preparation program approved by the
 19 Department of Education; and

20 (3) “Supervised clinical practice” means the placement of a Pre-
 21 service teacher by a teacher education program approved by the Department of
 22 Education at the educational entity for the purpose of the student completing
 23 an internship or student teaching experience required by the teacher
 24 education program.

25
 26 SECTION 8. Arkansas Code § 6-17-414(a)(1)(A)(iii) and (iv), concerning
 27 background checks for classified personnel, are amended to read as follows:

28 (iii) The Identification Bureau of the Department of
 29 Arkansas State Police and the Federal Bureau of Investigation may maintain
 30 these fingerprints in the automated fingerprint identification system.

31 ~~(iv) The Federal Bureau of Investigation shall~~
 32 ~~promptly destroy the fingerprint card of the applicant.~~

33
 34 SECTION 9. Arkansas Code § 6-17-414(f)(1)(A), concerning background
 35 checks for classified personnel, is amended to read as follows:

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

1 found guilty of a felony or any misdemeanor listed in subsection (b) of this
 2 section.

3 (ii) An expunged, sealed, or pardoned conviction
 4 shall not disqualify a person under this section if the conviction is ten
 5 (10) or more years old and does not involve the physical or sexual injury,
 6 mistreatment, or abuse of another;

7
 8 SECTION 10. Arkansas Code § 6-17-414(g)(1), concerning background
 9 checks for classified personnel, is amended to read as follows:

10 ~~(g)(1)(A) If an applicant for employment with an educational entity has~~
 11 ~~been determined ineligible for employment because the applicant has a true~~
 12 ~~report in the Child Maltreatment Central Registry, the~~ The board of directors
 13 of an educational entity shall provide a written notice to ~~the~~ an applicant
 14 and shall afford the applicant the opportunity to request a waiver, ~~if the~~
 15 applicant for a nonlicensed staff position has been determined ineligible for
 16 employment because the applicant:

17 (i) Has a true report in the Child Maltreatment
 18 Central Registry; or

19 ~~(B) If an applicant for employment with an educational~~
 20 ~~entity has been determined ineligible for employment because the applicant~~
 21 ~~has~~ (ii) Has pled guilty or nolo contendere to, has been found guilty of, or
 22 has an expunged or a pardoned conviction for a sexual or physical abuse
 23 offense committed against a child or an offense listed in subsection (b) of
 24 this section, ~~the board of directors of the educational entity shall provide~~
 25 ~~a written notice to the applicant and shall afford the applicant the~~
 26 ~~opportunity to request a waiver.~~

27 (B) If the applicant under this subsection is contracted
 28 through an outside vendor, the educational entity may afford the applicant
 29 the opportunity to request a waiver.

30
 31 SECTION 11. Arkansas Code § 6-17-414(h), concerning background checks
 32 for classified personnel, is amended to read as follows:

33 (h) As used in this section:

34 (1) "Educational entity" means ~~a school district, open enrollment~~
 35 ~~public charter school, or education service cooperative:~~

36 (A) The Department of Education; or

1 (B) An entity that is identified by the Department of
 2 Education as a local education agency, except that for a public school
 3 operated by a school district the school district is the educational entity;
 4 and

5 (2) "Nonlicensed staff position" includes a:

6 (A) ~~parental monitors~~ Parental monitor on a school buses
 7 bus as permitted under § 6-19-127;

8 (B) Staff person for which the nonlicensed person is
 9 either paid directly by the educational entity or by an outside vendor under
 10 contract with the educational entity to staff the position; and

11 (C) Designated employee position with the Department of
 12 Education.

13
 14 SECTION 12. Arkansas Code § 6-17-417 is amended to read as follows:

15 6-17-417. Fingerprint or name check.

16 (a) An educational entity that is initiating a criminal records check
 17 under §§ 6-17-410, 6-17-411, 6-17-414, or 6-17-421 shall subscribe to and
 18 initiate both the state and federal criminal records check on the Department
 19 of Arkansas State Police online system.

20 (b) An individual who initiates the criminal records check shall use
 21 the online system approved by the Department of Education.

22 (c)(1) Beginning July 1, 2016, all fingerprints shall be taken by an
 23 electronic fingerprinting method approved by the Department of Arkansas State
 24 Police.

25 (2) Fingerprint cards shall not be accepted unless the:

26 (A) Individual is applying from out-of-state or out-of-
 27 country; or

28 (B) Operator of an approved electronic fingerprinting
 29 system who is trained by law enforcement or the Department of Arkansas State
 30 Police determines that the fingerprints cannot be obtained from the
 31 individual electronically.

32 (d) In any instance where a person must apply to the Identification
 33 Bureau of the Department of Arkansas State Police for a statewide and
 34 nationwide criminal records check as a condition for a license issued by the
 35 State Board of Education or as a condition for employment by a ~~local school~~
 36 district an educational entity and where a legible set of fingerprints, as

1 determined by the Identification Bureau of the Department of Arkansas State
 2 Police, cannot be obtained after a minimum of ~~three (3)~~ two (2) attempts, the
 3 Department of Education or the ~~local school district~~ educational entity shall
 4 determine eligibility for licensure or employment based ~~upon a name check by~~
 5 ~~the Identification Bureau of the Department of Arkansas State Police and the~~
 6 ~~Federal Bureau of Investigation~~ on the criteria established by rules
 7 promulgated by the State Board of Education.

8
 9 SECTION 13. Arkansas Code § 6-17-2604(b)(3), concerning background
 10 checks for a lifetime teaching license, is amended to read as follows:

11 (3) A lifetime teaching license applicant is subject to ~~a the~~
 12 ~~criminal background check~~ checks and Child Maltreatment Central Registry
 13 check under § 6-17-410 ~~upon:~~

14 (A) Upon application; and

15 (B) If more than twelve (12) months have elapsed since the
 16 last time the background checks and Child Maltreatment Central Registry check
 17 were successfully completed, upon employment in an educational environment.