

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H3/8/17
A Bill

HOUSE BILL 1579

5 By: Representative Vaught
6 *By: Senator B. Johnson*
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
10 CONCERNING BACKGROUND CHECKS FOR PUBLIC SCHOOL
11 EDUCATORS AND EMPLOYEES; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND PROVISIONS OF THE ARKANSAS CODE
16 CONCERNING BACKGROUND CHECKS FOR PUBLIC
17 SCHOOL EDUCATORS AND EMPLOYEES.
18
19

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

22 SECTION 1. Arkansas Code § 6-17-410(a)(1)(A)(ii), concerning the
23 requirement of fingerprinting for the purpose of background checks for
24 licensure, is amended to read as follows:

25 (ii) The check shall conform to the applicable
26 federal standards and shall include the taking of fingerprints as required
27 under § 6-17-417.
28

29 SECTION 2. Arkansas Code § 6-17-410(b)(2), concerning the requirement
30 of fingerprinting for the purpose of background checks for licensure, is
31 amended to read as follows:

32 (2)(A) Upon receipt of information from the Identification
33 Bureau of the Department of Arkansas State Police that the person holding a
34 letter of provisional eligibility for licensure has pleaded guilty or nolo
35 contendere to or has been found guilty of any offense listed in subsection
36 (c) of this section, the state board shall immediately revoke the provisional



1 eligibility.

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

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

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

7
 8 SECTION 3. Arkansas Code § 6-17-410(c), concerning the disqualifying
 9 offenses for teacher licensure, is amended to add an additional subdivision
 10 to read as follows:

11 (45) Failure to comply with the registration and reporting
 12 requirements of § 12-12-904.

13
 14 SECTION 4. Arkansas Code § 6-17-410(d)(1)(A)(v)-(ix), concerning
 15 definitions of "cause" for the purpose of disqualification for licensure, is
 16 amended to read as follows:

17 ~~(v)(a)~~ Having a sealed, an expunged, or a pardoned
 18 conviction for any sexual or physical abuse offense committed against a child
 19 or any offense in subsection (c) of this section;

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

24 (vi) Being subject to the provisions of § 12-12-905;

25 (vii) Failing to establish or maintain the necessary
 26 requirements and standards set forth in Arkansas law or state board rules and
 27 regulations for teacher licensure;

28 ~~(vii)(viii)~~ (viii) Knowingly submitting or providing false
 29 or misleading information or knowingly failing to submit or provide
 30 information requested or required by law to the Department of Education, the
 31 state board, or Arkansas Legislative Audit;

32 ~~(viii)(ix)~~ (ix) Knowingly falsifying or directing another
 33 to falsify any grade given to a student, whether the grade was given for an
 34 individual assignment or examination or at the conclusion of a regular
 35 grading period; or

36 ~~(ix)(x)~~ (x) Having a true report in the Child

1 Maltreatment Central Registry; and

2

3 SECTION 5. Arkansas Code § 6-17-414(a)(1)(A)(ii), concerning the
4 requirement of fingerprinting for the purpose of background checks for
5 classified school employees, is amended to read as follows:

6 (ii) The checks shall conform to the applicable
7 federal standards and shall include the taking of fingerprints as required
8 under § 6-17-417.

9

10 SECTION 6. Arkansas Code § 6-17-414(a)(2), concerning the criminal
11 records check as a condition for initial employment of nonlicensed school
12 personnel, is amended to read as follows:

13 (2)(A) Upon completion of the criminal records check, the
14 Identification Bureau of the Department of Arkansas State Police shall
15 forward all releasable information obtained concerning the person to the
16 Department of Education, which shall promptly inform the board of directors
17 of the educational entity whether or not the applicant is eligible for
18 employment as provided by subsection (b) of this section.

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

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

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

24

25 SECTION 7. Arkansas Code § 6-17-414(b), concerning the criminal
26 records check as a condition for initial employment of nonlicensed school
27 personnel, is amended to add an additional subdivision to read as follows:

28 (45) Failure to comply with the registration and reporting
29 requirements of § 12-12-904.

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31 SECTION 8. Arkansas Code § 6-17-414(e)(2)-(5), concerning the
32 disqualification for employment of nonlicensed public school personnel, is
33 amended to read as follows:

34 (2) Has a sealed, an expunged, or a pardoned conviction for any
35 sexual or physical abuse offense committed against a child or any offense
36 listed in subsection (b) of this section;

- 1 (3) Is subject to the provisions of § 12-12-905;
 2 (4) Knowingly submits or provides false or misleading
 3 information or knowingly fails to submit or provide information requested or
 4 required by law to the Department of Education, the state board, or Arkansas
 5 Legislative Audit;
 6 ~~(4)~~(5) Knowingly falsifies or directs another to falsify any
 7 grade given to a student, whether the grade was given for an individual
 8 assignment or examination or at the conclusion of a regular grading period;
 9 or
 10 ~~(5)~~(6) Has a true report in the Child Maltreatment Central
 11 Registry.

12
 13 SECTION 9. Arkansas Code § 6-17-414(f)(1), concerning reporting of
 14 disqualifying offenses to the State Board of Education, is amended to read as
 15 follows:

16 (f)(1) The superintendent or director of an educational entity or a
 17 third party vendor shall report to the state board the name of any person
 18 currently employed by the educational entity who:

19 (A) ~~(i)~~ Has pleaded guilty or nolo contendere to or has
 20 been found guilty of a felony or any misdemeanor listed in subsection (b) of
 21 this section-

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

26 (B) Has intentionally compromised the validity or security
 27 of any student test or testing program administered or required by the
 28 Department of Education;

29 (C) Has knowingly submitted falsified information or
 30 failed to submit information requested or required by law to the Department
 31 of Education, the state board, or Arkansas Legislative Audit; or

32 (D) Has a true report in the Child Maltreatment Central
 33 Registry.

34
 35 SECTION 10. Arkansas Code § 6-17-417 is amended to read as follows:
 36 6-17-417. Fingerprint or name check.

1 (a) As used in this section, "applicant" means a person who must apply
2 to the Identification Bureau of the Department of Arkansas State Police for a
3 statewide and nationwide criminal records check as a condition for a license
4 issued by the State Board of Education or as a condition for employment by an
5 educational entity.

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

10 ~~(b)(c)~~ An individual who initiates the criminal records check shall
11 use the online system approved by the Department of Education.

12 ~~(c)(1)(d)~~ ~~Beginning July 1, 2016, all fingerprints~~ Fingerprints shall
13 be taken by ~~an electronic~~ any fingerprinting method approved by the
14 Department of Arkansas State Police.

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

16 ~~(A) Individual is applying from out-of-state or out-of-~~
17 ~~country; or~~

18 ~~(B) Operator of an approved electronic fingerprinting~~
19 ~~system who is trained by law enforcement or the Department of Arkansas State~~
20 ~~Police determines that the fingerprints cannot be obtained from the~~
21 ~~individual electronically.~~

22 ~~(d)(e)~~ In any instance where a person must apply to the Identification
23 Bureau of the Department of Arkansas State Police for a statewide and
24 nationwide criminal records check as a condition for a license issued by the
25 State Board of Education or as a condition for employment by an educational
26 entity and where a legible set of fingerprints, as determined by the
27 Identification Bureau of the Department of Arkansas State Police, cannot be
28 obtained from an applicant after a minimum of two (2) attempts, the
29 Department of Education or the educational entity shall determine eligibility
30 for licensure or employment based on the criteria established by rules
31 promulgated by the state board.

32 ~~(f)(1)~~ The state may participate at the state and federal level in
33 programs that provide notification of an arrest subsequent to an initial
34 background check that is conducted through available governmental systems.

35 ~~(2)~~ The state may submit an applicant's fingerprints to the
36 federal Next Generation Identification system.

1 (3) The fingerprints may be searched by future submissions to
2 the Next Generation Identification system, including latent fingerprint
3 searches.

4 (4) An applicant enrolled in the Next Generation Identification
5 system is not required to re-fingerprint when a subsequent request for a
6 state or federal criminal history background check is required if:

7 (A) A legible set of the applicant's fingerprints are
8 obtained when the applicant enrolls in the Next Generation Identification
9 system; and

10 (B) The applicant is subject to the Rap Back service of
11 the Next Generation Identification system.

12 (g) The Identification Bureau of the Department of Arkansas State
13 Police and the Federal Bureau of Investigation may maintain fingerprints in
14 the Integrated Automated Fingerprint Identification System.

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16 */s/Vaught*

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19 **APPROVED: 03/29/2017**