

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

A Bill

HOUSE BILL 1579

5 By: Representative Vaught
6

For An Act To Be Entitled

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

Subtitle

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13
14 TO AMEND PROVISIONS OF THE ARKANSAS CODE
15 CONCERNING BACKGROUND CHECKS FOR PUBLIC
16 SCHOOL EDUCATORS AND EMPLOYEES.
17

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 6-17-410(a)(1)(A)(ii), concerning the
22 requirement of fingerprinting for the purpose of background checks for
23 licensure, is amended to read as follows:

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

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

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



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

- 3 (i) Ten (10) or more years old; and
- 4 (ii) Does not involve the physical or sexual injury,
 5 mistreatment, or abuse of another.

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

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

12
 13 SECTION 4. Arkansas Code § 6-17-410(d)(1)(A)(v)-(ix), concerning
 14 definitions of "cause" for the purpose of disqualification for licensure, is
 15 amended to read as follows:

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

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

23 (vi) Having a plea of guilty or nolo contendere to
 24 any offense involving the physical or sexual injury, mistreatment, or abuse
 25 of another set aside, dismissed, or result in an adjudication of non-guilt
 26 subsequent to the successful completion of a diversionary program;

27 (vii) Being subject to the provisions of § 12-12-
 28 905;

29 (viii) Failing to establish or maintain the
 30 necessary requirements and standards set forth in Arkansas law or state board
 31 rules ~~and regulations~~ for teacher licensure;

32 ~~(vii)-(ix)~~ Knowingly submitting or providing false or
 33 misleading information or knowingly failing to submit or provide information
 34 requested or required by law to the Department of Education, the state board,
 35 or Arkansas Legislative Audit;

36 ~~(viii)-(x)~~ Knowingly falsifying or directing another

1 to falsify any grade given to a student, whether the grade was given for an
 2 individual assignment or examination or at the conclusion of a regular
 3 grading period; or

4 ~~(ix)~~(xi) Having a true report in the Child
 5 Maltreatment Central Registry; and

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

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

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

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

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

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

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

28
 29 SECTION 7. Arkansas Code § 6-17-414(b), concerning the criminal
 30 records check as a condition for initial employment of nonlicensed school
 31 personnel, is amended to add an additional subdivision to read as follows:

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

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 35 SECTION 8. Arkansas Code § 6-17-414(e)(2)-(5), concerning the
 36 disqualification for employment of nonlicensed public school personnel, is

1 amended to read as follows:

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

5 (3) Has had a plea of guilty or nolo contendere to any offense
 6 involving the physical or sexual injury, mistreatment, or abuse of another,
 7 set aside, dismissed, or result in an adjudication of non-guilt subsequent to
 8 the successful completion of a diversionary program;

9 (4) Is subject to the provisions of § 12-12-905;

10 (5) Knowingly submits or provides false or misleading
 11 information or knowingly fails to submit or provide information requested or
 12 required by law to the Department of Education, the state board, or Arkansas
 13 Legislative Audit;

14 ~~(4)~~(6) Knowingly falsifies or directs another to falsify any
 15 grade given to a student, whether the grade was given for an individual
 16 assignment or examination or at the conclusion of a regular grading period;
 17 or

18 ~~(5)~~(7) Has a true report in the Child Maltreatment Central
 19 Registry.

20
 21 SECTION 9. Arkansas Code § 6-17-414(f)(1), concerning reporting of
 22 disqualifying offenses to the State Board of Education, is amended to read as
 23 follows:

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

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

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

34 (B) Has intentionally compromised the validity or security
 35 of any student test or testing program administered or required by the
 36 Department of Education;

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

4 (D) Has a true report in the Child Maltreatment Central
 5 Registry.

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 7 SECTION 10. Arkansas Code § 6-17-417 is amended to read as follows:
 8 6-17-417. Fingerprint or name check.

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

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

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

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

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

24 ~~(A) Individual is applying from out of state or out of~~
 25 ~~country; or~~

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

30 ~~(d)(e)~~ In any instance where a person must apply to the Identification
 31 Bureau of the Department of Arkansas State Police for a statewide and
 32 nationwide criminal records check as a condition for a license issued by the
 33 State Board of Education or as a condition for employment by an educational
 34 entity and where a legible set of fingerprints, as determined by the
 35 Identification Bureau of the Department of Arkansas State Police, cannot be
 36 obtained from an applicant after a minimum of two (2) attempts, the

1 Department of Education or the educational entity shall determine eligibility
 2 for licensure or employment based on the criteria established by rules
 3 promulgated by the state board.

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

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

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

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

15 (A) A legible set of the applicant's fingerprints are
 16 obtained when the applicant enrolls in the Next Generation Identification
 17 system; and

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

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

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