

Stricken language would be deleted from and underlined language would be added to present law.
Act 746 of the Regular Session

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/8/17
A Bill

HOUSE BILL 1579

By: Representative Vaught
By: Senator B. Johnson

For An Act To Be Entitled

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

Subtitle

TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING BACKGROUND CHECKS FOR PUBLIC
SCHOOL EDUCATORS AND EMPLOYEES.

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

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

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

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

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



eligibility.

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

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

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

~~(v)(a)~~ 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;

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

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

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

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

~~(viii)(ix)~~ (ix) Knowingly falsifying or directing 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

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

Maltreatment Central Registry; and

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

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

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

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

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

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

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

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

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

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

~~(4)~~(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

~~(5)~~(6) Has a true report in the Child Maltreatment Central Registry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

/s/Vaught

APPROVED: 03/29/2017