

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 572

By: Senator J. English
By: Representative Cozart

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING SCHOOL EMPLOYEE MISCONDUCT AND BACKGROUND
CHECKS FOR REGISTERED VOLUNTEERS; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING SCHOOL EMPLOYEE MISCONDUCT AND
BACKGROUND CHECKS FOR REGISTERED
VOLUNTEERS.

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

SECTION 1. Arkansas Code § 6-17-407(b)(2), concerning the investigation of allegations of public school employee criminal misconduct, is amended to read as follows:

(2)(A) If the superintendent finds no basis for allegations of criminal misconduct, he or she shall not be required to place any documents relative to such allegations or the subsequent investigation in the employee's personnel file.

(B) However, if the superintendent finds probable cause that the employee has engaged in sexual misconduct with a minor, then the superintendent or his or her designee shall not provide a favorable recommendation of employment on behalf of the employee.

SECTION 2. Arkansas Code § 6-17-414(a), concerning criminal records



checks as conditions for initial employment for nonlicensed personnel, is amended to read as follows:

(a)(1)(A)(i) Except as provided in subdivision (a)(1)(C) of this section, the board of directors of an educational entity shall require as a condition for initial employment or noncontinuous reemployment in a nonlicensed staff position any person making application to apply to the Identification Bureau of the Division of Arkansas State Police for statewide and nationwide criminal records checks, the latter to be conducted by the Federal Bureau of Investigation.

(ii)(a) Except as provided under subdivision (a)(1)(C) of this section, if a registered volunteer, as defined by § 6-22-103, is in the process of obtaining a coaching certificate or will be working with students in an athletic coaching capacity, then the board of directors of the educational entity to which the individual is applying to be a registered volunteer shall require as a condition for the registered volunteer's unsupervised contact with students that the registered volunteer apply to the Identification Bureau of the of the Division of Arkansas State Police for statewide and nationwide criminal records checks.

(b) A nationwide criminal records check conducted as required under subdivision (a)(1)(A)(ii)(a) of this section shall be conducted by the Federal Bureau of Investigation.

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

~~(iii)(iv)~~ The Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation may maintain these fingerprints in the automated fingerprint identification system.

(B)(i) The person shall sign a release of information to the Division of Elementary and Secondary Education.

(ii) Unless the employing educational entity's board of directors has taken action to pay for the cost of criminal background checks required by this section, the employment applicant or person applying to become a registered volunteer as described by subdivision (a)(1)(A)(ii)(a) of this section shall be responsible for the payment of any fee associated with the criminal records checks.

(C)(i) The board of directors of a school district created

by consolidation, annexation, or detachment may waive the requirements under subdivisions (a)(1)(A) and (B) of this section for personnel or registered volunteers as described by subdivision (a)(1)(A)(ii)(a) of this section who were employed by an affected district immediately before the annexation, consolidation, or detachment and who had complete criminal background checks conducted as a condition of the person's most recent employment with the affected district as required under this section.

(ii) As used in subdivision (a)(1)(C)(i) of this section, "affected district" means a school district that loses territory or students as a result of annexation, consolidation, or detachment.

(2)(A) Upon completion of the criminal records check, the Identification Bureau of the Division of Arkansas State Police shall forward all releasable information obtained concerning the person to the Division of Elementary and Secondary 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) A sealed, expunged, or pardoned conviction shall not disqualify a person under this section if the conviction does not involve the physical or sexual injury, mistreatment, or abuse of another.

(3)(A) The board of directors of an educational entity shall require as a condition for initial employment or noncontinuous reemployment of all nonlicensed personnel and registered volunteers as described by subdivision (a)(1)(A)(ii)(a) of this section a Child Maltreatment Central Registry check by the Department of Human Services.

(B) The applicant shall sign a release of information to the Division of Elementary and Secondary Education and shall be responsible for the payment of any fee associated with the Child Maltreatment Central Registry check.

(C) The ~~Department of Human Services~~ department shall forward all releasable information concerning the applicant to the Division of Elementary and Secondary Education upon completion of the Child Maltreatment Central Registry check.

SECTION 2. The introductory language of Arkansas Code § 6-17-414(b), concerning regarding the offenses that disqualify an individual for employment by an educational entity as a nonlicensed staff position, is

amended to read as follows:

(b) A person, including without limitation nonlicensed persons who provide services as a substitute teacher, shall not be eligible for employment, whether initial employment, reemployment, or continued employment, by an educational entity in a nonlicensed staff position or as a registered volunteer as described by subdivision (a)(1)(A)(ii)(a) of this section if the person has a true report in the Child Maltreatment Central Registry or has pled guilty or nolo contendere to or has been found guilty of any of the following offenses by a court in the State of Arkansas or of any similar offense by a court in another state or by a federal court:

SECTION 4. Arkansas Code § 6-17-414(d), concerning information received by the Division of Elementary and Secondary Education from the Identification Bureau of the Division of Arkansas State Police as it pertains to background checks, is amended to read as follows:

(d)(1) Any information received by the Division of Elementary and Secondary Education from the Identification Bureau of the Division of Arkansas State Police or the department pursuant to this section shall not be available for examination except by the affected applicant for employment, the registered volunteer as described by subdivision (a)(1)(A)(ii)(a) of this section, or his or her duly authorized representative, and ~~no~~ a record, file, or document shall not be removed from the custody of the Division of Elementary and Secondary Education.

(2) Any information made available to the affected applicant or registered volunteer as described by subdivision (a)(1)(A)(ii)(a) of this section for employment shall be information pertaining to that applicant only.

(3) Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.

APPROVED: 4/12/23