

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1650

By: Representatives Ratliff, Baltz

By: Senator B. Pierce

For An Act To Be Entitled

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

Subtitle

TO AMEND PROVISIONS OF THE ARKANSAS CODE
CONCERNING BACKGROUND CHECKS FOR LICENSED
PERSONNEL AND CLASSIFIED EMPLOYEES OF
PUBLIC SCHOOLS.

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

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

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

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

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



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

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

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

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

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

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

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

(v)(a) Having 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;

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

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

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

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

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

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

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

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

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

(j) As used in this section:

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

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

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

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

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

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

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

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

(d) As used in this section:

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

(A) The Department of Education; or

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

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

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

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

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

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

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

(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;

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

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

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

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

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

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

(h) As used in this section:

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

(A) The Department of Education; or

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

(2) "Nonlicensed staff position" includes a:

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

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

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

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

6-17-417. Fingerprint or name check.

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

(c)(1) Beginning July 1, 2016, all fingerprints shall be taken by an electronic 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) 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 a ~~local school district~~ 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 after a minimum of ~~three (3)~~ two (2) attempts, the Department of Education or the ~~local school district~~ educational entity shall determine eligibility for licensure or employment based ~~upon a name check by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation~~ on the criteria established by rules promulgated by the State Board of Education.

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

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

(A) Upon application; and

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