

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1544

By: Representative S. Meeks

By: Senator J. Sturch

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
GOVERNING BACKGROUND CHECKS FOR LICENSED AND
CLASSIFIED SCHOOL PERSONNEL; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND LAWS GOVERNING BACKGROUND CHECKS
FOR LICENSED AND CLASSIFIED SCHOOL
PERSONNEL.

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

SECTION 1. Arkansas Code § 6-17-410(b)(2)(B), concerning an expunged or pardoned conviction of licensed personnel, is amended to read as follows:

(B) ~~As~~ A sealed, 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~~ does not involve the physical or sexual injury, mistreatment, or abuse of another.

SECTION 2. Arkansas Code § 6-17-410(c), concerning the prohibition on the State Board of Education against issuing a first-time license or renewal of a license upon notification of certain reports in a background check, is amended to read as follows:

(c) The state board shall not issue a first-time license ~~nor~~ or renew an existing license and shall revoke ~~any~~ an existing license not up for renewal of ~~any~~ a person who has a true report in the Child Maltreatment



Central Registry or who has pled guilty or nolo contendere to or has been found guilty of any of the following offenses by ~~any~~ a court in the State of Arkansas or of any similar offense by a court in another state or ~~of any similar offense~~ by a federal court:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Battery in the first degree as prohibited in § 5-13-201 and battery in the second degree as prohibited in § 5-13-202;
- (5) Aggravated assault as prohibited in § 5-13-204, and assault in the first degree as prohibited by § 5-13-205;
- (6) Terroristic threatening in the first degree as prohibited in § 5-13-301;
- (7) Kidnapping as prohibited in § 5-11-102;
- (8) Rape as prohibited in § 5-14-103;
- (9) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;
- (10) Incest as prohibited in § 5-26-202;
- (11) ~~Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, or producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403~~ A violation of the Arkansas Protection of Children Against Exploitation Act of 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as prohibited by §§ 5-27-402 and 5-27-403;
- (12) Distribution to minors as prohibited in § 5-64-406;
- (13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;
- (14) Sexual indecency with a child as prohibited in § 5-14-110;
- (15) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205, or endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
- (16) ~~Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child as prohibited by § 5-27-304~~;

- ~~(17)~~(16) False imprisonment in the first degree as prohibited in § 5-11-103;
- ~~(18)~~(17) Permanent detention or restraint as prohibited in § 5-11-106;
- ~~(19)~~(18) Permitting abuse of a child as prohibited in § 5-27-221(a);
- ~~(20)~~(19) Negligent homicide as prohibited by § 5-10-105(a);
- ~~(21)~~ ~~Assault in the first degree as prohibited by § 5-13-205;~~
- ~~(22)~~(20) Coercion as prohibited by § 5-13-208;
- ~~(23)~~(21) Public sexual indecency as prohibited by § 5-14-111;
- ~~(24)~~(22) Indecent exposure as prohibited by § 5-14-112;
- ~~(25)~~ ~~Endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;~~
- ~~(26)~~(23) Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;
- ~~(27)~~(24) Computer child pornography as prohibited in § 5-27-603;
- ~~(28)~~(25) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
- ~~(29)~~(26) Felony theft as prohibited in §§ 5-36-103 – 5-36-106 and 5-36-202;
- ~~(30)~~(27) Robbery as prohibited by §§ 5-12-102 and 5-12-103;
- ~~(31)~~(28) Breaking or entering as prohibited by § 5-39-202;
- ~~(32)~~(29) Burglary as prohibited by § 5-39-201 and aggravated residential burglary as prohibited by § 5-39-204;
- ~~(33)~~(30) Forgery as prohibited by § 5-37-201;
- ~~(34)~~(31) Video voyeurism as prohibited by § 5-16-101, and voyeurism as prohibited under § 5-16-102;
- ~~(35)~~(32) Domestic battering in the first degree as prohibited by § 5-26-303;
- ~~(36)~~(33) Domestic battering in the second degree as prohibited by § 5-26-304;
- ~~(37)~~(34) Felony violation of an order of protection as prohibited by § 5-53-134;
- ~~(38)~~(35) Prostitution as prohibited by § 5-70-102;
- ~~(39)~~(36) Sexual solicitation as prohibited by § 5-70-103;

- ~~(40)~~(37) Promoting prostitution in the first degree as prohibited by § 5-70-104;
- ~~(41)~~(38) Promoting prostitution in the second degree as prohibited by § 5-70-105;
- ~~(42)~~(39) Stalking as prohibited by § 5-71-229;
- ~~(43)~~(40) Failure to notify by a mandated reporter in the first degree as prohibited by § 12-18-201;
- ~~(44)~~(41) Any felony not listed in this subsection and involving physical or sexual injury, mistreatment, or abuse against another person;
- ~~(45)~~(42) Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
- ~~(46)~~(43) Sexual extortion, § 5-14-113; ~~and~~
- ~~(47)~~(44) Failure to comply with the registration and reporting requirements of § 12-12-904-~~r~~;
- (45) Trafficking of a person as prohibited by § 5-18-103;
- (46) Patronizing a victim of human trafficking as prohibited by § 5-18-104;
- (47) Aggravated assault on a family member or household member as prohibited member as prohibited by § 5-26-306; and
- (48) Computer crimes against a minor as prohibited by §§ 5-27-601 et seq.

SECTION 3. Arkansas Code § 6-17-410(d)(1)(A)(v), concerning the definition of "for cause" with respect to disciplinary action taken by the State Board of Education against a teacher's license, is amended to read as follows:

(v) 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 that involves the physical or sexual injury, mistreatment, or abuse of another person;

SECTION 4. Arkansas Code § 6-17-410(d)(1)(A), concerning the definition of "for cause" with respect to disciplinary action taken by the State Board of Education against a teacher's license, is amended to add additional subdivisions to read as follows:

(xi) Violating any other provision of state law for

which the penalty is the suspension or revocation of an teacher's license; or
(xii) Undergoing an involuntary commitment for a
physical or mental illness that endangers the health, safety, welfare, or
education of a student, as determined by a licensed health professional,
until the person provides documentation from a licensed health professional
of treatment of the physical or mental illness and the person's current
fitness; and

SECTION 5. Arkansas Code § 6-17-414(a)(2)(B), concerning an expunged or pardoned conviction of nonlicensed school personnel, is amended to read as follows:

(B) ~~As~~ A sealed, 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~~ does not involve the physical or sexual injury, mistreatment, or abuse of another.

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

(b) ~~No~~ 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 if ~~that~~ 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 ~~any~~ a court in the State of Arkansas or of any similar offense by a court in another state or ~~of any similar offense~~ by a federal court:

- (1) Capital murder as prohibited in § 5-10-101;
- (2) Murder in the first degree as prohibited in § 5-10-102 and murder in the second degree as prohibited in § 5-10-103;
- (3) Manslaughter as prohibited in § 5-10-104;
- (4) Battery in the first degree as prohibited in § 5-13-201 and battery in the second degree as prohibited in § 5-13-202;
- (5) Aggravated assault as prohibited in § 5-13-204, and assault in the first degree as prohibited by § 5-13-205;

- (6) Terroristic threatening in the first degree as prohibited in § 5-13-301;
- (7) Kidnapping as prohibited in § 5-11-102;
- (8) Rape as prohibited in § 5-14-103;
- (9) Sexual assault in the first degree, second degree, third degree, and fourth degree as prohibited in §§ 5-14-124 – 5-14-127;
- (10) Incest as prohibited in § 5-26-202;
- (11) ~~Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, employing or consenting to the use of a child in a sexual performance, or producing, directing, or promoting a sexual performance by a child as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403~~ A violation of the Arkansas Protection of Children Against Exploitation Act of 1979, § 5-27-301 et seq., or the use of a child in a sexual performance as prohibited by §§ 5-27-402 and 5-27-403;
- (12) Distribution to minors as prohibited in § 5-64-406;
- (13) Any felony in violation of the Uniform Controlled Substances Act, § 5-64-101 et seq.;
- (14) Criminal attempt, criminal solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;
- (15) Sexual indecency with a child as prohibited in § 5-14-110;
- (16) Endangering the welfare of a minor in the first degree as prohibited in § 5-27-205, or endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;
- ~~(17) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child as prohibited by § 5-27-304;~~
- ~~(18)~~(17) False imprisonment in the first degree as prohibited in § 5-11-103;
- ~~(19)~~(18) Permanent detention or restraint as prohibited in § 5-11-106;
- ~~(20)~~(19) Permitting abuse of a child as prohibited in § 5-27-221(a);
- ~~(21)~~(20) Negligent homicide as prohibited by § 5-10-105(a);
- ~~(22) Assault in the first degree as prohibited by § 5-13-205;~~
- ~~(23)~~(21) Coercion as prohibited by § 5-13-208;

- ~~(24)~~(22) Public sexual indecency as prohibited by § 5-14-111;
- ~~(25)~~(23) Indecent exposure as prohibited by § 5-14-112;
- ~~(26)~~ ~~Endangering the welfare of a minor in the second degree as prohibited by § 5-27-206;~~
- ~~(27)~~(24) Computer child pornography as prohibited in § 5-27-603;
- ~~(28)~~(25) Computer exploitation of a child in the first degree as prohibited in § 5-27-605;
- ~~(29)~~(26) Felony theft as prohibited in §§ 5-36-103 – 5-36-106 and 5-36-202;
- ~~(30)~~(27) Robbery as prohibited by §§ 5-12-102 and 5-12-103;
- ~~(31)~~(28) Breaking or entering as prohibited by § 5-39-202;
- ~~(32)~~(29) Burglary as prohibited by § 5-39-201 and aggravated residential burglary as prohibited by § 5-39-204;
- ~~(33)~~(30) Forgery as prohibited by § 5-37-201;
- ~~(34)~~(31) Video voyeurism as prohibited by § 5-16-101, and voyeurism as prohibited under § 5-16-102;
- ~~(35)~~(32) Domestic battering in the first degree as prohibited by § 5-26-303;
- ~~(36)~~(33) Domestic battering in the second degree as prohibited by § 5-26-304;
- ~~(37)~~(34) Felony violation of an order of protection as prohibited by § 5-53-134;
- ~~(38)~~(35) Prostitution as prohibited by § 5-70-102;
- ~~(39)~~(36) Sexual solicitation as prohibited by § 5-70-103;
- ~~(40)~~(37) Promoting prostitution in the first degree as prohibited by § 5-70-104;
- ~~(41)~~(38) Promoting prostitution in the second degree as prohibited by § 5-70-105;
- ~~(42)~~(39) Stalking as prohibited by § 5-71-229;
- ~~(43)~~(40) Failure to notify by a mandated reporter in the first degree as prohibited by § 12-18-201;
- ~~(44)~~(41) Any felony not listed in this subsection and involving physical or sexual injury, mistreatment, or abuse against another person;
- ~~(45)~~(42) Aggravated assault upon a law enforcement officer or an employee of a correctional facility, § 5-13-211, if a Class Y felony;
- ~~(46)~~(43) Sexual extortion, § 5-14-113; ~~and~~

~~(47)~~(44) Failure to comply with the registration and reporting requirements of § 12-12-904+;

(45) Trafficking of a person as prohibited by § 5-18-103;

(46) Patronizing a victim of human trafficking as prohibited by § 5-18-104;

(47) Aggravated assault on a family member or household member as prohibited member as prohibited by § 5-26-306; and

(48) Computer crimes against a minor as prohibited by §§ 5-27-601 et seq.

SECTION 7. Arkansas Code § 6-17-414(c), concerning provisional employment of nonlicensed personnel pending receipt of eligibility, is amended to read as follows:

(c) However, the board of directors of an educational entity is authorized to offer provisional employment to an applicant pending ~~receipt~~ notification of eligibility information from the ~~Department of Education~~ department, which may be provided in an electronic format.

SECTION 8. Arkansas Code § 6-17-414(e)(5) and (6), concerning the determination that an applicant for employment in a nonlicensed staff position is ineligible, are amended to read as follows:

(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~~

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

(7) Has an involuntary commitment for a physical or mental illness that endangers the health, safety, welfare, or education of a student, as determined by a licensed health professional, until the person provides documentation from a licensed health professional of treatment of the physical or mental illness and the person's current fitness.

SECTION 9. Arkansas Code § 6-17-414 is amended to add an additional subsection to read as follows:

(i) The state board shall adopt the necessary rules to implement this section.