

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 572

5 By: Senator J. English
6 By: Representative Cozart
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS OF THE ARKANSAS CODE
10 CONCERNING SCHOOL EMPLOYEE MISCONDUCT AND BACKGROUND
11 CHECKS FOR REGISTERED VOLUNTEERS; AND FOR OTHER
12 PURPOSES.
13

Subtitle

16 TO AMEND PROVISIONS OF THE ARKANSAS CODE
17 CONCERNING SCHOOL EMPLOYEE MISCONDUCT AND
18 BACKGROUND CHECKS FOR REGISTERED
19 VOLUNTEERS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 6-17-407(b)(2), concerning the
25 investigation of allegations of public school employee criminal misconduct,
26 is amended to read as follows:

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

31 (B) However, if the superintendent finds probable cause
32 that the employee has engaged in sexual misconduct with a minor, then the
33 superintendent or his or her designee shall not provide a favorable
34 recommendation of employment on behalf of the employee.
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36 SECTION 2. Arkansas Code § 6-17-414(a), concerning criminal records



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

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

10 (ii)(a) Except as provided under subdivision
11 (a)(1)(C) of this section, if a registered volunteer, as defined by § 6-22-
12 103, is in the process of obtaining a coaching certificate or will be working
13 with students in an athletic coaching capacity, then the board of directors
14 of the educational entity to which the individual is applying to be a
15 registered volunteer shall require as a condition for the registered
16 volunteer’s unsupervised contact with students that the registered volunteer
17 apply to the Identification Bureau of the of the Division of Arkansas State
18 Police for statewide and nationwide criminal records checks.

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

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

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

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

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

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

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

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

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

17 (B) A sealed, expunged, or pardoned conviction shall not
18 disqualify a person under this section if the conviction does not involve the
19 physical or sexual injury, mistreatment, or abuse of another.

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

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

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

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

1 amended to read as follows:

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

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

16 (d)(1) Any information received by the Division of Elementary and
17 Secondary Education from the Identification Bureau of the Division of
18 Arkansas State Police or the department pursuant to this section shall not be
19 available for examination except by the affected applicant for employment,
20 the registered volunteer as described by subdivision (a)(1)(A)(ii)(a) of this
21 section, or his or her duly authorized representative, and ~~ne~~ a record, file,
22 or document shall not be removed from the custody of the Division of
23 Elementary and Secondary Education.

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

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

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APPROVED: 4/12/23