

2018 Regular Session

HOUSE BILL NO. 796

BY REPRESENTATIVE LANCE HARRIS

TEACHERS: Provides relative to the certification and employment in schools of certain persons convicted of felony offenses and the withholding of minimum foundation program funds to public school boards who hire certain persons

1 AN ACT

2 To amend and reenact R.S. 17:7(6)(a)(i), 15, and 3991(E)(5), to enact R.S. 17:7(6)(h) and

3 (i) and 3996(B)(45), and to repeal R.S. 17:3974, relative to the certification and

4 employment in schools of certain persons; to prohibit public and nonpublic schools

5 from hiring persons convicted of felony offenses as teachers or substitute teachers;

6 to prohibit such schools from hiring persons as teachers or substitute teachers who

7 submitted certain fraudulent documentation or facilitated cheating on state

8 assessments; to provide exceptions; to authorize the State Board of Elementary and

9 Secondary Education to issue teaching certificates and other teaching authorization

10 to such persons under certain circumstances; to provide for the withholding of

11 minimum foundation program funds to public school boards who hire certain

12 persons; to increase the penalties for violations relative to reporting convictions or

13 pleas; to require the State Board of Elementary and Secondary Education to

14 promulgate rules and regulations to establish a process for issuing a teaching

15 authorization to persons seeking employment in certain schools; to provide for

16 effectiveness; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. R.S. 17:7(6)(a)(i), 15, and 3991(E)(5) are hereby amended and reenacted
19 and R.S. 17:7(6)(h) and (i) and 3996(B)(45) are hereby enacted to read as follows:

1 §7. Duties, functions, and responsibilities of board

2 In addition to the authorities granted by R.S. 17:6 and any powers, duties, and
3 responsibilities vested by any other applicable laws, the board shall:

4 * * *

5 (6)(a)(i) Prescribe the qualifications and provide for the certification of
6 teachers in accordance with applicable law, which qualifications and requirements
7 shall ~~be such as to insure~~ ensure that certification shall be a reliable indicator of the
8 minimum current ability and proficiency of the teacher to educate at the grade level
9 and in the ~~subject(s)~~ subjects to which the teacher is assigned. ~~These qualifications~~
10 ~~and requirements shall be established and shall be effective on and after April 1,~~
11 ~~1978.~~

12 * * *

13 (h) The board may issue a teaching certificate or other teaching authorization
14 to a person who has been convicted of or has pled nolo contendere to a felony
15 offense not listed in R.S. 15:587.1(C) or who has been found to have submitted
16 fraudulent documentation to the board or the state Department of Education as part
17 of an application for a teaching certificate or other teaching authorization if all of the
18 following conditions apply:

19 (i) Three years have passed from the date of entry of the person's final
20 conviction, plea of nolo contendere, or submission of fraudulent documentation.

21 (ii) The board has received a request from the person for a formal appeal and
22 has conducted a review of the person's background and the person has provided
23 letters of recommendation to the board, all in accordance with board policies.

24 (i) The board shall promulgate rules and regulations in accordance with the
25 Administrative Procedure Act to establish a process for issuing a teaching
26 authorization to a person seeking employment in a public or nonpublic school that
27 does not require a Louisiana teaching certificate for the employment of a teacher or
28 a substitute teacher. Such rules and regulations shall include but shall not be limited
29 to procedures for determining if a person has submitted fraudulent documentation

1 to the board or the state Department of Education related to the issuance of the
2 teaching authorization or has facilitated cheating on any state assessment
3 administered to students.

4 * * *

5 §15. Criminal history review

6 A.(1)(a) ~~No~~ A person who has been convicted of or has pled nolo contendere
7 to a crime listed in R.S. 15:587.1(C) shall not be hired by ~~any~~ a city, parish, or other
8 local public school board or ~~any~~ a nonpublic school or school system as a ~~teacher,~~
9 ~~substitute teacher,~~ bus operator, substitute bus operator, or janitor, or as a temporary,
10 part-time, or permanent school employee of any kind.

11 (b)(i) Except as otherwise provided in this Subparagraph, a city, parish, or
12 other local public school board or a nonpublic school or school system shall not hire
13 a person as a teacher or substitute teacher if the person:

14 (aa) Has been convicted of or has pled nolo contendere to a felony offense
15 even if adjudication was withheld or a pardon or expungement was granted.

16 (bb) Has been found to have submitted fraudulent documentation to the State
17 Board of Elementary or Secondary Education or the state Department of Education
18 as part of an application for a Louisiana teaching certificate or other teaching
19 authorization.

20 (cc) Has been found to have facilitated cheating on any state assessment as
21 determined by the State Board of Elementary and Secondary Education.

22 (ii) A city, parish, or other local public school board or a nonpublic school
23 or school system may hire a person as a teacher or substitute teacher who has been
24 convicted of or has pled nolo contendere to a crime not listed in R.S. 15:587.1(C) or
25 who has been found to have submitted fraudulent documentation to the State Board
26 of Elementary or Secondary Education or the state Department of Education as part
27 of an application for a Louisiana teaching certificate or other teaching authorization
28 if the State Board of Elementary and Secondary Education approves a formal appeal

1 request submitted by the person and issues a teaching certificate or authorization as
2 provided in R.S. 17:7(6)(h).

3 ~~(b)~~(c) For purposes of this Section, any person employed to provide cafeteria,
4 transportation, janitorial, maintenance, or student services by any person or entity
5 that contracts with a school or school system to provide such services shall be
6 considered to be hired by a school system.

7 ~~(c)~~(d) This Section shall not apply to any nonpublic school or nonpublic
8 school system which contracts with an entity providing any of the services listed in
9 Subparagraph ~~(b)~~(c) of this Paragraph to a nonpublic school or nonpublic school
10 system when such school or school system determines that the employees of such
11 contractor will have limited contact with students. In determining whether such a
12 contractor's employee will have limited contact with students, the nonpublic school
13 or nonpublic school system shall consider the totality of the circumstances, including
14 factors such as the length of time the contractor's employee will be on the school
15 grounds, whether students will be in proximity with the site where the contractor's
16 employee will be working, and whether the contractor's employee will be working
17 by himself or with others. If a nonpublic school or nonpublic school system has
18 made this determination, it shall take appropriate steps to protect the safety of any
19 students that may come in contact with such a contractor's employee.

20 (2)(a) A city, parish, or other local public school board shall dismiss:

21 (i) ~~Any~~ A teacher upon the final conviction of such teacher of any ~~crime~~
22 ~~listed in R.S. 15:587.1(C) felony offense~~, ~~except R.S. 14:74~~, and ~~any~~ a teacher who
23 has pled nolo contendere to any ~~crime listed in R.S. 15:587.1(c) felony offense~~
24 ~~,except R.S. 14:74~~, after a hearing held pursuant to the provisions of Part II of
25 Chapter 2 of this Title.

26 (ii) A teacher who is found to have submitted fraudulent documentation to
27 the State Board of Elementary and Secondary Education or the state Department of
28 Education as part of an application for a Louisiana teaching certificate or other
29 teaching authorization.

1 (iii) A teacher who is found to have facilitated cheating on any state
2 assessment as determined by the State Board of Elementary and Secondary
3 Education.

4 ~~(ii)(iv)~~ Any other school employee if such employee is convicted of or pleads
5 nolo contendere to a crime listed in R.S. 15:587.1(C), except R.S. 14:74.

6 ~~(iii)(b)~~ The superintendent of schools of any school system dismissing an
7 employee pursuant to the provisions of this Paragraph shall notify the state
8 superintendent of education of the employee's dismissal not later than thirty days
9 after such dismissal.

10 ~~(b)(c)~~ A city, parish, or other local public school board may reemploy a
11 teacher or other school employee who has been ~~convicted~~ dismissed for conviction
12 of a crime ~~listed in R.S. 15:587.1(C), except R.S. 14:74,~~ pursuant to Subparagraph
13 (a) of this Paragraph only upon written approval of the district judge of the parish
14 and the district attorney, or upon written documentation from the court in which the
15 conviction occurred stating that the conviction has been reversed, set aside, or
16 vacated. Any such statement of approval of the judge and the district attorney and
17 any such written documentation from the court shall be kept on file at all times by
18 the school and shall be produced upon request to any law enforcement officer. ~~Also,~~
19 ~~not~~ No later than thirty days after its being placed on file by the school, the school
20 principal shall submit a copy of any such statement of approval or written
21 documentation from the court to the state superintendent of education.

22 B. Each city, parish, and other local public school board shall establish, by
23 regulation, requirements, and procedures consistent with the provisions of R.S.
24 15:587.1 under which the school systems shall determine whether an applicant, or
25 employee, including any person employed as provided in Subparagraph (A)(1)~~(b)(c)~~
26 of this Section, has been arrested for or convicted of or pled nolo contendere to any
27 criminal offense. Included in this regulation shall be the requirement and the
28 procedure for the submission of a person's fingerprints in a form acceptable to the
29 Louisiana Bureau of Criminal Identification and Information prior to employment

1 of such person. ~~A person who has submitted his fingerprints to the Louisiana Bureau~~
2 ~~of Criminal Identification and Information may be temporarily hired pending the~~
3 ~~report from the bureau as to any convictions of or pleas of nolo contendere by the~~
4 ~~person to a crime listed in R.S. 15:587.1(C), except R.S. 14:74.~~

5 C. The State Board of Elementary and Secondary Education by rule adopted
6 in accordance with the Administrative Procedure Act ~~may~~ shall establish
7 requirements and procedures consistent with the provisions of R.S. 15:587.1 and the
8 provisions for all other felony offenses for the state Department of Education to
9 determine whether an applicant for; or the recipient of; any certificate, ~~or~~ license, or
10 other teaching authorization issued in accordance with state law or board policy, ~~or~~
11 ~~both~~, by the department or ~~by~~ the board and who might reasonably be expected to be
12 placed in a position of supervisory or disciplinary authority over school children has
13 been ~~arrested for or~~ convicted of or pled nolo contendere to any criminal offense.
14 Included in this rule shall be the requirement and the procedure for the submission
15 of a person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal
16 Identification and Information.

17 D. For the purposes of this Section, "city, parish, or other local public school
18 board" shall mean the governing authority of any public elementary or secondary
19 school.

20 E.(1) A teacher or ~~any~~ other school employee upon his final conviction or
21 plea of guilty or nolo contendere to any criminal offense, excluding traffic offenses,
22 shall report the fact of his conviction or plea to his employer within forty-eight hours
23 of the conviction or plea of guilty or nolo contendere.

24 (2) ~~Any~~ A person who fails to report a conviction or plea of guilty or nolo
25 contendere of any ~~criminal offense listed in the provisions of R.S. 15:587.1(C)(1)~~
26 felony offense shall be fined not more than ~~five hundred~~ one thousand dollars or
27 imprisoned for not more than ~~six months~~ one year, with or without hard labor, or
28 both.

1 as part of an application for a Louisiana teaching certificate or other teaching
2 authorization.

3 (iii) Has been found to have facilitated cheating on any state assessment as
4 determined by the State Board of Elementary and Secondary Education.

5 (iv) A charter school may hire a person as a teacher or substitute teacher who
6 has been convicted of or has pled nolo contendere to a crime not listed in R.S.
7 15:587.1(C) or has been found to have submitted fraudulent documentation to the
8 state board or the state Department of Education as part of an application for a
9 Louisiana teaching certificate or other teaching authorization if the state board
10 approves a formal appeal request submitted by the person and issues a teaching
11 certificate or authorization as provided in R.S. 17:7(6)(h).

12 (b) The state board shall establish regulations, requirements, and procedures
13 consistent with the provisions of R.S. 15:587.1 under which the school systems shall
14 determine whether an applicant or employee has been convicted of or pled nolo
15 contendere to crimes listed in R.S. 15:587.1(C), except R.S. 14:74, and whether an
16 applicant for a position of a teacher or substitute teacher has been convicted of or
17 pled nolo contendere to any other felony offense. Included in ~~this regulation~~ these
18 regulations shall be the requirement and the procedure for the submission of a
19 person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal
20 Identification and Information prior to employment of such person. ~~A person who~~
21 ~~has submitted his fingerprints to the Louisiana Bureau of Criminal Identification and~~
22 ~~Information may be temporarily hired pending the report from the bureau as to any~~
23 ~~convictions of or pleas of nolo contendere by the person to a crime listed in R.S.~~
24 ~~15:587.1(C), except R.S. 14:74.~~

25 * * *

26 §3996. Charter schools; exemptions; requirements

27 * * *

28 B. Notwithstanding any state law, rule, or regulation to the contrary and
29 except as may be otherwise specifically provided for in an approved charter, a

1 charter school established and operated in accordance with the provisions of this
2 Chapter and its approved charter and the school's officers and employees shall be
3 exempt from all statutory mandates or other statutory requirements that are
4 applicable to public schools and to public school officers and employees except for
5 the following laws otherwise applicable to public schools with the same grades:

6 * * *

7 (45) Criminal history review, R.S.17:15.

8 * * *

9 Section 2. R.S. 17:3974 is hereby repealed in its entirety.

10 Section 3. This Act shall become effective on July 1, 2018.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 796 Original

2018 Regular Session

Lance Harris

Abstract: Prohibits public and nonpublic schools from hiring persons as teachers who have been convicted of felony offenses, have submitted certain fraudulent documentation, or have facilitated cheating on state assessments. Provides exceptions. Authorizes the State Bd. of Elementary and Secondary Education (BESE) to issue teaching certificates and other teaching authorizations to such persons under certain circumstances and provides for the withholding of minimum foundation program (MFP) funds to public school boards who hire certain persons.

Present law prohibits public school boards (including charter school governing authorities) and nonpublic schools and school systems from hiring a person who has been convicted of or has pled nolo contendere to a crime listed in present law, R.S. 15:587.1(C), as a teacher, substitute teacher, bus operator, substitute bus operator, or janitor, or as a temporary, part-time, or permanent school employee. Requires local public school boards to dismiss any teacher upon the final conviction of such teacher or the teacher's plea of nolo contendere of any such listed crime (with one exception) after a hearing held pursuant to present law. Also requires the dismissal of any other school employee if such employee is convicted of or pleads nolo contendere to any such crime.

Present law allows reemployment of a teacher or other school employee who has been convicted of any such crime if approved in writing by district judge of the parish and the district attorney or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

Present law requires public school boards (including charter school governing authorities) to establish regulations, requirements, and procedures to determine whether an applicant or employee has been arrested for or convicted of or pled nolo contendere to any criminal offense. Provides relative to the submission of a person's fingerprints prior to employment. Provides that a person who has submitted his fingerprints to the La. Bureau of Criminal Identification and Information may be temporarily hired pending the report from the bureau.

Present law authorizes BESE to establish requirements and procedures (including the submission of fingerprints) for the state Dept. of Education to determine whether an applicant for or the recipient of any certificate or license issued has been arrested for or convicted of or pled nolo contendere to any criminal offense.

Present law requires teachers and other school employees upon his final conviction or plea of guilty or nolo contendere to a criminal offense to report such information to his employer within 48 hours and provides that a person who fails to report such information shall be fined not more than \$500 or imprisoned for not more than six months, with or without hard labor, or both.

Proposed law prohibits all public school boards and nonpublic schools from hiring a person as a teacher if the person has been convicted of or has pled nolo contendere to *any* felony offense even if adjudication was withheld or a pardon or expungement was granted. Further prohibits hiring any person as a teacher who has been found to have submitted fraudulent documentation to BESE or the state Dept. of Education as part of an application for a teaching certificate or other teaching authorization or has been found to have facilitated cheating on any state assessment as determined by BESE. Proposed law requires the dismissal of a teacher who has committed any of these offenses.

Proposed law permits a school board and a nonpublic school to hire a person as a teacher who has been convicted of or has pled nolo contendere to a crime *not* listed in present law (R.S. 15:587.1(C)) or who has been found to have submitted fraudulent documentation to BESE or the state Dept. of Education as part of an application for a teaching certificate or other teaching authorization if BESE approves a formal appeal request submitted by the person.

Proposed law allows the state Dept. of Education to withhold from a city, parish, or other local public school board's MFP allocation an amount equal to the total average yearly compensation for a public school teacher, inclusive of salary and benefits, of any person employed by the school board who has been convicted of or pled nolo contendere to any felony offense whose application to teach was not approved by BESE or for whom criminal records were not requested by the school board. Requires the department to report such instances of withholding to the House and Senate education committees and to continue such withholding until the person is dismissed, approval has been granted by BESE, or the criminal records review has been completed.

Proposed law deletes present law that permits the temporary hiring of a person who has submitted his fingerprints to the La. Bureau of Criminal Identification and Information.

Proposed law *requires* instead of authorizes BESE to establish requirements and procedures to determine whether a person has been arrested for or convicted of or pled nolo contendere to any criminal offense.

Proposed law increases the penalties for violations relative to reporting convictions and pleas to a fine of not more than \$1000 or imprisoned for not more than one year.

Proposed law authorizes BESE to issue a teaching certificate or other teaching authorization to a person who has been convicted of or has pled nolo contendere to a felony offense *not* listed in present law or has been found to have submitted fraudulent documentation to the board or the state Dept. of Education as part of an application for a teaching certificate or other teaching authorization after three years if certain conditions apply.

Proposed law requires BESE to promulgate rules and regulations to establish a process for issuing a teaching authorization to a person seeking employment in a public or nonpublic school that does not require a La. teaching certificate for the employment of a teacher or a substitute teacher. Requires that such rules and regulations include procedures for determining if a person has submitted fraudulent documentation to the board or the state

Dept. of Education related to the issuance of the teaching authorization or has facilitated cheating on any state assessment administered to students.

Effective July 1, 2018.

(Amends R.S. 17:7(6)(a)(i), 15, and 3991(E)(5); Adds R.S. 17:7(6)(h) and (i) and 3996(B)(45); Repeals R.S. 17:3974)