

ACT No. 634

2018 Regular Session

HOUSE BILL NO. 796

BY REPRESENTATIVE LANCE HARRIS

1 AN ACT

2 To amend and reenact R.S. 17:7(6)(a)(i) and (b)(i)(aa), 15, and 3991(E)(5), to enact R.S.
3 17:7(6)(h) and (i) and (10) and 3996(B)(45) and (46), 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 administrators, teachers, or
6 substitute teachers; to prohibit such schools from hiring persons as administrators,
7 teachers, or substitute teachers who submitted certain fraudulent documentation or
8 facilitated cheating on state assessments; to provide exceptions; to authorize the State
9 Board of Elementary and Secondary Education to issue teaching certificates and
10 other teaching authorization to such persons under certain circumstances; to provide
11 for the assessment of civil fines against 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) and (b)(i)(aa), 15, and 3991(E)(5) are hereby amended
19 and reenacted and R.S. 17:7(6)(h) and (i) and (10) and 3996(B)(45) and (46) are hereby
20 enacted to read as follows:

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

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

24 * * *

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

* * *

9 (b)(i)(aa) ~~On and after September 15, 1978, any~~ A person applying for initial
 10 certification as a teacher in a public school shall have passed satisfactorily an
 11 examination, which shall include English proficiency, pedagogical knowledge, and
 12 knowledge in his area of specialization, as a prerequisite to the granting of such
 13 certificate. However, a person who is employed as a foreign language teacher in a
 14 Certified Foreign Language Immersion Program pursuant to R.S. 17:273.2, and who
 15 is not otherwise eligible to receive state authorization to teach through participation
 16 in the Foreign Associate Teacher Program, shall not be required to pass the
 17 examination required by this Subitem, but shall at least have a baccalaureate degree
 18 and shall be subject to all provisions of state law relative to background checks and
 19 criminal history review applicable to the employment of public school personnel.

* * *

21 (h) The board may issue a teaching certificate or other teaching authorization
 22 to a person who has been convicted of or has pled nolo contendere to a felony
 23 offense not listed in R.S. 15:587.1(C), who has been found to have submitted
 24 fraudulent documentation to the board or the state Department of Education as part
 25 of an application for a teaching certificate or other teaching authorization, or who has
 26 been found to have facilitated cheating on any state assessment as determined by the
 27 board if all of the following conditions apply:

28 (i) Five years have passed from the date of entry of the person's final
 29 conviction, the date of entry of his plea of nolo contendere, or the date of receipt of

1 notification from the board of its determination that he submitted fraudulent
2 documentation or facilitated cheating on a state assessment.

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

6 (i) Not later than December thirty-first of each year, the board shall submit
7 a written report to the Senate Committee on Education and the House Committee on
8 Education detailing the number of appeals filed with the board for the calendar year,
9 the offense upon which the appeal is based, the disposition of each appeal, and the
10 number of teacher certifications or other authorization to teach issued as the result
11 of all successful appeals. The information in the report shall be reported in aggregate
12 and by individual school and school system.

13 * * *

14 (10) The board shall promulgate rules and regulations in accordance with the
15 Administrative Procedure Act to establish a process for issuing a teaching
16 authorization to a person seeking employment as an administrator, teacher, or
17 substitute teacher in any school, including a public or nonpublic school that does not
18 require a Louisiana teaching certificate for the employment of a teacher. Such rules
19 and regulations shall be limited to procedures for determining if a person has
20 submitted fraudulent documentation to the board or the state Department of
21 Education related to the issuance of the teaching authorization or has facilitated
22 cheating on any state assessment administered to students, or has been convicted of
23 or has pled nolo contendere to a felony offense. The rules and regulations also shall
24 include a requirement that the board, in accordance with R.S. 42:17(A)(1), notify the
25 person of its intention to discuss the person's character, professional competence, or
26 physical or mental health in an executive session and of the person's option to require
27 that the board discuss such matters in an open meeting.

28 * * *

1 §15. Criminal history review

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

7 **(b)(i) Except as otherwise provided in this Subparagraph, a city, parish, or**
 8 **other local public school board or a nonpublic school or school system shall not**
 9 **knowingly hire a person as an administrator, teacher, or substitute teacher if the**
 10 **person:**

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

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

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

19 **(ii) A city, parish, or other local public school board or a nonpublic school**
 20 **or school system may hire a person as an administrator, teacher, or substitute teacher**
 21 **who has been convicted of or has pled nolo contendere to a felony not listed in R.S.**
 22 **15:587.1(C), who has been found to have submitted fraudulent documentation to the**
 23 **State Board of Elementary and Secondary Education or the state Department of**
 24 **Education as part of an application for a Louisiana teaching certificate or other**
 25 **teaching authorization, or who has been found to have facilitated cheating on any**
 26 **state assessment as determined by the board if the State Board of Elementary and**
 27 **Secondary Education approves a formal appeal request submitted by the person and**
 28 **issues a teaching certificate or authorization as provided in R.S. 17:7(6)(h).**

29 ~~(b)(c)~~ For purposes of this Section, any person employed to provide cafeteria,
 30 transportation, janitorial, maintenance, or student services by any person or entity

1 that contracts with a school or school system to provide such services shall be
2 considered to be hired by a school system.

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

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

17 (i) ~~Any teacher~~ An administrator, teacher, or substitute teacher upon the final
18 conviction of ~~such teacher of any crime listed in R.S. 15:587.1(C), except R.S. 14:74,~~
19 ~~and any teacher who has pled~~ or submission of a plea of nolo contendere to any
20 crime listed in R.S. 15:587.1(C), except R.S. 14:74 felony offense, after a hearing
21 held pursuant to the provisions of Part II of Chapter 2 of this Title.

22 (ii) An administrator, teacher, or substitute teacher who is found to have
23 submitted fraudulent documentation to the State Board of Elementary and Secondary
24 Education or the state Department of Education as part of an application for a
25 Louisiana teaching certificate or other teaching authorization.

26 (iii) An administrator, teacher, or substitute teacher who is found to have
27 facilitated cheating on any state assessment as determined by the State Board of
28 Elementary and Secondary Education.

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

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

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

18 B. Each city, parish, and other local public school board shall establish, by
19 regulation, requirements, and procedures consistent with the provisions of R.S.
20 15:587.1 under which the school systems shall determine whether an applicant, or
21 employee, including any person employed as provided in Subparagraph (A)(1)~~(b)~~(c)
22 of this Section, has been arrested for or convicted of or pled nolo contendere to any
23 criminal offense. Included in this regulation shall be the requirement and the
24 procedure for the submission of a person's fingerprints in a form acceptable to the
25 Louisiana Bureau of Criminal Identification and Information prior to employment
26 of such person. ~~A person who has submitted his fingerprints to the Louisiana Bureau~~
27 ~~of Criminal Identification and Information may be temporarily hired pending the~~
28 ~~report from the bureau as to any convictions of or pleas of nolo contendere by the~~
29 ~~person to a crime listed in R.S. 15:587.1(C), except R.S. 14:74.~~

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

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

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

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

26 (3) A school employee other than an administrator, teacher, or substitute
 27 teacher who fails to report a conviction or plea of guilty or nolo contendere of any
 28 criminal offense listed in R.S. 15:587.1(C)(1) shall be fined not more than five
 29 hundred dollars or imprisoned for not more than six months, with or without hard
 30 labor, or both.

1 F.(1) The State Board of Elementary and Secondary Education may assess
 2 a civil fine against a school governing authority, equal to the average state yearly
 3 compensation for a public school teacher, inclusive of salary and benefits, that
 4 knowingly employs a person without requesting the criminal records required by this
 5 Section or who knowingly hires a person who has been convicted of or pled nolo
 6 contendere to any felony offense and who the State Board of Elementary and
 7 Secondary Education has not provided a teaching authorization pursuant to the
 8 provisions of R.S. 17:7(10) or who has not completed the formal appeal process
 9 required by the state board and been granted a new teaching certificate or other
 10 teaching authorization as provided in R.S. 17:7(6)(h).

11 (2) Such fine shall be levied only after a final judgement is rendered pursuant
 12 to an adjudication process conducted in accordance with the provisions of R.S.
 13 49:955 et seq.

14 (3) The state board shall report any such instances of fine assessments to the
 15 House Committee on Education and the Senate Committee on Education within
 16 thirty days of such assessment. Civil fines collected pursuant to the provisions of this
 17 Section shall be deposited immediately into the state treasury. The State Board of
 18 Elementary and Secondary Education shall promulgate rules in accordance with the
 19 Administrative Procedure Act for implementation of this Subsection.

20 G. At the request of his parent or legal guardian, a student shall be removed
 21 from the class of any teacher who has a felony conviction and placed in another
 22 class.

23 * * *
 24 §3991. Charter schools; requirements; limitations; renewal; amendment; revocation

25 * * *
 26 E. A charter school shall not:

27 * * *

28 (5)(a) Hire a person:

29 (i) As an administrator, teacher, substitute teacher, bus operator, substitute
 30 bus operator, janitor, or other school employee who might reasonably be expected

1 to be placed in a position of supervisory or disciplinary authority over school
2 children who has been convicted of or has pled nolo contendere to a crime listed in
3 R.S. 15:587.1(C) as a teacher, substitute teacher, bus operator, substitute bus
4 operator, janitor, or a school employee who might reasonably be expected to be
5 placed in a position of supervisory or disciplinary authority over school children.

6 (ii) As an administrator, teacher, or substitute teacher if any of the following
7 apply to the person:

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

10 (bb) Has been found to have submitted fraudulent documentation to the State
11 Board of Elementary and Secondary Education or the state Department of Education
12 as part of an application for a Louisiana teaching certificate or other teaching
13 authorization.

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

16 (iii) Notwithstanding any other provision of law, a charter school may hire
17 a person as a teacher or substitute teacher who has been convicted of or has pled nolo
18 contendere to a felony not listed in R.S. 15:587.1(C) or who has been found to have
19 submitted fraudulent documentation to the state board or the state Department of
20 Education as part of an application for a Louisiana teaching certificate or other
21 teaching authorization if the state board approves a formal appeal request submitted
22 by the person and issues a teaching certificate or authorization as provided in R.S.
23 17:7(6)(h).

24 (b) The state board shall establish regulations, requirements, and procedures
25 consistent with the provisions of R.S. 15:587.1 under which the school ~~systems~~
26 governing authority shall determine whether an applicant or employee has been
27 convicted of or pled nolo contendere to any felony offense. Included in ~~this~~
28 ~~regulation~~ these regulations shall be the requirement and the procedure for the
29 submission of a person's fingerprints in a form acceptable to the Louisiana Bureau
30 of Criminal Identification and Information prior to employment of such person. ~~A~~

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

5 * * *

6 §3996. Charter schools; exemptions; requirements

7 * * *

8 B. Notwithstanding any state law, rule, or regulation to the contrary and
 9 except as may be otherwise specifically provided for in an approved charter, a
 10 charter school established and operated in accordance with the provisions of this
 11 Chapter and its approved charter and the school's officers and employees shall be
 12 exempt from all statutory mandates or other statutory requirements that are
 13 applicable to public schools and to public school officers and employees except for
 14 the following laws otherwise applicable to public schools with the same grades:

15 * * *

16 (45) Authorization to teach, R.S. 17: 7(10).

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

18 * * *

19 Section 2. This Act shall become effective on July 1, 2018.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____