

2018 Regular Session

HOUSE BILL NO. 796

BY REPRESENTATIVE LANCE HARRIS

## AN ACT

17:7(6)(h) and (i) and (10) and 3996(B)(45) and (46), relative to the certification and employment in schools of certain persons; to prohibit public and nonpublic schools from hiring persons convicted of felony offenses as administrators, teachers, or substitute teachers; to prohibit such schools from hiring persons as administrators, teachers, or substitute teachers who submitted certain fraudulent documentation or facilitated cheating on state assessments; to provide exceptions; to authorize the State Board of Elementary and Secondary Education to issue teaching certificates and other teaching authorization to such persons under certain circumstances; to provide for the assessment of civil fines against public school boards who hire certain persons; to increase the penalties for violations relative to reporting convictions or pleas; to require the State Board of Elementary and Secondary Education to promulgate rules and regulations to establish a process for issuing a teaching authorization to persons seeking employment in certain schools; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:7(6)(a)(i) and (b)(i)(aa), 15, and 3991(E)(5) are hereby amended and reenacted and R.S. 17:7(6)(h) and (i) and (10) and 3996(B)(45) and (46) are hereby enacted to read as follows:

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

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

\* \* \*

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.~~

8                                           \*           \*           \*

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.

20                                           \*           \*           \*

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)~~ (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~~

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

\* \* \*

### §3996. Charter schools; exemptions; requirements

\* \* \*

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

\* \* \*

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

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

\* \* \*

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: \_\_\_\_\_