

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 assessment of civil fines against 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 assessment of civil  
11 fines against public school boards who hire certain persons; to increase the penalties  
12 for violations relative to reporting convictions or pleas; to require the State Board of  
13 Elementary and Secondary Education to promulgate rules and regulations to  
14 establish a process for issuing a teaching authorization to persons seeking  
15 employment in certain schools; to provide for effectiveness; and to provide for  
16 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), 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, or who has  
18 been found to have facilitated cheating on any state assessment as determined by the  
19 board if all of the following conditions apply:

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

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

26                (i) The board shall promulgate rules and regulations in accordance with the  
27 Administrative Procedure Act to establish a process for issuing a teaching  
28 authorization to a person seeking employment in a public or nonpublic school that  
29 does not require a Louisiana teaching certificate for the employment of a teacher or

1 a substitute teacher. Such rules and regulations shall include but shall not be limited  
2 to procedures for determining if a person has submitted fraudulent documentation  
3 to the board or the state Department of Education related to the issuance of the  
4 teaching authorization or has facilitated cheating on any state assessment  
5 administered to students. The rules and regulations also shall include a requirement  
6 that the board, in accordance with R.S. 42:17(A)(1), notify the person of its intention  
7 to discuss the person's character, professional competence, or physical or mental  
8 health in an executive session and of the person's option to require that the board  
9 discuss such matters in an open meeting.

10 \* \* \*

11 §15. Criminal history review

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

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

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

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

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

28 (ii) A city, parish, or other local public school board or a nonpublic school  
29 or school system may hire a person as a teacher or substitute teacher who has been

1 convicted of or has pled nolo contendere to a felony not listed in R.S. 15:587.1(C),  
2 who has been found to have submitted fraudulent documentation to the State Board  
3 of Elementary and Secondary Education or the state Department of Education as part  
4 of an application for a Louisiana teaching certificate or other teaching authorization,  
5 or who has been found to have facilitated cheating on any state assessment as  
6 determined by the board if the State Board of Elementary and Secondary Education  
7 approves a formal appeal request submitted by the person and issues a teaching  
8 certificate or authorization as provided in R.S. 17:7(6)(h).

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

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

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

27 (i) ~~Any~~ A teacher upon the final conviction of ~~such~~ the teacher of any ~~crime~~  
28 ~~listed in R.S. 15:587.1(C) felony offense~~ , except R.S. 14:74, and any a teacher who  
29 has pled nolo contendere to any ~~crime listed in R.S. 15:587.1(c) felony offense~~

1       ~~except R.S. 14:74,~~ after a hearing held pursuant to the provisions of Part II of  
2       Chapter 2 of this Title.

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

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

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

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

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

28              B. Each city, parish, and other local public school board shall establish, by  
29       regulation, requirements, and procedures consistent with the provisions of R.S.

1 15:587.1 under which the school systems shall determine whether an applicant, or  
2 employee, including any person employed as provided in Subparagraph (A)(1)(b)(c)  
3 of this Section, has been arrested for or convicted of or pled nolo contendere to any  
4 criminal offense. Included in this regulation shall be the requirement and the  
5 procedure for the submission of a person's fingerprints in a form acceptable to the  
6 Louisiana Bureau of Criminal Identification and Information prior to employment  
7 of such person. ~~A person who has submitted his fingerprints to the Louisiana Bureau~~  
8 ~~of Criminal Identification and Information may be temporarily hired pending the~~  
9 ~~report from the bureau as to any convictions of or pleas of nolo contendere by the~~  
10 ~~person to a crime listed in R.S. 15:587.1(C), except R.S. 14:74.~~

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

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

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

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

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

F. The state Department of Education may assess a civil fine against a city, parish, or other local public school board, equal to the average yearly compensation for a public school teacher inclusive of salary and benefits, that employs a teacher or a substitute teacher who has been convicted of or pled nolo contendere to any felony offense and whose application to teach was not approved by the State Board of Elementary and Secondary Education or for whom criminal records were not requested by the school board. The department shall report any such instances of fee assessments to the House Committee on Education and the Senate Committee on Education within thirty days of such assessment. Civil fines collected pursuant to the provisions of this Section shall be deposited immediately into the state treasury. The State Board of Elementary and Secondary Education shall promulgate rules in accordance with the Administrative Procedure Act for implementation of this Subsection.

\* \* \*

§3991. Charter schools; requirements; limitations; renewal; amendment; revocation

\* \* \*

E. A charter school shall not:

\* \* \*

(5)(a) Hire a person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) as a teacher, substitute teacher, bus operator,

1 substitute bus operator, janitor, or a school employee who might reasonably be  
2 expected to be placed in a position of supervisory or disciplinary authority over  
3 school children and except as otherwise provided in Item (iv) of this Subparagraph,  
4 hire a person as a teacher or substitute teacher if any of the following apply to the  
5 person:

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

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

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

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

21 (b) The state board shall establish regulations, requirements, and procedures  
22 consistent with the provisions of R.S. 15:587.1 under which the school systems shall  
23 determine whether an applicant or employee has been convicted of or pled nolo  
24 contendere to crimes listed in R.S. 15:587.1(C), except R.S. 14:74, and whether an  
25 applicant for a position of a teacher or substitute teacher has been convicted of or  
26 pled nolo contendere to any other felony offense. Included in ~~this regulation~~ these  
27 regulations shall be the requirement and the procedure for the submission of a  
28 person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal  
29 Identification and Information prior to employment of such person. ~~A person who~~



1 has submitted his fingerprints to the Louisiana Bureau of Criminal Identification and  
2 Information may be temporarily hired pending the report from the bureau as to any  
3 convictions of or pleas of nolo contendere by the person to a crime listed in R.S.  
4 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) Criminal history review, R.S.17:15.

17 \* \* \*

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

19           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 Reengrossed

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. Authorizes the State Bd. of Elementary and Secondary Education (BESE) to issue teaching certificates and other teaching authorizations to such persons under certain circumstances. Provides for the assessment of civil fines against public school boards who hire persons in violation of present law and proposed law.

Proposed law amends present law relative to the employment of teachers and substitute teachers, hereafter in this digest referred to as "teachers", and generally retains present law with respect to school employees who are not teachers.

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 employee upon conviction or plea of nolo contendere of any such listed crime (with one exception). Present law allows reemployment of a school employee whose conviction has been reversed, set aside, or vacated.

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 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 who 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 allows a public 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 felony *not* listed in present law (R.S. 15:587.1(C)), 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 who has been found to have facilitated cheating on any state assessment if BESE approves a formal appeal request submitted by the person. Proposed law authorizes BESE to issue a teaching certificate or other teaching authorization to such a person if three years have passed and the board has received an appeal from the person and letters of recommendation.

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. Requires that such rules and regulations include procedures for determining if a person has submitted fraudulent documentation related to the issuance of the teaching authorization or has facilitated cheating on any state assessment administered to students. Provides that the rules and regulations also shall include a requirement that BESE notify the person of its intention to discuss the person's character, professional competence, or physical or mental health in an executive session and that the person may require that the board discuss such matters in an open meeting (in accordance with present law regarding open meetings).

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. Proposed law retains present law.

Present law provides that a person who has submitted his fingerprints may be temporarily hired pending a report. Proposed law repeals present law.

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. Proposed law *requires* BESE to establish such requirements and procedures.

Present law requires a school employee 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 increases the penalties for violations by teachers relative to reporting convictions and pleas to a fine of not more than \$1,000 or imprisonment for not more than one year.

Proposed law authorizes the state Dept. of Education to assess a civil fine against a public school board that employs a teacher who has been convicted of or pled nolo contendere to any felony offense and whose application to teach was not approved by BESE or for whom criminal records were not requested by the school board. Provides that the fine amount is equal to the average yearly compensation for a public school teacher inclusive of salary and benefits. Requires the department to report instances of such assessments to the House and Senate education committees. Requires that the fines collected be deposited in the state treasury. Requires BESE to promulgate rules for implementation.

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)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Authorize BESE to issue a teaching certificate or other teaching authorization to a person who has been found to have facilitated cheating on any state assessment if certain conditions are met and authorize employment of a teacher who has received a certificate or authorization under these conditions.
2. Limit to teachers the applicability of the proposed law penalty increases for failing to report a conviction.
3. Authorize the state Dept. of Education to assess a civil fine against a school board for employing a teacher in violation of present law and proposed law; remove provision requiring the department to withhold MFP funds from such a school board.

#### The House Floor Amendments to the engrossed bill:

1. Require that BESE rules and regulations regarding teaching authorization include a requirement that the board notify the person of its intention to discuss the person's character, professional competence, or physical or mental health in an executive session and that the person may require the board to discuss such matters in an open meeting.