ORIGINAL

2019 Regular Session

HOUSE BILL NO. 618 (Substitute for House Bill No. 167 by Representative Lance Harris)

BY REPRESENTATIVE LANCE HARRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SCHOOLS/EMPLOYEES: Revises requirements for certification, hiring, and dismissal of teachers and other school employees with respect to criminal history

1	AN ACT				
2	To amend and reenact R.S. 17:7(6)(h)(introductory paragraph) and (10), 15(A)(1)(b)(i)(aa)				
3	and (ii) and (2)(a)(i) and (c), (C), (F)(1), and (G), and 3991(E)(5)(a)(ii)(aa) and (iii)				
4	and (b) and to enact R.S. 17:7(6)(h)(iii), relative to teachers and other school				
5	employees; to revise requirements pertaining to criminal history with respect to the				
6	certification, hiring, and dismissal of teachers and other school employees; to				
7	provide for the powers, duties, and rules of the State Board of Elementary and				
8	Secondary Education with respect to these processes; and to provide for related				
9	matters.				
10	Be it enacted by the Legislature of Louisiana:				
11	Section 1. R.S. 17:7(6)(h)(introductory paragraph) and (10), 15(A)(1)(b)(i)(aa) and				
12	(ii) and (2)(a)(i) and (c), (C), (F)(1), and (G), and 3991(E)(5)(a)(ii)(aa) and (iii) and (b) are				
13	hereby amended and reenacted and R.S. 17:7(6)(h)(iii) is hereby enacted to read as follows:				
14	§7. Duties, functions, and responsibilities of board				
15	In addition to the authorities granted by R.S. 17:6 and any powers, duties, and				
16	responsibilities vested by any other applicable laws, the board shall:				
17	* * *				
18	(6)				
19	* * *				

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1	(h) The board may issue a teaching certificate or other teaching authorization
2	to a person who has been convicted of or has pled nolo contendere to a felony an
3	offense not listed in R.S. 15:587.1(C) or to any felony offense, who has been found
4	to have submitted fraudulent documentation to the board or the state Department of
5	Education as part of an application for a teaching certificate or other teaching
6	authorization, or who has been found to have facilitated cheating on any state
7	assessment as determined by the board if all of the following conditions apply:
8	* * *
9	(iii) The offense was not a crime of violence as defined in R.S. 14:2.
10	* * *
11	(10) The board shall promulgate rules and regulations in accordance with the
12	Administrative Procedure Act to establish a process for issuing a teaching
13	authorization to a person seeking employment as an administrator, teacher, or
14	substitute teacher in any school, including a public or nonpublic school that does not
15	require a Louisiana teaching certificate for the employment of a teacher. Such rules
16	and regulations shall be limited to procedures for determining if a person has
17	submitted fraudulent documentation to the board or the state Department of
18	Education related to the issuance of the teaching authorization or has facilitated
19	cheating on any state assessment administered to students, or has been convicted of
20	or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) or to a felony
21	offense. The rules and regulations also shall include a requirement that the board,
22	in accordance with R.S. 42:17(A)(1), notify the person of its intention to discuss the
23	person's character, professional competence, or physical or mental health in an
24	executive session and of the person's option to require that the board discuss such
25	matters in an open meeting.
26	* * *
27	§15. Criminal history review
28	A.(1)
29	* * *

1	(b)(i) Except as otherwise provided in this Subparagraph, a city, parish, or
2	other local public school board or a nonpublic school or school system shall not
3	knowingly hire a person as an administrator, teacher, or substitute teacher if the
4	person:
5	(aa) Has been convicted of or has pled nolo contendere to a felony offense
6	crime listed in R.S. 15:587.1(C) even if adjudication was withheld or a pardon or
7	expungement was granted.
8	* * *
9	(ii) A city, parish, or other local public school board or a nonpublic school
10	or school system may hire a person as an administrator, teacher, or substitute teacher
11	who has been convicted of or has pled nolo contendere to a felony not listed in R.S.
12	15:587.1(C), who has been found to have submitted fraudulent documentation to the
13	State Board of Elementary and Secondary Education or the state Department of
14	Education as part of an application for a Louisiana teaching certificate or other
15	teaching authorization, or who has been found to have facilitated cheating on any
16	state assessment as determined by the board is otherwise prohibited from being hired
17	pursuant to Item (i) of this Subparagraph if the State Board of Elementary and
18	Secondary Education approves a formal appeal request submitted by the person and
19	issues a teaching certificate or authorization as provided in R.S. 17:7(6)(h).
20	* * *
21	(2)(a) A city, parish, or other local public school board shall dismiss:
22	(i) An administrator, teacher, or substitute teacher upon the final conviction
23	of or submission of a plea of nolo contendere to any felony offense, crime listed in
24	R.S. 15:587.1(C); however, if the person has obtained tenure, such dismissal shall
25	occur only after a hearing held pursuant to the provisions of Part II of Chapter 2 of
26	this Title.
27	* * *
28	(c) A city, parish, or other local public school board may reemploy an
29	administrator, teacher, or other school employee who has been dismissed for

1 conviction of a crime, except a crime listed in R.S. 15:587.1(C) of violence as 2 defined in R.S. 14:2, pursuant to Subparagraph (a) of this Paragraph only upon 3 written approval of the <u>a</u> district judge of the parish and the district attorney, or upon 4 written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated. Any such statement of 5 6 approval of the judge and the district attorney and any such written documentation 7 from the court shall be kept on file at all times by the school and shall be produced 8 upon request to any law enforcement officer. No later than thirty days after its being 9 placed on file by the school, the school principal shall submit a copy of any such 10 statement of approval or written documentation from the court to the state 11 superintendent of education.

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13 C. The State Board of Elementary and Secondary Education by rule adopted 14 in accordance with the Administrative Procedure Act shall establish requirements 15 and procedures consistent with the provisions of R.S. 15:587.1 and the provisions for 16 all other felony offenses for the state Department of Education to determine whether 17 an applicant for or the recipient of any certificate, license, or other teaching 18 authorization issued in accordance with state law or board policy by the department 19 or the board and who might reasonably be expected to be placed in a position of 20 supervisory or disciplinary authority over school children has been convicted of or 21 pled nolo contendere to any criminal offense. Included in this rule shall be the 22 requirement and the procedure for the submission of a person's fingerprints in a form 23 acceptable to the Louisiana Bureau of Criminal Identification and Information.

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F.(1) The State Board of Elementary and Secondary Education may assess a civil fine against a school governing authority, equal to the average state yearly compensation for a public school teacher, inclusive of salary and benefits, that knowingly employs a person without requesting the criminal records required by this Section or who knowingly hires a person who has been convicted of or pled nolo

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1	contendere to any felony offense crime listed in R.S. 15:587.1(C), except R.S. 14:74,
2	and who the State Board of Elementary and Secondary Education has not provided
3	a teaching authorization pursuant to the provisions of R.S. 17:7(10) or who has not
4	completed the formal appeal process required by the state board and been granted a
5	new teaching certificate or other teaching authorization as provided in R.S.
6	17:7(6)(h).
7	* * *
8	G. At the request of his parent or legal guardian, a student shall be removed
9	from the class of any teacher who has a felony conviction of any felony offense or
10	any offense listed in R.S. 15:587.1(C), except R.S. 14:74, and placed in another class
11	if there is another class of a suitable grade or subject available.
12	* * *
13	§3991. Charter schools; requirements; limitations; renewal; amendment; revocation;
14	board membership
15	* * *
16	E. A charter school shall not:
17	* * *
18	(5)(a) Hire a person:
19	* * *
20	(ii) As an administrator, teacher, or substitute teacher if any of the following
21	apply to the person:
22	(aa) Has been convicted of or has pled nolo contendere to any other felony
23	offense a crime listed in R.S. 15:587.1(C) even if adjudication was withheld or a
24	pardon or expungement was granted.
25	* * *
26	(iii) Notwithstanding any other provision of law, a charter school may hire
27	a person as a teacher or substitute teacher who has been convicted of or has pled nolo
28	contendere to a felony not listed in R.S. 15:587.1(C) or who has been found to have
29	submitted fraudulent documentation to the state board or the state Department of

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Education as part of an application for a Louisiana teaching certificate or other
teaching authorization is otherwise prohibited from being hired if the state board
approves a formal appeal request submitted by the person and issues a teaching
certificate or authorization as provided in R.S. 17:7(6)(h).
(b) The state board shall establish regulations, requirements, and procedures

6 consistent with the provisions of R.S. 15:587.1 under which the school governing 7 authority shall determine whether an applicant or employee has been convicted of 8 or pled nolo contendere to any felony criminal offense. Included in these regulations 9 shall be the requirement and the procedure for the submission of a person's 10 fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification 11 and Information prior to employment of such person.

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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 618 Original 2019	9 Regular Session	Lance Harris
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Abstract: Relative to criminal history, revises certain requirements for certification and employment of teachers and other school employees.

BESE Powers and Duties

<u>Present law</u> authorizes the State Bd. of Elementary and Secondary Education (BESE) to do the following with respect to teacher certification and employment:

- (1) Issue a teaching certificate or authorization to a person who has been convicted of or has pled nolo contendere to a felony offense *not* listed in <u>present law</u> (R.S. 15:587.1) if certain conditions apply. <u>Proposed law</u> revises <u>present law</u> to apply to those who have been convicted of or have pled nolo contendere to an offense that *is* listed in such <u>present law</u> or any felony offense and adds to the list of such conditions that the offense was not a crime of violence as defined in <u>present law</u> (R.S. 14:2).
- (2) Assess civil fines for hiring a person who has been convicted of or pled nolo contendere to any felony offense. <u>Proposed law</u> allows such fining for hiring such persons who have been convicted of or pled nolo contendere to any crime listed in <u>present law</u> (R.S. 15:587.1(C)) except one (R.S. 14:74 criminal neglect of family).

Prohibition Against Hiring/Exceptions

<u>Present law</u> prohibits the hiring of a person who has been convicted of or has pled nolo contendere to a felony offense as an administrator, teacher, or substitute teacher. <u>Proposed</u>

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<u>law</u> instead prohibits hiring for such positions anyone who has been convicted of or has pled nolo contendere to a crime listed in <u>present law</u> (R.S. 15:587.1(C)).

<u>Present law</u> allows hiring persons otherwise prohibited from being hired for certain positions if BESE approves a formal appeal request and issues a teaching certificate or authorization. <u>Proposed law</u> retains present law.

Authorized Reemployment/Exceptions

<u>Present law</u> authorizes a school board to reemploy an administrator, teacher, or other school employee who has been dismissed for conviction of a crime, except a crime listed in <u>present law</u> (R.S. 15:587.1(C)). <u>Proposed law</u> instead allows a school board to reemploy such a person except if the conviction is for a crime of violence as defined in <u>present law</u> (R.S. 14:2).

Required Dismissal

<u>Present law</u> requires the dismissal of an administrator, teacher, or substitute teacher upon final conviction of or plea of nolo contendere to any felony offense after a hearing held pursuant to <u>present law</u>. <u>Proposed law</u> instead requires dismissal for crimes listed in <u>present law</u> (R.S. 15:587.1(C)) and limits hearing requirement to those who have obtained tenure.

Student Removal from Class

<u>Present law</u> requires, upon parental request, a student to be removed from the class of any teacher who has a felony conviction. <u>Proposed law</u> instead applies this requirement to the class of any teacher who has a conviction for any offense listed in <u>present law</u> (R.S. 15:587.1(C)) except for one (R.S. 14:74–criminal neglect of family) but makes it conditional on there being another class of a suitable grade or subject available.

(Amends R.S. 17:7(6)(h)(intro. para.) and (10), 15(A)(1)(b)(i)(aa) and (ii) and (2)(a)(i) and (c), (C), (F)(1), and (G), and 3991(E)(5)(a)(ii)(aa) and (iii) and (b); Adds R.S. 17:7(6)(h)(iii))