

By: Senator(s) Tollison

To: Education

SENATE BILL NO. 2413
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 37-9-15 AND 37-9-17, MISSISSIPPI
2 CODE OF 1972, TO DELETE THE AUTHORITY OF LOCAL SCHOOL BOARDS TO
3 DELEGATE THE AUTHORITY TO RECOMMEND SCHOOL DISTRICT EMPLOYEES FOR
4 EMPLOYMENT CONTRACTS WITH CERTAIN EXCEPTIONS; AND FOR RELATED
5 PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 37-9-15, Mississippi Code of 1972, is
8 amended as follows:

9 37-9-15. No later than February 15 of each year, the
10 superintendent of each school district * * * shall recommend to
11 the school board thereof the assistant superintendents and
12 principals to be employed for each of the schools of the districts
13 except in the case of those assistant superintendents and
14 principals who have been previously employed and who have a
15 contract valid for the ensuing scholastic year. Unless good
16 reason to the contrary exists, the school board shall approve and
17 authorize the employment of the assistant superintendents and
18 principals so recommended. If, for any reason, the school board
19 shall decline to approve an assistant superintendent or principal



20 so recommended, the superintendent * * * shall make additional
21 recommendations for the place or places to be filled.

22 When the assistant superintendents and principals of the
23 schools have been recommended and approved as provided in the
24 preceding paragraph, the superintendent of such district shall
25 enter into proper contracts with them. At a subsequent meeting he
26 shall report same to the school board and such shall be entered in
27 the minutes.

28 An interim conservator appointed pursuant to the provisions
29 of Section 37-17-6(14) (a) shall not be required to comply with the
30 time limitations prescribed in this section for recommending and
31 employing assistant superintendents and principals.

32 **SECTION 2.** Section 37-9-17, Mississippi Code of 1972, is
33 amended as follows:

34 37-9-17. (1) On or before April 1 of each year, the
35 principal of each school shall recommend to the superintendent of
36 the local school district the licensed employees or
37 noninstructional employees to be employed for the school involved
38 except those licensed employees or noninstructional employees who
39 have been previously employed and who have a contract valid for
40 the ensuing scholastic year. If such recommendations meet with
41 the approval of the superintendent, the superintendent shall
42 recommend the employment of such licensed employees or
43 noninstructional employees to the local school board, and, unless
44 good reason to the contrary exists, the board shall elect the



45 employees so recommended. If, for any reason, the local school
46 board shall decline to elect any employee so recommended,
47 additional recommendations for the places to be filled shall be
48 made by the principal to the superintendent and then by the
49 superintendent to the local school board as provided above. * * *

50 At the time a school board initially hires a superintendent,
51 the board may also employ the spouse of the new superintendent as
52 a licensed employee assigned to one (1) of the schools in the
53 district if and only if the spouse possesses all qualifications
54 required for holding that position at the time the spouse is
55 hired. Thereafter, the school board may designate the principal
56 of the school at which the spouse is employed or some other
57 principal employed in the district to recommend or not recommend
58 the spouse to the school board for continued employment.

59 When the licensed employees have been elected as provided in
60 the preceding paragraphs, the superintendent of the district shall
61 enter into a contract with such persons in the manner provided in
62 this chapter.

63 If, at the commencement of the scholastic year, any licensed
64 employee shall present to the superintendent a license of a higher
65 grade than that specified in such individual's contract, such
66 individual may, if funds are available from adequate education
67 program funds of the district, or from district funds, be paid
68 from such funds the amount to which such higher grade license



69 would have entitled the individual, had the license been held at
70 the time the contract was executed.

71 (2) Superintendents/directors of schools under the purview
72 of the State Board of Education, the superintendent of the local
73 school district and any private firm under contract with the local
74 public school district to provide substitute teachers to teach
75 during the absence of a regularly employed schoolteacher shall
76 require, through the appropriate governmental authority, that
77 current criminal records background checks and current child abuse
78 registry checks are obtained, and that such criminal record
79 information and registry checks are on file for any new hires
80 applying for employment as a licensed or nonlicensed employee at a
81 school and not previously employed in such school under the
82 purview of the State Board of Education or at such local school
83 district prior to July 1, 2000. In order to determine the
84 applicant's suitability for employment, the applicant shall be
85 fingerprinted. If no disqualifying record is identified at the
86 state level, the fingerprints shall be forwarded by the Department
87 of Public Safety to the Federal Bureau of Investigation for a
88 national criminal history record check. The fee for such
89 fingerprinting and criminal history record check shall be paid by
90 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
91 State Board of Education, the school board of the local school
92 district or a private firm under contract with a local school
93 district to provide substitute teachers to teach during the



94 temporary absence of the regularly employed schoolteacher, in its
95 discretion, may elect to pay the fee for the fingerprinting and
96 criminal history record check on behalf of any applicant. Under
97 no circumstances shall a member of the State Board of Education,
98 superintendent/director of schools under the purview of the State
99 Board of Education, local school district superintendent, local
100 school board member or any individual other than the subject of
101 the criminal history record checks disseminate information
102 received through any such checks except insofar as required to
103 fulfill the purposes of this section. Any nonpublic school which
104 is accredited or approved by the State Board of Education may
105 avail itself of the procedures provided for herein and shall be
106 responsible for the same fee charged in the case of local public
107 schools of this state. The determination whether the applicant
108 has a disqualifying crime, as set forth in subsection (3) of this
109 section, shall be made by the appropriate governmental authority,
110 and the appropriate governmental authority shall notify the
111 private firm whether a disqualifying crime exists.

112 (3) If such fingerprinting or criminal record checks
113 disclose a felony conviction, guilty plea or plea of nolo
114 contendere to a felony of possession or sale of drugs, murder,
115 manslaughter, armed robbery, rape, sexual battery, sex offense
116 listed in Section 45-33-23(h), child abuse, arson, grand larceny,
117 burglary, gratification of lust or aggravated assault which has
118 not been reversed on appeal or for which a pardon has not been



119 granted, the new hire shall not be eligible to be employed at such
120 school. Any employment contract for a new hire executed by the
121 superintendent of the local school district or any employment of a
122 new hire by a superintendent/director of a new school under the
123 purview of the State Board of Education or by a private firm shall
124 be voidable if the new hire receives a disqualifying criminal
125 record check. However, the State Board of Education or the school
126 board may, in its discretion, allow any applicant aggrieved by the
127 employment decision under this section to appear before the
128 respective board, or before a hearing officer designated for such
129 purpose, to show mitigating circumstances which may exist and
130 allow the new hire to be employed at the school. The State Board
131 of Education or local school board may grant waivers for such
132 mitigating circumstances, which shall include, but not be limited
133 to: (a) age at which the crime was committed; (b) circumstances
134 surrounding the crime; (c) length of time since the conviction and
135 criminal history since the conviction; (d) work history; (e)
136 current employment and character references; (f) other evidence
137 demonstrating the ability of the person to perform the employment
138 responsibilities competently and that the person does not pose a
139 threat to the health or safety of the children at the school.

140 (4) No local school district, local school district
141 employee, member of the State Board of Education or employee of a
142 school under the purview of the State Board of Education shall be
143 held liable in any employment discrimination suit in which an



144 allegation of discrimination is made regarding an employment
145 decision authorized under this Section 37-9-17.

146 **SECTION 3.** The provisions of this act shall only apply to
147 school district certificated employees and noncertificated
148 employees hired on or after July 1, 2017, and shall not apply to
149 any school district certificated or noncertificated employee
150 employed by the local school district on June 30, 2017.

151 **SECTION 4.** This act shall take effect and be in force from
152 and after July 1, 2017.

