

By: Representatives Lamar, Stamps

To: Education

HOUSE BILL NO. 522

1 AN ACT TO AMEND SECTION 37-9-17, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A NONPUBLIC SCHOOL THAT IS ACCREDITED BY A REGIONAL
3 ACCREDITATION AGENCY OTHER THAN THE STATE BOARD OF EDUCATION TO
4 USE THE CRIMINAL RECORD INFORMATION AND REGISTRY CHECK REQUIRED
5 FOR BACKGROUND AND FINGERPRINTING OF POTENTIAL SCHOOL EMPLOYEES
6 BEFORE BEING HIRED; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 37-9-17, Mississippi Code of 1972, is
9 amended as follows:

10 37-9-17. (1) On or before April 1 of each year, the
11 principal of each school shall recommend to the superintendent of
12 the local school district the licensed employees or
13 noninstructional employees to be employed for the school involved
14 except those licensed employees or noninstructional employees who
15 have been previously employed and who have a contract valid for
16 the ensuing scholastic year. If such recommendations meet with
17 the approval of the superintendent, the superintendent shall
18 recommend the employment of such licensed employees or
19 noninstructional employees to the local school board, and, unless
20 good reason to the contrary exists, the board shall elect the



21 employees so recommended. If, for any reason, the local school
22 board shall decline to elect any employee so recommended,
23 additional recommendations for the places to be filled shall be
24 made by the principal to the superintendent and then by the
25 superintendent to the local school board as provided above. The
26 school board of any local school district shall be authorized to
27 designate a personnel supervisor or another principal employed by
28 the school district to recommend to the superintendent licensed
29 employees or noninstructional employees; however, this
30 authorization shall be restricted to no more than two (2)
31 positions for each employment period for each school in the local
32 school district. Any noninstructional employee employed upon the
33 recommendation of a personnel supervisor or another principal
34 employed by the local school district must have been employed by
35 the local school district at the time the superintendent was
36 elected or appointed to office; a noninstructional employee
37 employed under this authorization may not be paid compensation in
38 excess of the statewide average compensation for such
39 noninstructional position with comparable experience, as
40 established by the State Department of Education. The school
41 board of any local school district shall be authorized to
42 designate a personnel supervisor or another principal employed by
43 the school district to accept the recommendations of principals or
44 their designees for licensed employees or noninstructional
45 employees and to transmit approved recommendations to the local



46 school board; however, this authorization shall be restricted to
47 no more than two (2) positions for each employment period for each
48 school in the local school district.

49 When the licensed employees have been elected as provided in
50 the preceding paragraph, the superintendent of the district shall
51 enter into a contract with such persons in the manner provided in
52 this chapter.

53 If, at the commencement of the scholastic year, any licensed
54 employee shall present to the superintendent a license of a higher
55 grade than that specified in such individual's contract, such
56 individual may, if funds are available from adequate education
57 program funds of the district, or from district funds, be paid
58 from such funds the amount to which such higher grade license
59 would have entitled the individual, had the license been held at
60 the time the contract was executed.

61 (2) Superintendents/directors of schools under the purview
62 of the State Board of Education, the superintendent of the local
63 school district and any private firm under contract with the local
64 public school district to provide substitute teachers to teach
65 during the absence of a regularly employed schoolteacher shall
66 require, through the appropriate governmental authority, that
67 current criminal records background checks and current child abuse
68 registry checks are obtained, and that such criminal record
69 information and registry checks are on file for any new hires
70 applying for employment as a licensed or nonlicensed employee at a



71 school and not previously employed in such school under the
72 purview of the State Board of Education or at such local school
73 district prior to July 1, 2000. In order to determine the
74 applicant's suitability for employment, the applicant shall be
75 fingerprinted. If no disqualifying record is identified at the
76 state level, the fingerprints shall be forwarded by the Department
77 of Public Safety to the Federal Bureau of Investigation for a
78 national criminal history record check. The fee for such
79 fingerprinting and criminal history record check shall be paid by
80 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
81 State Board of Education, the school board of the local school
82 district or a private firm under contract with a local school
83 district to provide substitute teachers to teach during the
84 temporary absence of the regularly employed schoolteacher, in its
85 discretion, may elect to pay the fee for the fingerprinting and
86 criminal history record check on behalf of any applicant. Under
87 no circumstances shall a member of the State Board of Education,
88 superintendent/director of schools under the purview of the State
89 Board of Education, local school district superintendent, local
90 school board member or any individual other than the subject of
91 the criminal history record checks disseminate information
92 received through any such checks except insofar as required to
93 fulfill the purposes of this section. Any nonpublic school which
94 is accredited or approved by the State Board of Education or other
95 regional accrediting agency may avail itself of the procedures



96 provided for herein and shall be responsible for the same fee
97 charged in the case of local public schools of this state. The
98 determination whether the applicant has a disqualifying crime, as
99 set forth in subsection (3) of this section, shall be made by the
100 appropriate governmental authority, and the appropriate
101 governmental authority shall notify the private firm whether a
102 disqualifying crime exists.

103 (3) If such fingerprinting or criminal record checks
104 disclose a felony conviction, guilty plea or plea of nolo
105 contendere to a felony of possession or sale of drugs, murder,
106 manslaughter, armed robbery, rape, sexual battery, sex offense
107 listed in Section 45-33-23(h), child abuse, arson, grand larceny,
108 burglary, gratification of lust or aggravated assault which has
109 not been reversed on appeal or for which a pardon has not been
110 granted, the new hire shall not be eligible to be employed at such
111 school. Any employment contract for a new hire executed by the
112 superintendent of the local school district or any employment of a
113 new hire by a superintendent/director of a new school under the
114 purview of the State Board of Education or by a private firm shall
115 be voidable if the new hire receives a disqualifying criminal
116 record check. However, the State Board of Education or the school
117 board may, in its discretion, allow any applicant aggrieved by the
118 employment decision under this section to appear before the
119 respective board, or before a hearing officer designated for such
120 purpose, to show mitigating circumstances which may exist and



121 allow the new hire to be employed at the school. The State Board
122 of Education or local school board may grant waivers for such
123 mitigating circumstances, which shall include, but not be limited
124 to: (a) age at which the crime was committed; (b) circumstances
125 surrounding the crime; (c) length of time since the conviction and
126 criminal history since the conviction; (d) work history; (e)
127 current employment and character references; (f) other evidence
128 demonstrating the ability of the person to perform the employment
129 responsibilities competently and that the person does not pose a
130 threat to the health or safety of the children at the school.

131 (4) No local school district, local school district
132 employee, member of the State Board of Education or employee of a
133 school under the purview of the State Board of Education shall be
134 held liable in any employment discrimination suit in which an
135 allegation of discrimination is made regarding an employment
136 decision authorized under this Section 37-9-17.

137 (5) The provisions of this section shall be fully applicable
138 to licensed employees of the Mississippi School of the Arts (MSA),
139 established in Section 37-140-1 et seq.

140 **SECTION 2.** This act shall take effect and be in force from
141 and after July 1, 2022.

