

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.

