

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

# A Bill

Act 1381 of 2003  
HOUSE BILL 1900

5 By: Representative Elliott  
6  
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## For An Act To Be Entitled

9 AN ACT TO UPDATE SEX OFFENSES CONCERNING  
10 BACKGROUND CHECKS ON PROVIDERS OF CARE TO  
11 DISABLED ADULTS; AND FOR OTHER PURPOSES.  
12

## Subtitle

14 AN ACT TO UPDATE SEX OFFENSES CONCERNING  
15 BACKGROUND CHECKS ON PROVIDERS OF CARE  
16 TO DISABLED ADULTS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 20-48-804 is amended to read as follows:

22 20-48-804. Disqualification from employment - Denial or revocation -  
23 Penalties.

24 (a)(1) A licensing agency shall issue a determination that a person is  
25 disqualified from employment with a service provider if the person has been  
26 found guilty of or pleaded guilty or nolo contendere to any of the offenses  
27 listed in subsection (b) of this section; and

28 (2) A service provider shall not knowingly employ a person who  
29 has pleaded guilty or nolo contendere to or has been found guilty of any of  
30 the offenses listed in subsection (b) of this section by any court in the  
31 State of Arkansas or of any similar offense by a court in another state or of  
32 any similar offense by a federal court:

33 (b)(1) Capital murder, as prohibited in § 5-10-101;

34 (2) Murder in the first degree and second degree, as prohibited  
35 in §§ 5-10-102 and 5-10-103;

36 (3) Manslaughter, as prohibited in § 5-10-104;



- 1 (4) Negligent homicide, as prohibited in § 5-10-105;
- 2 (5) Kidnapping, as prohibited in § 5-11-102;
- 3 (6) False imprisonment in the first degree, as prohibited in §
- 4 5-11-103;
- 5 (7) Permanent detention or restraint, as prohibited in § 5-11-
- 6 106;
- 7 (8) Robbery, as prohibited in § 5-12-102;
- 8 (9) Aggravated robbery, as prohibited in § 5-12-103;
- 9 (10) Battery, as prohibited in §§ 5-13-201, 5-13-202, and 5-13-
- 10 203;
- 11 (11) Aggravated assault, as prohibited in § 5-13-204;
- 12 (12) Introduction of controlled substance into body of another
- 13 person, as prohibited in § 5-13-210;
- 14 (13) Terroristic threatening in the first degree, as prohibited
- 15 in § 5-13-301;
- 16 (14) ~~Rape and carnal abuse in the first degree, second degree,~~
- 17 ~~and third degree,~~ as prohibited in §§ 5-14-103 and 5-14-104 ~~— 5-14-106~~
- 18 ~~{repealed};~~
- 19 ~~(15) Sexual abuse in the first degree and second degree, as~~
- 20 ~~prohibited in §§ 5-14-108 and 5-14-109 {repealed};~~
- 21 ~~(16)~~(15) Sexual indecency with a child, as prohibited in § 5-14-
- 22 110;
- 23 ~~(17) Violation of a minor in the first degree and second degree,~~
- 24 ~~as prohibited in §§ 5-14-120 and 5-14-121 {repealed};~~
- 25 (16) Sexual assault in the first degree, second degree, third
- 26 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;
- 27 ~~(18)~~(17) Incest, as prohibited in § 5-26-202;
- 28 ~~(19)~~(18) Offenses against the family, as prohibited in §§ 5-26-
- 29 303 - 5-26-306;
- 30 ~~(20)~~(19) Endangering the welfare of an incompetent person in the
- 31 first degree, as prohibited in § 5-27-201;
- 32 ~~(21)~~(20) Endangering the welfare of a minor in the first degree,
- 33 as prohibited in § 5-27-203;
- 34 ~~(22)~~(21) Permitting child abuse, as prohibited in § 5-27-
- 35 221(a)(1) and (3);
- 36 ~~(23)~~(22) Engaging children in sexually explicit conduct for use

1 in visual or print media, transportation of minors for prohibited sexual  
 2 conduct, pandering or possessing visual or print medium depicting sexually  
 3 explicit conduct involving a child, or use of a child or consent to use of a  
 4 child in a sexual performance by producing, directing, or promoting a sexual  
 5 performance by a child, as prohibited in §§ 5-27-303, 5-27-304, 5-27-305, 5-  
 6 27-402, and 5-27-403;

7 ~~(24)~~(23) Felony adult abuse, as prohibited in § 5-28-103;

8 ~~(25)~~(24) Theft of property, as prohibited in § 5-36-103;

9 ~~(26)~~(25) Theft by receiving, as prohibited in § 5-36-106;

10 ~~(27)~~(26) Arson, as prohibited in § 5-38-301;

11 ~~(28)~~(27) Felony violation of the Uniform Controlled Substances  
 12 Act, § 5-64-101 et seq., as prohibited in § 5-64-401;

13 ~~(29)~~(28) Burglary, as prohibited in § 5-39-201;

14 ~~(30)~~(29) Promotion of prostitution in the first degree, as  
 15 prohibited in § 5-70-104;

16 ~~(31)~~(30) Stalking, as prohibited in § 5-71-229;

17 ~~(32)~~(31) Forgery, as prohibited in § 5-37-201;

18 ~~(33)~~(32) Breaking or entering, as prohibited in § 5-39-202;

19 ~~(34)~~(33) Obtaining a controlled substance by fraud, as  
 20 prohibited in § 5-64-403; and

21 ~~(35)~~(34) Criminal attempt, criminal complicity, criminal  
 22 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,  
 23 5-3-301, and 5-3-401, to commit any of the offenses listed in this  
 24 subsection.

25 (c)(1) The provisions of this section shall not be waived by the  
 26 licensing or requesting agency. Except as provided in subdivision (c)(2) of  
 27 this section, one (1) conviction for an offense listed in subsection (b) of  
 28 this section shall not disqualify an applicant for employment if the date of  
 29 the conviction is at least ten (10) years prior to the date of the  
 30 application and the individual has had no criminal convictions of any type or  
 31 nature during the ten-year period.

32 (2) Because of the serious nature of the offenses and the close  
 33 relationship to the type of work that is to be performed, the following  
 34 offenses shall result in permanent disqualification of employment:

35 (A) Capital murder, as prohibited in § 5-10-101;

36 (B) Murder in the first degree and second degree, as

1 prohibited in §§ 5-10-102 and 5-10-103;

2 (C) Kidnapping, as prohibited in § 5-11-102;

3 (D) Rape ~~and carnal abuse in the first degree, second~~  
4 ~~degree, and third degree~~, as prohibited in §§ 5-14-103 ~~and 5-14-104~~ ~~5-14-~~  
5 ~~106 [repealed]~~;

6 ~~(E) Sexual abuse in the first and second degree, as~~  
7 ~~prohibited in §§ 5-14-108 and 5-14-109 [repealed]~~;

8 (E) Sexual assault in the first degree and second degree,  
9 as prohibited in §§ 5-14-124 - 5-14-125;

10 (F) Endangering the welfare of an incompetent person in  
11 the first degree, as prohibited in § 5-27-201;

12 (G) Felony adult abuse, as prohibited in § 5-28-103; and

13 (H) Arson, as prohibited in § 5-38-301.

14 (3) An applicant or employee shall not be disqualified from  
15 permanent employment if the applicant or employee has been found guilty of or  
16 has pleaded guilty or nolo contendere to a misdemeanor if the offense did not  
17 involve exploitation of an adult, abuse of a person, neglect of a person,  
18 theft, or sexual contact.

19 (d) If a service provider fails or refuses to cooperate in obtaining  
20 criminal history records checks, those circumstances shall be grounds to deny  
21 or revoke the service provider's license or other operating authority.

22 (e) Any service provider violating this subchapter shall be guilty of  
23 a Class A misdemeanor for each violation.

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27 **APPROVED: 4/15/2003**  
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