

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Jordan**

# **A Bill**

**ACT 1109 OF 1993**  
**HOUSE BILL 1786**

## **For An Act To Be Entitled**

8 "AN ACT TO REQUIRE THE ACCURACY AND COMPLETENESS OF  
9 CRIMINAL HISTORY INFORMATION; TO ESTABLISH REPORTING  
10 STANDARDS; TO LIMIT DISCLOSURE OF SUCH RECORDS; AND FOR  
11 OTHER PURPOSES."

### **Subtitle**

14 "TO REQUIRE ACCURACY AND COMPLETENESS OF CRIMINAL HISTORY  
15 INFORMATION AND ESTABLISH REPORTING STANDARDS."

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19 SECTION 1. DEFINITIONS. As used in this act:

20 (1) "Administration of criminal justice" means performing functions of  
21 investigation, apprehension, detention, prosecution, adjudication,  
22 correctional supervision, or rehabilitation of accused persons or criminal  
23 offenders. The administration of criminal justice also includes criminal  
24 identification activities and the collection, maintenance, and dissemination  
25 of criminal justice information.

26 (2) "Central Repository" means the Arkansas Crime Information Center,  
27 which is authorized to collect, maintain and disseminate criminal history  
28 information.

29 (3) "Conviction information" means criminal history information  
30 disclosing that a person has plead guilty, nolo contendere, or was found  
31 guilty of a criminal offense in a court of law, together with sentencing  
32 information.

33 (4) "Criminal history information" means a record compiled by a central  
34 repository or identification bureau on an individual consisting of name(s) and  
35 identification data, notations of arrests, detentions, indictments,  
36 informations, or other formal criminal charges. This record also includes any

1 dispositions of these charges, as well as notations on correctional  
2 supervision and release. This term does not include fingerprint records on  
3 individuals not involved in the criminal justice system, or driver history  
4 records.

5 (5) "Criminal history information system" means the equipment,  
6 procedures, agreements, and organizations thereof, for the compilation,  
7 processing, preservation and dissemination of criminal history information.

8 (6) "Criminal justice agency" means a government agency, or any subunit  
9 thereof, which is authorized by law to perform the administration of criminal  
10 justice, and which allocates more than half its annual budget to the  
11 administration of criminal justice.

12 (7) "Criminal justice official" means an employee of a criminal justice  
13 agency, performing the administration of criminal justice.

14 (8) "Disposition" means information describing the outcome of any  
15 criminal charges, including notations that law enforcement officials have  
16 elected not to refer the matter to a prosecutor, that a prosecutor has elected  
17 not to commence criminal proceedings, or that proceedings have been  
18 indefinitely postponed. Dispositions also include acquittals, dismissals,  
19 probations, charges pending due to mental disease or defect, guilty pleas,  
20 nolle prosequi, nolo contendere pleas, findings of guilt, youthful offender  
21 determinations, first offender programs, pardons, commuted sentences,  
22 mistrials - defendant discharged, executive clemencies, paroles, releases from  
23 correctional supervision, or deaths.

24 (9) "Dissemination" means disclosing criminal history information or the  
25 absence of criminal history information to any person or organization outside  
26 the agency possessing the information.

27 (10) "Expunge" means to restrict access to specific criminal justice  
28 purposes as other laws permit.

29 (11) "Identification Bureau" means the Arkansas State Police  
30 Identification Bureau, which is authorized to maintain fingerprint card files  
31 and other identification information on individuals.

32 (12) "Nonconviction information" means arrest information without  
33 disposition if an interval of one year has elapsed from the date of arrest and  
34 no active prosecution of the charge is pending, as well as all acquittals and  
35 all dismissals.

1 (13) "Pending information" means criminal history information in some  
2 stage of active prosecution or processing.

3

4 SECTION 2. SCOPE. (a) This act governs the collection, maintenance and  
5 dissemination of criminal history information on identifiable individuals  
6 charged or pleading guilty, nolo contendere, or being found guilty of criminal  
7 offenses under the laws of the State of Arkansas.

8 (b) The Arkansas Crime Information Center shall have general authority  
9 to issue regulations and implement the provisions of this act.

10 (c) The reporting requirements in this act apply to law enforcement  
11 officials, prosecuting attorneys, judges and court officials, probation,  
12 correction and parole officials, within the limits defined in Sections 5 and  
13 6.

14 (d) This act does not apply to records of traffic offenses, including  
15 misdemeanor offenses of driving while intoxicated, maintained by the  
16 Department of Finance and Administration.

17 (e) Criminal history information collected and maintained by the  
18 Arkansas Crime Information Center is not considered public record information  
19 within the intent and meaning of the Arkansas Freedom of Information Act,  
20 A.C.A. 25-19-101 et seq.

21

22 SECTION 3. COMPLETENESS AND ACCURACY. (a) The Arkansas Crime  
23 Information Center shall implement procedures that will, to the maximum extent  
24 feasible, ensure the completeness and accuracy of all criminal history  
25 information in this state.

26 (b) It shall be the duty of all criminal justice agencies and officials  
27 to maintain complete and accurate records, as may be appropriate to their area  
28 of operation, and to report information from such records as required in  
29 Sections 5 and 6.

30 (c) It shall be the duty of the Arkansas Crime Information Center to  
31 maintain all information reported under this act in a complete and permanent  
32 manner, to ensure that no records are altered, purged or otherwise lost.

33

34 SECTION 4. IDENTIFICATION BUREAU. (a) The Identification Bureau shall  
35 collect and maintain fingerprint identification records required to be

1 reported by this act.

2 (b) The Identification Bureau shall provide arrest and identification  
3 information for inclusion in the computerized criminal history file, as  
4 specified by the Arkansas Crime Information Center.

5 (c) The Identification Bureau shall be the sole source for the  
6 transmission of fingerprint cards or images to and from the Federal Bureau of  
7 Investigation.

8

9 SECTION 5. FINGERPRINTING. (a) Immediately following an arrest, the  
10 arresting official shall take, or cause to be taken, the fingerprints of the  
11 arrested person if the offense is a felony or a class A misdemeanor.

12 (b) When the first appearance of a defendant in court is caused by a  
13 citation or summons, the arresting official shall take, or cause to be taken,  
14 the fingerprints of the arrested person when the offense is a felony or a  
15 class A misdemeanor.

16 (c) When felony or class A misdemeanor charges are brought against a  
17 person already in the custody of a law enforcement or correctional agency, and  
18 such charges are separate from the charges for which the person was previously  
19 arrested or confined, the agency shall again take the fingerprints of the  
20 person in connection with the new charges.

21 (d) When a defendant pleads guilty, nolo contendere or is found guilty  
22 of any felony or class A misdemeanor charge, the court shall inquire whether  
23 such defendant has previously been fingerprinted in connection with the  
24 criminal proceedings leading to the conviction and, if not, shall order that  
25 the defendant be immediately fingerprinted by the appropriate law enforcement  
26 official.

27 (e) Fingerprints taken after arrest or court appearance pursuant to  
28 subsections (a) and (b), or taken from persons already in custody pursuant to  
29 subsection (c), shall be forwarded to the Identification Bureau within  
30 forty-eight (48) hours after such arrest or appearance. Fingerprints taken  
31 pursuant to subsection (d) shall be forwarded to the Identification Bureau by  
32 the fingerprinting official within five (5) working days after such plea or  
33 finding of guilt.

34

35 SECTION 6. REPORTING REQUIREMENTS. (a) Certain events occurring during

1 the course of criminal prosecution must be reported for inclusion in a  
2 criminal history record. The following events shall be reportable events:

- 3 (1) an arrest;
- 4 (2) the release of a person after arrest without filing of a  
5 charge;
- 6 (3) a decision by a prosecutor not to commence criminal  
7 proceedings or to defer or indefinitely postpone prosecution;
- 8 (4) an indictment or criminal information or other statement of  
9 charges;
- 10 (5) the dismissal of an indictment or criminal information, or  
11 any of the charges set out in such indictment or criminal information;
- 12 (6) an acquittal, finding of guilt or other court disposition at  
13 or following trial, including dispositions of probationary status;
- 14 (7) the terms and conditions of a sentence;
- 15 (8) a commitment to a state or local correctional facility;
- 16 (9) a commitment to a hospital or other facility as not being  
17 criminally responsible or as incompetent to stand trial;
- 18 (10) the entry of an appeal to an appellate court;
- 19 (11) the judgment of an appellate court;
- 20 (12) a pardon, reprieve, commutation or other change in sentence;
- 21 (13) other events occurring during the course of the criminal  
22 proceedings determined to be reportable.

23 (b) Reportable events specified in subsection (a) shall be reported by  
24 those criminal justice officials or agencies directly responsible for the  
25 reportable action, event or decision.

26 (c) The form and content of reported information and the method of  
27 reporting shall be specified by the Arkansas Crime Information Center and the  
28 Administrative Office of the Courts.

29 (d) Criminal justice agencies shall report criminal history  
30 information, whether directly or indirectly, manually or by means of an  
31 automated system, in accordance with the following provisions:

- 32 (1) Information pertaining to the release of a person arrested  
33 without the filing of charges as required in subsection (a)(2), or to a  
34 decision by the prosecutor not to commence criminal proceedings or to defer or  
35 postpone prosecution indefinitely as required by subsection (a)(3) shall be

1 reported within five (5) working days;

2           (2) Information pertaining to any other reportable events  
3 specified in subsections (a)(4) through (a)(13) shall be reported at least  
4 monthly.

5

6           SECTION 7. DISSEMINATION FOR CRIMINAL JUSTICE PURPOSES. (a) Pending,  
7 conviction and nonconviction information available through the Arkansas Crime  
8 Information Center, plus information obtained through the Interstate  
9 Identification Index or from another state's record system, shall be  
10 disseminated to criminal justice agencies and officials for the administration  
11 of criminal justice.

12           (b) Criminal justice agencies shall query the Arkansas Crime  
13 Information Center to obtain the latest updated information prior to  
14 disseminating criminal history information, unless the agency knows that the  
15 Arkansas Crime Information Center does not maintain the information or is  
16 incapable of responding within the necessary time period.

17           (c) If a criminal justice agency disseminates criminal history  
18 information received from the Arkansas Crime Information Center to another  
19 criminal justice agency, the disseminating agency shall maintain, for at least  
20 one year, a dissemination log recording the identity of the record subject,  
21 the agencies or persons to whom the criminal history information was  
22 disseminated, and the date it was provided.

23           (d) Expunged records will be made available to criminal justice  
24 agencies for criminal justice purposes as other laws permit.

25

26           SECTION 8. DISSEMINATION OF CONVICTION INFORMATION FOR NONCRIMINAL  
27 JUSTICE PURPOSES. (a) Conviction information shall be made available for the  
28 following noncriminal justice purposes:

29           (1) To any local, state, or federal governmental agency that  
30 requests the information for the enforcement of a local, state or federal law;

31           (2) To any nongovernmental entity authorized either by the record  
32 subject in writing or by state law to receive such information;

33           (3) To any federal agency or central repository in another state  
34 requesting the information for purposes authorized by law.

35           (b) Conviction information disseminated for noncriminal justice

1 purposes under this act shall only be used for the purposes for which it was  
2 made available and may not be redisseminated.

3 (c) Nonconviction information shall not be available under the  
4 provisions of this act for noncriminal justice purposes.

5 (d) No agency or individual shall confirm the existence or nonexistence  
6 of criminal history information to any person or organization that would not  
7 be eligible to receive the information pursuant to this act.

8 (e) Local agencies may release their own agency records according to  
9 their own policies.

10

11 SECTION 9. DISSEMINATION FOR OTHER PURPOSES. (a) Criminal history  
12 information shall be made available to the office of the governor for purposes  
13 of carrying out the governor's constitutional authority involving pardons,  
14 executive clemencies, extraditions, or other duties specifically authorized by  
15 law.

16 (b) Criminal history information may be made available to persons  
17 performing research related to the administration of criminal justice, subject  
18 to conditions approved by the Central Repository or Identification Bureau to  
19 assure the security of the information and the privacy of individuals to whom  
20 the information relates.

21 (c) Criminal history information shall be made available according to  
22 the provisions of the Interstate Compact on the exchange of criminal history  
23 records for noncriminal justice purposes following the adoption of such  
24 compact by the Arkansas General Assembly.

25

26 SECTION 10. DISSEMINATION LIMITED. (a) Release of criminal history  
27 information for noncriminal justice purposes shall only be made by the  
28 Identification Bureau or Central Repository, under the limitations contained  
29 in section 8, and such compiled records will not be released or disclosed for  
30 noncriminal justice purposes by other agencies in the state.

31 (b) Intelligence and investigative files maintained by law enforcement  
32 agencies shall be kept separated from criminal history information and shall  
33 not be subject to dissemination under the provisions of this act.

34

35 SECTION 11. FEES FOR NONCRIMINAL JUSTICE RECORD SEARCHES. (a) A fee

1 may be charged for providing criminal history information for noncriminal  
2 justice purposes. The amount of such fees will be determined jointly by the  
3 Identification Bureau and the Central Repository and shall not exceed twenty  
4 dollars (\$20.00).

5 (b) All fees shall be deposited immediately in the state treasury as  
6 special revenue to the credit of the State Police Equipment Fund, which is  
7 hereby created on the books of the State Treasurer, State Auditor and Chief  
8 Fiscal Officer of the state, there to be used for the acquisition of an  
9 automated fingerprint identification system. Effective July 1, 1998, such  
10 fees shall then be credited 75 percent (75%) to the Crime Information System  
11 Fund and 25 percent (25%) to the State Police Equipment Fund, there to be used  
12 for the continued operation and expansion of the automated criminal history  
13 system and for the operation of the automated fingerprint identification  
14 system, subject to legislative appropriations. Special revenues deposited in  
15 the Crime Information System Fund and the State Police Equipment Fund unused  
16 at the end of any fiscal year shall be carried forward.

17

18 SECTION 12. RIGHT OF REVIEW AND CHALLENGE. (a) A person, upon positive  
19 verification of his or her identity, may review criminal history information  
20 pertaining to such person compiled and maintained by the Identification Bureau  
21 or the Central Repository, and may challenge the completeness or accuracy of  
22 such information. The criminal history information may be reviewed only by  
23 the subject, or by the subject and his or her attorney, or the subject's  
24 attorney authorized in writing by the subject.

25 (b) If the subject, after appropriate review, believes that the records  
26 are incorrect or incomplete in any way, he or she may request an examination  
27 and correction of the records by the agency responsible for the records.

28 (c) Should it be determined as a result of the challenge that the  
29 criminal history information is inaccurate, incomplete or improperly  
30 maintained, that information shall be appropriately corrected. Immediately  
31 thereafter, the agency responsible for the records shall notify every agency  
32 or person known to have received this information within the previous one year  
33 period and provide them with corrected information. A person whose record has  
34 been corrected shall be entitled to ascertain the names of those agencies or  
35 individuals known to have received the previously incorrect criminal history



1 information.

2 (d) Criminal history information which was recorded prior to the  
3 effective date of this act is subject to the right of review and challenge in  
4 accordance with this section. However, the duty is to make a reasonable  
5 search for such information. There is no duty to provide access to that  
6 segment of criminal history information that cannot be located after a  
7 reasonable search.

8 (e) The right of a person to review his or her criminal history record  
9 shall not be used by a prospective employer or others as a means to circumvent  
10 procedures or fees for accessing records for noncriminal justice purposes.

11

12 SECTION 13. SECURITY OF CRIMINAL HISTORY INFORMATION. (a) The Arkansas  
13 Crime Information Center shall be authorized to develop standards and  
14 implement procedures that will, to the maximum extent feasible, ensure the  
15 security and confidentiality of criminal history records.

16 (b) The Arkansas Crime Information Center shall be authorized to  
17 inspect the criminal history records maintained by criminal justice agencies;  
18 to evaluate security procedures; and to issue reports on compliance with  
19 security standards.

20

21 SECTION 14. AUDIT OF CRIMINAL HISTORY RECORDS. The Arkansas Crime  
22 Information Center shall be authorized to develop standards and implement a  
23 program of audits of all criminal justice agencies that establish, maintain,  
24 report or disseminate criminal history records, to ensure compliance with all  
25 provisions of this act. Audit procedures pertaining to the courts shall be  
26 coordinated and implemented through the Administrative Office of the Courts.

27

28 SECTION 15. PENALTIES. (a) Any criminal justice agency or official  
29 subject to fingerprinting or reporting requirements under this act that  
30 knowingly fails to comply with such reporting requirements shall be deemed  
31 guilty of a Class B misdemeanor.

32 (b) Every person who shall knowingly release or disclose to any  
33 unauthorized person any information collected and maintained under this act,  
34 and any person who knowingly obtains such information for purposes not  
35 authorized by this act, shall be deemed guilty of a Class D felony.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

SECTION 16. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same into the Code.

SECTION 17. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared to be severable.

SECTION 18. All laws and parts of laws in conflict with this act are hereby repealed.

*/s/James T. Jordan*

APPROVED: 04/13/93

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9