

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.

Act 1778 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/16/05

A Bill

HOUSE BILL 2766

5 By: Representatives Thompson, Mahony
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8 **For An Act To Be Entitled**

9 AN ACT TO AUTHORIZE CRIMINAL HISTORY BACKGROUND
10 CHECKS FOR VOLUNTEERS; AND FOR OTHER PURPOSES.
11

12 **Subtitle**

13 AN ACT TO AUTHORIZE CRIMINAL HISTORY
14 BACKGROUND CHECKS FOR VOLUNTEERS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 12, Chapter 12 is amended to add an
20 additional subchapter to read as follows:
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22 12-12-1601. Title – purpose.

23 (a) This subchapter shall be known and may be cited as the “Criminal
24 History for Volunteers Act”.
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26 12-12-1602. Purpose.

27 The purpose of this subchapter is to allow volunteer organizations to
28 request and receive information regarding the qualifications of a person who
29 volunteers his or her time or services to work with children, the elderly,
30 victims of domestic abuse, or persons with disabilities based upon the
31 person’s state and federal criminal history.
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33 12-12-1603. Definitions.

34 As used in this subchapter:

35 (1) “Children” means individuals under sixteen (16) years of



1 age;

2 (2) "Conviction" means that a person has been found guilty of or
3 has pleaded guilty or nolo contendere to any offense by any court in the State
4 of Arkansas or of any similar offense by a court in another state or a
5 federal court, regardless of whether the conviction has been sealed or
6 expunged;

7 (3) "Criminal history information" means a record compiled by
8 the Arkansas Crime Information Center or the Identification Bureau of the
9 Department of Arkansas State Police on an individual;

10 (4) "Domestic abuse" means the same as defined in § 9-4-102;

11 (5) "Elderly" means individuals age sixty-five (65) or older;

12 (6) "Employee" means an individual currently in the service of
13 an employer for full-time or part-time compensation, and employed by contract
14 or at will, in which the employer has the authority to control the person in
15 the material details of how work shall be performed and when compensation
16 shall be provided;

17 (7) "Persons with disabilities" means mentally ill or
18 developmentally disabled persons with physically or mental impairments that
19 substantially limit one (1) or more of the major life activities of the
20 individual;

21 (8) "Volunteer" means an individual who provides services
22 involving contact with children, the elderly, or persons with disabilities
23 without an express or implied promise of compensation; and

24 (9) "Volunteer organization" means an individual, group of
25 individuals, association, partnership, corporation, limited liability company
26 or partnership, business, or other entity which has volunteers that provide
27 services to children, the elderly, victims of domestic abuse, or persons with
28 disabilities.

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30 12-12-1604. Authority.

31 (a) The Department of Arkansas State Police and the Arkansas Crime
32 Information Center may provide background check services to a volunteer
33 organization pursuant to the provisions of this subchapter.

34 (b) The Department of Arkansas State Police and the Arkansas Crime
35 Information Center may promulgate rules to administer the provisions of this
36 subchapter.

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12-12-1605. Registration by volunteer organization.

(a) A volunteer organization desiring to obtain criminal background check information on volunteers shall register with the Department of Arkansas State Police.

(b) The Department of Arkansas State Police may promulgate rules regarding registration with the department to obtain criminal background check information.

(c) If the volunteer organization desires to receive criminal background check information from the Federal Bureau of Investigation, the volunteer organization shall include a copy of the minutes from its most recent board meeting that lists offenses that the organization considers to disqualify an applicant from serving as a volunteer with the agency.

12-12-1606. Request for criminal background check.

(a)(1) Any volunteer organization registered to obtain criminal background check information from the Arkansas Crime Information Center or the Federal Bureau of Investigation concerning volunteers may apply to the Identification Bureau of the Department of Arkansas State Police for the purpose of obtaining criminal history information regarding any person currently acting as a volunteer with the organization or desiring to act as a volunteer with the organization.

(2) The request form submitted by the volunteer organization shall include:

(A) The name of the volunteer organization;

(B) The identifying information of the person for whom the background check is sought; and

(C) A signed authorization form executed by the volunteer authorizing the Identification Bureau to release criminal history information.

(b) The request form shall be subject to inspection by the Department of Arkansas State Police.

(c) The volunteer organization shall retain a copy of the criminal background check request for a period of at least three (3) years from the date of the request.

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2 12-12-1607. Background checks.

3 (a)(1) Upon receipt of a proper request from a volunteer organization,
4 the Identification Bureau of the Department of Arkansas State Police shall
5 conduct a background check through the Arkansas Crime Information Center.

6 (2)(A) The Identification Bureau shall provide the information
7 obtained from the Arkansas background check to the volunteer organization.

8 (B) The information shall include:

9 (i) All pending Arkansas felony arrests;

10 (ii) All Arkansas criminal convictions; and

11 (iii) Whether the person is a registered sex
12 offender or required to register as a sex offender.

13 (b)(1) Upon the completion of the Arkansas background check, the
14 volunteer organization may request through the Identification Bureau a
15 national criminal background check through the Federal Bureau of
16 Investigation.

17 (2) The volunteer organization shall not be required to submit an
18 additional application for the state and national criminal background check
19 through the Federal Bureau of Investigation.

20 (3) The national background check shall comply with federal
21 standards in effect as of January 1, 2005, including, but not limited to,
22 standards concerning the requirement of the submission of the fingerprints of
23 the volunteer.

24 (4) The Identification Bureau shall not release the Federal
25 Bureau of Investigation criminal history report to the volunteer
26 organization, but shall review the report and the criteria provided by the
27 volunteer organization in its registration to obtain criminal background
28 check information on volunteers and notify the volunteer organization whether
29 the volunteer meets the qualifications for serving as a volunteer with the
30 organization.

31 (c) A volunteer organization shall consider all information received
32 in response to a request for criminal background information confidential.

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34 12-12-1608. Penalty.

35 The following acts shall constitute a Class A misdemeanor:

36 (1) Knowingly releasing or disclosing criminal background

1 information to any unauthorized volunteer organization or person; or

2 (2) Obtaining information for purposes not authorized by this
3 subchapter.

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5 12-12-1609. Fees.

6 (a)(1) The Department of Arkansas State Police may charge a fee for
7 providing criminal history background checks under this subchapter.

8 (2) The amount of the fee for a criminal background check
9 conducted through the Arkansas Crime Information Center shall be determined
10 jointly by the Department of Arkansas State Police and the Arkansas Crime
11 Information Center and shall not exceed twenty dollars (\$20.00), exclusive of
12 any third party electronic processing fee charges.

13 (3) The amount of the fee for a background check performed by
14 the Federal Bureau of Investigation shall not exceed the amount determined by
15 the Federal Bureau of Investigation.

16 (b) Fees collected pursuant to subchapter shall be credited as
17 follows:

18 (1) Fifty percent (50%) to the Crime Information Center System
19 Fund; and

20 (2) Fifty percent (50%) to the State Police Equipment Fund, to
21 be used for the continued operation and expansion of the automated criminal
22 history system and the automated fingerprint identification system.

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24 12-12-1610. Extent of disclosure.

25 (a) The Department of Arkansas State Police and the Arkansas Crime
26 Information Center shall disseminate criminal history information to the
27 extent entries have been made at the time of the request for the information.

28 (b) Any event, activity, or any portion of the criminal history
29 information which has not been processed by the department or the center
30 shall not be required to be included in the dissemination.

31 (c) Requests for information, supporting documents, and any responses
32 to a request for criminal background check information under this subchapter
33 shall not be subject to disclosure under the Freedom of Information Act of
34 1967, § 25-19-101 et seq.

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36 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that the dissemination of complete,
2 accurate, and timely criminal background check information for volunteers is
3 necessary for the protection of children, the elderly, and developmentally
4 disabled persons in the State of Arkansas. Therefore, an emergency is
5 declared to exist and this act being immediately necessary for the
6 preservation of the public peace, health, and safety shall become effective
7 on:

8 (1) The date of its approval by the Governor;

9 (2) If the bill is neither approved nor vetoed by the Governor,
10 the expiration of the period of time during which the Governor may veto the
11 bill; or

12 (3) If the bill is vetoed by the Governor and the veto is
13 overridden, the date the last house overrides the veto.

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15 */s/ Thompson, et al*
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