

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

As Engrossed: S2/16/23

# A Bill

SENATE BILL 186

5 By: Senator Irvin  
6 By: Representative L. Johnson  
7

## For An Act To Be Entitled

9 AN ACT TO PROTECT INDIVIDUALS WITH INTELLECTUAL AND  
10 DEVELOPMENTAL DISABILITIES; TO REQUIRE CRIMINAL  
11 BACKGROUND CHECKS, ADULT AND CHILD MALTREATMENT  
12 REGISTRY CHECKS, SEX OFFENDER REGISTRY CHECKS, AND  
13 DRUG SCREENINGS FOR ANY EMPLOYEE OR OTHER AGENT OF A  
14 COMMUNITY SERVICES PROVIDER WHO PROVIDES STATE OR  
15 FEDERALLY FUNDED SERVICES TO AN INDIVIDUAL WITH AN  
16 INTELLECTUAL AND DEVELOPMENTAL DISABILITY; AND FOR  
17 OTHER PURPOSES.  
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## Subtitle

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21 TO PROTECT INDIVIDUALS WITH INTELLECTUAL  
22 AND DEVELOPMENTAL DISABILITIES.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 20-48-812 is amended to read as follows:  
28 20-48-812. Criminal history records checks required – Definitions.

29 (a) As used in this section:

30 (1) ~~“Registry records check” means the review of one (1) or more~~  
31 ~~database systems maintained by a state agency that contain information~~  
32 ~~relative to a person’s suitability for licensure or certification as a~~  
33 ~~service provider or employment with a service provider to provide care as~~  
34 ~~defined in § 20-38-101; and “Employee” means:~~

35 (A) An individual who currently works for or is being  
36 considered for hire by a service provider, including without limitation an



1 independent contractor, subcontractor, intern, volunteer, trainee, or agent  
 2 of the service provider; and

3 (B) The individual will have direct contact with:

4 (i) An individual with an intellectual and  
 5 developmental disability;

6 (ii) The personal property of an individual with an  
 7 intellectual and developmental disability; or

8 (iii) The funds of an individual with an  
 9 intellectual and developmental disability; and

10 (2) "Service provider" means any of the following an individual  
 11 or entity providing state or federally funded services through the Division  
 12 of Developmental Disability Services to one (1) or more individuals with  
 13 intellectual and developmental disabilities as defined in § 20-48-101+

14 ~~(A) A community and employment supports services waiver~~  
 15 ~~provider;~~

16 ~~(B) A First Connections provider; or~~

17 ~~(C) An early intervention day treatment or adult~~  
 18 ~~developmental day treatment provider.~~

19 (b) Beginning September 1, 2009, a service provider is subject to the  
 20 requirements of this section and § 20-38-101 et seq., concerning criminal  
 21 history records checks.

22 ~~(c)(1) A person offered employment with a service provider on or after~~  
 23 ~~September 1, 2009, is subject to the requirements of this section and § 20-~~  
 24 ~~38-101 et seq., concerning criminal history records checks.~~

25 ~~(2)(A) A person who was offered employment by a service provider~~  
 26 ~~before September 1, 2009, was subject to a criminal history records check~~  
 27 ~~under §§ 20-48-801—20-48-811 [repealed] and has continued to be employed by~~  
 28 ~~the service provider who initiated the criminal history records check may~~  
 29 ~~continue employment with the service provider based on the results of the~~  
 30 ~~criminal history records check process conducted under §§ 20-48-801—20-48-~~  
 31 ~~811 [repealed].~~

32 ~~(B) When the person next undergoes a periodic criminal~~  
 33 ~~history records check, the person's continued employment with the service~~  
 34 ~~provider is contingent on the results of a criminal history records check~~  
 35 ~~under § 20-38-101 et seq. An employee shall pass:~~

36 (1) A criminal history records check as required under § 20-38-

1 103 before employment and once every five (5) years during his or her term of  
 2 employment;

3 (2) An Arkansas Child Maltreatment Central Registry check before  
 4 employment and once every two (2) years during his or her term of employment;

5 (3) An Arkansas Adult and Long-term Care Facility Resident  
 6 Maltreatment Central Registry check before employment and once every two (2)  
 7 years during his or her term of employment;

8 (4) An Arkansas Sex Offender Registry check before employment  
 9 and once every two (2) years during his or her term of employment; and

10 (5) A drug screening that tests for the use of illegal drugs  
 11 before employment.

12 ~~(d)(1) The person who signs an application for licensure or~~  
 13 ~~certification as a service provider on or after September 1, 2009, is subject~~  
 14 ~~to the requirements of this section and § 20-38-101 et seq., concerning~~  
 15 ~~criminal records checks.~~

16 ~~(2)(A) The person who signed an application for licensure or~~  
 17 ~~certification of a service provider before September 1, 2009, was subject to~~  
 18 ~~a criminal history records check under §§ 20-48-801—20-48-811 [repealed],~~  
 19 ~~and has continued to maintain the licensure or certification of the service~~  
 20 ~~provider may continue to maintain the licensure or certification of the~~  
 21 ~~service provider based on the results of the criminal history records check~~  
 22 ~~process conducted under §§ 20-48-801—20-48-811 [repealed].~~

23 ~~(B) When the service provider next undergoes a periodic~~  
 24 ~~criminal history records check, the service provider's continued licensure or~~  
 25 ~~certification is contingent on the results of a criminal history records~~  
 26 ~~check under § 20-38-101 et seq.~~

27 ~~(e) The Division of Developmental Disabilities Services shall~~  
 28 ~~establish by rule requirements for registry records checks for:~~

29 ~~(1) An applicant for licensure or certification of a service~~  
 30 ~~provider;~~

31 ~~(2) An applicant for employment with a service provider; and~~

32 ~~(3) An employee of a service provider.~~

33 ~~(f) The division shall establish by rule:~~

34 ~~(1) Requirements for criminal history and registry records~~  
 35 ~~checks of persons who volunteer for a service provider; and~~

36 ~~(2) The consequences of a determination that a person who~~

1 ~~proposes to reside in an alternative living home in which services are~~  
2 ~~provided to an individual with developmental disabilities is disqualified~~  
3 ~~from the residency based on the criminal history of the person.~~

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5 */s/ Irvin*

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8 **APPROVED: 3/2/23**

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