

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

A Bill

HOUSE BILL 1982

5 By: Representative D. Meeks
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For An Act To Be Entitled

8 AN ACT CONCERNING THE DISSEMINATION OF CRIMINAL
9 HISTORY INFORMATION; AND FOR OTHER PURPOSES.
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Subtitle

11 CONCERNING THE DISSEMINATION OF CRIMINAL
12 HISTORY INFORMATION.
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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 § 12-12-1001 is amended to read as follows:
20 12-12-1001. Definitions.

21 As used in this subchapter:

22 (1)(A) "Administration of criminal justice" means performing functions
23 of investigation, apprehension, detention, prosecution, adjudication,
24 correctional supervision, or rehabilitation of accused persons or criminal
25 offenders.

26 (B) "Administration of criminal justice" also includes criminal
27 identification activities and the collection, maintenance, and dissemination
28 of criminal justice information;

29 (2)(A) "Agency director" means any agency head.

30 (B) "Agency director" includes without limitation a person
31 serving as an interim or acting agency head;

32 ~~(2)(3)~~ "Arrest tracking number" means a unique number assigned to an
33 arrestee at the time of each arrest that is used to link that arrest to the
34 final disposition of that charge;

35 ~~(3)(4)~~ "Central repository" means the Arkansas Crime Information
36 Center, which is authorized to collect, maintain, and disseminate criminal



1 history information;

2 ~~(4)~~(5) "CODIS" means the Federal Bureau of Investigation Laboratory's
3 Combined DNA Index System that allows the storage and exchange of DNA records
4 submitted by federal forensic laboratories, state forensic laboratories, and
5 local forensic laboratories;

6 ~~(5)~~(6) "Conviction information" means criminal history information
7 disclosing that a person has pleaded guilty or nolo contendere to, or was
8 found guilty of, a criminal offense in a court of law, together with
9 sentencing information;

10 ~~(6)~~(A)~~(7)~~(A) "Criminal history information" means a record compiled by
11 a central repository or the Identification Bureau of the Department of
12 Arkansas State Police on an individual consisting of names and identification
13 data, notations of arrests, detentions, indictments, informations, or other
14 formal criminal charges. This record also includes any dispositions of the
15 charges, as well as notations on correctional supervision and release.

16 (B) "Criminal history information" does not include fingerprint
17 records on individuals not involved in the criminal justice system or driver
18 history records;

19 ~~(7)~~(8) "Criminal history information system" means the equipment,
20 procedures, agreements, and organizations thereof, for the compilation,
21 processing, preservation, and dissemination of criminal history information;

22 ~~(8)~~(9) "Criminal justice agency" means a government agency or any
23 subunit of a government agency that is authorized by law to perform the
24 administration of criminal justice and that allocates more than one-half
25 (1/2) its annual budget to the administration of criminal justice;

26 ~~(9)~~(10) "Criminal justice official" means an employee of a criminal
27 justice agency performing the administration of criminal justice;

28 ~~(10)~~(A)~~(11)~~(A) "Disposition" means information describing the outcome
29 of any criminal charges, including notations that law enforcement officials
30 have elected not to refer the matter to a prosecutor, that a prosecutor has
31 elected not to commence criminal proceedings, or that proceedings have been
32 indefinitely postponed.

33 (B) "Disposition" also includes acquittals, dismissals,
34 probations, charges pending due to mental disease or defect, guilty pleas,
35 nolle prosequi, nolo contendere pleas, findings of guilt, youthful offender
36 determinations, first offender programs, pardons, commuted sentences,

1 mistrials in which the defendant is discharged, executive clemencies,
2 paroles, releases from correctional supervision, or deaths;

3 ~~(11)~~(12) “Dissemination” means disclosing criminal history information
4 or the absence of criminal history information to any person or organization
5 outside the agency possessing the information;

6 ~~(12)~~(13) “DNA” means deoxyribonucleic acid that is located in the
7 cells of an individual, provides an individual’s personal genetic blueprint,
8 and encodes genetic information that is the basis of human heredity and
9 forensic identification;

10 ~~(13)~~(A)~~(14)~~(A) “DNA record” means DNA identification information
11 stored in the State DNA Data Base or CODIS for the purpose of generating
12 investigative leads or supporting statistical interpretation of DNA test
13 results.

14 (B) The DNA record is the result obtained from the DNA typing
15 tests.

16 (C) The DNA record is composed of the characteristics of a DNA
17 sample that are of value in establishing the identity of individuals.

18 (D) The results of all DNA identification tests on an
19 individual’s DNA sample also are collectively referred to as the DNA profile
20 of an individual;

21 ~~(14)~~(15) “DNA sample” means a blood, saliva, or tissue sample provided
22 by any individual as required by this subchapter or submitted to the State
23 Crime Laboratory for analysis or storage, or both;

24 (16)(A) “Elected official” means a person elected by qualified
25 electors to a municipal, county, or state office or as a member of a school
26 district board of directors.

27 (B) “Elected official” includes without limitation a person
28 elected to the office of constable;

29 ~~(15)~~(17) “Expunged record” means a record that was expunged under §
30 16-90-901 et seq.;

31 ~~(16)~~(18) “Identification Bureau” means the Identification Bureau of
32 the Department of Arkansas State Police, which may maintain fingerprint card
33 files and other identification information on individuals;

34 ~~(17)~~(A)~~(19)~~(A) “Juvenile aftercare and custody information” means
35 information maintained by the Division of Youth Services of the Department of
36 Human Services regarding the status of a juvenile committed to or otherwise

1 placed in the custody of the division from the date of commitment until the
 2 juvenile is released from aftercare or custody, whichever is later.

3 (B) "Juvenile aftercare and custody information" may include the
 4 name, address, and phone number of a contact person or an entity responsible
 5 for the juvenile;

6 ~~(18)~~(20) "Nonconviction information" means arrest information without
 7 disposition if an interval of one (1) year has elapsed from the date of
 8 arrest and no active prosecution of the charge is pending, as well as all
 9 acquittals and all dismissals; ~~and~~

10 ~~(19)~~(21) "Pending information" means criminal history information in
 11 some stage of active prosecution or processing;

12 (22) "School district board of directors" means the local board of
 13 directors of a school district who are elected and qualified to hold office
 14 under § 6-13-604 et seq.; and

15 (23) "Sealed or expunged" means that a record in question is sealed,
 16 sequestered, and treated as confidential as provided by law, including
 17 without limitation a record of an offense for which a pardon was issued by
 18 the Governor.

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 20 SECTION 2. Arkansas Code § 12-12-1010, concerning the dissemination of
 21 criminal history information for noncriminal justice record searches, is
 22 amended to add an additional subsection to read as follows:

23 (c)(1) Criminal history information shall be made available to a
 24 person requesting the criminal history of:

25 (A) An elected official;

26 (B)(i) A candidate to serve as an elected official.

27 (ii) For purposes of this subdivision (c)(1)(B), a
 28 person becomes a candidate to serve as an elected official when he or she
 29 files the documents required for candidacy as the elected official at issue;
 30 or

31 (C) An agency director.

32 (2)(A) Criminal history information under subdivision (c)(1) of
 33 this section shall be limited to:

34 (i) Offenses within the state in which an individual
 35 was found guilty or pleaded guilty or nolo contendere; and

36 (ii) Pending felony charges within the state

1 occurring within three (3) years of the date of the request for criminal
2 history information.

3 (B) Criminal history information under subdivision (c)(1)
4 of this section does not include a record of an offense or charge that is
5 pardoned, sealed or expunged.

6 (3)(A) Any fee for copies of information under subdivision
7 (c)(1) of this section shall not exceed the sum of:

8 (i) Twenty-five dollars (\$25); and

9 (ii) The actual costs of reproduction, including the
10 costs of the medium of reproduction, supplies, equipment, and maintenance,
11 but not including existing agency personnel time associated with searching
12 for, retrieving, reviewing, or copying the information.

13 (B) The fee under subdivision (c)(3)(A) of this section
14 may include the actual cost of mailing or transmitting the information by
15 facsimile or other electronic means.

16 (C) A person requesting criminal history information under
17 subdivision (c)(1) of this section shall receive an itemized breakdown of
18 charges under this subdivision (c)(3) upon request.

19 (4)(A) A person requesting criminal history information under
20 subdivision (c)(1) of this section shall submit at the time of his or her
21 request documentation that verifies that the person whose criminal history
22 information is requested is an elected official, a candidate to serve as an
23 elected official, or an agency director.

24 (B) Documentation under this subdivision (c)(4)(A) is
25 limited to a statement of financial interest or any other document that is
26 signed, dated, and notarized by the elected official, a candidate to serve as
27 an elected official, or an agency director and filed with a state
28 governmental agency.

29 (C) Documentation under this subdivision (c)(4) shall have
30 been created:

31 (i) On or after January 1, 2012; and

32 (ii) Within one (1) year of the date of the request
33 for the criminal history information.

34 (5)(A) Requests for criminal history information under
35 subdivision (c)(1) of this section shall be made to the Identification Bureau
36 of the Department of Arkansas State Police.

1 (B) The Identification Bureau of the Department of
2 Arkansas State Police shall maintain a record of all persons requesting
3 information under subdivision (c)(1) of this section.

4 (6) The consent of an elected official, a candidate to serve as
5 an elected official, or an agency director is not required for the provision
6 of criminal history information under subdivision (c)(1) of this section.

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8 SECTION 3. Arkansas Code § 12-12-1012(a)(2), concerning fees for
9 noncriminal justice record searches, is amended to read as follows:

10 (2)(A) ~~The~~ Except as provided in § 12-12-1010(c)(3), the amount
11 of the fee for electronic Internet submission will be determined jointly by
12 the bureau and the central repository and shall not exceed twenty dollars
13 (\$20.00), exclusive of any third-party electronic processing fee charges.

14 (B) ~~Effective July 1, 2005, the~~ Except as provided in §
15 12-12-1010(c)(3), the amount of the fee for providing information by means
16 other than the Internet shall be determined jointly by the bureau and the
17 central repository and shall not exceed thirty dollars (\$30.00).

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