

Hall of the House of Representatives
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of House Bill No. 1051

"AN ACT CONCERNING THE DISSEMINATION OF CRIMINAL HISTORY
INFORMATION."

Amendment No. 1 to House Bill No. 1051.

Amend House Bill No. 1051 as originally introduced:

Page 1, delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 12-12-1001 is amended to read as follows:
12-12-1001. Definitions.

As used in this subchapter:

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

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

(2)(A) "Agency director" means any agency head, department director, or division director of state government.

(B) "Agency director" includes without limitation a person serving as an interim or acting agency head, department director, or division director of state government;

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

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

~~(4)(5)~~ "Conviction information" means criminal history information disclosing that a person has pleaded guilty or nolo contendere to, or was found guilty of, a criminal offense in a court of law, together with sentencing information;

~~(5)(6)~~(A) "Criminal history information" means a record compiled by a central repository or the Identification Bureau of the Department of Arkansas State Police on an individual consisting of names and identification data, notations of arrests, detentions, indictments, informations, or other



formal criminal charges. This record also includes any dispositions of the charges, as well as notations on correctional supervision and release.

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

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

~~(7)~~(8) "Criminal justice agency" means a government agency, or any subunit of a government agency, which is authorized by law to perform the administration of criminal justice, and which allocates more than one-half ($\frac{1}{2}$) its annual budget to the administration of criminal justice;

~~(8)~~(9) "Criminal justice official" means an employee of a criminal justice agency performing the administration of criminal justice;

~~(9)~~(10)(A) "Disposition" means information describing the outcome of any criminal charges, including notations that law enforcement officials have elected not to refer the matter to a prosecutor, that a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed.

(B) "Disposition" also ~~include~~ includes acquittals, dismissals, probations, charges pending due to mental disease or defect, guilty pleas, nolle prosequi, nolo contendere pleas, findings of guilt, youthful offender determinations, first offender programs, pardons, commuted sentences, mistrials in which the defendant is discharged, executive clemencies, paroles, releases from correctional supervision, or deaths;

~~(10)~~(11) "Dissemination" means disclosing criminal history information or the absence of criminal history information to any person or organization outside the agency possessing the information;

(12)(A) "Elected official" means a person elected by qualified electors to a municipal, county, or state office or as a member of a school district board of directors.

(B) "Elected official" includes without limitation a person elected to the office of constable;

~~(11)~~(13) "Expunge" means to restrict access to specific criminal justice purposes as other laws permit;

~~(12)~~(14) "Identification Bureau" means the Identification Bureau of the Department of Arkansas State Police, which may maintain fingerprint card files and other identification information on individuals;

~~(13)~~(15)(A) "Juvenile aftercare and custody information" means information maintained by the Division of Youth Services of the Department of Human Services regarding the status of a juvenile committed to or otherwise placed in the custody of the division from the date of commitment until the juvenile is released from aftercare or custody, whichever is later.

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

~~(14)~~(16) "Nonconviction information" means arrest information without disposition if an interval of one (1) year has elapsed from the date of arrest and no active prosecution of the charge is pending, as well as all acquittals and all dismissals; ~~and~~

~~(15)~~(17) "Pending information" means criminal history

information in some stage of active prosecution or processing;

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

(19) "Sealed or expunged" means that the record or records in question are sealed, sequestered, and treated as confidential as provided by law, including pardons issued by the Governor.

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

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

(A) An elected official;

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

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

(C) An agency director.

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

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

(ii) Pending felony and misdemeanor charges within the state occurring within three (3) years of the date of the request for criminal history information.

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

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

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

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

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

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

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

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

governmental agency.

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

(i) On or after January 1, 2010; and

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

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

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

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

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

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

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

The Amendment was read _____

By: Representative Greenberg
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Chief Clerk