

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.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2756

5 By: Representative E. Brown
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For An Act To Be Entitled

9 AN ACT TO ALLOW THE DEPARTMENT OF ARKANSAS STATE
10 POLICE TO RELEASE CERTAIN CRIMINAL HISTORY
11 INFORMATION TO PERSONS ACTING ON AN EMPLOYER'S
12 BEHALF OR PERSONS WITH THE CONSENT OF THE SUBJECT
13 TO CONDUCT BACKGROUND CHECKS; AND FOR OTHER
14 PURPOSES.
15

Subtitle

16 TO ALLOW THE DEPARTMENT OF ARKANSAS
17 STATE POLICE TO RELEASE CRIMINAL HISTORY
18 INFORMATION TO AGENTS OF EMPLOYERS OR
19 PERSONS WITH WRITTEN CONSENT.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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SECTION 1. Legislative intent.

25 It is the intent of this act to allow the Department of Arkansas State
26 Police to release certain criminal history information to persons performing
27 background checks on behalf of an employer and persons who have the written
28 consent of the subject.
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31 SECTION 2. Arkansas Code § 12-12-1503, as amended by Act 59 of 2007,
32 is amended to read as follows:

33 12-12-1503. Definitions.

34 As used in this subchapter:

35 (1) "Administration of criminal justice" means performing
36 functions of investigation, apprehension, detention, prosecution,



1 adjudication, correctional supervision, or rehabilitation of accused persons
 2 or criminal offenders, including criminal identification activities and the
 3 collection, maintenance, and dissemination of criminal justice information;

4 (2)(A) "Arrest records or arrest information" means felony
 5 arrest information in which conviction or disposition information has not
 6 been entered into the central repository.

7 (B) "Arrest records or arrest information" does not
 8 include:

9 (i) Misdemeanor arrest information;

10 (ii) Felony arrest information that has a
 11 disposition of acquittal, dismissal, or nolle prosequi entered into the
 12 central repository; or

13 (iii) Felony arrest information if more than three
 14 (3) years have elapsed from the date of the felony arrest;

15 (3) "Bureau" means the Identification Bureau of the Department
 16 of Arkansas State Police, which may maintain fingerprint card files and other
 17 identification information on individuals;

18 (4) "Central repository" means the Arkansas Crime Information
 19 Center, which collects, maintains, and disseminates criminal history
 20 information;

21 (5)(A) "Conviction information" means criminal history
 22 information disclosing that a person has pleaded guilty or nolo contendere to
 23 or was found guilty of a criminal offense in a court of law, together with
 24 sentencing information.

25 (B) "Conviction information" does not include a sealed or
 26 expunged record;

27 (6)(A) "Criminal history information" means a record compiled by
 28 the central repository or the bureau on an individual consisting of names,
 29 identification data, notations of arrests, detentions, indictments,
 30 informations, or other formal criminal charges obtained from criminal justice
 31 agencies, including any dispositions of the charges, as well as notations on
 32 correctional supervision and release.

33 (B) "Criminal history information" does not include the
 34 following:

35 (i) Fingerprint records on individuals not involved
 36 in the criminal justice system, juvenile records, or driver history records;

1 (ii) Original records of entry maintained by
 2 criminal justice agencies, court indices, records of public judicial
 3 proceedings, court decisions, opinions, and information disclosed during
 4 public judicial proceedings; and

5 (iii) Records when the release is made by the
 6 specific court, law enforcement agency, or prosecutor that created the
 7 records.

8 (C) Subdivision (5) of this section does not prohibit the
 9 release of information by the specific agency that created the record;

10 (7) "Criminal justice agency" means a government agency or any
 11 subunit thereof which is authorized by law to perform the administration of
 12 criminal justice and which allocates more than one-half (1/2) of its annual
 13 budget to the administration of criminal justice;

14 (8)(A) "Disposition" means information describing the outcome of
 15 any criminal charges, including notations that law enforcement officials have
 16 elected not to refer the matter to a prosecutor, that a prosecutor has
 17 elected not to begin criminal proceedings, or that proceedings have been
 18 indefinitely postponed.

19 (B) "Disposition" includes acquittals, dismissals,
 20 probations, charges pending due to mental disease or defect, guilty pleas,
 21 nolle prosequi, nolo contendere pleas, findings of guilt, youthful offender
 22 determinations, first offender programs, pardons, commuted sentences,
 23 mistrials in which the defendant is discharged, executive clemencies,
 24 paroles, releases from correctional supervision, deaths, or a finding that
 25 the person must register as a sex offender;

26 (9)(A) "Dissemination" means disclosing criminal history
 27 information or disclosing the absence of criminal history information to any
 28 requestor that has applied and been approved by the Department of Arkansas
 29 State Police to receive the information.

30 (B) "Dissemination" does not mean:

31 (i) The furnishing of information by a department to
 32 personnel of a participating agency when criminal justice agencies jointly
 33 participate in the maintenance of a single recordkeeping system as an
 34 alternative to maintaining separate records; and

35 (ii) The furnishing of information by any criminal
 36 justice agency to another for the purpose of the administration of criminal

1 justice;

2 (10)(A) "Employer" means a person or an entity that employs the
3 services of another person or for whom an employee works and receives payment
4 of wages or salary.

5 (B) "Employer" includes a person acting on an employer's
6 behalf;

7 (11) "Pending information" means felony criminal history
8 information in some stage of active prosecution or processing;

9 ~~(11)~~(12) "Requestor" means the employer, professional licensing
10 board, institution of higher education, or any entity mandated by Arkansas
11 law to perform criminal background checks through the department or any
12 person who has obtained the written authorization of the subject of the
13 record that has submitted an inquiry into an individual's criminal history
14 information under this subchapter; and

15 ~~(12)~~(13) "Seal" or "expunge" means that the record or records in
16 question shall be sealed, sequestered, and treated as confidential as
17 provided by law, including pardons issued by the Governor.

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