

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H2/12/09

A Bill

HOUSE BILL 1051

5 By: Representative Greenberg
6
7

For An Act To Be Entitled

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

Subtitle

13 AN ACT CONCERNING THE DISSEMINATION OF
14 CRIMINAL HISTORY INFORMATION.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

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*
23 *functions of investigation, apprehension, detention, prosecution,*
24 *adjudication, correctional supervision, or rehabilitation of accused persons*
25 *or criminal offenders.*

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

29 (2)(A) “Agency director” means any agency head, department
30 director, or division director of state government.

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

34 ~~(2)(3)~~ *“Arrest tracking number” means a unique number assigned*
35 *to an arrestee at the time of each arrest that is used to link that arrest to*
36 *the final disposition of that charge;*



1 ~~(3)~~(4) "Central repository" means the Arkansas Crime Information
2 Center, which is authorized to collect, maintain, and disseminate criminal
3 history information;

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

8 ~~(5)~~(6)(A) "Criminal history information" means a record compiled
9 by a central repository or the Identification Bureau of the Department of
10 Arkansas State Police on an individual consisting of names and identification
11 data, notations of arrests, detentions, indictments, informations, or other
12 formal criminal charges. This record also includes any dispositions of the
13 charges, as well as notations on correctional supervision and release.

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

17 ~~(6)~~(7) "Criminal history information system" means the
18 equipment, procedures, agreements, and organizations thereof, for the
19 compilation, processing, preservation, and dissemination of criminal history
20 information;

21 ~~(7)~~(8) "Criminal justice agency" means a government agency, or
22 any subunit of a government agency, which is authorized by law to perform the
23 administration of criminal justice, and which allocates more than one-half
24 ($\frac{1}{2}$) its annual budget to the administration of criminal justice;

25 ~~(8)~~(9) "Criminal justice official" means an employee of a
26 criminal justice agency performing the administration of criminal justice;

27 ~~(9)~~(10)(A) "Disposition" means information describing the
28 outcome of any criminal charges, including notations that law enforcement
29 officials have elected not to refer the matter to a prosecutor, that a
30 prosecutor has elected not to commence criminal proceedings, or that
31 proceedings have been indefinitely postponed.

32 (B) "Disposition" also ~~include~~ includes acquittals,
33 dismissals, probations, charges pending due to mental disease or defect,
34 guilty pleas, nolle prosequi, nolo contendere pleas, findings of guilt,
35 youthful offender determinations, first offender programs, pardons, commuted
36 sentences, mistrials in which the defendant is discharged, executive

1 clemencies, paroles, releases from correctional supervision, or deaths;

2 ~~(10)~~(11) "Dissemination" means disclosing criminal history
3 information or the absence of criminal history information to any person or
4 organization outside the agency possessing the information;

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

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

10 ~~(11)~~(13) "Expunge" means to restrict access to specific criminal
11 justice purposes as other laws permit;

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

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

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

23 ~~(14)~~(16) "Nonconviction information" means arrest information
24 without disposition if an interval of one (1) year has elapsed from the date
25 of arrest and no active prosecution of the charge is pending, as well as all
26 acquittals and all dismissals; ~~and~~

27 ~~(15)~~(17) "Pending information" means criminal history
28 information in some stage of active prosecution or processing;

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

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

35
36 SECTION 2. Arkansas Code § 12-12-1010, concerning the dissemination of

1 criminal history information for noncriminal justice record searches, is
2 amended to add an additional subsection to read as follows:

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

5 (A) An elected official;

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

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

11 (C) An agency director.

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

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

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

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

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

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

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

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

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

35 (4)(A) A person requesting criminal history information under
36 subdivision (c)(1) of this section shall submit at the time of his or her

1 request documentation that verifies that the person whose criminal history
2 information is requested is an elected official, a candidate to serve as an
3 elected official, or an agency director.

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

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

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

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

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

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

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

23
24 SECTION 3. Arkansas Code § 12-12-1012(a)(2), concerning fees for
25 noncriminal justice record searches, is amended to read as follows:

26 (2)(A) ~~The~~ Except as provided in § 12-12-1010(c)(3), the amount
27 of the fee for electronic Internet submission will be determined jointly by
28 the bureau and the central repository and shall not exceed twenty dollars
29 (\$20.00), exclusive of any third-party electronic processing fee charges.

30 (B) ~~Effective July 1, 2005, the~~ Except as provided in §
31 12-12-1010(c)(3), the amount of the fee for providing information by means
32 other than the Internet shall be determined jointly by the bureau and the
33 central repository and shall not exceed thirty dollars (\$30.00).

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35 /s/ Greenberg
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