

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

HOUSE BILL 1635

5 By: Representative Johnson  
6 By: Senator Elliott  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING CRIMINAL  
10 BACKGROUND CHECKS; AND FOR OTHER PURPOSES.  
11

## Subtitle

12  
13  
14 TO AMEND THE LAW CONCERNING CRIMINAL  
15 BACKGROUND CHECKS.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code § 9-9-212(b)(5), concerning criminal  
21 background as part of an adoption home study, is amended to read as follows:

22 (5)(A) The home study shall include a state-of-residence  
23 criminal background check, if available, and national fingerprint-based  
24 criminal background check performed by the Federal Bureau of Investigation in  
25 compliance with federal law and regulation on the adoptive parents and all  
26 household members ~~eighteen (18)~~ eighteen and one-half (18 ½) years of age and  
27 older, excluding children in foster care.

28 (B) If a prospective adoptive parent has lived in a state  
29 for at least six (6) years immediately prior to adoption, then only a state-  
30 of-residence criminal background check shall be required.

31 (C) If the Department of Human Services has responsibility  
32 for placement and care of the child to be adopted, the home study shall  
33 include a national fingerprint-based criminal background check performed by  
34 the Federal Bureau of Investigation in compliance with federal law and  
35 regulation on the prospective adoptive parents and all household members  
36 ~~eighteen (18)~~ eighteen and one-half (18 ½) years of age or older, excluding



1 children in foster care.

2 (D) Upon request by the Department of Human Services,  
 3 local law enforcement shall provide the Department of Human Services with  
 4 local criminal background information on the prospective adoptive parents and  
 5 all household members ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of  
 6 age and older who have applied to be an adoptive family.

7  
 8 SECTION 2. Arkansas Code § 9-28-116(a) and (b), concerning criminal  
 9 background checks of household members, are amended to read as follows:

10 (a)(1) A child in the custody of the Department of Human Services  
 11 shall not be placed in an approved home of any foster parent or adoptive  
 12 parent unless all household members ~~eighteen (18)~~ eighteen and one-half (18  
 13 1/2) years of age and older, excluding children in foster care, have been  
 14 checked with the Identification Bureau of the Department of Arkansas State  
 15 Police at a minimum of every two (2) years for convictions of the offenses  
 16 listed in this subchapter and in § 9-28-409.

17 (2) Youths in a household who turn eighteen (18) years of age  
 18 are not required to have a criminal background check until six (6) months  
 19 after turning eighteen (18) years of age.

20 (b) A child in the custody of the department shall not be placed in an  
 21 approved home of any foster or adoptive parent unless all household members  
 22 ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older,  
 23 excluding children in foster care, have a fingerprint-based criminal  
 24 background check performed by the Federal Bureau of Investigation in  
 25 compliance with federal law and regulation for convictions of the offenses  
 26 listed in this subchapter and in § 9-28-409.

27  
 28 SECTION 3. Arkansas Code § 9-28-409(b) and (c), concerning criminal  
 29 record and child maltreatment checks of an employee or agent of a child  
 30 welfare agency, are amended to read as follows:

31 (b)(1) Each of the following persons in a child welfare agency shall  
 32 be checked with the Identification Bureau of the Department of Arkansas State  
 33 Police to determine if the person has pleaded guilty or nolo contendere to or  
 34 has been found guilty of the offenses listed in this subchapter in compliance  
 35 with policy and procedures promulgated by the board:

36 (A) An employee having direct and unsupervised contact

1 with children;

2 (B) A volunteer having direct and unsupervised contact  
3 with children;

4 (C) An owner having direct and unsupervised contact with  
5 children;

6 (D) A member of the agency's board of directors having  
7 direct and unsupervised contact with children;

8 (E) Foster parents, house parents, and each member of the  
9 household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and  
10 older, excluding children in foster care; and

11 (F)(i) Adoptive parents and each member of the household  
12 ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older,  
13 excluding children in foster care.

14 (ii) Adoptive parents and each member of the  
15 household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and  
16 older, excluding children in foster care, who are not residents of Arkansas  
17 shall provide state-of-residence criminal records checks, if available.

18 (2) A child in the custody of the Department of Human Services  
19 shall not be placed in an approved home of any foster parent or adoptive  
20 parent unless all household members eighteen and one-half (18 ½) years of age  
21 and older, excluding children in foster care, have been checked with the  
22 Identification Bureau of the Department of Arkansas State Police to determine  
23 if any of the persons have pleaded guilty or nolo contendere to or been found  
24 guilty of the offenses listed in this subchapter in compliance with policy  
25 and procedures promulgated by the board at a minimum of every two (2) years.

26 (3)(A) The owner or operator of a child welfare agency shall  
27 maintain on file, subject to inspection by the board, evidence that  
28 Department of Arkansas State Police criminal records checks have been  
29 initiated on all persons required to be checked and the results of the  
30 checks.

31 (B) Failure to maintain that evidence on file will be  
32 prima facie grounds to revoke the license or church-operated exemption of the  
33 owner or operator of the child welfare agency.

34 (4) All persons required to be checked with the Department of  
35 Arkansas State Police under this subsection shall repeat the check at a  
36 minimum of every five (5) years, except that adoptive parents who reside in

1 Arkansas shall repeat the check every ~~year~~ two (2) years pending court  
 2 issuance of a final decree of adoption, at which point repeat checks shall no  
 3 longer be required.

4 (c)(1) Each of the following persons in a child welfare agency who has  
 5 not lived in Arkansas continuously for the past five (5) years shall have a  
 6 fingerprint-based criminal background check performed by the Federal Bureau  
 7 of Investigation in compliance with federal law and regulation to determine  
 8 if the person has pleaded guilty or nolo contendere to or been found guilty  
 9 of the offenses listed in this subchapter:

10 (A) An employee having direct and unsupervised contact  
 11 with children;

12 (B) A volunteer having direct and unsupervised contact  
 13 with children;

14 (C) An owner having direct and unsupervised contact with  
 15 children;

16 (D) A member of the agency's board of directors having  
 17 direct and unsupervised contact with children;

18 (E) Foster parents, house parents, and each member of the  
 19 household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and  
 20 older, excluding children in foster care; and

21 (F)(i) Adoptive parents and each member of the household  
 22 ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older,  
 23 excluding children in foster care.

24 (ii) Adoptive parents and each member of the  
 25 household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and  
 26 older, excluding children in foster care, shall not be required to have a  
 27 criminal background check performed by the Federal Bureau of Investigation  
 28 if:

29 (a) The adoptive parents and each member of  
 30 the household ~~age eighteen (18)~~ eighteen and one-half (18 1/2) years of age  
 31 and older, excluding children in foster care, have continuously resided in a  
 32 state for at least five (5) years before the adoption; and

33 (b) The state-of-residence criminal records  
 34 check is available.

35 (2)(A)(i) A child in the custody of the Department of Human  
 36 Services shall not be placed in an approved home of any foster or adoptive

1 parent unless all household members ~~eighteen (18)~~ eighteen and one-half (18  
 2 1/2) years of age and older, excluding children in foster care, have a  
 3 fingerprint-based criminal background check performed by the Federal Bureau  
 4 of Investigation in compliance with federal law and regulation to determine  
 5 if any of the persons has pleaded guilty or nolo contendere to or been found  
 6 guilty of the offenses listed in this subchapter.

7 (ii) A household member who turns eighteen (18)  
 8 years of age has up to six (6) months from the date of his or her eighteenth  
 9 birthday to have a background check completed.

10 (B) The owner or operator of a child welfare agency shall  
 11 maintain on file, subject to inspection by the board, evidence that the  
 12 Federal Bureau of Investigation's criminal records checks have been initiated  
 13 on all persons required to be checked and the results of the checks.

14 (C) Failure to maintain that evidence on file will be  
 15 prima facie grounds to revoke the license or church-operated exemption of the  
 16 owner or operator of the child welfare agency.

17  
 18  
 19 **APPROVED: 03/18/2015**  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28  
 29  
 30  
 31  
 32  
 33  
 34  
 35  
 36