

HOUSE AMENDMENT 1 TO hb1484.

deleting on line 9 of page 1 the word "REQUIRE" and substituting the word "SUBJECT";

AND

by deleting on line 11 of page 1 the phrase "APPLY FOR";

AND

by deleting on line 18 of page 1 the word "REQUIRE" and substituting the word "SUBJECT";

AND

by deleting on line 21 of page 1 the phrase "APPLY FOR";

AND

by deleting lines 1 through 18 of page 2 and substituting the following:

"SECTION 2. (a) When a person applies for employment with a state agency in a position that includes, as part of the job description, direct contact with a child and if the state agency intends to make an offer of employment to the applicant, the applicant shall complete a criminal history check form obtained from the state agency and shall submit the form to the state agency as part of the application process. If the state agency intends to make an offer of employment to the applicant, the state agency shall, within five (5) days of such decision, forward the criminal history check form to the Identification Bureau of the Department of Arkansas State Police and request the Bureau to review the Bureau s database of criminal history checks on state agency employees having direct contact with a child. The state agency shall pay any fee associated with the criminal history check on behalf of the applicant. Within three (3) days of the receipt of a request to review the database, the Bureau shall notify the state agency if the database contains any criminal history records on the applicant.

(1) If no criminal history records regarding the applicant are found in the database, then the state agency may make an offer of temporary employment to the applicant while the Bureau completes a criminal history check and the state agency determines whether the applicant is disqualified from employment under subsection (f) of this section.

(2) If a criminal history record regarding the applicant is found in the Bureau s database, then the applicant is temporarily disqualified from employment until the state agency determines whether the applicant is disqualified from employment under subsection (f) of this section. If the state agency determines that the applicant is not disqualified, then the state agency may continue to temporarily employ the applicant while the Bureau completes a criminal history check.

(b)(1) Except as provided in subsection (b)(2), the Bureau shall conduct a state criminal history check and a national criminal history check on an applicant upon receiving a criminal history check request from a state agency.

(2) If the state agency can verify that the applicant has been employed by a state agency in a position that includes, as part of the job description, direct contact

with a child within sixty (60) days before the application, the Bureau shall conduct only a state criminal history check on the applicant.

(c) Upon completion of a criminal history check on an applicant, the Bureau shall issue a report to the state agency. The state agency shall determine whether the applicant is disqualified from employment under subsection (f) of this section, and if the state agency determines that an applicant is disqualified from employment, then the state agency shall deny employment to the applicant.

(d) The criminal history check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(e) Before making a temporary or permanent offer of employment, a state agency shall inform applicants that continued employment is contingent upon the results of a criminal history check and that the applicant has the right to obtain a copy of the report of the person s criminal history from the Bureau."

AND

by deleting lines 25 through 36 of page 2, deleting page 3 in its entirety, and deleting lines 1 through 14 of page 4 and substituting the following:

"(1) Capital murder, as prohibited in A.C.A. § 5-10-101;

(2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;

(3) Manslaughter, as prohibited in A.C.A. § 5-10-104;

(4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;

(5) Kidnapping, as prohibited in A.C.A. § 5-11-102;

(6) False imprisonment in the first degree, as prohibited in A.C.A. § 5-11-103;

(7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;

(8) Robbery , as prohibited in A.C.A. § 5-12-102;

(9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;

(10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;

(11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;

(12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;

(13) Terroristic threatening in the first degree, as prohibited in A.C.A. § 5-13-301;

(14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;

(15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;

(16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;

(17) Violation of a minor in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-120 and 5-14-121;

(18) Incest, as prohibited in A.C.A. § 5-26-202;

(19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-

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(20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;

(21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;

(22) Permitting child abuse, as prohibited in subdivisions (a)(1) and (a)(3) of A.C.A. § 5-27-221;

(23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A. §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;

(24) Theft of property, as prohibited in A.C.A. § 5-36-103;

(25) Theft by receiving, as prohibited in A.C.A. § 5-36-106;

(26) Arson, as prohibited in A.C.A. § 5-38-301;

(27) Burglary, as prohibited in A.C.A. § 5-39-201;

(28) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;

(29) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;

(30) Stalking, as prohibited in A.C.A. § 5-71-229; and

(31) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in A.C.A. §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection."

AND

by deleting lines 16 through 34 of page 4 and substituting the following:

"SECTION 3. (a) Within fourteen (14) days of the employee's first anniversary of employment or any time before that date, each employee of a state agency in a position that includes, as part of the job description, direct contact with a child shall complete a criminal history check form obtained from the state agency and shall submit the form to the state agency. The state agency shall forward the criminal history check form to the Identification Bureau of the Department of Arkansas State Police. The state agency shall pay any fee associated with the criminal history check on behalf of the employee.

(b) Upon completion of a criminal history check on an employee, the Bureau shall issue a report to the state agency. The state agency shall determine whether the employee is disqualified from employment under subsection (f) of this section, and if the state agency determines that an employee is disqualified from employment, then the state agency

shall discharge the employee.

(c) The criminal history check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(d) A state agency shall inform all employees in positions that include, as part of the job description, direct contact with a child, that continued employment is contingent upon the results of a criminal history check and that the employee has the right to obtain a copy of the report from the Bureau.

(e) State agencies shall ensure that all employees in positions that include, as part of the job description, direct contact with a child have applied for criminal history checks by July 1, 2000."

AND

by deleting lines 7 through 36 of page 5 and lines 1 through 23 of page 6 and substituting the following:

- "(1) Capital murder, as prohibited in A.C.A. § 5-10-101;
- (2) Murder in the first degree and second degree, as prohibited in A.C.A. §§ 5-10-102 and 5-10-103;
- (3) Manslaughter, as prohibited in A.C.A. § 5-10-104;
- (4) Negligent homicide, as prohibited in A.C.A. § 5-10-105;
- (5) Kidnapping, as prohibited in A.C.A. § 5-11-102;
- (6) False imprisonment in the first degree, as prohibited in A.C.A. § 5-11-103;
- (7) Permanent detention or restraint, as prohibited in A.C.A. § 5-11-106;
- (8) Robbery, as prohibited in A.C.A. § 5-12-102;
- (9) Aggravated robbery, as prohibited in A.C.A. § 5-12-103;
- (10) Battery in the first degree, as prohibited in A.C.A. § 5-13-201;
- (11) Aggravated assault, as prohibited in A.C.A. § 5-13-204;
- (12) Introduction of controlled substance into body of another person, as prohibited in A.C.A. § 5-13-210;
- (13) Terroristic threatening in the first degree, as prohibited in A.C.A. § 5-13-301;
- (14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in A.C.A. §§ 5-14-103 - 5-14-106;
- (15) Sexual abuse in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-108 and 5-14-109;
- (16) Sexual solicitation of a child, as prohibited in A.C.A. § 5-14-110;
- (17) Violation of a minor in the first degree and second degree, as prohibited in A.C.A. §§ 5-14-120 and 5-14-121;
- (18) Incest, as prohibited in A.C.A. § 5-26-202;
- (19) Offenses against the family, as prohibited in A.C.A. §§ 5-26-303 - 5-26-

(20) Endangering the welfare of incompetent person in the first degree, as prohibited in A.C.A. § 5-27-201;

(21) Endangering the welfare of a minor in the first degree, as prohibited in A.C.A. § 5-27-203;

(22) Permitting child abuse, as prohibited in subdivisions (a)(1) and (a)(3) of A.C.A. § 5-27-221;

(23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in A.C.A. §§ 5-27-303, 5-27-304, 5-27-305, 5-27-402, and 5-27-403;

(24) Theft of property, as prohibited in A.C.A. § 5-36-103;

(25) Theft by receiving, as prohibited in A.C.A. § 5-36-106;

(26) Arson, as prohibited in A.C.A. § 5-38-301;

(27) Burglary, as prohibited in A.C.A. § 5-39-201;

(28) Felony violation of the Uniform Controlled Substances Act, as prohibited in A.C.A. § 5-64-401;

(29) Promotion of prostitution in the first degree, as prohibited in A.C.A. § 5-70-104;

(30) Stalking, as prohibited in A.C.A. § 5-71-229; and

(31) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in A.C.A. §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection."

AND

by deleting lines 19 and 20 of page 7 and substituting therefor the following:

"SECTION 6. (a) All state agencies with a position that includes, as part of the job description, direct contact with a child, shall adopt the necessary"

AND

by inserting on line 22 of page 7 the following new subsection:

"(b) Each state agency shall maintain on file, subject to inspection by the Arkansas Crime Information Center or the Bureau evidence that criminal history checks required by this act have been initiated on all applicants and employees."

AND

by inserting on line 23 of page 7 new sections of the bill to read as follows:

SECTION 7. (a) After receipt of a request for a criminal history check, the Bureau shall make reasonable efforts to respond to requests for state criminal history checks within twenty (20) calendar days and to respond to requests for national criminal history checks within ten (10) calendar days after the receipt of a national criminal history check from the Federal Bureau of Investigation.

(b) Upon completion of a criminal history check, the Bureau shall forward all information obtained concerning the applicant or employee to the Arkansas Crime Information Center.

(c) The Bureau shall maintain a database of the results of criminal history checks on each applicant for employment with and each employee of a state agency in a position that includes, as part of the job description, direct contact with a child or children.

(d) The Bureau shall develop a form to be used for criminal history checks conducted under this act. The form shall require the notarized signature of the person who is the subject of the check.

SECTION 8. Any person who submits evidence of having maintained employment in the state of Arkansas for the past twelve (12) months and of successfully completing a criminal history check within the last twelve (12) months or in accordance with that person's professional license shall not be required to apply for a criminal history check under this act.

SECTION 9. Any employee whose employment has been terminated pursuant to this act shall be ineligible for unemployment benefits pursuant to Title 11, Chapter 10 of the Arkansas Code Annotated.

SECTION 10. Immunity.

(a) Individuals and state agencies are immune from suit or liability for damages for acts or omissions, other than malicious acts or omissions, occurring in the performance of duties imposed by this act.

(b) A state agency acting in good faith shall not be liable for injuries proximately caused by hiring an employee during a conditional period of employment if the employee is found guilty of false swearing pursuant to A.C.A. 5-53-103 and if the state agency can establish the employee would not have been hired but for the false swearing.

SECTION 11. Arkansas Code Annotated § 5-53-103 is amended to read as follows:

"5-53-103. False swearing generally.

(a) A person commits false swearing if other than in an official proceeding he makes a false material statement, knowing it to be false, or omits information that the person knew or should reasonably have known was material under an oath required or authorized by law.

~~———— (b) Lack of knowledge of the materiality of the statement is not a defense to a charge of false swearing.~~

~~———— (c) (b) False swearing is a Class A misdemeanor."~~

AND

by appropriately renumbering subsequent sections of the bill;

AND

by deleting the words "the date of its approval by the" on line 12 of page 8;

AND

by deleting everything on lines 13 through 17 of page 8 and substituting therefor:

"September 1, 1997."