

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 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 1488

4  
5 By: Representative Mahony  
6 By: Senator Broadway

## For An Act To Be Entitled

10 AN ACT TO ALLOW THE ARKANSAS CRIME INFORMATION  
11 CENTER AND THE ARKANSAS STATE POLICE TO RELEASE  
12 CERTAIN CRIMINAL HISTORY INFORMATION TO THE  
13 PUBLIC FOR A FEE; AND FOR OTHER PURPOSES.

## Subtitle

16 AN ACT TO ALLOW THE ARKANSAS CRIME  
17 INFORMATION CENTER AND THE ARKANSAS  
18 STATE POLICE TO RELEASE CERTAIN CRIMINAL  
19 HISTORY INFORMATION TO THE PUBLIC FOR A  
20 FEE.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25 SECTION 1. Title.

26 This act shall be known as the "Arkansas State Criminal Records Act".

28 SECTION 2. Intent.

29 (a) It is the intent of this act to provide one source for obtaining  
30 the most accurate and complete criminal history records.

31 (b) The Arkansas State Police shall be the agency responsible for the  
32 dissemination of criminal history records under this act.

33 (c) The Arkansas Crime Information Center shall be authorized to  
34 disseminate criminal history records as authorized by law.

36 SECTION 3. Definitions.



1 For purposes of this act:

2 (1) "Administration of criminal justice" means performing functions of  
 3 investigation, apprehension, detention, prosecution, adjudication,  
 4 correctional supervision, or rehabilitation of accused persons or criminal  
 5 offenders, including criminal identification activities and the collection,  
 6 maintenance, and dissemination of criminal justice information;

7 (2) "Central repository" means the Arkansas Crime Information Center,  
 8 which may collect, maintain, and disseminate criminal history information;

9 (3)(A) "Conviction information" means criminal history information  
 10 disclosing that a person has pleaded guilty or nolo contendere to, or was  
 11 found guilty of, a criminal offense in a court of law, together with  
 12 sentencing information;

13 (B) Sealed records are not included in the definition of  
 14 "conviction information";

15 (4)(A) "Criminal history information" means:

16 (i) A record compiled by a central repository or the  
 17 Identification Bureau of the Department of Arkansas State Police on an  
 18 individual consisting of names, identification data, notations of arrests,  
 19 detentions, indictments, informations, or other formal criminal charges  
 20 obtained from criminal justice agencies, including any dispositions of the  
 21 charges, as well as notations on correctional supervision and release;

22 (ii) Fingerprint records on individuals not involved in  
 23 the criminal justice system, juvenile records or driver history records are  
 24 not included in the definition of "criminal history information";

25 (iii) Original records of entry maintained by criminal  
 26 justice agencies, court indices, records of public judicial proceedings,  
 27 court decisions, opinions, and information disclosed during public judicial  
 28 proceedings.

29 (B) When the release is made by the specific court, law  
 30 enforcement agency, or prosecutor that created the records, the records are  
 31 not included in the definition of "criminal history information".

32 (C)(i) This subdivision (4) does not prohibit the release of  
 33 information by the specific agency that created the record.

34 (ii) The Administrative Office of the Courts is not  
 35 considered a court that creates the record for purposes of this subdivision  
 36 (4).

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

5       (6)(A) "Disposition" means information describing the outcome of any  
 6 criminal charges, including notations that law enforcement officials have  
 7 elected not to refer the matter to a prosecutor, that a prosecutor has  
 8 elected not to begin criminal proceedings, or that proceedings have been  
 9 indefinitely postponed;

10       (B) "Dispositions" includes acquittals, dismissals, probations,  
 11 charges pending due to mental disease or defect, guilty pleas, nolle  
 12 prosequi, nolo contendere pleas, findings of guilt, youthful offender  
 13 determinations, first offender programs, pardons, commuted sentences,  
 14 mistrials in which the defendant is discharged, executive clemencies,  
 15 paroles, releases from correctional supervision, deaths, or a finding that  
 16 the person must register as a sex offender;

17       (7) "Dissemination" means disclosing criminal history information or  
 18 disclosing the absence of criminal history information to any person or  
 19 agency outside the agency possessing the information, subject to the  
 20 following exceptions:

21       (A) When criminal justice agencies jointly participate in the  
 22 maintenance of a single record keeping system as an alternative to  
 23 maintaining separate records, the furnishing of information by that  
 24 department to personnel of a participating agency is not a dissemination; and

25       (B) The furnishing of information by any criminal justice agency  
 26 to another for the purpose of the administration of criminal justice;

27       (8) "Identification Bureau" means the Identification Bureau of the  
 28 Department of the Arkansas State Police, which may maintain fingerprint card  
 29 files and other identification information on individuals;

30       (9)(A) "Nonconviction information" means arrest information without  
 31 disposition, pending information, and dispositions that did not result in a  
 32 conviction;

33       (B) "Nonconviction information" does not include sealed records;

34       (10) "Pending information" means criminal history information in some  
 35 stage of active prosecution or processing; and

36       (11) "Seal" means that the record or records in question shall be

1 sealed, sequestered, and treated as confidential as provided by law,  
 2 including pardons issued by the Governor.

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 4 SECTION 4. Information required - Exceptions.

5 (a) The Department of Arkansas State Police and the Arkansas Crime  
 6 Information Center shall disseminate criminal history information pertaining  
 7 to an arrest, detention, indictment, information, or other formal criminal  
 8 charge to the extent entries have been made at the time of the request for  
 9 the information.

10 (b) Any event which has not been processed shall not be required to be  
 11 included in the dissemination.

12 (c) Requests for information, their supporting documents, and any  
 13 responses are not subject to disclosure under the Arkansas Freedom of  
 14 Information Act, § 25-19-101 et seq.

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 16 SECTION 5. Disposition data to the central repository.

17 (a) Whenever a court or other criminal justice agency reaches a  
 18 disposition of a criminal proceeding, the court or other criminal justice  
 19 agency shall furnish the disposition data to the central repository within  
 20 thirty (30) days.

21 (b) The central repository shall enter these disposition records.

22 (c) Criminal history information provided to the central repository  
 23 shall not be subject to disclosure under the Arkansas Freedom of Information  
 24 Act, § 25-19-101 et seq.

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 26 SECTION 6. Unrestricted information - Records.

27 (a) Conviction records, nonconviction records, and records of  
 28 dispositions may be disseminated without restriction, with the exception of  
 29 sealed records.

30 (b) Any criminal history information which pertains to a person  
 31 currently being processed by the criminal justice system, including the  
 32 entire period of correctional supervision extending through final discharge  
 33 from parole, may be disseminated without restriction.

34 (c)(1) The Identification Bureau of the Department of Arkansas State  
 35 Police, the Arkansas Crime Information Center, or a third party shall be  
 36 responsible for the maintenance of information pertaining to dissemination of

1 criminal history information.

2 (2) The information pertaining to dissemination required to be  
 3 maintained shall be retained for a period of not less than three (3) years,  
 4 for security purposes.

5 (d) This section allows the dissemination of information concerning  
 6 persons who are required to register as sex offenders.

7 (e) Criminal justice agencies, their employees, and officials shall be  
 8 immune from civil liability for dissemination of criminal history information  
 9 under this act.

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 11 SECTION 7. Administration.

12 (a)(1) Release of criminal history information under this act shall  
 13 only be made by the Identification Bureau of the Department of the Arkansas  
 14 State Police and the Arkansas Crime Information Center subject to the  
 15 limitations contained in this act.

16 (2) The Department of Arkansas State Police and the Arkansas  
 17 Crime Information Center shall adopt rules and regulations consistent with  
 18 the provisions and intent of this act.

19 (b) The Arkansas Crime Information Center and the Department of  
 20 Arkansas State Police are authorized to contract with third party vendors to  
 21 comply with the requirements of this act.

22 (c) The Department of Arkansas State Police and the Arkansas Crime  
 23 Information Center shall comply with the provisions of the Information  
 24 Network of Arkansas Act, § 25-27-101 et seq., in the establishment of the  
 25 gateway or means of processing these transactions electronically.

26 (e)(1) The Department of Arkansas State Police shall be authorized to  
 27 collect reasonable fees for the dissemination of criminal history information  
 28 to the public under this act.

29 (2) The Department of Arkansas State Police shall be authorized  
 30 to establish and collect reasonable fees for the service of fingerprinting  
 31 persons upon their request for noncustodial arrest purposes.

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 33 SECTION 8. Access.

34 (a) Criminal history information or requestor information collected  
 35 and maintained under this act is not considered public record information for  
 36 dissemination within the intent and meaning of the Arkansas Freedom of

1 Information Act, § 25-19-101 et seq.

2 (b) Criminal history information is disbursed on a one (1) subject per  
3 request basis and shall not be disbursed or sold in batch form.

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5 SECTION 9. Fees.

6 (a)(1) A fee may be charged for providing criminal history information  
7 under this act.

8 (2) The amount of the fee will be determined jointly by the  
9 Department of Arkansas State Police and the Arkansas Crime Information Center  
10 and shall not exceed twenty-five dollars (\$25.00), exclusive of any third  
11 party electronic processing fee charges.

12 (3)(A) The fees shall be credited fifty percent (50%) to the  
13 Crime Information System Fund and fifty percent (50%) to the State Police  
14 Equipment Fund.

15 (B) The Arkansas Crime Information Center may utilize  
16 these funds for the operation or expansion of the automated criminal justice  
17 information system, subject to legislative appropriations.

18 (C) The Department of Arkansas State Police may utilize  
19 these funds for the operation, expansion, and integration of the Automated  
20 Fingerprint Identification System, which includes components and software to  
21 support a total integrated solution associated with the Automated Fingerprint  
22 Identification System.

23 (4) Special revenues deposited in the Crime Information System Fund  
24 and the State Police Equipment Fund may be used for personal services and  
25 operating expenses as provided by law, and any special revenues unused at the  
26 end of any fiscal year shall be carried forward.

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28 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the  
29 General Assembly of the State of Arkansas that the dissemination of complete,  
30 accurate, and timely criminal history information is necessary for the  
31 protection of the people of the State of Arkansas and this act is needed to  
32 provide that necessary access to the criminal history information.  
33 Therefore, an emergency is declared to exist and this act being immediately  
34 necessary for the preservation of the public peace, health, and safety shall  
35 become effective on:

36 (1) The date of its approval by the Governor;

1                   (2) If the bill is neither approved nor vetoed by the Governor,  
2 the expiration of the period of time during which the Governor may veto the  
3 bill; or

4                   (3) If the bill is vetoed by the Governor and the veto is  
5 overridden, the date the last house overrides the veto.

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