

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
4

As Engrossed: H3/3/03
A Bill

HOUSE BILL 1488

5 By: Representative Mahony
6 By: Senator Broadway
7
8

9 **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.
14

15 **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.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Title.

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

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

33 (c) The Arkansas Crime Information Center shall be authorized to
34 disseminate criminal history information as authorized by law.
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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 the 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 are not included in the definition of criminal history
29 information.

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

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

35 (5) "Criminal justice agency" means a government agency or any
36 subunit thereof which is authorized by law to perform the administration of

1 criminal justice and which allocates more than one-half (1/2) its annual
2 budget to the administration of criminal justice;

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

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

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

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

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

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

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

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

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

34 (11) "Seal" or "Expunge" means that the record or records in question
35 shall be sealed, sequestered, and treated as confidential as provided by law,
36 including pardons issued by the Governor.

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2 SECTION 4. Information required - Exceptions.

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

8 (b) Any event, activity, or any portion of the criminal history
9 information which has not been processed by the Arkansas State Police or the
10 Arkansas Crime Information Center shall not be required to be included in the
11 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) Criminal history information shall be submitted to the central
18 repository as required under § 12-12-1007.

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

20 (c) Criminal history information provided to the central registry, the
21 Arkansas State Police, or the Administrative Office of the Courts shall not
22 be subject to disclosure under the Arkansas Freedom of Information Act, § 25-
23 19-101 et seq.

24
25 SECTION 6. Unrestricted information - Records.

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

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

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

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

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

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

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10 SECTION 7. Administration.

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

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

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

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

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

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

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32 SECTION 8. Access.

33 (a) Criminal history information or requestor information collected
34 and maintained under this act is not considered public record information for
35 dissemination within the intent and meaning of the Arkansas Freedom of
36 Information Act, § 25-19-101 et seq.

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

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4 SECTION 9. Fees.

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

7 (2) The amount of the fee will be determined jointly by the
8 Department of Arkansas State Police and the Arkansas Crime Information Center
9 and shall not exceed twenty dollars (\$20.00), exclusive of any third party
10 electronic processing fee charges.

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

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

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

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

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

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

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

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

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/s/ Mahony