

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: Representatives Mahony, *Thomason*  
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.  
21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

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.

35 (d) It is the intent of this act to allow dissemination of criminal  
36 history information pertaining to all felony arrests and all conviction



1 information.

2 SECTION 3. Definitions.

3 For purposes of this act:

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

9 (2) "Arrest records" means felony arrest information where conviction  
10 or disposition information has not been entered;

11 (3) "Central repository" means the Arkansas Crime Information Center,  
12 which may collect, maintain, and disseminate criminal history information;

13 (4)(A) "Conviction information" means criminal history information  
14 disclosing that a person has pleaded guilty or nolo contendere to, or was  
15 found guilty of, a criminal offense in a court of law, together with  
16 sentencing information;

17 (B) Sealed or expunged records are not included in the  
18 definition of "conviction information";

19 (5)(A) "Criminal history information" means:

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

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

29 (iii) Original records of entry maintained by criminal  
30 justice agencies, court indices, records of public judicial proceedings,  
31 court decisions, opinions, and information disclosed during public judicial  
32 proceedings are not included in the definition of criminal history  
33 information.

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

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

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

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

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

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

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

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

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

32           (9)(A) "Nonconviction information" means arrests where disposition was  
33 by acquittal, dismissal, nolle prosequi, or mistrial, in which the defendant  
34 was discharged;

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

36           (11) "Pending information" means felony criminal history information

1 in some stage of active prosecution or processing; and

2 (12) "Seal" or "Expunge" means that the record or records in question  
3 shall be sealed, sequestered, and treated as confidential as provided by law,  
4 including pardons issued by the Governor.

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6 SECTION 4. Information required - Exceptions.

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

12 (b) Any event, activity, or any portion of the criminal history  
13 information which has not been processed by the Arkansas State Police or the  
14 Arkansas Crime Information Center shall not be required to be included in the  
15 dissemination.

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

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20 SECTION 5. Disposition data to the central repository.

21 (a) Criminal history information shall be submitted to the central  
22 repository as required under § 12-12-1007.

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

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

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28 SECTION 6. Unrestricted information - Records.

29 (a) All conviction information and felony arrest records may be  
30 disseminated as provided for in this act.

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

36 (c)(1) The Identification Bureau of the Department of Arkansas State

1 Police, the Arkansas Crime Information Center, or a third party shall be  
2 responsible for the maintenance of information pertaining to dissemination of  
3 criminal history information.

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

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

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

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13 SECTION 7. Administration.

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

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

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

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

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

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

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35 SECTION 8. Access.

36 (a) Criminal history information or requestor information collected

1 and maintained under this act is not considered public record information for  
2 dissemination within the intent and meaning of the Arkansas Freedom of  
3 Information Act, § 25-19-101 et seq.

4 (b) Fees for providing criminal history information shall be charged  
5 on a one (1) fee per one (1) subject basis.

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7 SECTION 9. Fees.

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

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

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

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

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

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

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

1 become effective on:

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

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

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

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*/s/ Mahony, et al*

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