

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 85th General Assembly
3 Regular Session, 2005
4

A Bill

HOUSE BILL 1397

5 By: Representative Bright
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS STATE CRIMINAL
10 RECORDS ACT TO ALLOW ACCESS TO CRIMINAL HISTORY
11 INFORMATION BY QUALIFIED THIRD PARTY VENDORS,
12 INCLUDING, BUT NOT LIMITED TO, BACKGROUND CHECKS
13 FOR LONG TERM CARE FACILITIES, HOME HEALTH
14 SERVICES, INDIVIDUALS OR ENTITIES WORKING FOR THE
15 ARKANSAS DEPARTMENT OF HUMAN SERVICES, AND
16 EMPLOYEES OF PUBLIC SCHOOL SYSTEMS; AND FOR OTHER
17 PURPOSES.

Subtitle

19 TO AUTHORIZE QUALIFIED THIRD PARTY
20 VENDORS TO ACCESS CRIMINAL HISTORY
21 BACKGROUND INFORMATION.
22
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 12-12-1502 is amended to read as follows:
28 12-12-1502. Intent.

29 (a) It is the intent of this subchapter to:

30 (1) Provide one (1) source for obtaining the most accurate and
31 complete criminal history information; and

32 (2) Allow dissemination of criminal history information to
33 employers, ~~and~~ professional licensing boards, and qualified third-party
34 vendors pertaining to all felony and Class A misdemeanor arrest information
35 and all conviction information.

36 (b)(1) The Department of Arkansas State Police shall be the agency



1 responsible for the dissemination of criminal history information under this
2 subchapter.

3 (2) The Arkansas Crime Information Center shall be authorized to
4 disseminate criminal history information as authorized by law.

5 ~~(e) Felony arrest information that has had a disposition of acquittal,~~
6 ~~dismissal, or nolle prosequi entered into the central repository shall not be~~
7 ~~released under this subchapter.~~

8

9 SECTION 2. Arkansas Code § 12-12-1503(2), concerning definitions under
10 the Arkansas State Criminal Records Act, is amended to read as follows:

11 (2)(A) "Arrest records or arrest information" means felony and
12 Class A misdemeanor arrest information in which conviction or disposition
13 information has not been entered into the central repository.

14 (B) "Arrest records or arrest information" does not
15 include misdemeanor arrest information ~~or felony arrest information that has~~
16 ~~a disposition of acquittal, dismissal, or nolle prosequi entered into the~~
17 ~~central repository~~ other than Class A misdemeanor arrest information.

18 (C) "Arrest records or arrest information" also includes a
19 disposition of acquittal, dismissal, or nolle prosequi;

20

21 SECTION 3. Arkansas Code § 12-12-1503(11), concerning definitions
22 under the Arkansas State Criminal Records Act, is amended to read as follows:

23 (11) "Requestor" means the employer, ~~or~~ professional licensing
24 board, or qualified third-party vendor that has submitted an inquiry into a
25 subject's criminal history information under this subchapter; and

26

27 SECTION 4. Arkansas Code § 12-12-1503, concerning definitions under
28 the Arkansas State Criminal Records Act, is amended to add the following
29 additional subdivision to read as follows:

30 (13) "Qualified third-party vendor" means a third-party vendor
31 that has the following minimum qualifications:

32 (A) The third-party vendor or an officer, director, or
33 employee of the third-party vendor has:

34 (i) Ten (10) years of experience in law enforcement;

35 and

36 (ii) Ten (10) years of experience providing criminal

1 background checks; and
2 (B) The third-party vendor has a policy of liability
3 insurance in force for an amount not less than ten million dollars
4 (\$10,000,000).

5
6 SECTION 5. Arkansas Code § 12-12-1504(a) is amended to read as
7 follows:

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

14
15 SECTION 6. Arkansas Code § 12-12-1506(a) is amended to read as
16 follows:

17 (a)(1) All conviction information and felony and Class A misdemeanor
18 arrest records may be disseminated as provided in this subchapter.

19 (2) Any criminal history information of felony and Class A
20 misdemeanor arrest records and all conviction information which pertains to a
21 person currently being processed by the criminal justice system, including
22 the entire period of correctional supervision extending through final
23 discharge from parole, may be disseminated without restriction.

24 (3)(A) The Identification Bureau of the Department of Arkansas
25 State Police, the Arkansas Crime Information Center, or a third party shall
26 be responsible for the maintenance of information pertaining to dissemination
27 of criminal history information.

28 (B) The information pertaining to dissemination required
29 to be maintained shall be retained for a period of not less than three (3)
30 years for security purposes.

31 (4)(A)(i) Each employer or professional licensing board that is
32 allowed access to criminal history information under this subchapter shall
33 maintain in its files the written consent to obtain the criminal history
34 information given by the applicant or employee.

35 (ii) Any employer, ~~or~~ professional licensing board,
36 or qualified third-party vendor that is granted access to criminal history

1 information under this subchapter shall not disseminate the criminal history
2 information, unless otherwise permitted by law.

3 (iii) A qualified third-party vendor that purchases
4 criminal history information under this section may disseminate the criminal
5 information to the clients or customers of the qualified third-party vendor
6 if written consent to obtain the criminal history information is given by the
7 employee or applicant.

8 (B) Those files and consent forms shall be subject to
9 inspection by the Department of Arkansas State Police.

10
11 SECTION 7. Arkansas Code § 12-12-1507 is amended to read as follows:
12 12-12-1507. Administration.

13 (a)(1) ~~Release~~ Except as provided under this section, release of
14 criminal history information under this subchapter shall be made only by the
15 Identification Bureau of the Department of Arkansas State Police and the
16 Arkansas Crime Information Center as authorized by law.

17 (2) The department and the center shall adopt rules and
18 regulations consistent with the provisions and intent of this subchapter.

19 (b) The department and the center are authorized to contract with the
20 Information Network of Arkansas under the Information Network of Arkansas
21 Act, § 25-27-101 et seq., or any other qualified third-party vendor in the
22 establishment of the gateway or means of electronically processing
23 transactions under this subchapter.

24 (c)(1) A qualified third-party vendor may purchase criminal history
25 information by either requesting dissemination of:

26 (A) Individual criminal history; or

27 (B) All or part of the criminal history information
28 maintained by the central repository.

29 (2) A qualified third-party vendor that purchases criminal
30 history information under this section shall have access to the central
31 repository or to the information maintained by the assigns or agents of the
32 central repository that are electronically processing transactions for the
33 central repository.

34 (3) The qualified third-party vendor shall be entitled to
35 receive criminal history information by means of:

36 (A) Electronic transfer from the central repository

1 directly to automated equipment sufficient to electronically receive criminal
2 history information; or

3 (B) By other means of electronic transfer of criminal
4 history information, such as computer disks, CD-Rom, or other media.

5
6 SECTION 8. Arkansas Code § 12-12-1508(b) is amended to read as
7 follows:

8 (b) A fee for providing criminal history information shall be charged
9 ~~for each criminal history information requested~~ as set forth in § 12-12-1510.

10
11 SECTION 9. Arkansas Code § 12-12-1510(a)(2) is amended to read as
12 follows:

13 (2)(A) The amount of the fee shall be determined jointly by the
14 Department of Arkansas State Police and the Arkansas Crime Information Center
15 and shall not exceed:

16 (i) ~~twenty~~ Twenty dollars (\$20.00), exclusive of any
17 third-party electronic processing fee ~~charges~~ charged, for all individual
18 criminal history information requested; or

19 (ii) One hundred dollars (\$100), exclusive of any third-
20 party electronic processing fee charged, for all criminal history information
21 requested by qualified third-party vendors when the criminal history
22 information requested is more than a single individual.

23 (B) The third-party electronic processing fee charged shall not
24 exceed five dollars (\$5.00) for each time criminal history information is
25 requested.

26
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 background check information for employment and
30 licensure is necessary for the protection of the people of the State of
31 Arkansas; that often criminal background checks take a long time; and that
32 this act is immediately necessary to allow alternative methods to obtain the
33 required criminal history information. Therefore, an emergency is declared
34 to exist and this act being immediately necessary for the preservation of the
35 public peace, health, and safety shall 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.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36