

State of Arkansas  
85th General Assembly  
Regular Session, 2005

# A Bill

HOUSE BILL 1398

By: Representative Bright

## For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW TO AUTHORIZE  
CRIMINAL BACKGROUND CHECKS FOR EMPLOYMENT OR  
LICENSURE, AS REQUIRED BY ARKANSAS LAW, BY  
QUALIFIED THIRD-PARTY VENDORS, INCLUDING, BUT NOT  
LIMITED TO, BACKGROUND CHECKS FOR LONG-TERM CARE  
FACILITIES, HOME HEALTH SERVICES, INDIVIDUALS OR  
ENTITIES WORKING FOR THE ARKANSAS DEPARTMENT OF  
HUMAN SERVICES, AND EMPLOYEES OF PUBLIC SCHOOL  
SYSTEMS; AND FOR OTHER PURPOSES.

## Subtitle

TO AUTHORIZE CRIMINAL BACKGROUND CHECKS  
FOR EMPLOYMENT OR LICENSURE BY THIRD-  
PARTY VENDORS.

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

SECTION 1. (a)(1) Subject to subdivision (a)(2) of this section, an employer or licensing entity may waive a criminal background check, including the taking of fingerprints for a nationwide criminal records check by the Federal Bureau of Investigation, required for employment, licensure, or any other purpose by the Identification Bureau of the Department of Arkansas State Police.

(2)(A) In lieu of a criminal background check through the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation, the employer or licensing entity may contract with a non-law enforcement third-party contractor to conduct a non-



1 fingerprint-based background check on the person before employment or  
2 licensure.

3 (B) In order to qualify to provide background checks under  
4 this section, the third-party contractor or at least one (1) of the third-  
5 party contractor's agents or employees shall have the following minimum  
6 qualifications:

7 (i) Ten (10) years' experience in law enforcement;

8 (ii) A policy of liability insurance in force for an  
9 amount not less than ten million dollars (\$10,000,000); and

10 (iii) Ten (10) years' experience providing criminal  
11 background checks.

12 (3) If authorized by the person subjected to the background  
13 check, the third-party contractor shall conduct a non-fingerprint-based  
14 computerized criminal history records check based on identifiers supplied by  
15 the person subjected to the background check, which may include name, race,  
16 sex, date of birth, social security number, other alphanumeric identifiers,  
17 any aliases, maiden name, previous names, and any other information which  
18 might assist in the records check.

19 (4) The results of the records check shall be furnished to the  
20 requesting employer or licensing entity.

21 (b) This act shall:

22 (1) Not prevent an employer or licensing entity from requesting  
23 a fingerprint-based criminal background check through the Identification  
24 Bureau of the Department of Arkansas State Police and the Federal Bureau of  
25 Investigation;

26 (2) Not waive the requirement that a criminal background check  
27 be conducted on persons for employment, licensure, or any other purpose as  
28 required under the Arkansas Code; and

29 (3) Allow for an alternative method of obtaining the required  
30 criminal background check information.

31 (c) Within thirty (30) days after receipt of the criminal background  
32 check, the employer shall report the results of the criminal background check  
33 to the appropriate state agency, if any, for final determination of  
34 employment or licensure eligibility.

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36 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that the dissemination of complete,  
2 accurate, and timely criminal background check information for employment and  
3 licensure is necessary for the protection of the people of the State of  
4 Arkansas; that criminal background checks often take a long time to complete;  
5 and that this act is immediately necessary to allow alternative methods to  
6 obtain the required criminal history information. Therefore, an emergency is  
7 declared to exist and this act being immediately necessary for the  
8 preservation of the public peace, health, and safety shall become effective  
9 on:

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

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

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