

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

# A Bill

HOUSE BILL 2094

4  
5 By: Representative Mahony  
6 By: Senator Broadway

## For An Act To Be Entitled

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10 AN ACT TO AMEND ARKANSAS LAWS CONCERNING PERSONS  
11 ELIGIBLE TO WORK WITH THE DEVELOPMENTALLY  
12 DISABLED; AND FOR OTHER PURPOSES.

## Subtitle

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15 AN ACT TO AMEND ARKANSAS LAWS CONCERNING  
16 PERSONS ELIGIBLE TO WORK WITH THE  
17 DEVELOPMENTALLY DISABLED.

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

21  
22 SECTION 1. Arkansas Code § 20-48-804 is amended to read as follows:

23 20-48-804. Disqualification from employment - Denial or revocation -  
24 Penalties.

25 (a)(1) A licensing agency shall issue a determination that a person is  
26 disqualified from employment with a service provider if the person:

27 (A) ~~has~~ Has been found guilty of or pleaded guilty or nolo  
28 contendere to any of the offenses listed in subsection (b) of this section;  
29 or

30 (B) Is registered as a sex offender or is required to register  
31 as a sex offender.

32 (2) Except as provided in subdivision (c)(1)(B)-(D) of this  
33 section, A a service provider shall not knowingly employ a person who:

34 (A) ~~has~~ Has pleaded guilty or nolo contendere to or has been  
35 found guilty of any of the offenses listed in subsection (b) of this section  
36 by any court in the State of Arkansas or of any similar offense by a court in



1 another state or of any similar offense by a federal court; or

2 (B) Is registered as a sex offender or is required to  
 3 register as a sex offender.

- 4 (b)(1) Capital murder, as prohibited in § 5-10-101;
- 5 (2) Murder in the first degree and second degree, as prohibited
- 6 in §§ 5-10-102 and 5-10-103;
- 7 (3) Manslaughter, as prohibited in § 5-10-104;
- 8 (4) Negligent homicide, as prohibited in § 5-10-105;
- 9 (5) Kidnapping, as prohibited in § 5-11-102;
- 10 (6) False imprisonment in the first degree, as prohibited in §
- 11 5-11-103;
- 12 (7) Permanent detention or restraint, as prohibited in § 5-11-
- 13 106;
- 14 (8) Robbery, as prohibited in § 5-12-102;
- 15 (9) Aggravated robbery, as prohibited in § 5-12-103;
- 16 (10) Battery, as prohibited in §§ 5-13-201 - 5-13-203;
- 17 (11) Aggravated assault, as prohibited in § 5-13-204;
- 18 (12) Introduction of controlled substance into body of another
- 19 person, as prohibited in § 5-13-210;
- 20 (13) Terroristic threatening in the first ~~degree~~ and second
- 21 degrees, as prohibited in § 5-13-301(a) and (b);
- 22 (14) Rape, as prohibited in § 5-14-103;
- 23 (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- 24 (16) Sexual assault in the first degree, second degree, third
- 25 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;
- 26 (17) Incest, as prohibited in § 5-26-202;
- 27 (18) Offenses against the family, as prohibited in §§ 5-26-303 -
- 28 5-26-306;
- 29 (19) Endangering the welfare of an incompetent person in the
- 30 first degree, as prohibited in § 5-27-201;
- 31 (20) Endangering the welfare of a minor in the first degree, as
- 32 prohibited in § 5-27-203;
- 33 (21) Permitting child abuse, as prohibited in § 5-27-221(a)(1)
- 34 and (3);
- 35 (22) Engaging children in sexually explicit conduct for use in
- 36 visual or print media, transportation of minors for prohibited sexual

1 conduct, pandering or possessing visual or print medium depicting sexually  
 2 explicit conduct involving a child, or use of a child or consent to use of a  
 3 child in a sexual performance by producing, directing, or promoting a sexual  
 4 performance by a child, as prohibited in §§ 5-27-303, 5-27-304, 5-27-305, 5-  
 5 27-402, and 5-27-403;

6 (23) Felony adult abuse, as prohibited in § 5-28-103;

7 (24) Theft of property, as prohibited in § 5-36-103;

8 (25) Theft by receiving, as prohibited in § 5-36-106;

9 (26) Arson, as prohibited in § 5-38-301;

10 (27) Felony violation of the Uniform Controlled Substances Act,  
 11 § 5-64-101 et seq., as prohibited in § 5-64-401;

12 (28) Burglary, as prohibited in § 5-39-201;

13 (29) Promotion of prostitution in the first degree, as  
 14 prohibited in § 5-70-104;

15 (30) Stalking, as prohibited in § 5-71-229;

16 (31) Forgery, as prohibited in § 5-37-201;

17 (32) Breaking or entering, as prohibited in § 5-39-202;

18 (33) Obtaining a controlled substance by fraud, as prohibited in  
 19 § 5-64-403;

20 (34) Criminal attempt, criminal complicity, criminal  
 21 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,  
 22 5-3-301, and 5-3-401, to commit any of the offenses listed in this  
 23 subsection;

24 (35) Computer child pornography, as prohibited in § 5-27-603;

25 and

26 (36) Computer exploitation of a child in the first degree, as  
 27 prohibited in § 5-27-605-;

28 (37) School bus piracy, as prohibited in § 5-11-107;

29 (38) Assault in the first and second degrees, as prohibited in §  
 30 5-13-206;

31 (39) Terroristic act, as prohibited in § 5-13-310;

32 (40) Any sexual offense, as prohibited in § 5-14-101 et seq.;

33 (41) Voyeurism offenses, as prohibited in § 5-16-101;

34 (42) Death threats concerning a school employee or student, as  
 35 prohibited in § 5-17-101;

36 (43) Interference with visitation, as prohibited in § 5-26-501;

- 1           (44) Interference with custody, as prohibited in § 5-26-502;
- 2           (45) Contributing to the delinquency of a minor, as prohibited
- 3 in § 5-27-205;
- 4           (46) Contributing to the delinquency of a juvenile, as
- 5 prohibited in § 5-27-220;
- 6           (47) Soliciting money or property from incompetents, as
- 7 prohibited in § 5-27-229;
- 8           (48) Computer crimes against minors, as prohibited in § 5-27-601
- 9 et seq.;
- 10          (49) Theft of services, as prohibited in § 5-36-104;
- 11          (50) Criminal impersonation, as prohibited in § 5-37-208;
- 12          (51) Financial identity fraud, as prohibited in § 5-37-227;
- 13          (52) Resisting arrest, as prohibited in § 5-54-103;
- 14          (53) Felony interference with a law enforcement officer, as
- 15 prohibited in § 5-54-101;
- 16          (54) Cruelty to animals, as prohibited in § 5-62-101;
- 17          (55) Engaging in conduct with respect to controlled substances,
- 18 as prohibited in § 5-64-401 et seq.;
- 19          (56) Public display of obscenity, as prohibited in § 5-68-303;
- 20          (57) Promoting obscene materials, as prohibited in § 5-68-303;
- 21          (58) Promoting obscene performance, as prohibited in § 5-68-304;
- 22          (59) Obscene performance at a live public show, as prohibited in
- 23 § 5-68-305;
- 24          (60) Prostitution, as prohibited in § 5-70-102;
- 25          (61) Patronizing a prostitute, as prohibited in § 5-70-103;
- 26          (62) Promotion of prostitution in the first, second, or third
- 27 degrees, as prohibited in §§ 5-70-104, 5-70-105, and 5-70-106;
- 28          (63) Criminal use of a prohibited weapon, as prohibited in § 5-
- 29 73-104;
- 30          (64) Simultaneous possession of drugs and firearms, as
- 31 prohibited in § 5-73-104; and
- 32          (65) Unlawful discharge of a firearm from a vehicle, as
- 33 prohibited in § 5-74-107.

34           (c)(1)(A) The provisions of this section shall not be waived by  
 35 the licensing or requesting agency. ~~Except as provided in subdivision (e)(2)~~  
 36 ~~of this section, one (1) conviction for an offense listed in subsection (b)~~

~~of this section shall not disqualify an applicant for employment if the date of the conviction is at least ten (10) years prior to the date of the application and the individual has had no criminal convictions of any type or nature during the ten year period.~~

(B) Except for any conviction stated in subsection (b) of this section that involves violence or any sexual offense, this section shall not disqualify a person from employment if:

(i) The conviction was for a misdemeanor offense;

(ii) The date of the conviction is at least five (5) years from the date of the background check request; and

(iii) The individual has no criminal convictions of any type or nature during the five-year period preceding the background check request.

(C) Except for any convictions stated in subsection (b) of this section that involves violence or any sexual offense, this section shall not disqualify a person from employment if:

(i) The conviction was for a felony offense;

(ii) The date of the conviction is at least ten (10) years from the date of the background check request; and

(iii) The individual has no criminal convictions of any type or nature during the ten-year period preceding the background check request.

(D) A person registered as a sex offender or required to register as a sex offender shall be disqualified from employment.

(2) Because of the serious nature of the offenses and the close relationship to the type of work that is to be performed, the following offenses shall result in permanent disqualification of employment and are not subject to subdivision (c)(1)(B)-(D) of this section:

(A) Capital murder, as prohibited in § 5-10-101;

(B) Murder in the first degree and second degree, as prohibited in §§ 5-10-102 and 5-10-103;

(C) Kidnapping, as prohibited in § 5-11-102;

(D) Rape, as prohibited in § 5-14-103;

(E) Sexual assault in the first degree and second degree, as prohibited in §§ 5-14-124 and 5-14-125;

(F) Endangering the welfare of an incompetent person in

1 the first degree, as prohibited in § 5-27-201;

2 (G) Felony adult abuse, as prohibited in § 5-28-103; and

3 (H) Arson, as prohibited in § 5-38-301.

4 (3) An applicant or employee shall not be disqualified from  
5 permanent employment if the applicant or employee has been found guilty of or  
6 has pleaded guilty or nolo contendere to a misdemeanor if the offense did not  
7 involve exploitation of an adult, abuse of a person, neglect of a person,  
8 theft, or sexual contact.

9 (d) If a service provider fails or refuses to cooperate in obtaining  
10 criminal history records checks, those circumstances shall be grounds to deny  
11 or revoke the service provider's license or other operating authority.

12 (e) Any service provider violating this subchapter shall be guilty of  
13 a Class A misdemeanor for each violation.

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