

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 8th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 2695

4
5 By: Representative Mack
6
7

For An Act To Be Entitled

8
9 AN ACT TO CHANGE THE CRIMINAL BACKGROUND CHECK
10 REQUIREMENTS FOR THE AUCTIONEER'S LICENSING
11 BOARD; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 TO CHANGE THE CRIMINAL BACKGROUND CHECK
15 REQUIREMENTS FOR THE AUCTIONEER'S
16 LICENSING BOARD.
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18

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

21 SECTION 1. Arkansas Code § 17-17-312 is amended to read as follows:
22 17-17-312. Criminal background checks.

23 (a) ~~Beginning July 16, 2003, The Auctioneer's Licensing Board may~~
24 require each first-time applicant for a license, ~~issued by the Auctioneer's~~
25 Licensing Board any applicant for license renewal, and each applicant seeking
26 reinstatement of an expired license from the board ~~shall be required~~ to apply
27 to the Identification Bureau of the Department of Arkansas State Police for a
28 state and national criminal background check to be conducted by the
29 Identification Bureau of the Department of Arkansas State Police and the
30 Federal Bureau of Investigation.

31 (b) The check shall conform to the applicable federal standards and
32 shall include the taking of fingerprints.

33 (c) The applicant shall sign a release of information to the board and
34 shall be responsible ~~to the Department of Arkansas State Police~~ for the
35 payment of any fee associated with the criminal background check.

36 (d) Upon completion of the criminal background check, the



1 Identification Bureau of the Department of Arkansas State Police shall
 2 forward to the board all releasable information obtained concerning the
 3 applicant ~~in the commission of any offense listed in subsection (f) of this~~
 4 ~~section.~~

5 ~~(e) At the conclusion of any background check required by this~~
 6 ~~section, the Identification Bureau of the Department of Arkansas State Police~~
 7 ~~shall promptly destroy the fingerprint card of the applicant.~~

8 ~~(f)~~(e) No person shall be eligible to receive or hold a license issued
 9 by the board if that person has pleaded guilty or nolo contendere to, or been
 10 found guilty of, any of the following offenses by any court in the State of
 11 Arkansas or of any similar offense by a court in another state or of any
 12 similar offense by a federal court regardless of whether the conviction has
 13 been sealed, expunged, or pardoned:

- 14 (1) Capital murder, as prohibited in § 5-10-101;
- 15 (2) Murder in the first degree and second degree, as prohibited
 16 in §§ 5-10-102 and 5-10-103;
- 17 (3) Manslaughter, as prohibited in § 5-10-104;
- 18 (4) Negligent homicide, as prohibited in § 5-10-105;
- 19 (5) Kidnapping, as prohibited in § 5-11-102;
- 20 (6) False imprisonment in the first degree, as prohibited in §
 21 5-11-103;
- 22 (7) Permanent detention or restraint, as prohibited in § 5-11-
 23 106;
- 24 (8) Robbery, as prohibited in § 5-12-102;
- 25 (9) Aggravated robbery, as prohibited in § 5-12-103;
- 26 (10) Battery in the first degree, as prohibited in § 5-13-201;
- 27 (11) Aggravated assault, as prohibited in § 5-13-204;
- 28 (12) Introduction of a controlled substance into the body of
 29 another person, as prohibited in § 5-13-210;
- 30 (13) Terroristic threatening in the first degree, as prohibited
 31 in § 5-13-301;
- 32 (14) Rape, as prohibited in § 5-14-103;
- 33 (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- 34 (16) Sexual assault in the first degree, second degree, third
 35 degree, and fourth degree, as prohibited in §§ 5-14-124 – 5-14-127;
- 36 (17) Incest, as prohibited in § 5-26-202;

1 (18) Offenses against the family, as prohibited in §§ 5-26-303 –
2 5-26-306;

3 (19) Endangering the welfare of an incompetent person in the
4 first degree, as prohibited in § 5-27-201;

5 (20) Endangering the welfare of a minor in the first degree, as
6 prohibited in § 5-27-203;

7 (21) Permitting the abuse of a child, as prohibited in § 5-27-
8 221(a)(1) and (3);

9 (22) Engaging children in sexually explicit conduct for use in
10 visual or print media, transportation of minors for prohibited sexual
11 conduct, pandering or possessing visual or print medium depicting sexually
12 explicit conduct involving a child, or use of a child or consent to use of a
13 child in a sexual performance by producing, directing, or promoting a sexual
14 performance by a child, as prohibited in §§ 5-27-303 – 5-27-305, 5-27-402,
15 and 5-27-403;

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

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

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

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

20 (27) Burglary, as prohibited in § 5-39-201;

21 (28) Felony violation of the Uniform Controlled Substances Act,
22 §§ 5-64-101 – 5-64-608, as prohibited in § 5-64-401;

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

25 (30) Stalking, as prohibited in § 5-71-229; ~~and~~

26 (31) Criminal attempt, criminal complicity, criminal
27 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
28 5-3-301, and 5-3-401, to commit any of the offenses listed in this
29 subsection;

30 (32) Abuse of an athletic contest official, as prohibited in §
31 5-13-209;

32 (33) Adult abuse, as prohibited in § 5-28-103;

33 (34) Aggravated assault upon an employee of a correctional
34 facility, as prohibited in § 5-13-211;

35 (35) Aggravated riot, as prohibited in § 5-71-202;

36 (36) Arming rioters, as prohibited in § 5-71-204;

- 1 (37) Assault in the first degree, as prohibited in § 5-13-205;
- 2 (38) First degree assault on a family or household member, as
- 3 prohibited in § 5-26-307;
- 4 (39) Second degree assault on a family or household member, as
- 5 prohibited in § 5-26-308;
- 6 (40) Third degree assault on a family or household member, as
- 7 prohibited in § 5-26-309;
- 8 (41) Domestic battering in the third degree, as prohibited in §
- 9 5-26-305;
- 10 (42) Aggravated assault on a family or household member, as
- 11 prohibited in § 5-26-306;
- 12 (43) First degree assault on a family or household member, as
- 13 prohibited in § 5-26-307;
- 14 (44) Assault in the second degree, as prohibited in § 5-13-206;
- 15 (45) Assault in the third degree, as prohibited in § 5-13-207;
- 16 (46) Battery in the second degree, as prohibited in § 5-13-202;
- 17 (47) Battery in the third degree, as prohibited in § 5-13-203;
- 18 (48) Bigamy, as prohibited in § 5-26-201;
- 19 (49) Installing or maintaining a booby trap, as prohibited in §
- 20 5-73-126;
- 21 (50) Breaking or entering, as prohibited in § 5-39-202;
- 22 (51) Carrying a knife as a weapon, as prohibited in § 5-73-121;
- 23 (52) Carrying a weapon, as prohibited in § 5-73-120;
- 24 (53) Carrying or possessing a firearm or other deadly weapon in
- 25 a publicly owned building or facility, as prohibited in § 5-73-122;
- 26 (54) Coercion, as prohibited in § 5-13-208;
- 27 (55) Residential or commercial burglary, as prohibited in § 5-
- 28 39-201;
- 29 (56) Communicating a false alarm, as prohibited in § 5-71-210;
- 30 (57) Computer fraud, as prohibited in § 5-41-103;
- 31 (58) Computer trespass, as prohibited in § 5-41-104;
- 32 (59) Concealing birth, as prohibited in § 5-26-203;
- 33 (60) Contributing to the delinquency of a juvenile, as
- 34 prohibited in § 5-27-220;
- 35 (61) Criminal impersonation in the first or second degree, as
- 36 prohibited in § 5-37-208;

- 1 (62) Criminal mischief in the first degree, as prohibited in §
 2 5-38-203;
- 3 (63) Criminal mischief in the second degree, as prohibited in §
 4 5-38-204;
- 5 (64) Criminal possession of explosives, as prohibited in § 5-73-
 6 108;
- 7 (65) Criminal trespass in or upon a vehicle or structure, as
 8 prohibited in § 5-39-203;
- 9 (66) Criminal use of prohibited weapons, as prohibited in § 5-
 10 73-104;
- 11 (67) Cruelty to animals, as prohibited in § 5-62-101;
- 12 (68) Communicating a death threat concerning a school employee
 13 or student, as prohibited in § 5-17-101;
- 14 (69) Defacing a firearm, as prohibited in § 5-73-106;
- 15 (70) Disorderly conduct, as prohibited in § 5-71-207;
- 16 (71) Distributing, possessing, or viewing matter depicting
 17 explicit conduct involving a child, as prohibited in § 5-27-602;
- 18 (72) Distributing a controlled substance listed in Schedule I or
 19 II which is a narcotic drug to a person under eighteen (18) years of age who
 20 is at least three (3) years his junior, as prohibited in § 5-64-406;
- 21 (73) Public intoxication, as prohibited in § 5-71-212;
- 22 (74) Possession of drug paraphernalia, as prohibited in § 5-64-
 23 403;
- 24 (75) Driving while intoxicated, as prohibited in § 5-65-101 et
 25 seq.;
- 26 (76) Endangering the welfare of a minor in the second degree, as
 27 prohibited in § 5-27-204;
- 28 (77) Endangering the welfare of an incompetent person in the
 29 second degree, as prohibited in § 5-27-202;
- 30 (78) Engaging in a continuing criminal gang, organization, or
 31 enterprise in the first or second degree, as prohibited in § 5-74-104;
- 32 (79) Engaging in conduct with respect to controlled substances,
 33 as prohibited in § 5-64-401 et seq.;
- 34 (80) Committing a crime of violence while acting in concert with
 35 two (2) or more persons, as prohibited in § 5-74-108;
- 36 (81) First degree escape, as prohibited in § 5-54-110;

- 1 (104) Interference with court-ordered custody, as prohibited in
2 § 5-26-502;
- 3 (105) Interference with visitation, as prohibited in § 5-26-501;
4 (106) Intimidating a juror, as prohibited in § 5-53-114;
5 (107) Intimidating a witness, as prohibited in § 5-53-109;
6 (108) Juror bribery, as prohibited in § 5-53-113;
7 (109) Jury tampering, as prohibited in § 5-53-115;
8 (110) Loitering, as prohibited in § 5-71-213;
9 (111) Manufacturing or producing fraudulent personal
10 identification documents, as prohibited in § 5-27-502;
- 11 (112) Neglect of parental duty with reference to a minor
12 resulting in or failing to correct delinquency, as prohibited in § 5-27-222;
- 13 (113) Nonsupport, as prohibited in § 5-26-401;
14 (114) Obscene performance at a live public show, as prohibited
15 in § 5-68-305;
- 16 (115) Obstructing governmental operations, as prohibited in § 5-
17 54-102;
- 18 (116) Obtaining drugs by fraud, as prohibited in § 5-64-403;
19 (117) Obtaining a signature by deception, as prohibited in § 5-
20 37-210;
- 21 (118) Patronizing a prostitute, as prohibited in § 5-70-103;
22 (119) Perjury, as prohibited in § 5-53-102;
23 (120) Possessing an instrument of a crime, as prohibited in § 5-
24 73-102;
- 25 (121) Possession of a defaced firearm, as prohibited in § 5-73-
26 107;
- 27 (122) Possession of firearms by certain persons, as prohibited
28 in § 5-73-103;
- 29 (123) Possession of or an attempt to use a fraudulent or altered
30 personal identification document, as prohibited in § 5-27-503;
- 31 (124) Possession of a handgun by minors or possession of a
32 handgun on school property, as prohibited in § 5-73-119;
- 33 (125) Possession or use of a machine gun for offensive or
34 aggressive purposes, as prohibited in § 5-73-204;
- 35 (126) Possession or use of weapons by incarcerated persons, as
36 prohibited in § 5-73-131;

- 1 (127) Promoting obscene materials, as prohibited in § 5-68-303;
- 2 (128) Promoting an obscene performance, as prohibited in § 5-68-
- 3 304;
- 4 (129) Promoting prostitution in the second degree, as prohibited
- 5 in § 5-70-105;
- 6 (130) Promotion of prostitution in the third degree, as
- 7 prohibited in § 5-70-106;
- 8 (131) Prostitution, as prohibited in § 5-70-102;
- 9 (132) Publicly displaying an obscenity, as prohibited in § 5-68-
- 10 205;
- 11 (133) Public intoxication, as prohibited in § 5-71-212;
- 12 (134) Public servant bribery, as prohibited in § 5-52-103;
- 13 (135) Public sexual indecency, as prohibited in § 5-14-111;
- 14 (136) Reckless burning, as prohibited in § 5-38-302;
- 15 (137) Implied consent to a chemical test of a person's blood,
- 16 breath, or urine as authorized under § 5-65-309;
- 17 (138) Refusal to submit to a chemical test required under § 5-
- 18 65-310;
- 19 (139) Resisting arrest or refusal to submit to an arrest, as
- 20 prohibited in § 5-54-103;
- 21 (140) Riot, as prohibited in § 5-71-201;
- 22 (141) Sale, rental, or transfer of firearm to prohibited person,
- 23 as prohibited in § 5-73-132;
- 24 (142) School bus piracy, as prohibited in § 5-11-107;
- 25 (143) Committing or attempting, soliciting, or conspiring to
- 26 commit a felony violation of § 5-64-401 while in possession of a firearm or
- 27 any implement or weapon which may be used to inflict serious physical injury
- 28 or death and which under the circumstances serves no apparent lawful purpose,
- 29 as prohibited in § 5-74-106;
- 30 (144) Sodomy, as prohibited in § 5-14-122;
- 31 (145) Soliciting money or property from an incompetent person or
- 32 a person with diminished mental capacity, as prohibited in § 5-27-229;
- 33 (146) Tampering with a public record, as prohibited in § 5-54-
- 34 121;
- 35 (147) Terroristic act, as prohibited in § 5-13-310;
- 36 (148) Terroristic threatening in the first degree or second

1 degree, as prohibited in § 5-13-301;

2 (149) Theft of communication services, as prohibited in § 5-37-
 3 402;

4 (150) Theft of leased, rented, or entrusted personal property,
 5 as prohibited in § 5-36-115;

6 (151) Theft of public benefits, as prohibited in § 5-36-202;

7 (152) Theft of service, as prohibited in § 5-36-104;

8 (153) Theft of wireless services, as prohibited in § 5-36-303;

9 (154) Threatening a fire or bombing, as prohibited in § 5-71-
 10 211;

11 (155) Unauthorized use of a vehicle, as prohibited in § 5-36-
 12 108;

13 (156) Unlawful assembly, as prohibited in § 5-71-205;

14 (157) Unlawful computerized communications, as prohibited in §
 15 5-41-108;

16 (158) Unlawful discharge of a firearm from a vehicle, Y felony,
 17 as prohibited in § 5-74-107;

18 (159) Vehicular piracy, as prohibited in § 5-11-105;

19 (160) Violation of Uniform Controlled Substances Act, as
 20 prohibited in § 5-64-401 et seq.;

21 (161) Voyeurism offenses, as prohibited in § 5-16-101;

22 (162) Being a registered sex offender or being required to
 23 register, as a sex offender as prohibited in 12-12-901.

24 ~~(g)~~(f)(1) The provisions of subsection ~~(f)~~(e) of this section may be
 25 waived by the board upon the request of:

26 (A) An affected applicant for licensure; or

27 (B) The person holding a license subject to revocation.

28 (2) Circumstances for which a waiver may be granted shall
 29 include, but not be limited to, the following:

30 (A) The age at which the crime was committed;

31 (B) The circumstances surrounding the crime;

32 (C) The length of time since the crime;

33 (D) Subsequent work history;

34 (E) Employment references; and

35 (F) Character references.

36 (h)(1) Any information received by the board from the Identification

1 Bureau of the Department of Arkansas State Police under this section shall
2 not be available for examination except by the:

3 (A) Affected applicant for licensure, or his or her
4 authorized representative; or

5 (B) Person whose license is subject to revocation, or his
6 or her authorized representative.

7 (2) No record, file, or document shall be removed from the
8 custody of the Department of Arkansas State Police.

9 (i) Any information made available to the affected applicant for
10 licensure or to the person whose license is subject to revocation shall be
11 information pertaining to that person only.

12 (j) Rights of privilege and confidentiality established under this
13 section shall not extend to any document created for purposes other than this
14 background check.

15 (k) The board shall adopt the necessary rules and regulations to fully
16 implement the provisions of this section.

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