

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
4

As Engrossed: H4/6/05
A Bill

HOUSE BILL 2695

5 By: Representative Mack
6
7

8 **For An Act To Be Entitled**

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

13 **Subtitle**

14 TO CHANGE THE CRIMINAL BACKGROUND CHECK
15 REQUIREMENTS FOR THE AUCTIONEER'S
16 LICENSING BOARD.
17
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) Aggravated assault upon an employee of a correctional
31 facility, as prohibited in § 5-13-211;

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

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

34 (35) Breaking or entering, as prohibited in § 5-39-202;

35 (36) Residential or commercial burglary, as prohibited in § 5-
36 39-201;

1 (37) Computer fraud, as prohibited in § 5-41-103;

2 (38) Computer trespass, as prohibited in § 5-41-104;

3 (39) Criminal impersonation in the first or second degree, as
4 prohibited in § 5-37-208;

5 (40) Distributing a controlled substance listed in Schedule I or
6 II which is a narcotic drug to a person under eighteen (18) years of age who
7 is at least three (3) years his junior, as prohibited in § 5-64-406;

8 (41) Possession of drug paraphernalia, as prohibited in § 5-64-
9 403;

10 (42) Engaging in a continuing criminal gang, organization, or
11 enterprise in the first or second degree, as prohibited in § 5-74-104;

12 (43) Engaging in conduct with respect to controlled substances,
13 as prohibited in § 5-64-401 et seq.;

14 (44) Committing a crime of violence while acting in concert with
15 two (2) or more persons, as prohibited in § 5-74-108;

16 (45) With the intent to manufacture a chemical substance or
17 methamphetamine, causing or permitting a child to be exposed to, ingest,
18 inhale, or have any contact with a chemical substance or methamphetamine, as
19 prohibited in § 5-27-230;

20 (46) Failure to keep records, maintain premises, as prohibited
21 in § 5-64-402;

22 (47) Financial identity fraud, as prohibited in § 5-37-227;

23 (48) Forgery in the first degree or second degree, as prohibited
24 in § 5-37-201;

25 (49) Fraudulent use of a credit card or debit card, as
26 prohibited in § 5-37-207;

27 (50) Intimidating a juror, as prohibited in § 5-53-114;

28 (51) Intimidating a witness, as prohibited in § 5-53-109;

29 (52) Juror bribery, as prohibited in § 5-53-113;

30 (53) Jury tampering, as prohibited in § 5-53-115;

31 (54) Manufacturing or producing fraudulent personal
32 identification documents, as prohibited in § 5-27-502;

33 (55) Obtaining drugs by fraud, as prohibited in § 5-64-403;

34 (56) Obtaining a signature by deception, as prohibited in § 5-
35 37-210;

36 (57) Perjury, as prohibited in § 5-53-102;

1 (58) Possession of or an attempt to use a fraudulent or altered
2 personal identification document, as prohibited in § 5-27-503;

3 (59) Public servant bribery, as prohibited in § 5-52-103;

4 (60) Riot, as prohibited in § 5-71-201;

5 (61) Tampering with a public record, as prohibited in § 5-54-
6 121;

7 (62) Theft of communication services, as prohibited in § 5-37-
8 402;

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

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

12 (65) Theft of service, as prohibited in § 5-36-104; and

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

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

16 (A) An affected applicant for licensure; or

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

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

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

21 (B) The circumstances surrounding the crime;

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

23 (D) Subsequent work history;

24 (E) Employment references; and

25 (F) Character references.

26 ~~(h)~~(g)(1) Any information received by the board from the
27 Identification Bureau of the Department of Arkansas State Police under this
28 section shall not be available for examination except by the:

29 (A) Affected applicant for licensure, or his or her
30 authorized representative; or

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

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

35 ~~(i)~~(h) Any information made available to the affected applicant for
36 licensure or to the person whose license is subject to revocation shall be

1 information pertaining to that person only.

2 ~~(j)~~(i) Rights of privilege and confidentiality established under this
3 section shall not extend to any document created for purposes other than this
4 background check.

5 ~~(k)~~(j) The board shall adopt the necessary rules and regulations to
6 fully implement the provisions of this section.

7 /s/ Mack

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