

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 2766

5 By: Representative Mahony
6
7

For An Act To Be Entitled

9 AN ACT TO AUTHORIZE CRIMINAL HISTORY BACKGROUND
10 CHECKS FOR VOLUNTEERS; AND FOR OTHER PURPOSES.
11

Subtitle

13 AN ACT TO AUTHORIZE CRIMINAL HISTORY
14 BACKGROUND CHECKS FOR VOLUNTEERS.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code Title 12, Chapter 12 is amended to add an
20 additional subchapter to read as follows:
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22 12-12-1601. Title – purpose.

23 (a) This subchapter shall be known and may be cited as the “Criminal
24 History for Volunteers Act”.
25

26 12-12-1602. Purpose.

27 The purpose of this subchapter is to allow volunteer organizations to
28 request and receive information regarding the criminal history or
29 qualifications of a person who volunteers his or her time or services to work
30 with children, the elderly, victims of domestic abuse, or persons with
31 disabilities based upon the person’s state and federal criminal history.
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33 12-12-1603. Definitions.

34 As used in this subchapter:

35 (1) “Children” means individuals under sixteen (16) years of
36 age;



1 (2) "Conviction" means that a person has been found guilty of or
 2 has pleaded guilty or nolo contendere to any of the listed offenses by any
 3 court in the State of Arkansas or of any similar offense by a court in
 4 another state or a federal court, regardless of whether the conviction has
 5 been sealed or expunged;

6 (3) "Criminal history information" means a record compiled by
 7 the Arkansas Crime Information Center or the Identification Bureau of the
 8 Department of Arkansas State Police on an individual consisting of names,
 9 identification data, notations of felony arrests, detentions, indictments,
 10 informations, or other formal felony criminal charges obtained from criminal
 11 justice agencies, including, but not limited to, conviction information of
 12 the charges, notations on correctional supervision and release, and whether
 13 the individual is a registered sex offender or is required to register as a
 14 sex offender;

15 (4) "Elderly" means individuals age sixty-five (65) or older;

16 (5) "Employee" means an individual currently in the service of
 17 an employer for full-time or part-time compensation, and employed by contract
 18 or at will, in which the employer has the authority to control the person in
 19 the material details of how work shall be performed and when compensation
 20 shall be provided;

21 (6) "Persons with disabilities" means mentally ill or
 22 developmentally disabled persons with physically or mental impairments that
 23 substantially limit one (1) or more of the major life activities of the
 24 individual;

25 (7) "Victim of domestic abuse" means the same as defined in § 9-
 26 4-102;

27 (8) "Volunteer" means an individual who provides services
 28 involving contact with children, the elderly, or persons with disabilities
 29 without an express or implied promise of compensation; and

30 (9) "Volunteer organization" means an individual, group of
 31 individuals, association, partnership, corporation, limited liability company
 32 or partnership, business, or other entity which has volunteers that provide
 33 care to children, the elderly, victims of domestic abuse, or persons with
 34 disabilities.

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 36 12-12-1604. Authority.

1 (a) The Department of Arkansas State Police and the Arkansas Crime
 2 Information Center may provide background check services to a volunteer
 3 organization pursuant to the provisions of this subchapter.

4 (b) The Department of Arkansas State Police and the Arkansas Crime
 5 Information Center may promulgate rules to administer the provisions of this
 6 subchapter.

7
 8 12-12-1605. Registration by volunteer agency.

9 (a) A volunteer organization desiring to obtain criminal background
 10 check information on volunteers shall register with the Department of
 11 Arkansas State Police.

12 (b) The Department of Arkansas State Police may promulgate rules
 13 regarding registration with the department to obtain criminal background
 14 check information.

15
 16 12-12-1606. Application for criminal background check.

17 (a)(1) Any volunteer organization registered to obtain criminal
 18 background check information on volunteers may apply to the Identification
 19 Bureau of the Department of Arkansas State Police for the purpose of
 20 obtaining criminal history information regarding any person currently acting
 21 as a volunteer with the organization or desiring to act as a volunteer with
 22 the agency.

23 (2)(A) The application form submitted by the volunteer
 24 organization shall include:

25 (i) The name of the volunteer agency;

26 (ii) The name of the person volunteering with the
 27 volunteer organization or desiring to act as a volunteer with the
 28 organization for whom the background check is sought;

29 (iii) A signed authorization form executed by the
 30 volunteer authorizing the Identification Bureau to release criminal history
 31 information; and

32 (iv) Information required by federal standards in
 33 effect as of January 1, 2005, including, but not limited to, the fingerprints
 34 of the volunteer.

35 (B) If the volunteer organization desires to receive
 36 criminal background check information from the Federal Bureau of

1 Investigation, the volunteer organization shall include a copy of the minutes
 2 from its most recent board meeting that lists offenses the organization
 3 believes disqualify an applicant from serving as a volunteer with the agency.

4 (b) The application form shall be subject to inspection by the
 5 Department of Arkansas State Police.

6 (c) The volunteer organization shall retain a copy of the criminal
 7 background check application for a period of at least three (3) years from
 8 the date of the application.

9
 10 12-12-1607. Background checks.

11 (a)(1) Upon receipt of a proper application from a volunteer agency,
 12 the Identification Bureau of the Department of Arkansas State Police shall
 13 conduct a background check through the Arkansas Crime Information Center.

14 (2)(A) The Identification bureau shall provide the information
 15 obtained from the background check to the volunteer agency.

16 (B) The information shall include:

17 (i) All pending felony arrests in the state of
 18 Arkansas;

19 (ii) All criminal convictions in the state of
 20 Arkansas; and

21 (iii) Whether the person is a registered sex
 22 offender or required to register as a sex offender.

23 (b)(1) Upon the completion of a background check based upon
 24 information maintained by the Arkansas Crime Information Center, the
 25 volunteer organization may request through the Identification bureau a state
 26 and national criminal background check through the Federal Bureau of
 27 Investigation.

28 (2)(A) The volunteer organization shall not be required to
 29 submit an additional application for the state and national criminal
 30 background check through the Federal Bureau of Investigation.

31 (B) However, the volunteer organization shall be required
 32 to submit information pursuant to § 12-12-1606(a)(2)(B) if the organization
 33 did not submit the information with its application.

34 (3) The Identification bureau shall not release the Federal
 35 Bureau of Investigation criminal history report to the volunteer agency, but
 36 shall review the report and the criteria provided by the volunteer

1 organization in the application for a criminal background check and notify
2 the volunteer organization whether the volunteer meets the qualifications for
3 serving as a volunteer with the agency.

4 (c) A volunteer organization shall consider all information received
5 in response to a request for criminal background information confidential.

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7 12-12-1608. Penalty.

8 The following acts shall constitute a Class A misdemeanor:

9 (1) Knowingly releasing or disclosing criminal background
10 information to any unauthorized volunteer organization or person; or

11 (2) Obtaining information for purposes not authorized by this
12 subchapter.

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14 12-12-1609. Fees.

15 (a)(1) The Department of Arkansas State Police may charge a fee for
16 providing criminal history background checks under this subchapter.

17 (2) The amount of the fee for a criminal background check
18 conducted through the Arkansas Crime Information Center shall be determined
19 jointly by the Department of Arkansas State Police and the Arkansas Crime
20 Information Center and shall not exceed twenty dollars (\$20.00), exclusive of
21 any third party electronic processing fee charges.

22 (3) The amount of the fee for a background check performed by
23 the Federal Bureau of Investigation shall not exceed the amount determined by
24 the Federal Bureau of Investigation.

25 (b) Fees collected pursuant to subchapter shall be credited as
26 follows:

27 (1) Fifty percent (50%) to the Crime Information Center Federal
28 Fund; and

29 (2) Fifty percent (50%) to the State Police Equipment Fund, to
30 be used for the continued operation and expansion of the automated criminal
31 history system and the automated fingerprint identification system.

32
33 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
34 General Assembly of the State of Arkansas that the dissemination of complete,
35 accurate, and timely criminal background check information for volunteers is
36 necessary for the protection of children, the elderly, and developmentally

1 disabled persons in the State of Arkansas. Therefore, an emergency is
2 declared to exist and this act being immediately necessary for the
3 preservation of the public peace, health, and safety shall become effective
4 on:

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

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

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

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