

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

As Engrossed: H3/16/05

# A Bill

HOUSE BILL 2766

5 *By: Representatives Thompson, 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

12 AN ACT TO AUTHORIZE CRIMINAL HISTORY  
13 BACKGROUND CHECKS FOR VOLUNTEERS.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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”.  
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26 12-12-1602. Purpose.

27 The purpose of this subchapter is to allow volunteer organizations to  
28 request and receive information regarding the qualifications of a person who  
29 volunteers his or her time or services to work with children, the elderly,  
30 victims of domestic abuse, or persons with disabilities based upon the  
31 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 offense by any court in the State  
3 of Arkansas or of any similar offense by a court in another state or a  
4 federal court, regardless of whether the conviction has been sealed or  
5 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;

9           (4) "Domestic abuse" means the same as defined in § 9-4-102;

10          (5) "Elderly" means individuals age sixty-five (65) or older;

11          (6) "Employee" means an individual currently in the service of  
12 an employer for full-time or part-time compensation, and employed by contract  
13 or at will, in which the employer has the authority to control the person in  
14 the material details of how work shall be performed and when compensation  
15 shall be provided;

16          (7) "Persons with disabilities" means mentally ill or  
17 developmentally disabled persons with physically or mental impairments that  
18 substantially limit one (1) or more of the major life activities of the  
19 individual;

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

23          (9) "Volunteer organization" means an individual, group of  
24 individuals, association, partnership, corporation, limited liability company  
25 or partnership, business, or other entity which has volunteers that provide  
26 services to children, the elderly, victims of domestic abuse, or persons with  
27 disabilities.

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29          12-12-1604. Authority.

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

33          (b) The Department of Arkansas State Police and the Arkansas Crime  
34 Information Center may promulgate rules to administer the provisions of this  
35 subchapter.

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1 12-12-1605. Registration by volunteer organization.

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

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

8 (c) If the volunteer organization desires to receive criminal  
9 background check information from the Federal Bureau of Investigation, the  
10 volunteer organization shall include a copy of the minutes from its most  
11 recent board meeting that lists offenses that the organization considers to  
12 disqualify an applicant from serving as a volunteer with the agency.

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14 12-12-1606. Request for criminal background check.

15 (a)(1) Any volunteer organization registered to obtain criminal  
16 background check information from the Arkansas Crime Information Center or  
17 the Federal Bureau of Investigation concerning volunteers may apply to the  
18 Identification Bureau of the Department of Arkansas State Police for the  
19 purpose of obtaining criminal history information regarding any person  
20 currently acting as a volunteer with the organization or desiring to act as a  
21 volunteer with the organization.

22  
23 (2) The request form submitted by the volunteer organization shall  
24 include:

25 (A) The name of the volunteer organization;

26 (B) The identifying information of the person for whom the  
27 background check is sought; and

28 (C) A signed authorization form executed by the volunteer  
29 authorizing the Identification Bureau to release criminal history  
30 information.

31 (b) The request form shall be subject to inspection by the Department  
32 of Arkansas State Police.

33 (c) The volunteer organization shall retain a copy of the criminal  
34 background check request for a period of at least three (3) years from the  
35 date of the request.

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1 12-12-1607. Background checks.

2 (a)(1) Upon receipt of a proper request from a volunteer organization,  
3 the Identification Bureau of the Department of Arkansas State Police shall  
4 conduct a background check through the Arkansas Crime Information Center.

5 (2)(A) The Identification Bureau shall provide the information  
6 obtained from the Arkansas background check to the volunteer organization.

7 (B) The information shall include:

8 (i) All pending Arkansas felony arrests;

9 (ii) All Arkansas criminal convictions; and

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

12 (b)(1) Upon the completion of the Arkansas background check, the  
13 volunteer organization may request through the Identification Bureau a  
14 national criminal background check through the Federal Bureau of  
15 Investigation.

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

19 (3) The national background check shall comply with federal  
20 standards in effect as of January 1, 2005, including, but not limited to,  
21 standards concerning the requirement of the submission of the fingerprints of  
22 the volunteer.

23 (4) The Identification Bureau shall not release the Federal  
24 Bureau of Investigation criminal history report to the volunteer  
25 organization, but shall review the report and the criteria provided by the  
26 volunteer organization in its registration to obtain criminal background  
27 check information on volunteers and notify the volunteer organization whether  
28 the volunteer meets the qualifications for serving as a volunteer with the  
29 organization.

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

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33 12-12-1608. Penalty.

34 The following acts shall constitute a Class A misdemeanor:

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

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

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4           12-12-1609. Fees.

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

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

12           (3) The amount of the fee for a background check performed by  
13 the Federal Bureau of Investigation shall not exceed the amount determined by  
14 the Federal Bureau of Investigation.

15           (b) Fees collected pursuant to subchapter shall be credited as  
16 follows:

17           (1) Fifty percent (50%) to the Crime Information Center System  
18 Fund; and

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

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23           12-12-1610. Extent of disclosure.

24           (a) The Department of Arkansas State Police and the Arkansas Crime  
25 Information Center shall disseminate criminal history information to the  
26 extent entries have been made at the time of the request for the information.

27           (b) Any event, activity, or any portion of the criminal history  
28 information which has not been processed by the department or the center  
29 shall not be required to be included in the dissemination.

30           (c) Requests for information, supporting documents, and any responses  
31 to a request for criminal background check information under this subchapter  
32 shall not be subject to disclosure under the Freedom of Information Act of  
33 1967, § 25-19-101 et seq.

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35           SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
36 General Assembly of the State of Arkansas that the dissemination of complete,

1 accurate, and timely criminal background check information for volunteers is  
2 necessary for the protection of children, the elderly, and developmentally  
3 disabled persons in the State of Arkansas. Therefore, an emergency is  
4 declared to exist and this act being immediately necessary for the  
5 preservation of the public peace, health, and safety shall become effective  
6 on:

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

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

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

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14 */s/ Thompson, et al*  
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