

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

SENATE BILL 1024

4
5 By: Senator Madison
6
7

For An Act To Be Entitled

9 AN ACT TO EXPAND ELECTRONIC ACCESS TO CERTAIN
10 DEPARTMENT OF ARKANSAS STATE POLICE CRIMINAL
11 HISTORY INFORMATION TO INCLUDE PERSONS
12 RESPONSIBLE FOR RENTING OR LEASING REAL PROPERTY;
13 AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO EXPAND ELECTRONIC ACCESS TO
16 CERTAIN DEPARTMENT OF ARKANSAS STATE
17 POLICE CRIMINAL HISTORY INFORMATION TO
18 INCLUDE PERSONS RESPONSIBLE FOR RENTING
19 OR LEASING REAL PROPERTY.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 12-12-1502 is amended to read as follows:
26 12-12-1502. Intent.

27 (a) It is the intent of this subchapter to:

28 (1) Provide one (1) source for obtaining the most accurate and
29 complete criminal history information; ~~and~~

30 (2) Allow dissemination of criminal history information to
31 employers and professional licensing boards pertaining to all felony arrest
32 information and all conviction information; and

33 (3) Allow electronic dissemination of Arkansas criminal history
34 information to persons responsible for renting or leasing real property.

35 (b)(1) The Department of Arkansas State Police shall be the agency
36 responsible for the dissemination of criminal history information under this



1 subchapter.

2 (2) The Arkansas Crime Information Center shall be authorized to
 3 disseminate criminal history information as authorized by law.

4 (c) Felony arrest information that has had a disposition of acquittal,
 5 dismissal, or nolle prosequi entered into the central repository shall not be
 6 released under this subchapter.

7

8 SECTION 2. Arkansas Code § 12-12-1503 is amended to read as follows:
 9 12-12-1503. Definitions.

10 For purposes of this subchapter:

11 (1) "Administration of criminal justice" means performing
 12 functions of investigation, apprehension, detention, prosecution,
 13 adjudication, correctional supervision, or rehabilitation of accused persons
 14 or criminal offenders, including criminal identification activities and the
 15 collection, maintenance, and dissemination of criminal justice information;

16 (2)(A) "Arrest records or arrest information" means felony
 17 arrest information in which conviction or disposition information has not
 18 been entered into the central repository.

19 (B) "Arrest records or arrest information" does not
 20 include misdemeanor arrest information or felony arrest information that has
 21 a disposition of acquittal, dismissal, or nolle prosequi entered into the
 22 central repository;

23 (3) "Bureau" means the Identification Bureau of the Department
 24 of Arkansas State Police, which may maintain fingerprint card files and other
 25 identification information on individuals;

26 (4) "Central repository" means the Arkansas Crime Information
 27 Center, which collects, maintains, and disseminates criminal history
 28 information;

29 (5)(A) "Conviction information" means criminal history
 30 information disclosing that a person has pleaded guilty or nolo contendere to
 31 or was found guilty of a criminal offense in a court of law, together with
 32 sentencing information.

33 (B) Sealed or expunged records are not included in the
 34 definition of "conviction information";

35 (6)(A) "Criminal history information" means a record compiled by
 36 the central repository or the bureau on an individual consisting of names,

1 identification data, notations of arrests, detentions, indictments,
2 informations, or other formal criminal charges obtained from criminal justice
3 agencies, including any dispositions of the charges, as well as notations on
4 correctional supervision and release.

5 (B) The following are not included in the definition of
6 "criminal history information":

7 (i) Fingerprint records on individuals not involved
8 in the criminal justice system, juvenile records, or driver history records;

9 (ii) Original records of entry maintained by
10 criminal justice agencies, court indices, records of public judicial
11 proceedings, court decisions, opinions, and information disclosed during
12 public judicial proceedings; and

13 (iii) Records when the release is made by the
14 specific court, law enforcement agency, or prosecutor that created the
15 records.

16 (C) Subdivision (5) of this section does not prohibit the
17 release of information by the specific agency that created the record;

18 (7) "Criminal justice agency" means a government agency or any
19 subunit thereof which is authorized by law to perform the administration of
20 criminal justice and which allocates more than one-half (1/2) of its annual
21 budget to the administration of criminal justice;

22 (8)(A) "Disposition" means information describing the outcome of
23 any criminal charges, including notations that law enforcement officials have
24 elected not to refer the matter to a prosecutor, that a prosecutor has
25 elected not to begin criminal proceedings, or that proceedings have been
26 indefinitely postponed.

27 (B) "Disposition" includes acquittals, dismissals,
28 probations, charges pending due to mental disease or defect, guilty pleas,
29 nolle prosequi, nolo contendere pleas, findings of guilt, youthful offender
30 determinations, first offender programs, pardons, commuted sentences,
31 mistrials in which the defendant is discharged, executive clemencies,
32 paroles, releases from correctional supervision, deaths, or a finding that
33 the person must register as a sex offender;

34 (9)(A) "Dissemination" means disclosing criminal history
35 information or disclosing the absence of criminal history information to any
36 agency, professional licensing board, business designated by state or federal

1 ~~law, or any other employer legally doing business in and paying taxes to the~~
 2 ~~State of Arkansas~~ requestor who has applied and been approved by the
 3 Department of Arkansas State Police to receive the information.

4 (B) "Dissemination" does not mean:

5 (i) The furnishing of information by a department to
 6 personnel of a participating agency when criminal justice agencies jointly
 7 participate in the maintenance of a single recordkeeping system as an
 8 alternative to maintaining separate records; and

9 (ii) The furnishing of information by any criminal
 10 justice agency to another for the purpose of the administration of criminal
 11 justice;

12 (10) "Pending information" means felony criminal history
 13 information in some stage of active prosecution or processing;

14 (11) "Requestor" means the employer, ~~or~~ professional licensing
 15 board, agency, business designated by state or federal law, any entity
 16 mandated by Arkansas law to perform criminal background checks through the
 17 Department of Arkansas State Police, or persons responsible for the renting
 18 or leasing of real property that has submitted an inquiry into a subject's
 19 criminal history information under this subchapter; and

20 (12) "Seal" or "expunge" means that the record or records in
 21 question shall be sealed, sequestered, and treated as confidential as
 22 provided by law, including pardons issued by the Governor.

23
 24 SECTION 3. Arkansas Code § 12-12-1506 is amended to read as follows:

25 12-12-1506. Unrestricted information - Records - Immunity from civil
 26 liability.

27 (a)(1) All conviction information and felony arrest records may be
 28 disseminated as provided in this subchapter.

29 (2) Any criminal history information of felony arrest records
 30 and all conviction information which pertains to a person currently being
 31 processed by the criminal justice system, including the entire period of
 32 correctional supervision extending through final discharge from parole, may
 33 be disseminated without restriction.

34 (3)(A) The Identification Bureau of the Department of Arkansas
 35 State Police, the Arkansas Crime Information Center, or a third party shall
 36 be responsible for the maintenance of information pertaining to dissemination

1 of criminal history information.

2 (B) The information pertaining to dissemination required
3 to be maintained shall be retained for a period of not less than three (3)
4 years for security purposes.

5 (4)(A)(i) Each ~~employer or professional licensing board~~
6 requestor that is allowed access to criminal history information under this
7 subchapter shall maintain in its files for at least three (3) years the
8 written consent to obtain the criminal history information given by the
9 applicant or employee.

10 (ii) Any ~~employer or professional licensing board~~
11 requestor that is granted access to criminal history information under this
12 subchapter shall not disseminate the criminal history information.

13 (B) Those files and consent forms shall be subject to
14 inspection by the Department of Arkansas State Police.

15 (b) This section allows the dissemination of information concerning
16 persons who are required to register as sex offenders.

17 (c) Criminal justice agencies and their employees and officials shall
18 be immune from civil liability except in instances of gross negligence or
19 intentional malice for dissemination of criminal history information under
20 this subchapter.

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22 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that the dissemination of complete,
24 accurate, and timely criminal information is necessary for the protection of
25 the people of the State of Arkansas; that the safety of people living near
26 rented or leased real property will be increased by this act; and that this
27 act is immediately necessary in order to provide the necessary access to
28 criminal history information. Therefore, an emergency is declared to exist
29 and this act being immediately necessary for the preservation of the public
30 peace, health, and safety shall become effective on:

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

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

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