

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 86th General Assembly  
3 Regular Session, 2007  
4

# A Bill

HOUSE BILL 2295

5 By: Representative Garner  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE CRIMINAL BACKGROUND CHECK  
10 LAW; AND FOR OTHER PURPOSES.  
11

## Subtitle

12 TO AMEND THE CRIMINAL BACKGROUND CHECK  
13 LAW.  
14  
15  
16

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

19 SECTION 1. Arkansas Code § 21-15-101(5) regarding the definition of  
20 "designated position" is amended to read as follows:

21 (5) "Designated position" means a position in which a person is  
22 employed by a state agency to provide care, supervision, treatment, or any  
23 other services to the elderly, to mentally ill or developmentally disabled  
24 persons, to persons with mental illnesses, or to children who reside in any  
25 state-operated facility or a position in which the applicant or employee will  
26 have direct contact with a child; a person who is elderly, mentally ill or  
27 developmentally disabled;  
28

29 SECTION 2. Arkansas Code § 21-15-102 is amended to read as follows:

30 21-15-102. Positions involving direct contact with children and with  
31 mentally ill and developmentally disabled persons.

32 (a)(1)(A) When a person applies for employment with a state agency in  
33 a designated position and if the state agency intends to make an offer of  
34 employment to the applicant, the applicant shall complete a criminal history  
35 check form and a central registry check form obtained from the state agency  
36 and shall submit the form to the state agency as part of the application



1 process.

2 (B) If the state agency intends to make an offer of  
 3 employment to the applicant, the state agency within five (5) days of the  
 4 decision shall ~~forward~~:

5 (i)(a) Use the Online Criminal Background Check  
 6 System to obtain the criminal history or forward the ~~The~~ criminal history  
 7 check form to the Identification Bureau of the Department of Arkansas State  
 8 Police and request the bureau to review the bureau's database of criminal  
 9 history.

10 (b) Within three (3) days of the receipt of a  
 11 request to review the database, the bureau shall notify the state agency if  
 12 the database contains any criminal history records on the applicant; and

13 (ii)(a) Forward the ~~The~~ central registry check form  
 14 to the Child Maltreatment Central Registry, and the Adult and Long-Term Care  
 15 Facility Resident Maltreatment Central Registry, ~~and the Certified Nursing~~  
 16 ~~Assistant/Employment Clearance Registry~~ for a central registry check.

17 (b) The state agency shall pay any fee  
 18 associated with the central registry check on behalf of the applicant.

19 (c) Within three (3) days of the receipt of a  
 20 request for a central registry check, the central registry shall notify the  
 21 state agency if the database contains any information naming the applicant as  
 22 an offender or perpetrator of child or adult abuse.

23 (2) If no criminal history or central registry records regarding  
 24 the applicant are found in the database, then the state agency may make an  
 25 offer of temporary employment to the applicant while the bureau completes a  
 26 criminal history check and the state agency determines whether the applicant  
 27 is disqualified from employment under subsection (f) of this section.

28 (3)(A) If a criminal history record regarding the applicant is  
 29 found in the bureau's database, then the applicant is temporarily  
 30 disqualified from employment until the state agency determines whether the  
 31 applicant is disqualified from employment under subsection (f) of this  
 32 section.

33 (B) If the state agency determines that the applicant is  
 34 not disqualified, then the state agency may continue to temporarily employ  
 35 the applicant while the bureau completes a criminal history check.

36 (4) If an applicant has been named as an offender or perpetrator

1 in a true, substantiated, or founded report from the Child Maltreatment  
2 Central Registry, or the Adult and Long-Term Care Facility Resident  
3 Maltreatment Central Registry, ~~or the Certified Nursing Assistant/Employment~~  
4 ~~Clearance Registry~~, the applicant shall be immediately disqualified.

5 (b)(1) Except as provided in subdivision (b)(2) of this section, the  
6 bureau shall conduct a state criminal history check and a national criminal  
7 history check on an applicant upon receiving a criminal history check request  
8 from a state agency.

9 (2)(A) If the state agency can verify that the applicant ~~has~~  
10 ~~been employed by a state agency in a designated position within sixty (60)~~  
11 ~~days before the application~~ or has lived continuously in the State of  
12 Arkansas for the past five (5) years, the bureau shall conduct only a state  
13 criminal history check on the applicant.

14 (B) If the state agency can verify that the selected  
15 applicant currently works for a state agency in a designated position or a  
16 designated financial or information technology position and the state agency  
17 can provide verification that a criminal history check for that position has  
18 been completed in the last five (5) years, the state agency does not need to  
19 conduct another criminal history check on the employee until the criminal  
20 history check is five (5) years old.

21 (c)(1) Upon completion of a criminal history check on an applicant,  
22 the bureau shall issue a report to the state agency.

23 (2)(A) The state agency shall determine whether the applicant is  
24 disqualified from employment under subsection (f) of this section.

25 (B) If the state agency determines that an applicant is  
26 disqualified from employment, then the state agency shall deny employment to  
27 the applicant.

28 (d) When a national criminal history check is required under this  
29 section, the criminal history check shall conform to the applicable federal  
30 standards and shall include the taking of fingerprints.

31 (e) Before making a temporary or permanent offer of employment in a  
32 designated position, a state agency shall inform applicants that:

33 (1) Continued employment is contingent upon the results of a  
34 criminal history check and a central registry check; and

35 (2) The applicant has the right to obtain a copy of his or her:

36 (A) Criminal history report from the bureau; and

1 (B) Central registry report from the registries.

2 (f) Except as provided in subdivision (g)(2) of this section, ~~no~~  
 3 ~~person shall be eligible~~ a person shall not be eligible for employment with a  
 4 state agency in a designated position if that person has pleaded guilty or  
 5 nolo contendere to, or been found guilty of, any of the following offenses by  
 6 any court in the State of Arkansas or of any similar offense by a court in  
 7 another state or of any similar offense by a federal court unless the  
 8 conviction was vacated or reversed:

- 9 (1) ~~Capital murder, as prohibited in § 5-10-101;~~
- 10 (2) ~~Murder in the first degree and second degree, as prohibited~~  
 11 ~~in §§ 5-10-102 and 5-10-103;~~
- 12 (3) ~~Manslaughter, as prohibited in § 5-10-104;~~
- 13 (4) ~~Negligent homicide, as prohibited in § 5-10-105;~~
- 14 (5) ~~Kidnapping, as prohibited in § 5-11-102;~~
- 15 (6) ~~False imprisonment in the first degree, as prohibited in §~~  
 16 ~~5-11-103;~~
- 17 (7) ~~Permanent detention or restraint, as prohibited in § 5-11-~~  
 18 ~~106;~~
- 19 (8) ~~Robbery, as prohibited in § 5-12-102;~~
- 20 (9) ~~Aggravated robbery, as prohibited in § 5-12-103;~~
- 21 (10) ~~Battery in the first degree, as prohibited in § 5-13-201;~~
- 22 (11) ~~Aggravated assault, as prohibited in § 5-13-204;~~
- 23 (12) ~~Introduction of controlled substance into body of another~~  
 24 ~~person, as prohibited in § 5-13-210;~~
- 25 (13) ~~Terroristic threatening in the first degree, as prohibited~~  
 26 ~~in § 5-13-301;~~
- 27 (14) ~~Rape, as prohibited in § 5-14-103;~~
- 28 (15) ~~Sexual indecency with a child, as prohibited in § 5-14-110;~~
- 29 (16) ~~Sexual assault in the first degree, second degree, third~~  
 30 ~~degree, and fourth degree, as prohibited in §§ 5-14-124—5-14-127;~~
- 31 (17) ~~Incest, as prohibited in § 5-26-202;~~
- 32 (18) ~~Offenses against the family, as prohibited in §§ 5-26-303—~~  
 33 ~~5-26-306;~~
- 34 (19) ~~Endangering the welfare of an incompetent person in the~~  
 35 ~~first degree, as prohibited in § 5-27-201;~~
- 36 (20) ~~Endangering the welfare of a minor in the first degree, as~~

1 prohibited in § 5-27-203;

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

4 (22) ~~Engaging children in sexually explicit conduct for use in~~  
5 ~~visual or print medium, transportation of minors for prohibited sexual~~  
6 ~~conduct, pandering, or possessing visual or print medium depicting~~  
7 ~~sexually explicit conduct involving a child, or the use of a child or~~  
8 ~~consent to the use of a child in a sexual performance by producing,~~  
9 ~~directing, or promoting a sexual performance by a child, as prohibited~~  
10 ~~in §§ 5-27-303—5-27-305, 5-27-402, and 5-27-403;~~

11 (23) ~~Adult abuse that constitutes a felony, as prohibited in §~~  
12 ~~5-28-103;~~

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

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

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

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

17 (28) ~~Felony violation of the Uniform Controlled Substances Act,~~  
18 ~~§§ 5-64-101—5-64-608, as prohibited in § 5-64-401;~~

19 (29) ~~Promotion of prostitution in the first degree, as~~  
20 ~~prohibited in § 5-70-104;~~

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

22 (31) ~~Computer child pornography, as prohibited in § 5-27-603;~~

23 (32) ~~Computer exploitation of a child in the first degree, as~~  
24 ~~prohibited in § 5-27-605; or~~

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

29 (1) A crime punishable by imprisonment of one (1) year; or

30 (2) A misdemeanor that involves:

31 (A) Dishonesty;

32 (B) A false statement;

33 (C) A sexual offense;

34 (D) The use or threat of unlawful physical force; or

35 (E) The Uniform Controlled Substances Act, excluding  
36 simple possession.

1 (g)(1) For purposes of this section, an expunged record of a  
 2 conviction or plea of guilty or nolo contendere to an offense listed in  
 3 subsection (f) of this section shall not be considered a conviction or a plea  
 4 of guilty or nolo contendere to the offense unless the offense is also listed  
 5 in subdivision (g)(2) of this section.

6 (2) Because of the serious nature of the following offenses and  
 7 the close relationship between the following offenses and the type of work  
 8 that is to be performed by the applicant, a conviction of one (1) or more of  
 9 the following offenses by an applicant shall result in permanent  
 10 disqualification from employment in a designated position:

- 11 (A) Capital murder, as prohibited in § 5-10-101;
- 12 (B) Murder in the first degree and murder in the second  
 13 degree, as prohibited in §§ 5-10-102 and 5-10-103;
- 14 (C) Kidnapping, as prohibited in § 5-11-102;
- 15 (D) Rape, as prohibited in § 5-14-103;
- 16 (E) Sexual assault in the first degree and second degree,  
 17 as prohibited in §§ 5-14-124 and 5-14-125;
- 18 (F) Endangering the welfare of a minor in the first degree  
 19 and endangering the welfare of a minor in the second degree, as prohibited in  
 20 §§ ~~5-27-203~~ 5-27-205 and ~~5-27-204~~ 5-27-206;
- 21 (G) Incest, as prohibited in § 5-26-202;
- 22 (H) Arson, as prohibited in § 5-38-301;
- 23 (I) Endangering the welfare of an incompetent person in  
 24 the first degree, as prohibited in § 5-27-201; or
- 25 (J) Adult abuse that constitutes a felony, as prohibited  
 26 in § 5-28-103.

27  
 28 SECTION 3. Arkansas Code § 21-15-103 is amended to read as follows:  
 29 21-15-103. Deadline - Scope of check - Report - Notice - Discharge for  
 30 persons in designated positions.

31 (a)(1)~~(A)~~ ~~State agencies shall ensure that all employees in designated~~  
 32 ~~positions will have applied for criminal history checks by October 1, 2000,~~  
 33 ~~and shall adopt a rule that prescribes how criminal background checks on~~  
 34 ~~incumbent employees will be phased in over the period of time prior to July~~  
 35 ~~1, 2000.~~

36 ~~(B)~~ An incumbent employee in a designated position shall

1 have a subsequent criminal background check completed within five (5) years  
 2 of the initial criminal background check and every five (5) years thereafter.

3 ~~(2)(A) State agencies shall ensure that all employees in~~  
 4 ~~designated positions will have applied for central registry checks by October~~  
 5 ~~1, 2002, and shall adopt a rule that prescribes how central registry checks~~  
 6 ~~on incumbent employees will be phased in over the period of time prior to~~  
 7 ~~July 1, 2002.~~

8 ~~(B)~~ An incumbent employee in a designated position shall  
 9 have subsequent central registry ~~checks~~ check completed within five (5) years  
 10 of the initial central registry check and every five (5) years thereafter.

11 (3) In accordance with subdivisions (a)(1) and (2) of this  
 12 section, each employee of a state agency in a designated position shall  
 13 complete a criminal history check form and a central registry check form  
 14 obtained from the state agency and shall submit the form to the state agency.  
 15 The state agency shall forward:

16 (A)(i) Use the Online Criminal Background Check System to  
 17 obtain a criminal history check or forward the ~~The~~ criminal history check  
 18 form to the Identification Bureau of the Department of Arkansas State Police.

19 (ii) The state agency shall pay any fee associated  
 20 with the criminal history check on behalf of the employee; and

21 (B)(i) Forward the ~~The~~ central registry check to the Child  
 22 Maltreatment Central Registry, and the Adult and Long-Term Care Facility  
 23 Resident Maltreatment Central Registry, ~~and the Certified Nurses Assistants~~  
 24 ~~Central Registry~~ for a review of the registry databases.

25 (ii) The state agency shall pay any fee associated  
 26 with the central registry checks.

27 (b)(1) Except as provided in subdivision (b)(2) of this section, the  
 28 bureau shall conduct a state criminal history check and a national criminal  
 29 history check on an applicant upon receiving a criminal history check request  
 30 from a state agency.

31 (2) If the state agency can verify that the applicant has been  
 32 employed by a state agency in a designated position within sixty (60) days  
 33 before the application or has lived continuously in the State of Arkansas for  
 34 the past five (5) years, the bureau shall conduct only a state criminal  
 35 history check on the applicant.

36 (c)(1) Upon completion of a criminal history check on an employee, the

1 bureau shall issue a report to the state agency.

2 (2)(A) The state agency shall determine whether the employee is  
 3 disqualified from employment under subsection ~~(g)~~ (f) of this section.

4 (B) If the state agency determines that an employee is  
 5 disqualified from employment, then the state agency shall discharge the  
 6 employee.

7 (d) When a national criminal history check is required under this  
 8 section, the criminal history check shall conform to the applicable federal  
 9 standards and shall include the taking of fingerprints.

10 (e) If a waiver applicant has been named as an offender or perpetrator  
 11 in a true, substantiated, or founded report from the Child Maltreatment  
 12 Central Registry, the Adult and Long-Term Care Facility Resident Maltreatment  
 13 Central Registry, or the Certified Nursing Assistant/Employment Clearance  
 14 Registry, the state agency shall discharge the employee.

15 (f) A state agency shall inform all employees in designated positions  
 16 that:

17 (1) Continued employment is contingent upon the results of a  
 18 criminal history check and a central registry check; and

19 (2) The employee has the right to obtain a copy of his or her:

20 (A) Criminal history report from the bureau; and

21 (B) Central registry report from the registries.

22 (g) Except as provided in subdivision (h)(1) of this section, a state  
 23 agency shall discharge from employment in a designated position any person  
 24 who has pleaded guilty or nolo contendere to, or been found guilty of, any of  
 25 the following offenses by any court in the State of Arkansas or of any  
 26 similar offense by a court in another state or of any similar offense by a  
 27 federal court unless the conviction was vacated or reversed:

28 ~~(1) Capital murder, as prohibited in § 5-10-101;~~

29 ~~(2) Murder in the first degree and second degree, as prohibited~~  
 30 ~~in §§ 5-10-102 and 5-10-103;~~

31 ~~(3) Manslaughter, as prohibited in § 5-10-104;~~

32 ~~(4) Negligent homicide, as prohibited in § 5-10-105;~~

33 ~~(5) Kidnapping, as prohibited in § 5-11-102;~~

34 ~~(6) False imprisonment in the first degree, as prohibited in §~~  
 35 ~~5-11-103;~~

36 ~~(7) Permanent detention or restraint, as prohibited in § 5-11-~~



1 ~~106;~~

2 ~~(8) Robbery, as prohibited in § 5-12-102;~~

3 ~~(9) Aggravated robbery, as prohibited in § 5-12-103;~~

4 ~~(10) Battery in the first degree, as prohibited in § 5-13-201;~~

5 ~~(11) Aggravated assault, as prohibited in § 5-13-204;~~

6 ~~(12) Introduction of controlled substance into body of another~~  
 7 ~~person, as prohibited in § 5-13-210;~~

8 ~~(13) Terroristic threatening in the first degree, as prohibited~~  
 9 ~~in § 5-13-301;~~

10 ~~(14) Rape, as prohibited in § 5-14-103;~~

11 ~~(15) Sexual indecency with a child, as prohibited in § 5-14-110;~~

12 ~~(16) Sexual assault in the first degree, second degree, third~~  
 13 ~~degree, or fourth degree, as prohibited in §§ 5-14-124—5-14-127;~~

14 ~~(17) Incest, as prohibited in § 5-26-202;~~

15 ~~(18) Offenses against the family, as prohibited in §§ 5-26-303—~~  
 16 ~~5-26-306;~~

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

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

21 ~~(21) Permitting abuse of a child, as prohibited in § 5-27-~~  
 22 ~~221(a)(1) and (3);~~

23 ~~(22) Engaging children in sexually explicit conduct for use in~~  
 24 ~~visual or print medium, transportation of minors for prohibited sexual~~  
 25 ~~conduct, pandering, or possessing visual or print medium depicting~~  
 26 ~~sexually explicit conduct involving a child, or the use of a child or~~  
 27 ~~consent to the use of a child in a sexual performance by producing,~~  
 28 ~~directing, or promoting a sexual performance by a child, as prohibited~~  
 29 ~~in §§ 5-27-303—5-27-305, 5-27-402, and 5-27-403;~~

30 ~~(23) Adult abuse constituting a felony, as prohibited in § 5-28-~~  
 31 ~~103;~~

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

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

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

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

36 ~~(28) Felony violation of the Uniform Controlled Substances Act,~~

1       ~~§§ 5-64-101—5-64-608, as prohibited in § 5-64-401;~~

2             ~~(29) Promotion of prostitution in the first degree, as~~  
 3 ~~prohibited in § 5-70-104;~~

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

5             ~~(31) Computer child pornography, as prohibited in § 5-27-603;~~

6             ~~(32) Computer exploitation of a child in the first degree, as~~  
 7 ~~prohibited in § 5-27-605; or~~

8             ~~(33) Criminal attempt, criminal complicity, criminal~~  
 9 ~~solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-~~  
 10 ~~202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this~~  
 11 ~~subsection.~~

12             (1) A crime punishable by imprisonment of one (1) year; or

13             (2) A misdemeanor that involves:

14                     (A) Dishonesty;

15                     (B) A false Statement;

16                     (C) A sexual offense;

17                     (D) The use or threat of unlawful physical force; or

18                     (E) The Uniform Controlled Substance Abuse Act, excluding  
 19 simple possession.

20             (h)(1) For purposes of this section, an expunged record of a  
 21 conviction or plea of guilty or nolo contendere to an offense listed in  
 22 subsection (g) of this section shall not be considered a conviction or plea  
 23 of guilty or nolo contendere to the offense unless the offense is also listed  
 24 in subdivision (h)(2) of this section.

25             (2) Because of the serious nature of the offenses and the close  
 26 relationship to the type of work that is to be performed, the following  
 27 offenses shall result in permanent disqualification:

28                     (A) Capital murder, as prohibited in § 5-10-101;

29                     (B) Murder in the first degree and murder in the second  
 30 degree, as prohibited in §§ 5-10-102 and 5-10-103;

31                     (C) Kidnapping, as prohibited in § 5-11-102;

32                     (D) Rape, as prohibited in § 5-14-103;

33                     (E) Sexual assault in the first degree and second degree,  
 34 as prohibited in §§ 5-14-124 and 5-14-125;

35                     (F) Endangering the welfare of a minor in the first degree  
 36 and endangering the welfare of a minor in the second degree, as prohibited in

1 §§ 5-27-203 and ~~5-27-204~~ 5-27-206;

2 (G) Incest, as prohibited in § 5-26-202;

3 (H) Arson, as prohibited in § 5-38-301;

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

6 (J) Adult abuse that constitutes a felony, as prohibited  
7 in § 5-28-103.

8  
9 SECTION 4. Arkansas Code § 21-15-104 9(a)(2) regarding a central  
10 registry check for an application for ~~wavie~~ waiver of exclusion or discharge  
11 requirement for a person in designated position is amended to read as  
12 follows:

13 (a)(1) The provisions of §§ 21-15-102(a)(4), 21-15-102(f), 21-15-  
14 103(e), 21-15-103(g), and 21-15-110(b) may be waived by the director of a  
15 state agency upon the request of:

16 (A) A supervisor or other managerial employee in the state  
17 agency;

18 (B) An affected applicant for employment; or

19 (C) The person in a designated position who is subject to  
20 discharge.

21 (2) Application for a waiver must be made within five (5) days  
22 of receipt of the criminal background check or central registry check.

23 (3) If the crime is a misdemeanor and more than five (5) years  
24 have ~~lapsed~~ elapsed since the conviction, the state agency is not required to  
25 discharge an incumbent employee if a request for a waiver is timely made and  
26 if the waiver is ultimately granted.

27 (4) If the waiver is not granted and the waiver applicant is an  
28 incumbent employee who was not immediately discharged, the state agency shall  
29 immediately discharge the employee.

30 (5) If the waiver is not granted and the waiver applicant is an  
31 applicant for employment, the state agency is prohibited from hiring the  
32 applicant.

33 (6) If an incumbent employee was immediately discharged but was  
34 subsequently granted a waiver, the employee shall be immediately reinstated  
35 but shall not be entitled to retroactive relief, including back pay.

36

1 SECTION 5. Arkansas Code § 21-15-106(b) regarding the Certified  
 2 Nursing Assistant/Employment Clearance Registry and records maintained by  
 3 agencies on applicants and employees is amended to read as follows:

4 (b) Each state agency shall maintain on file, subject to inspection by  
 5 the Arkansas Crime Information Center, the Identification Bureau of the  
 6 Department of Arkansas State Police, ~~or~~ the Child Maltreatment Central  
 7 Registry, and the Adult and Long-Term Care Facility Resident Maltreatment  
 8 Central Registry ~~or the Certified Nursing Assistant/Employment Clearance~~  
 9 ~~Registry~~ evidence that criminal history and central registry checks required  
 10 by this subchapter have been initiated on all applicants and employees.  
 11

12 SECTION 6. Arkansas Code § 21-15-107(d)(2) regarding the Certified  
 13 Nursing Assistant/Employment Clearance Registry is amended to read as  
 14 follows:

15 (d)(1) The Identification Bureau of the Department of Arkansas State  
 16 Police shall develop a form to be used for criminal history checks conducted  
 17 under this subchapter. The form shall require the notarized signature of the  
 18 person who is the subject of the check.

19 (2) The Child Maltreatment Central Registry, and the Adult and  
 20 Long-Term Care Facility Resident Maltreatment Central Registry, ~~and the~~  
 21 ~~Certified Nursing Assistant/Employment Clearance Registry~~ shall work together  
 22 to develop a form to be used for central registry checks conducted under this  
 23 subchapter. The form shall require the notarized signature of the person who  
 24 is the subject of the check.  
 25

26 SECTION 7. Arkansas Code § 21-15-111 is amended to read as follows:

27 21-15-111. Hiring new employees into designated financial or  
 28 information technology positions.

29 (a)(1)(A) When a person applies for employment with a state agency in  
 30 a designated financial or information technology position and if the state  
 31 agency intends to make an offer of employment to the applicant, the applicant  
 32 shall complete a criminal history check form and shall submit the form to the  
 33 state agency as part of the application process.

34 (B) Within five (5) days of the state agency's decision to  
 35 make an offer of employment to the applicant, the state agency shall use the  
 36 Online Criminal Background Check System to obtain the criminal history or

1 forward the criminal history check form to the Identification Bureau of the  
 2 Department of Arkansas State Police and request the bureau to review the  
 3 database of criminal history.

4 (C) Within three (3) days of the receipt of a request to  
 5 review the database, the bureau shall notify the state agency if the database  
 6 contains any criminal history record on the applicant.

7 (2) If no criminal history record regarding the applicant is  
 8 found in the database, then the state agency may make an offer of temporary  
 9 employment to the applicant while the bureau completes a criminal history  
 10 check and the state agency determines whether the applicant is disqualified  
 11 from employment under subsection (f) of this section.

12 (3)(A) If a criminal history record regarding the applicant is  
 13 found in the database, then the applicant is temporarily disqualified from  
 14 employment until the state agency determines whether the applicant is  
 15 disqualified from employment under subsection (f) of this section.

16 (B) If the state agency determines that the applicant is  
 17 not disqualified, then the state agency may continue to temporarily employ  
 18 the applicant while the bureau completes a criminal history check.

19 (b)(1) Except as provided in subdivision (b)(2) of this section, the  
 20 bureau shall conduct a state criminal history check and a national criminal  
 21 history check on an applicant upon receiving a criminal history check request  
 22 from a state agency.

23 (2)(A) If the state agency can verify that the applicant has been  
 24 employed by a state agency in a designated financial or information  
 25 technology position within sixty (60) days before the application or has  
 26 lived continuously in the State of Arkansas for the past five (5) years, the  
 27 bureau shall conduct only a state criminal history check on the applicant.

28 (B) If the state agency can verify that the selected  
 29 applicant currently works for a state agency in a designated position or a  
 30 designated financial or information technology position and the state agency  
 31 can provide verification that a criminal history check for that position has  
 32 been completed in the last five (5) years, the state agency does not need to  
 33 conduct another criminal history check on the employee until the criminal  
 34 history check is five (5) years old.

35 (c)(1) Upon completion of a criminal history check on an applicant,  
 36 the bureau shall issue a report to the state agency.

1 (2)(A) The state agency shall determine whether the applicant is  
 2 disqualified from employment under subsection (f) of this section.

3 (B) If the state agency determines that an applicant is  
 4 disqualified from employment, then the state agency shall deny employment to  
 5 the applicant.

6 (d) If a national criminal history check is required under this  
 7 section, the criminal history check shall conform to the applicable federal  
 8 standards and shall include the taking of fingerprints.

9 (e) Before making a temporary or permanent offer of employment, a  
 10 state agency shall inform an applicant that:

11 (1) Continued employment is contingent upon the results of a  
 12 criminal history check; and

13 (2) The applicant has the right to obtain a copy of his or her  
 14 criminal history report from the bureau.

15 (f) An expunged record of a conviction or plea of guilty or nolo  
 16 contendere to an offense listed in this subsection shall not be considered a  
 17 conviction or plea of guilty or nolo contendere to the offense. ~~No person~~  
 18 ~~shall~~ A person shall not be eligible for employment with a state agency in a  
 19 designated financial or information technology position if that person has  
 20 pleaded guilty or nolo contendere to, or has been found guilty of, any of the  
 21 following offenses by any court in the State of Arkansas or of any similar  
 22 offense by a court in another state or of any similar offense by a federal  
 23 court unless the conviction was vacated, or reversed:

- 24 ~~(1) Robbery, as prohibited in § 5-12-102;~~
- 25 ~~(2) Aggravated robbery, as prohibited in § 5-12-103;~~
- 26 ~~(3) Soliciting money or property from incompetents, as~~  
 27 ~~prohibited in § 5-27-229;~~
- 28 ~~(4) Theft of property, as prohibited in § 5-36-103;~~
- 29 ~~(5) Theft by receiving, as prohibited in § 5-36-106;~~
- 30 ~~(6) Theft of property lost, mislaid, or delivered by mistake, as~~  
 31 ~~prohibited in § 5-36-105;~~
- 32 ~~(7) Theft of leased, rented, or entrusted personal property, as~~  
 33 ~~prohibited in § 5-36-115;~~
- 34 ~~(8) Shoplifting, as prohibited in § 5-36-116;~~
- 35 ~~(9) Embezzlement by officer or employee of certain institutions,~~  
 36 ~~as prohibited in § 5-36-118;~~

- 1           ~~(10) Theft of public benefits, as prohibited in § 5-36-202;~~
- 2           ~~(11) Theft of wireless service, as prohibited in § 5-36-303;~~
- 3           ~~(12) Facilitating theft of wireless service by manufacture,~~  
 4 ~~distribution, or possession of devices for theft of wireless services,~~  
 5 ~~as prohibited in § 5-36-304;~~
- 6           ~~(13) Any offense involving theft detection devices, as~~  
 7 ~~prohibited in §§ 5-36-401—5-36-405;~~
- 8           ~~(14) Forgery, as prohibited in § 5-37-201;~~
- 9           ~~(15) Falsifying business records, as prohibited in § 5-37-202;~~
- 10          ~~(16) Defrauding secured creditors, as prohibited in § 5-37-203;~~
- 11          ~~(17) Fraud in insolvency, as prohibited in § 5-37-204;~~
- 12          ~~(18) Issuing a false financial statement, as prohibited in § 5-~~  
 13 ~~37-205;~~
- 14          ~~(19) Receiving deposits in a failing financial institution, as~~  
 15 ~~prohibited in § 5-37-206;~~
- 16          ~~(20) Fraudulent use of a credit card or debit card, as~~  
 17 ~~prohibited in § 5-37-207;~~
- 18          ~~(21) Criminal impersonation, as prohibited in § 5-37-208;~~
- 19          ~~(22) Criminal possession of a forgery device, as prohibited in §~~  
 20 ~~5-37-209;~~
- 21          ~~(23) Obtaining signature by deception, as prohibited in § 5-37-~~  
 22 ~~210;~~
- 23          ~~(24) Defrauding judgment creditors, as prohibited in § 5-37-211;~~
- 24          ~~(25) Unlawfully using slugs, as prohibited in § 5-37-212;~~
- 25          ~~(26) Criminal simulation, as prohibited in § 5-37-213;~~
- 26          ~~(27) Use of false transcript, diploma, or grade report from~~  
 27 ~~postsecondary educational institution, as prohibited in § 5-37-225;~~
- 28          ~~(28) Financial identity fraud, as prohibited in § 5-37-227;~~
- 29          ~~(29) Any offense violating The Arkansas Hot Check Law, as~~  
 30 ~~prohibited in §§ 5-37-301—5-37-307;~~
- 31          ~~(30) Theft of communication services, as prohibited in § 5-37-~~  
 32 ~~402;~~
- 33          ~~(31) Criminal mischief in the first degree, as prohibited in §~~  
 34 ~~5-38-203;~~
- 35          ~~(32) Residential or commercial burglary, as prohibited in § 5-~~  
 36 ~~39-201;~~

- 1           ~~(33) Breaking or entering, as prohibited in § 5-39-202;~~
- 2           ~~(34) Computer fraud, as prohibited in § 5-41-103;~~
- 3           ~~(35) Computer trespass, as prohibited in § 5-41-104;~~
- 4           ~~(36) Any offense involving computer crime, as prohibited in §§~~  
5 ~~5-41-201—5-41-206;~~
- 6           ~~(37) Criminal use of property or laundering criminal proceeds,~~  
7 ~~as prohibited in § 5-42-204;~~
- 8           ~~(38) Any offense involving corruption in public office, as~~  
9 ~~prohibited in §§ 5-52-101—5-52-108;~~
- 10          ~~(39) Tampering with a public record, as prohibited in § 5-54-~~  
11 ~~121;~~
- 12          ~~(40) Criminal acts constituting Medicaid fraud, as prohibited in~~  
13 ~~§ 5-55-111;~~
- 14          ~~(41) Any offense involving illegal food coupons, as prohibited~~  
15 ~~in §§ 5-55-201—5-55-205;~~
- 16          ~~(42) Engaging in a continuing criminal gang, organization, or~~  
17 ~~enterprise, as prohibited in § 5-74-104; or~~
- 18          ~~(43) Criminal attempt, criminal complicity, criminal~~  
19 ~~solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-~~  
20 ~~202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this~~  
21 ~~subsection.~~

22           (1) A crime punishable by imprisonment of one (1) year; or

23           (2) A misdemeanor that involves:

24                   (A) Dishonesty;

25                   (B) A false statement;

26                   (C) A sexual offense;

27                   (D) The use or threat of unlawful physical force; or

28                   (E) The Uniform Controlled Substances Act, excluding  
29 simple possession.

31           SECTION 8. Arkansas Code § 21-15-112 is amended to read as follows:

32           21-15-112. Incumbent employees in designated financial or information  
33 technology positions.

34           (a)(1) State agencies shall ensure that all employees in designated  
35 financial or information technology positions apply for criminal history  
36 checks by December 1, 2005.



1 (2) An incumbent employee in a designated financial or  
 2 information technology position shall have a subsequent criminal background  
 3 check within five (5) years of the initial criminal background check and  
 4 every five (5) years thereafter.

5 (3)(A) In accordance with subdivisions (a)(1) and (2) of this  
 6 section, each employee of a state agency in a designated financial or  
 7 information technology position shall complete a criminal history check form  
 8 and shall submit the form to the state agency.

9 (B) The state agency shall:

10 (i) ~~Forward~~ Use the Online Criminal Background Check  
 11 System to obtain the criminal history or forward the Identification Bureau of  
 12 the Department of Arkansas State Police; and

13 (ii) Pay any fee associated with the criminal  
 14 history check on behalf of the employee.

15 (b)(1) Except as provided in subdivision (b)(2) of this section, the  
 16 bureau shall conduct a state criminal history check and a national criminal  
 17 history check on an employee upon receiving a criminal history check request  
 18 from a state agency.

19 (2) If the state agency can verify that the employee has been  
 20 employed by a state agency in a designated financial or information  
 21 technology position within sixty (60) days before applying for the criminal  
 22 background check or has lived continuously in the State of Arkansas for the  
 23 previous five (5) years, the bureau shall conduct only a state criminal  
 24 history check on the applicant.

25 (c)(1) Upon completion of a criminal history check on an employee, the  
 26 bureau shall issue a report to the state agency.

27 (2)(A) The state agency shall determine whether the employee is  
 28 disqualified from employment under subsection (f) of this section.

29 (B) If the state agency determines that an employee is  
 30 disqualified from employment, then the state agency shall discharge the  
 31 employee.

32 (d) If a national criminal history check is required under this  
 33 section, the criminal history check shall conform to the applicable federal  
 34 standards and shall include the taking of fingerprints.

35 (e) A state agency shall inform all employees in designated financial  
 36 or information technology positions that:

1 (1) Continued employment is contingent upon the results of a  
 2 criminal history check; and

3 (2) The employee has the right to obtain a copy of his or her  
 4 criminal history report from the bureau.

5 (f) An expunged record of a conviction or plea of guilty or nolo  
 6 contendere to an offense listed in this subsection shall not be considered a  
 7 conviction or plea of guilty or nolo contendere to the offense. A state  
 8 agency shall discharge from employment an employee in a designated financial  
 9 or information technology position who has pleaded guilty or nolo contendere  
 10 to, or has been found guilty of, any of the following offenses by any court  
 11 in the State of Arkansas or of any similar offense by a court in another  
 12 state or of any similar offense by a federal court unless the conviction was  
 13 vacated or reversed:

- 14 ~~(1) Robbery, as prohibited in § 5-12-102;~~
- 15 ~~(2) Aggravated robbery, as prohibited in § 5-12-103;~~
- 16 ~~(3) Soliciting money or property from incompetents, as~~  
 17 ~~prohibited in § 5-27-229;~~
- 18 ~~(4) Theft of property, as prohibited in § 5-36-103;~~
- 19 ~~(5) Theft by receiving, as prohibited in § 5-36-106;~~
- 20 ~~(6) Theft of property lost, mislaid, or delivered by mistake, as~~  
 21 ~~prohibited in § 5-36-105;~~
- 22 ~~(7) Theft of leased, rented, or entrusted personal property, as~~  
 23 ~~prohibited in § 5-36-115;~~
- 24 ~~(8) Shoplifting, as prohibited in § 5-36-116;~~
- 25 ~~(9) Embezzlement by officer or employee of certain institutions,~~  
 26 ~~as prohibited in § 5-36-118;~~
- 27 ~~(10) Theft of public benefits, as prohibited in § 5-36-202;~~
- 28 ~~(11) Theft of wireless service, as prohibited in § 5-36-303;~~
- 29 ~~(12) Facilitating theft of wireless service by manufacture,~~  
 30 ~~distribution, or possession of devices for theft of wireless services, as~~  
 31 ~~prohibited in § 5-36-304;~~
- 32 ~~(13) Any offense involving theft detection devices, as~~  
 33 ~~prohibited in §§ 5-36-401—5-36-405;~~
- 34 ~~(14) Forgery, as prohibited in § 5-37-201;~~
- 35 ~~(15) Falsifying business records, as prohibited in § 5-37-202;~~
- 36 ~~(16) Defrauding secured creditors, as prohibited in § 5-37-203;~~

- 1           ~~(17) Fraud in insolvency, as prohibited in § 5-37-204;~~
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- 5 ~~prohibited in § 5-37-206;~~
- 6           ~~(20) Fraudulent use of a credit card or debit card, as~~
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- 9           ~~(22) Criminal possession of a forgery device, as prohibited in §~~
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- 12 ~~210;~~
- 13           ~~(24) Defrauding judgment creditors, as prohibited in § 5-37-211;~~
- 14           ~~(25) Unlawfully using slugs, as prohibited in § 5-37-212;~~
- 15           ~~(26) Criminal simulation, as prohibited in § 5-37-213;~~
- 16           ~~(27) Use of false transcript, diploma, or grade report from~~
- 17 ~~postsecondary educational institution, as prohibited in § 5-37-225;~~
- 18           ~~(28) Financial identity fraud, as prohibited in § 5-37-227;~~
- 19           ~~(29) Any offense violating The Arkansas Hot Check Law, as~~
- 20 ~~prohibited in §§ 5-37-301—5-37-307;~~
- 21           ~~(30) Theft of communication services, as prohibited in § 5-37-~~
- 22 ~~402;~~
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- 26 ~~39-201;~~
- 27           ~~(33) Breaking or entering, as prohibited in § 5-39-202;~~
- 28           ~~(34) Computer fraud, as prohibited in § 5-41-103;~~
- 29           ~~(35) Computer trespass, as prohibited in § 5-41-104;~~
- 30           ~~(36) Any offense involving computer crime, as prohibited in §§~~
- 31 ~~5-41-201—5-41-206;~~
- 32           ~~(37) Criminal use of property or laundering criminal proceeds,~~
- 33 ~~as prohibited in § 5-42-204;~~
- 34           ~~(38) Any offense involving corruption in public office, as~~
- 35 ~~prohibited in §§ 5-52-101—5-52-108;~~
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1 ~~121;~~

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3 ~~§ 5-55-111;~~

4 ~~(41) Any offense involving illegal food coupons, as prohibited~~  
5 ~~in §§ 5-55-201—5-55-205;~~

6 ~~(42) Engaging in a continuing criminal gang, organization, or~~  
7 ~~enterprise, as prohibited in § 5-74-104; or~~

8 ~~(43) Criminal attempt, criminal complicity, criminal~~  
9 ~~solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,~~  
10 ~~5-3-301, and 5-3-401, to commit any of the offenses listed in this~~  
11 ~~subsection.~~

12 (1) A crime punishable by imprisonment of one (1) year; or

13 (2) A misdemeanor that involves:

14 (A) Dishonesty;

15 (B) A false Statement;

16 (C) A sexual offense;

17 (D) The use or threat of unlawful physical force; or

18 (E) The Uniform Controlled Substance Abuse Act, excluding  
19 simple possession.

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