

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/25/13

A Bill

HOUSE BILL 2018

5 By: Representative Bell
6

For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR CRIMINAL BACKGROUND CHECKS OF
9 CANDIDATES BEFORE ELECTIONS; TO ALLOW PARTISAN
10 CANDIDATES TO PROVIDE BACKGROUND CHECKS TO THE
11 PARTIES; TO ALLOW CANDIDATES NOT ASSOCIATED WITH A
12 PARTY TO PROVIDE BACKGROUND CHECKS WHEN FILING FOR
13 CANDIDACY; AND FOR OTHER PURPOSES.
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Subtitle

16
17 TO PROVIDE FOR CRIMINAL BACKGROUND CHECKS
18 OF CANDIDATES BEFORE ELECTIONS; AND TO
19 ALLOW CANDIDATES TO PROVIDE THEIR
20 BACKGROUND CHECKS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 *SECTION 1. Arkansas Code § 12-12-1001 is amended to read as follows:*
26 *12-12-1001. Definitions.*

27 *As used in this subchapter:*

28 *(1)(A) "Administration of criminal justice" means performing*
29 *functions of investigation, apprehension, detention, prosecution,*
30 *adjudication, correctional supervision, or rehabilitation of accused persons*
31 *or criminal offenders.*

32 *(B) "Administration of criminal justice" also includes*
33 *criminal identification activities and the collection, maintenance, and*
34 *dissemination of criminal justice information;*

35 *(2)(A) "Agency director" means any agency head, department*
36 *director, or division director of state government.*



1 (B) "Agency director" includes without limitation a person
2 serving as an interim or acting head, department director, or division
3 director of state government;

4 ~~(2)~~(3) "Arrest tracking number" means a unique number assigned
5 to an arrestee at the time of each arrest that is used to link that arrest to
6 the final disposition of that charge;

7 ~~(3)~~(4) "Central repository" means the Arkansas Crime Information
8 Center, which is authorized to collect, maintain, and disseminate criminal
9 history information;

10 ~~(4)~~(5) "CODIS" means the Federal Bureau of Investigation
11 Laboratory's Combined DNA Index System that allows the storage and exchange
12 of DNA records submitted by federal forensic laboratories, state forensic
13 laboratories, and local forensic laboratories;

14 ~~(5)~~(6) "Conviction information" means criminal history
15 information disclosing that a person has pleaded guilty or nolo contendere
16 to, or was found guilty of, a criminal offense in a court of law, together
17 with sentencing information;

18 ~~(6)~~(A)(7)(A) "Criminal history information" means a record
19 compiled by a central repository or the Identification Bureau of the
20 Department of Arkansas State Police on an individual consisting of names and
21 identification data, notations of arrests, detentions, indictments,
22 informations, or other formal criminal charges. This record also includes any
23 dispositions of the charges, as well as notations on correctional supervision
24 and release.

25 (B) "Criminal history information" does not include
26 fingerprint records on individuals not involved in the criminal justice
27 system or driver history records;

28 ~~(7)~~(8) "Criminal history information system" means the
29 equipment, procedures, agreements, and organizations thereof, for the
30 compilation, processing, preservation, and dissemination of criminal history
31 information;

32 ~~(8)~~(9) "Criminal justice agency" means a government agency or
33 any subunit of a government agency that is authorized by law to perform the
34 administration of criminal justice and that allocates more than one-half
35 (1/2) its annual budget to the administration of criminal justice;

36 ~~(9)~~(10) "Criminal justice official" means an employee of a

1 criminal justice agency performing the administration of criminal justice;
2 ~~(10)(A)~~(11)(A) "Disposition" means information describing the
3 outcome of any criminal charges, including notations that law enforcement
4 officials have elected not to refer the matter to a prosecutor, that a
5 prosecutor has elected not to commence criminal proceedings, or that
6 proceedings have been indefinitely postponed.

7 (B) "Disposition" also includes acquittals, dismissals,
8 probations, charges pending due to mental disease or defect, guilty pleas,
9 nolle prosequi, nolo contendere pleas, findings of guilt, youthful offender
10 determinations, first offender programs, pardons, commuted sentences,
11 mistrials in which the defendant is discharged, executive clemencies,
12 paroles, releases from correctional supervision, or deaths;

13 ~~(11)~~(12) "Dissemination" means disclosing criminal history
14 information or the absence of criminal history information to any person or
15 organization outside the agency possessing the information;

16 ~~(12)~~(13) "DNA" means deoxyribonucleic acid that is located in
17 the cells of an individual, provides an individual's personal genetic
18 blueprint, and encodes genetic information that is the basis of human
19 heredity and forensic identification;

20 ~~(13)(A)~~(14)(A) "DNA record" means DNA identification information
21 stored in the State DNA Data Base or CODIS for the purpose of generating
22 investigative leads or supporting statistical interpretation of DNA test
23 results.

24 (B) The DNA record is the result obtained from the DNA
25 typing tests.

26 (C) The DNA record is composed of the characteristics of a
27 DNA sample that are of value in establishing the identity of individuals.

28 (D) The results of all DNA identification tests on an
29 individual's DNA sample also are collectively referred to as the DNA profile
30 of an individual;

31 ~~(14)~~(15) "DNA sample" means a blood, saliva, or tissue sample
32 provided by any individual as required by this subchapter or submitted to the
33 State Crime Laboratory for analysis or storage, or both;

34 (16)(A) "Elected official" means a person elected by qualified
35 electors to a municipal, county, or state office or as a member of a school
36 district board of directors.

1 (B) "Elected official" includes without limitation a
2 person elected to the office of constable;

3 ~~(15)~~(17) "Expunged record" means a record that was expunged
4 under § 16-90-901 et seq.;

5 ~~(16)~~(18) "Identification Bureau" means the Identification Bureau
6 of the Department of Arkansas State Police, which may maintain fingerprint
7 card files and other identification information on individuals;

8 ~~(17)~~(A)(19)(A) "Juvenile aftercare and custody information"
9 means information maintained by the Division of Youth Services of the
10 Department of Human Services regarding the status of a juvenile committed to
11 or otherwise placed in the custody of the division from the date of
12 commitment until the juvenile is released from aftercare or custody,
13 whichever is later.

14 (B) "Juvenile aftercare and custody information" may
15 include the name, address, and phone number of a contact person or an entity
16 responsible for the juvenile;

17 ~~(18)~~(20) "Nonconviction information" means arrest information
18 without disposition if an interval of one (1) year has elapsed from the date
19 of arrest and no active prosecution of the charge is pending, as well as all
20 acquittals and all dismissals; and

21 ~~(19)~~(21) "Pending information" means criminal history
22 information in some stage of active prosecution or processing;

23 (22) "School district board of directors" means the local board
24 of directors of a school district who are elected and qualified to hold
25 office under § 6-13-604 et seq.

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27 SECTION 2. Arkansas Code § 12-12-1010, concerning the dissemination of
28 criminal history for noncriminal justice record searches, is amended to add
29 an additional subdivision to read as follows:

30 (c)(1) Criminal history information shall be made available to a
31 person requesting the criminal history of:

32 (A) An elected official;

33 (B)(i) A candidate to serve as an elected official.

34 (ii) As used in this subsection, "candidate" means a
35 person who has filed the documents required for candidacy as the elected
36 official at issue; or

1 (C) An agency director.

2 (2)(A) Criminal history information under subdivision (c)(1) of
3 this section is limited to:

4 (i) Offenses within the state in which an individual
5 was found guilty or pleaded guilty or nolo contendere; and

6 (ii) Pending felony and misdemeanor charges within
7 the state occurring within three (3) years of the date of the request for
8 criminal history information.

9 (B) Criminal history information under subdivision (c)(1)
10 of this section does not include an expunged record.

11 (3)(A) Any fee for copies of information under subdivision
12 (c)(1) of this section shall not exceed the sum of:

13 (i) Twenty-five dollars (\$25.00); and

14 (ii) The actual costs of reproduction, including the
15 costs of the medium of reproduction, supplies, equipment, and maintenance,
16 but not including existing agency personnel time associated with searching
17 for, retrieving, reviewing, or copying the information.

18 (B) The fee under subdivision (c)(3)(A) of this section
19 may include the actual cost of mailing or transmitting the information by
20 facsimile or other electronic means.

21 (C) A person requesting criminal history information under
22 subdivision (c)(1) of this section shall receive an itemized list of charges
23 under this subdivision (c)(3) upon request.

24 (4)(A) A person requesting criminal history information under
25 subdivision (c)(1) of this section shall submit at the time of his or her
26 request, documentation that verifies that the person whose criminal history
27 information is requested is an elected official, a candidate to serve as an
28 elected official, or an agency director.

29 (B) Documentation under this subdivision (c)(4)(A) is
30 limited to a statement of financial interest or any other document that is
31 signed, dated, and notarized by the elected official, a candidate to serve as
32 an elected official, or an agency director and filed with a state
33 governmental agency.

34 (C) Documentation under this subdivision (c)(4) shall have
35 been created:

36 (i) On or after January 1, 2014; and

1 (ii) Within one (1) year of the date of the request
2 for the criminal history information.

3 (5)(A) Requests for criminal history information under
4 subdivision (c)(1) of this section shall be made to the Identification Bureau
5 of the Department of Arkansas State Police.

6 (B) The Identification Bureau of the Department of the
7 Arkansas State Police shall maintain a record of all persons requesting
8 information under subdivision (c)(1) of this section.

9 (6) The consent of an elected official, a candidate to serve as
10 an elected official, or an agency director is not required for the release of
11 criminal history information under subdivision (c)(1) of this section.

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13 SECTION 3. Arkansas Code § 12-12-1012(a)(2), concerning fees for
14 noncriminal justice record searches, is amended to read as follows:

15 (2)(A) ~~The~~ Except as provided under § 12-12-1010(c)(3), the amount of
16 the fee for electronic Internet submission will be determined jointly by the
17 bureau and the central repository and shall not exceed twenty dollars
18 (\$20.00), exclusive of any third-party electronic processing fee charges.

19 (B) ~~Effective July 1, 2005, the~~ Except as provided under § 12-
20 12-1010(c)(3), the amount of the fee for providing information by means other
21 than the Internet shall be determined jointly by the bureau and the central
22 repository and shall not exceed thirty dollars (\$30.00).

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25 /s/Bell
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