

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

As Engrossed: H3/25/13 H4/11/13

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 TO PROVIDE FOR CRIMINAL BACKGROUND CHECKS
17 OF CANDIDATES BEFORE ELECTIONS; AND TO
18 ALLOW CANDIDATES TO PROVIDE THEIR
19 BACKGROUND CHECKS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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;*
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36 *(2) "Arrest tracking number" means a unique number assigned to*



1 an arrestee at the time of each arrest that is used to link that arrest to
2 the final disposition of that charge;

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

6 (4) "CODIS" means the Federal Bureau of Investigation
7 Laboratory's Combined DNA Index System that allows the storage and exchange
8 of DNA records submitted by federal forensic laboratories, state forensic
9 laboratories, and local forensic laboratories;

10 (5) "Conviction information" means criminal history information
11 disclosing that a person has pleaded guilty or nolo contendere to, or was
12 found guilty of, a criminal offense in a court of law, together with
13 sentencing information;

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

20 (B) "Criminal history information" does not include
21 fingerprint records on individuals not involved in the criminal justice
22 system or driver history records;

23 (7) "Criminal history information system" means the equipment,
24 procedures, agreements, and organizations thereof, for the compilation,
25 processing, preservation, and dissemination of criminal history information;

26 (8) "Criminal justice agency" means a government agency or any
27 subunit of a government agency that is authorized by law to perform the
28 administration of criminal justice and that allocates more than one-half
29 (1/2) its annual budget to the administration of criminal justice;

30 (9) "Criminal justice official" means an employee of a criminal
31 justice agency performing the administration of criminal justice;

32 (10)(A) "Disposition" means information describing the outcome
33 of any criminal charges, including notations that law enforcement officials
34 have elected not to refer the matter to a prosecutor, that a prosecutor has
35 elected not to commence criminal proceedings, or that proceedings have been
36 indefinitely postponed.

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

7 (11) "Dissemination" means disclosing criminal history
8 information or the absence of criminal history information to any person or
9 organization outside the agency possessing the information;

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

14 (13)(A) "DNA record" means DNA identification information stored
15 in the State DNA Data Base or CODIS for the purpose of generating
16 investigative leads or supporting statistical interpretation of DNA test
17 results.

18 (B) The DNA record is the result obtained from the DNA
19 typing tests.

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

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

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

28 (15)(A) "Elected official" means a person elected by qualified
29 electors to a municipal, county, or state office or as a member of a school
30 district board of directors.

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

33 ~~(15)~~(16) "Expunged record" means a record that was expunged
34 under § 16-90-901 et seq.;

35 ~~(16)~~(17) "Identification Bureau" means the Identification Bureau
36 of the Department of Arkansas State Police, which may maintain fingerprint

1 card files and other identification information on individuals;
 2 ~~(17)(A)~~(18)(A) "Juvenile aftercare and custody information"
 3 means information maintained by the Division of Youth Services of the
 4 Department of Human Services regarding the status of a juvenile committed to
 5 or otherwise placed in the custody of the division from the date of
 6 commitment until the juvenile is released from aftercare or custody,
 7 whichever is later.

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

11 ~~(18)~~(19) "Nonconviction information" means arrest information
 12 without disposition if an interval of one (1) year has elapsed from the date
 13 of arrest and no active prosecution of the charge is pending, as well as all
 14 acquittals and all dismissals; and

15 ~~(19)~~(20) "Pending information" means criminal history information
 16 in some stage of active prosecution or processing.

17
 18 SECTION 2. Arkansas Code § 12-12-1010, concerning the dissemination of
 19 criminal history for noncriminal justice record searches, is amended to add
 20 an additional subdivision to read as follows:

21 (c)(1) Upon written authorization by the candidate, the criminal
 22 history information of a candidate shall be made available to a chair or the
 23 designee of the chair of the state or county committee of the political party
 24 with which the candidate is filing and which is requesting the criminal
 25 history of:

26 (A) An elected official; or

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

28 (ii) As used in this subsection, "candidate" means a
 29 person who has filed the documents required for candidacy as the elected
 30 official at issue.

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

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

35 (ii) Pending felony and misdemeanor charges within
 36 the state occurring within three (3) years of the date of the request for

1 criminal history information.

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

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

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

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

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

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

17 (4)(A) A person requesting criminal history information under
18 subdivision (c)(1) of this section shall submit at the time of his or her
19 request, documentation that verifies that the person whose criminal history
20 information is requested is an elected official or a candidate to serve as an
21 elected official

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

26 (C) Documentation under this subdivision (c)(4) shall have
27 been created:

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

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

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

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

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

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

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

/s/Bell