

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1635

5 By: Representative Johnson
6 By: Senator Elliott
7

For An Act To Be Entitled

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

Subtitle

12
13 TO AMEND THE LAW CONCERNING CRIMINAL
14 BACKGROUND CHECKS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 9-9-212(b)(5), concerning criminal
21 background as part of an adoption home study, is amended to read as follows:

22 (5)(A) The home study shall include a state-of-residence
23 criminal background check, if available, and national fingerprint-based
24 criminal background check performed by the Federal Bureau of Investigation in
25 compliance with federal law and regulation on the adoptive parents and all
26 household members ~~eighteen (18)~~ eighteen and one-half (18 ½) years of age and
27 older, excluding children in foster care.

28 (B) If a prospective adoptive parent has lived in a state
29 for at least six (6) years immediately prior to adoption, then only a state-
30 of-residence criminal background check shall be required.

31 (C) If the Department of Human Services has responsibility
32 for placement and care of the child to be adopted, the home study shall
33 include a national fingerprint-based criminal background check performed by
34 the Federal Bureau of Investigation in compliance with federal law and
35 regulation on the prospective adoptive parents and all household members
36 ~~eighteen (18)~~ eighteen and one-half (18 ½) years of age or older, excluding



1 children in foster care.

2 (D) Upon request by the Department of Human Services,
3 local law enforcement shall provide the Department of Human Services with
4 local criminal background information on the prospective adoptive parents and
5 all household members ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of
6 age and older who have applied to be an adoptive family.

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8 SECTION 2. Arkansas Code § 9-28-116(a) and (b), concerning criminal
9 background checks of household members, are amended to read as follows:

10 (a)(1) A child in the custody of the Department of Human Services
11 shall not be placed in an approved home of any foster parent or adoptive
12 parent unless all household members ~~eighteen (18)~~ eighteen and one-half (18
13 1/2) years of age and older, excluding children in foster care, have been
14 checked with the Identification Bureau of the Department of Arkansas State
15 Police at a minimum of every two (2) years for convictions of the offenses
16 listed in this subchapter and in § 9-28-409.

17 (2) Youths in a household who turn eighteen (18) years of age
18 are not required to have a criminal background check until six (6) months
19 after turning eighteen (18) years of age.

20 (b) A child in the custody of the department shall not be placed in an
21 approved home of any foster or adoptive parent unless all household members
22 ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older,
23 excluding children in foster care, have a fingerprint-based criminal
24 background check performed by the Federal Bureau of Investigation in
25 compliance with federal law and regulation for convictions of the offenses
26 listed in this subchapter and in § 9-28-409.

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28 SECTION 3. Arkansas Code § 9-28-409(b) and (c), concerning criminal
29 record and child maltreatment checks of an employee or agent of a child
30 welfare agency, are amended to read as follows:

31 (b)(1) Each of the following persons in a child welfare agency shall
32 be checked with the Identification Bureau of the Department of Arkansas State
33 Police to determine if the person has pleaded guilty or nolo contendere to or
34 has been found guilty of the offenses listed in this subchapter in compliance
35 with policy and procedures promulgated by the board:

36 (A) An employee having direct and unsupervised contact

1 with children;

2 (B) A volunteer having direct and unsupervised contact
3 with children;

4 (C) An owner having direct and unsupervised contact with
5 children;

6 (D) A member of the agency's board of directors having
7 direct and unsupervised contact with children;

8 (E) Foster parents, house parents, and each member of the
9 household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and
10 older, excluding children in foster care; and

11 (F)(i) Adoptive parents and each member of the household
12 ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older,
13 excluding children in foster care.

14 (ii) Adoptive parents and each member of the
15 household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and
16 older, excluding children in foster care, who are not residents of Arkansas
17 shall provide state-of-residence criminal records checks, if available.

18 (2) A child in the custody of the Department of Human Services
19 shall not be placed in an approved home of any foster parent or adoptive
20 parent unless all household members eighteen and one-half (18 ½) years of age
21 and older, excluding children in foster care, have been checked with the
22 Identification Bureau of the Department of Arkansas State Police to determine
23 if any of the persons have pleaded guilty or nolo contendere to or been found
24 guilty of the offenses listed in this subchapter in compliance with policy
25 and procedures promulgated by the board at a minimum of every two (2) years.

26 (3)(A) The owner or operator of a child welfare agency shall
27 maintain on file, subject to inspection by the board, evidence that
28 Department of Arkansas State Police criminal records checks have been
29 initiated on all persons required to be checked and the results of the
30 checks.

31 (B) Failure to maintain that evidence on file will be
32 prima facie grounds to revoke the license or church-operated exemption of the
33 owner or operator of the child welfare agency.

34 (4) All persons required to be checked with the Department of
35 Arkansas State Police under this subsection shall repeat the check at a
36 minimum of every five (5) years, except that adoptive parents who reside in

1 Arkansas shall repeat the check every ~~year~~ two (2) years pending court
 2 issuance of a final decree of adoption, at which point repeat checks shall no
 3 longer be required.

4 (c)(1) Each of the following persons in a child welfare agency who has
 5 not lived in Arkansas continuously for the past five (5) years shall have a
 6 fingerprint-based criminal background check performed by the Federal Bureau
 7 of Investigation in compliance with federal law and regulation to determine
 8 if the person has pleaded guilty or nolo contendere to or been found guilty
 9 of the offenses listed in this subchapter:

10 (A) An employee having direct and unsupervised contact
 11 with children;

12 (B) A volunteer having direct and unsupervised contact
 13 with children;

14 (C) An owner having direct and unsupervised contact with
 15 children;

16 (D) A member of the agency's board of directors having
 17 direct and unsupervised contact with children;

18 (E) Foster parents, house parents, and each member of the
 19 household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and
 20 older, excluding children in foster care; and

21 (F)(i) Adoptive parents and each member of the household
 22 ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older,
 23 excluding children in foster care.

24 (ii) Adoptive parents and each member of the
 25 household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and
 26 older, excluding children in foster care, shall not be required to have a
 27 criminal background check performed by the Federal Bureau of Investigation
 28 if:

29 (a) The adoptive parents and each member of
 30 the household ~~age eighteen (18)~~ eighteen and one-half (18 1/2) years of age
 31 and older, excluding children in foster care, have continuously resided in a
 32 state for at least five (5) years before the adoption; and

33 (b) The state-of-residence criminal records
 34 check is available.

35 (2)(A)(i) A child in the custody of the Department of Human
 36 Services shall not be placed in an approved home of any foster or adoptive

1 parent unless all household members ~~eighteen (18)~~ eighteen and one-half (18
 2 1/2) years of age and older, excluding children in foster care, have a
 3 fingerprint-based criminal background check performed by the Federal Bureau
 4 of Investigation in compliance with federal law and regulation to determine
 5 if any of the persons has pleaded guilty or nolo contendere to or been found
 6 guilty of the offenses listed in this subchapter.

7 (ii) A household member who turns eighteen (18)
 8 years of age has up to six (6) months from the date of his or her eighteenth
 9 birthday to have a background check completed.

10 (B) The owner or operator of a child welfare agency shall
 11 maintain on file, subject to inspection by the board, evidence that the
 12 Federal Bureau of Investigation's criminal records checks have been initiated
 13 on all persons required to be checked and the results of the checks.

14 (C) Failure to maintain that evidence on file will be
 15 prima facie grounds to revoke the license or church-operated exemption of the
 16 owner or operator of the child welfare agency.

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