

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

A Bill

HOUSE BILL 1727

5 By: Representatives Womack, C. Douglas, Petty
6 By: Senator Hester
7

For An Act To Be Entitled

9 AN ACT TO ALLOW PUBLIC ACCESS TO CERTAIN CRIMINAL
10 RECORDS; TO AMEND THE LAW CONCERNING CRIMINAL RECORDS
11 IN ARKANSAS; AND FOR OTHER PURPOSES.
12
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Subtitle

15 TO ALLOW PUBLIC ACCESS TO CERTAIN
16 CRIMINAL RECORDS; AND TO AMEND THE LAW
17 CONCERNING CRIMINAL RECORDS IN ARKANSAS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 12-12-212 is amended to read as follows:
23 12-12-212. Release or disclosure to unauthorized person – Penalty.

24 (a) A person is guilty of a Class A misdemeanor upon conviction if the
25 person:

26 (1) Knowingly accesses ~~information~~ or ~~willfully~~ knowingly obtains
27 criminal history information that is not conviction information collected and
28 maintained under this subchapter for a purpose not specified by this
29 subchapter; or

30 (2) Knowingly releases or discloses information maintained under
31 this subchapter to another person who lacks authority to receive the
32 information.

33 (b) A person is guilty of a Class D felony upon conviction if the
34 person violates subsection (a) of this section for the purpose of:

35 (1) Furthering the commission of a misdemeanor offense or felony
36 offense by the person or another person;



1 (2) Enhancing or assisting a person’s position in a legal
 2 proceeding in this state or influencing the outcome of a legal proceeding in
 3 this state for the benefit of the person or a member of the person’s family;

4 (3) Causing a pecuniary or professional gain for the person or a
 5 member of the person’s family; or

6 (4) Political purposes for the person or a member of the person’s
 7 family.

8 (c) As used in this section:

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

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

19 (B) “Criminal history information” does not include
 20 fingerprint records on individuals not involved in the criminal justice
 21 system or driver history records.

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 23 SECTION 2. Arkansas Code § 12-12-1002(b), concerning misdemeanor
 24 offense for violations concerning criminal records, is amended to read as
 25 follows:

26 (b) A person is guilty of a Class A misdemeanor upon conviction if the
 27 person:

28 (1) Knowingly accesses ~~information~~ or ~~willfully~~ knowingly obtains
 29 criminal history information that is not conviction information collected and
 30 maintained under this subchapter for a purpose not specified by this
 31 subchapter; or

32 (2) Knowingly releases or discloses information maintained under
 33 this subchapter to another person who lacks authority to receive the
 34 information.

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 36 SECTION 3. Arkansas Code § 12-12-1009 is amended to read as follows:

1 12-12-1009. Dissemination of conviction information for noncriminal
2 justice purposes.

3 (a)(1) ~~Conviction~~ Except as provided under subsection (g) of this
4 section, conviction information shall be made available for ~~the following~~
5 noncriminal justice purposes:

6 ~~(1) To any local, state, or federal governmental agency that~~
7 ~~requests the conviction information for the enforcement of a local, state, or~~
8 ~~federal law;~~

9 ~~(2) To any entity authorized either by the subject of the record~~
10 ~~in writing or by state or federal law to receive the conviction information;~~
11 ~~and~~

12 ~~(3) To any federal agency or central repository in another state~~
13 ~~requesting the conviction information for a purpose authorized by law to any~~
14 individual or local, state, or federal governmental agency that:

15 (A) Requests the conviction information from the
16 Identification Bureau of the Department of Arkansas State Police under § 12-
17 12-1011; and

18 (B) Pays a fee if required under § 12-12-1012.

19 (2) Except as provided under subdivision (a)(1) of this section,
20 conviction information is exempt from the disclosure requirements of the
21 Freedom of Information Act of 1967, § 25-19-101 et seq.

22 (3) The Department of Arkansas State Police shall promulgate
23 rules concerning the procedure for:

24 (A) Submitting a request under this section;

25 (B) Responding and complying with a request under this
26 section; and

27 (C) Payment and collection of fees required under § 12-12-
28 1012.

29 (b) ~~Conviction information disseminated for noncriminal justice~~
30 ~~purposes under this subchapter shall be used only for the purposes for which~~
31 ~~it was made available and may not be redisseminated. If the conviction~~
32 information is requested by an individual and not on behalf of a local,
33 state, or federal governmental agency, the conviction information shall not
34 include the subject of convictions information's:

35 (1) Date of birth;

36 (2) Social Security number;

1 serve juveniles, for providing criminal history information concerning
2 volunteers to the nonprofit organization.

3 (b) ~~This~~ The exemption under subdivision
4 (a)(1)(B)(ii)(a) of this section shall not be applicable to a child care
5 facility whose owner, operator, or employees are required under § 20-78-606
6 to apply to the Identification Bureau of the Department of Arkansas State
7 Police for a criminal records check.

8 (2)(A) The amount of the fee for electronic Internet submission
9 will be determined jointly by the bureau and the central repository and shall
10 not exceed twenty dollars (\$20.00), exclusive of any third-party electronic
11 processing fee charges.

12 (B) ~~Effective July 1, 2005, the~~ The amount of the fee for
13 providing information by means other than the Internet shall be determined
14 jointly by the bureau and the central repository and shall not exceed thirty
15 dollars (\$30.00).

16 (b)(1) There is created on the books of the Treasurer of State, the
17 Auditor of State, and the Chief Fiscal Officer of the State a State Police
18 Equipment Fund.

19 (2) Except as provided in subdivision (b)(3) of this section, all
20 fees collected pursuant to subsection (a) of this section shall be deposited
21 into the State Treasury as special revenue and credited:

22 (A) Fifty percent (50%) to the Crime Information System
23 Fund, there to be used for the continued operation and expansion of the
24 automated criminal history system; and

25 (B) Fifty percent (50%) to the State Police Equipment Fund,
26 there to be used for the continued operation and expansion of the automated
27 fingerprint identification system.

28 (3) Fees collected under subdivision (a)(2)(B) of this section
29 shall be deposited into the State Treasury as special revenue as follows:

30 (A) Ten dollars (\$10.00) of each fee collected shall be
31 credited to the Crime Information System Fund; and

32 (B) The portion of a collected fee that exceeds ten dollars
33 (\$10.00) shall be credited to the State Police Equipment Fund.

34 (4)(A) Special revenues deposited into the Crime Information
35 System Fund and the State Police Equipment Fund may be used for personal
36 services and operating expenses as provided by law and for conducting

1 criminal background checks for noncriminal justice purposes.

2 (B) The special revenues unused at the end of any fiscal
3 year shall be carried forward.

4 (5) All fees collected pursuant to subsection (c) of this
5 section shall be deposited into the State Treasury as special revenue and
6 credited:

7 (A) Thirty-four percent (34%) to the State Police
8 Equipment Fund, there to be used for the continued operation and expansion of
9 the criminal background check system;

10 (B) Thirty-four percent (34%) to the Crime Information
11 System Fund, there to be used for the continued operation and expansion of
12 the automated criminal history system;

13 (C) Twenty-three percent (23%) to the Crime Victims
14 Reparations Revolving Fund; and

15 (D) Nine percent (9%) to the Information Network of
16 Arkansas.

17 (c)(1)(A) A fee may be charged for providing conviction information
18 for noncriminal justice purposes.

19 (B) However, the fee for providing conviction information
20 for noncriminal justice purposes may be waived at the request of a:

21 (i) Local school district, for providing conviction
22 information concerning a volunteer in a public school program; or

23 (ii)(a) Nonprofit organization whose purpose is to
24 serve juveniles, for providing conviction information concerning volunteers
25 to the nonprofit organization.

26 (b) The exemption under subdivision
27 (c)(1)(B)(ii)(a) shall not be applicable to a child care facility whose
28 owner, operator, or employees are required under § 20-78-606 to apply to the
29 Identification Bureau of the Department of Arkansas State Police for a
30 criminal records check.

31 (2) The amount of the fee for providing conviction information
32 for noncriminal justice purposes by electronic Internet submission is twenty-
33 two dollars (\$22.00).

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