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2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/18/15

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
13

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:
21

22 *SECTION 1. Arkansas Code § 12-12-1502(a), concerning the intent of the*
23 *subchapter, is amended to add an additional subdivision to read as follows:*

24 *(5) Allow dissemination of criminal history information to the*
25 *public upon proper request and payment without requiring the written consent*
26 *of the subject of the request.*
27

28 *SECTION 2. Arkansas Code § 12-12-1503(12), concerning the definition*
29 *of "requestor", is amended to read as follows:*

30 *(12) "Requestor" means ~~the~~:*

31 *(A) The employer, professional licensing board,*
32 *institution of higher education, Arkansas Public Defender Commission, or any*
33 *entity mandated or authorized by Arkansas law to perform criminal background*
34 *checks through the department or any person who has obtained the written*
35 *authorization of the subject of the record that has submitted an inquiry into*
36 *an individual's criminal history information under this subchapter; or*



1 (B) A person who has submitted an inquiry into an
2 individual's criminal history information under § 12-12-1506(d); and

3
4 SECTION 3. Arkansas Code § 12-12-1506 is amended to read as follows:
5 12-12-1506. Unrestricted information – Records – Immunity from civil
6 liability.

7 (a)(1) All conviction information and felony arrest records may be
8 disseminated as provided in this subchapter.

9 (2) Any criminal history information of felony arrest records and
10 all conviction information that pertains to a person currently being
11 processed by the criminal justice system, including during the entire period
12 of correctional supervision extending through final discharge from parole,
13 may be disseminated without restriction.

14 (3)(A) The Identification Bureau of the Department of Arkansas
15 State Police, the Arkansas Crime Information Center, or a third party shall
16 be responsible for the maintenance of information pertaining to dissemination
17 of criminal history information.

18 (B) The information pertaining to dissemination required to
19 be maintained shall be retained for a period of not less than three (3) years
20 for security purposes.

21 (4)(A)(i) Each requestor that is allowed access to criminal
22 history information under this subchapter with written consent of the subject
23 of the request shall maintain the written consent document in its files for
24 at least three (3) years ~~the written consent to obtain the criminal history~~
25 ~~information given by the applicant, employee, student, or prospective~~
26 ~~student.~~

27 (ii) Access to criminal history information and
28 sealed or expunged records for the Arkansas Public Defender Commission is
29 authorized without the consent of the subject of the request. However, the
30 commission shall maintain records of the reason the dissemination was
31 requested for a period of three (3) years.

32 (iii) Any requestor that is granted access to
33 criminal history information under this subchapter shall not disseminate the
34 criminal history information.

35 (B) These files and any written consent forms documents
36 shall be subject to inspection by the Department of Arkansas State Police or

1 the center.

2 (b) This section allows the dissemination of information concerning
3 persons who are required to register as sex offenders.

4 (c) A criminal justice agency and its employees and officials shall be
5 immune from civil liability except in instances of gross negligence or
6 intentional malice for dissemination of criminal history information under
7 this subchapter.

8 (d) The Department of Arkansas State Police shall provide criminal
9 history information to any person upon proper request and payment of the
10 requisite fee and without requiring written consent of the subject of the
11 request.

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13 SECTION 4. Arkansas Code § 12-12-1510 is amended to read as follows:

14 (a)(1) A Except as provided in subdivision (c) of this section, a fee
15 may be charged for providing criminal history information under this
16 subchapter.

17 (2) The amount of the fee shall be determined jointly by the
18 Department of Arkansas State Police and the Arkansas Crime Information Center
19 and shall not exceed twenty dollars (\$20.00), exclusive of any third-party
20 electronic processing fee charges.

21 (3)(A) The fees shall be credited fifty percent (50%) to the
22 Crime Information System Fund and fifty percent (50%) to the State Police
23 Equipment Fund.

24 (B) The center may utilize these funds for the operation or
25 expansion of the automated criminal justice information system, subject to
26 legislative appropriations.

27 (C) The department may utilize these funds for the
28 operation, expansion, and integration of the automated fingerprint
29 identification system, which includes components and software to support a
30 total integrated solution associated with the system.

31 (b) Special revenues deposited into the Crime Information System Fund
32 and the State Police Equipment Fund may be used for personal services and
33 operating expenses as provided by law, and any special revenues unused at the
34 end of any fiscal year shall be carried forward.

35 (c) Any fee collected pursuant to a release of information under § 12-
36 12-1506(d) shall be determined jointly by the Department of Arkansas State

1 Police and the Arkansas Crime Information Center and shall not exceed twenty
2 dollars (\$20.00) per request, exclusive of any third-party electronic
3 processing or payment fee charged, and shall be credited as follows:

4 (1) Thirty-eight percent (38%) as special revenues to the State
5 Police Equipment Fund, which may be utilized for the automated fingerprint
6 identification system, and includes components and software to support a
7 total integrated solution associated with the system;

8 (2) Thirty-eight percent (38%) as special revenues to the Crime
9 Information System Fund, which may be used for the operation or expansion of
10 the automated criminal justice information system; and

11 (3) Twenty-four percent (24%) to the Crime Victims Reparations
12 Revolving Fund.

13
14 SECTION 5. Arkansas Code § 19-5-1101 is amended to read as follows:

15 19-5-1011. Crime Information System Fund.

16 (a)(1) The Crime Information System Fund shall consist of those special
17 revenues as specified in §§ 19-6-301(14) and 19-6-301(235), thirty-eight
18 percent (38%) of the fees collected under § 12-12-1510(c), and fifty percent
19 (50%) of § 19-6-301(176) of the Revenue Classification Law, § 19-6-101 et
20 seq., allocations of general revenues as authorized by the General Assembly,
21 moneys transferred or deposited from the State Administration of Justice
22 Fund, and such federal grants and aid or reimbursements as may be received.

23 (2) The fund shall be used for the maintenance, operation,
24 improvement, and necessary expenditures for administering the Arkansas Crime
25 Information System.

26 (3) The fund may be used for personal services and operating
27 expenses as provided by law.

28 (b) The then-current year allocations of general revenues not used or
29 needed for current year operations shall be transferred by the Chief Fiscal
30 Officer of the State to the General Revenue Allotment Reserve Fund.

31 (c) Beginning July 1, 2013, excluding the disposal fees that are to be
32 deposited into the Marketing Board Fund under § 8-6-607(4), the first one
33 hundred fifty thousand dollars (\$150,000) of fees collected each fiscal year
34 under § 8-6-607 shall be deposited into the State Treasury and credited to
35 the Crime Information System Fund to be used exclusively for the scrap metal
36 logbook program.

1 (d) Notwithstanding any other rule, regulation, or provision of law to
2 the contrary, the Arkansas Crime Information Center may transfer
3 appropriation from the Contingency line item authorized for the Arkansas
4 Crime Information Center to the Scrap Metal Logbook line item appropriation.

5 (e) Moneys remaining in the fund at the end of each fiscal year shall
6 carry forward and be made available for the purposes stated in this section
7 in the next fiscal year.

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9 SECTION 6. Arkansas Code § 19-6-474 is amended to read as follows:
10 19-6-474. State Police Equipment Fund.

11 (a) The State Police Equipment Fund shall consist of:

12 (1) Fifty percent (50%) of those special revenues as specified in
13 § 19-6-301(176) and (235), and thirty-eight percent (38%) of the fees
14 collected under § 12-12-1510(c), there to be used for the acquisition,
15 operation, and expansion of an automated fingerprint identification system
16 and for personal services and operating expenses for conducting criminal
17 background checks for noncriminal justice purposes; and

18 (2) ~~Effective July 1, 1997, for~~ For those purposes as set out in
19 §§ 12-12-1012(b) and 12-12-1609.

20 (3) The fund may be used for personal services and operating
21 expenses as provided by law.

22 (b) Moneys remaining in the fund at the end of each fiscal year shall
23 carry forward and be made available for the purposes stated in this section
24 in the next fiscal year.

25
26 SECTION 7. Arkansas Code § 19-5-950 is amended to read as follows:
27 19-5-950. Crime Victims Reparations Revolving Fund.

28 (a) There is hereby established on the books of the Treasurer of State,
29 the Auditor of State, and the Chief Fiscal Officer of the State a fund to be
30 known as the Crime Victims Reparations Revolving Fund.

31 (b) This fund shall consist of moneys transferred or deposited from the
32 State Administration of Justice Fund, twenty-four percent (24%) of the fees
33 collected under § 12-12-1510(c), and all other moneys received by the Crime
34 Victims Reparations Board, there to be used to compensate and assist victims
35 of criminal acts as set out in the Arkansas Crime Victims Reparations Act, §
36 16-90-701 et seq.

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SECTION 8. Arkansas Code § 19-6-301 is amended to add an additional subdivision to read as follows:

(253) Fees collected under § 12-12-1510(c);

SECTION 9. EFFECTIVE DATE. This act is effective on and after January 1, 2016.

/s/Womack