

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

# A Bill

SENATE BILL 807

5 By: Senator J. Woods  
6 By: Representative M. Gray  
7

## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE LAW CONCERNING WHO MAY VIEW A  
10 CRIMINAL BACKGROUND CHECK; TO DECLARE AN EMERGENCY;  
11 AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

15 TO CLARIFY THE LAW CONCERNING WHO MAY  
16 VIEW A CRIMINAL BACKGROUND CHECK; AND TO  
17 DECLARE AN EMERGENCY.  
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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 § 9-9-212(b)(9), concerning a hearing on an  
23 adoption, is amended to read as follows:

24 (9)(A) Upon completion of the criminal record checks, the  
25 Department of Arkansas State Police shall forward all information obtained to  
26 either the Department of Human Services, if it is conducting the home study,  
27 ~~to the agency, to the licensed certified social worker,~~ or to the court in  
28 which the adoption petition will be filed.

29 (B) The Department of Arkansas State Police shall forward  
30 all information obtained from the national fingerprint-based criminal  
31 background checks performed by the Federal Bureau of Investigation to either  
32 the Department of Human Services, if it is doing the home study, or to the  
33 court in which the adoption petition will be filed.

34 (C) The circuit clerk of the county where the petition for  
35 adoption has been or will be filed shall:

36 (i) ~~keep~~ Keep a record of the national fingerprint-



1 based criminal background checks performed by the Federal Bureau of  
2 Investigation for the court;

3 (ii) Permit only the court and the employees of the  
4 clerk's office with an official reason to view the information in the  
5 national fingerprint-based criminal background check;

6 (iii) Not permit anyone to obtain a copy of the  
7 national fingerprint-based criminal background check; and

8 (iv) Permit a person specifically ordered by the  
9 court to view the information in the national fingerprint-based criminal  
10 background check.

11 (D)(i) The Department of Human Services shall share the  
12 information obtained from the criminal records check and the national  
13 fingerprint-based criminal background checks only with employees of the  
14 Department of Human Services who have an official business reason to see the  
15 information.

16 (ii) Unless specifically ordered to do so by the  
17 court, the Department of Human Services shall not share the information  
18 obtained from the criminal records check and the national fingerprint-based  
19 criminal background checks with persons not employed by the Department of  
20 Human Services.

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22 SECTION 2. Arkansas Code § 9-27-303(29)(B) and (C), concerning a  
23 hearing on a home study, are amended to read as follows:

24 (B)(i) An in-state home study, excluding the results of a  
25 criminal records check, shall be completed and presented to the requesting  
26 court within thirty (30) working days of the receipt of the request for the  
27 home study.

28 (ii) The results of the criminal records check shall  
29 be provided to the court as soon as they are received.

30 (iii) The circuit clerk of the county court shall:

31 (a) Keep a record of the national fingerprint-  
32 based criminal background checks performed by the Federal Bureau of  
33 Investigation for the court;

34 (b) Permit only the court and the employees of  
35 the clerk's office with an official reason to view the information in the  
36 national fingerprint-based criminal background check;

1 (c) Not permit anyone to obtain a copy of the  
2 national fingerprint-based criminal background check; and

3 (d) Permit a person specifically ordered by  
4 the court to view the information in the national fingerprint-based criminal  
5 background check.

6 (iv)(a) The Department of Human Services shall share  
7 the information obtained from the criminal records check and the national  
8 fingerprint-based criminal background checks only with employees of the  
9 Department of Human Services who have an official business reason to see the  
10 information.

11 (b) Unless specifically ordered to do so by  
12 the court, the department shall not share the information obtained from the  
13 criminal records check and the national fingerprint-based criminal background  
14 checks with persons not employed by the department.

15 ~~(C)(i) The person or agency conducting the home study~~ Department  
16 of Human Services shall have the right to may obtain a criminal background  
17 check on any person in the household sixteen (16) years of age and older,  
18 including a fingerprint-based check of national crime information databases.

19 (ii) Upon request, local law enforcement shall  
20 provide the ~~person or agency conducting the home study~~ Department of Human  
21 Services with criminal background information on any person in the household  
22 sixteen (16) years of age and older;

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24 SECTION 3. Arkansas Code § 9-28-409(c)(2)(B), concerning criminal  
25 record and child maltreatment checks, is amended to read as follows:

26 (B) The owner or operator of a child welfare agency shall  
27 maintain on file, subject to inspection by the board, evidence that the  
28 Federal Bureau of Investigation’s criminal records checks have been initiated  
29 on all persons required to be checked and ~~the results of the checks~~  
30 documentation that the checks have been completed.

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32 SECTION 4. Arkansas Code § 9-28-409(f)(3)(B)(iii), concerning criminal  
33 record and child maltreatment checks, is amended to add an additional  
34 subdivision to read as follows:

35 (d) Information obtained from the criminal  
36 records check and the national fingerprint criminal background checks is

1 confidential and shall not be disclosed by the department except:

2 (1) To the members of the Child Welfare  
 3 Agency Review Board during a board meeting only if no redisclosure by a board  
 4 member occurs and all copies shared with the board members are returned to  
 5 the department;

6 (2) To the applicant and his or her  
 7 attorney during a board meeting only if no redisclosure by the applicant or  
 8 his or her attorney occurs and all copies shared with the applicant and his  
 9 or her attorney are returned to the department.

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 11 SECTION 5. Arkansas Code § 20-38-102(a)(2), concerning criminal  
 12 history records checks, is amended to add an additional subdivision to read  
 13 as follows:

14 (C) The licensing or certifying agency shall share the  
 15 information obtained from the criminal history records check and the national  
 16 criminal history records check only with employees of the Department of Human  
 17 Services who have an official business reason to see the information.

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 19 SECTION 6. Arkansas Code § 20-38-103(e)(1)(A), concerning criminal  
 20 history records checks for applicants and employees of service providers, is  
 21 amended to read as follows:

22 (e)(1)(A) When a service provider initiates a request for a state  
 23 criminal history records check on an applicant for employment with or an  
 24 employee of the service provider, the Identification Bureau of the Department  
 25 of Arkansas State Police shall issue within twenty-four (24) hours an  
 26 electronic report to ~~the service provider and~~ the licensing or certifying  
 27 agency.

28  
 29 SECTION 7. Arkansas Code § 20-38-110 is amended to read as follows:  
 30 20-38-110. Confidentiality.

31 (a) All reports obtained under this subchapter are confidential and  
 32 are restricted to the exclusive use of the Arkansas Crime Information Center,  
 33 the Identification Bureau of the Department of Arkansas State Police, and the  
 34 licensing or certifying agency, ~~the service provider, and the person who is~~  
 35 ~~the subject of the report.~~

36 (b) The information contained in reports shall not be released or

1 otherwise disclosed to any other person or agency except by court order and  
2 is specifically exempt from disclosure under the Freedom of Information Act  
3 of 1967, § 25-19-101 et seq., except to the licensing or certifying agency  
4 ~~and the service provider.~~

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6 SECTION 8. Arkansas Code § 21-15-105(a), concerning the  
7 confidentiality of criminal background checks, is amended to read as follows:

8 (a) Any information received by a state agency from the Identification  
9 Bureau of the Department of Arkansas State Police or from a central registry  
10 check ~~pursuant to~~ under this subchapter shall not be available for  
11 examination ~~except by the affected applicant for employment or his or her~~  
12 ~~authorized representative~~, and no record, file, or document shall be removed  
13 from the custody of the Department of Arkansas State Police.

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15 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the  
16 General Assembly of the State of Arkansas that an audit by the Federal Bureau  
17 of Investigation found that the Department of Human Services is out of  
18 compliance with federal law regarding the confidentiality of criminal  
19 background checks; and that this act is immediately necessary because the  
20 public health and safety are at risk so long as the department remains out of  
21 compliance with federal law because of the threat of easy access to  
22 confidential records of criminal background checks. Therefore, an emergency  
23 is declared to exist, and this act being immediately necessary for the  
24 preservation of the public peace, health, and safety shall become effective  
25 on:

26 (1) The date of its approval by the Governor;

27 (2) If the bill is neither approved nor vetoed by the Governor,  
28 the expiration of the period of time during which the Governor may veto the  
29 bill; or

30 (3) If the bill is vetoed by the Governor and the veto is  
31 overridden, the date the last house overrides the veto.