

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

HOUSE BILL 1277

5 By: Representative Hawks  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND LAWS REGARDING CRIMINAL BACKGROUND  
9 CHECKS; TO REQUIRE CRIMINAL BACKGROUND CHECKS ON  
10 CONTRACTORS OF STATE AGENCIES FOR PERFORMANCE OF  
11 SERVICES IN DESIGNATED POSITIONS OR DESIGNATED  
12 FINANCIAL OR INFORMATION TECHNOLOGY POSITIONS; AND  
13 FOR OTHER PURPOSES.  
14  
15

## Subtitle

16 TO AMEND LAWS REGARDING CRIMINAL  
17 BACKGROUND CHECKS; AND TO REQUIRE  
18 CRIMINAL BACKGROUND CHECKS ON CONTRACTORS  
19 IN DESIGNATED POSITIONS OR DESIGNATED  
20 FINANCIAL OR INFORMATION TECHNOLOGY  
21 POSITIONS.  
22  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code § 9-28-409(b)(3)(A), concerning criminal  
28 record and child maltreatment checks, is amended to read as follows:

29 (3)(A) The owner or operator of a child welfare agency shall  
30 maintain on file, subject to inspection by the board, evidence that  
31 ~~Department of Arkansas State Police criminal records checks have been~~  
32 ~~initiated on all persons required to be checked and the results of the checks~~  
33 all persons required to be checked with the Identification Bureau of the  
34 Department of Arkansas State Police under this subsection have been approved  
35 or disqualified in accordance with the rules of the appropriate licensing or  
36 certifying agency.



1  
2 SECTION 2. Arkansas Code § 9-28-409(c)(2)(B), concerning criminal  
3 record and child maltreatment checks, is amended to read as follows:

4 (B) The owner or operator of a child welfare agency shall  
5 maintain on file, subject to inspection by the board, evidence that ~~the~~  
6 ~~Federal Bureau of Investigation's criminal records checks have been initiated~~  
7 ~~on all persons required to be checked and documentation that the checks have~~  
8 ~~been completed~~ all persons required to be checked with the Identification  
9 Bureau of the Department of Arkansas State Police under this subsection have  
10 been approved or disqualified in accordance with the rules of the appropriate  
11 licensing or certifying agency.  
12

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

15 (2) The owner or operator of the child welfare agency shall  
16 submit the criminal records check form to the ~~Identification Bureau of the~~  
17 ~~Department of Arkansas State Police~~ Division of Child Care and Early  
18 Childhood Education of the Department of Human Services for processing within  
19 ten (10) days of hiring the employee or volunteer, who shall remain under  
20 conditional employment or volunteerism until the registry check and criminal  
21 records checks required under this subchapter are completed.  
22

23 SECTION 4. Arkansas Code Title 19, Chapter 11, Subchapter 2, is  
24 amended to add an additional section to read as follows:

25 19-11-273. Procurements for services in designated positions and  
26 designated financial and information technology positions.

27 A contract for services with a person employed or entity employing  
28 persons in a designated position or designated financial or information  
29 technology position as defined in § 21-15-101 shall require compliance with  
30 the registry records check and criminal history records check laws under §  
31 21-15-101 et seq.  
32

33 SECTION 5. Arkansas Code § 20-33-213(a)(2), concerning the definition  
34 of "service provider" regarding criminal background checks for persons caring  
35 for the elderly, is amended to read as follows:

36 (2) "Service provider" means any of the following:

1 (A) A home- and community-based health services provider  
 2 certified by ~~the Division of Aging, Adult, and Behavioral Health Services of~~  
 3 the Department of Human Services;

4 (B) A home healthcare ~~service~~ services agency as defined  
 5 by § 20-10-801;

6 (C) A hospice program as defined by § 20-7-117; or

7 (D) A long-term care facility as defined by § 20-10-702.  
 8

9 SECTION 6. Arkansas Code § 20-38-103(a)(3) and (4), concerning  
 10 criminal history records checks for applicants and employees of service  
 11 providers, are amended to read as follows:

12 (3) Except as provided in subdivision (a)(4) of this section, if  
 13 the service provider can verify that the applicant has lived continuously in  
 14 the state for the past five (5) years, the service provider shall require the  
 15 applicant to submit a criminal history records check form and shall, in  
 16 accordance with the rules of the appropriate licensing or certifying agency:

17 (A) Initiate a state criminal history records check on the  
 18 applicant with the Identification Bureau of the Department of Arkansas State  
 19 Police; and

20 (B) Conduct a registry records check on the applicant ~~in~~  
 21 ~~accordance with the rules of the appropriate licensing or certifying agency.~~

22 (4) If the service provider cannot verify that the applicant has  
 23 lived continuously in the state for the past five (5) years or if the  
 24 applicant is seeking employment at a child care facility as defined by § 20-  
 25 78-202 or a church-exempt child care facility as recognized under § 20-78-  
 26 209, regardless of the length of time that the applicant has lived in the  
 27 state, the service provider shall require the applicant to submit a criminal  
 28 history records check form and a complete set of fingerprints and shall:

29 (A) Initiate a state criminal history records check on the  
 30 applicant with the Identification Bureau of the Department of Arkansas State  
 31 Police;

32 (B) ~~Forward the applicant's fingerprints to the~~  
 33 ~~Identification Bureau of the Department of Arkansas State Police to initiate~~  
 34 ~~a national criminal history records check~~ Initiate a fingerprint-based  
 35 criminal history records check performed by the Federal Bureau of  
 36 Investigation on the applicant; and

1 (C) Conduct a registry records check on the applicant ~~in~~  
2 ~~accordance with the rules of the appropriate licensing or certifying agency.~~

3  
4 SECTION 7. Arkansas Code § 20-38-103(c)(2)(B), concerning criminal  
5 history records checks for applicants and employees of service providers, is  
6 amended to read as follows:

7 (B) The entity shall:

8 (i) Maintain ~~maintain~~ all documentation regarding  
9 criminal history records checks for each temporary employee placed with a  
10 service provider;

11 (ii) Indicate whether each temporary employee placed  
12 with a service provider has been approved or disqualified in accordance with  
13 the rules of the appropriate licensing or certifying agency; and

14 (iii) Provide ~~and shall provide~~ copies of the  
15 documentation to the service provider, which shall be made available to the  
16 appropriate licensing or certifying agency upon request.

17  
18 SECTION 8. Arkansas Code § 20-38-103(e)(1)(B), concerning criminal  
19 history records checks for applicants and employees of service providers, is  
20 amended to read as follows:

21 (B) When a ~~service provider initiates~~ licensing or  
22 certifying agency submits a request for a national criminal history records  
23 check on an applicant for employment with or an employee of the service  
24 provider, the Identification Bureau of the Department of Arkansas State  
25 Police shall issue a report to the licensing or certifying agency within ten  
26 (10) days after receipt of the results of the national criminal history  
27 records check from the Federal Bureau of Investigation.

28  
29 SECTION 9. Arkansas Code § 20-38-106(a), concerning evidence of  
30 records checks, is amended to read as follows:

31 (a) A service provider shall maintain on file, subject to inspection  
32 by the Arkansas Crime Information Center, the Identification Bureau of the  
33 Department of Arkansas State Police, or the licensing or certifying agency  
34 evidence that criminal history records checks have been completed on all  
35 operators, applicants for employment, and employees of the service provider  
36 and evidence that all operators, applicants for employment, and employees of

1 the service provider have been approved or disqualified in accordance with  
 2 the rules of the appropriate licensing or certifying agency.

3  
 4 SECTION 10. Arkansas Code § 21-15-101(6), concerning the definition of  
 5 "designated position" regarding criminal background checks for employees, is  
 6 amended to read as follows:

7 (6) "Designated position" means a position in which a person is  
 8 employed by or contracting with a contractor of a state agency or a state  
 9 agency to provide care, supervision, treatment, or any other services to the  
 10 elderly, to mentally ill or developmentally disabled persons, to persons with  
 11 mental illnesses, or to children who reside in any state-operated facility or  
 12 a position in which the applicant, contractor, subcontractor, or employee  
 13 will have direct contact with a child or a person who is elderly, mentally  
 14 ill, or developmentally disabled;