

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

As Engrossed: S2/27/19

A Bill

HOUSE BILL 1277

5 By: Representative Hawks
6 By: Senator L. Eads
7

For An Act To Be Entitled

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

Subtitle

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18 TO AMEND LAWS REGARDING CRIMINAL
19 BACKGROUND CHECKS; AND TO REQUIRE
20 CRIMINAL BACKGROUND CHECKS ON CONTRACTORS
21 IN DESIGNATED POSITIONS OR DESIGNATED
22 FINANCIAL OR INFORMATION TECHNOLOGY
23 POSITIONS.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 9-28-409(b)(3)(A), concerning criminal
29 record and child maltreatment checks, is amended to read as follows:

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



1 certifying agency.

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

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

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

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

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

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

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

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

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

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

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

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

8 (D) A long-term care facility as defined by § 20-10-702.
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10 SECTION 6. Arkansas Code § 20-38-103(a)(3) and (4), concerning
11 criminal history records checks for applicants and employees of service
12 providers, are amended to read as follows:

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

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

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

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

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

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

1 Investigation on the applicant; and

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

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

8 (B) The entity shall:

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

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

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

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

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

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

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

1 and evidence that all operators, applicants for employment, and employees of
2 the service provider have been approved or disqualified in accordance with
3 the rules of the appropriate licensing or certifying agency.

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

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

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