

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

A Bill

HOUSE BILL 1540

4
5 By: Representatives Boyd, Richardson, L. Johnson, Crawford, D. Whitaker, B. Smith
6 By: Senator M. Pitsch

For An Act To Be Entitled

9 AN ACT TO ESTABLISH A PROCESS BY WHICH RECORDS OF
10 CERTAIN CRIMINAL OFFENSES ARE AUTOMATICALLY REMOVED
11 AFTER A CERTAIN PERIOD OF TIME; CONCERNING THE
12 RECORDS OF A PERSON'S CRIMINAL HISTORY; AND FOR OTHER
13 PURPOSES.

Subtitle

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17 TO ESTABLISH A PROCESS BY WHICH RECORDS
18 OF CERTAIN CRIMINAL OFFENSES ARE
19 AUTOMATICALLY REMOVED AFTER A CERTAIN
20 PERIOD OF TIME; AND CONCERNING THE
21 RECORDS OF A PERSON'S CRIMINAL HISTORY.

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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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26 SECTION 1. Arkansas Code § 16-90-1404, concerning definitions used in
27 conjunction with the Comprehensive Criminal Record Sealing Act of 2013, is
28 amended to add an additional subdivision to read as follows:

29 (9) "Relevant state agency database or other publicly operated
30 or administered repository" means a publically-operated or administered
31 electronic database, computer file, compilation of physical documents, or
32 other method of holding organized information that lists a person's criminal
33 history information, criminal background, sentencing information, or
34 information concerning a criminal offense adjudication that indicates that
35 the person pleaded guilty or nolo contendere to, or was found guilty of, a
36 criminal offense.



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 2 SECTION 2. Arkansas Code Title 16, Chapter 90, Subchapter 14, is
 3 amended to add an additional section to read as follows:

4 16-90-1420. Automatic removal of information concerning certain
 5 convictions after specified time period.

6 (a) As used in this section, "eligible offense" means:

7 (1) A misdemeanor or violation, except for the following
 8 misdemeanors:

9 (A) Negligent homicide, § 5-10-105, if it was a Class A
 10 misdemeanor;

11 (B) Battery in the third degree, § 5-13-203;

12 (C) Public sexual indecency, § 5-14-111;

13 (D) Indecent exposure, § 5-14-112;

14 (E) Sexual assault in the fourth degree, § 5-14-127; and

15 (F) Domestic battering in the third degree, § 5-26-305;

16 and

17 (2) A Class C or Class D felony that is not:

18 (A) A felony involving violence as defined under § 5-4-
 19 501(d)(2); or

20 (B) An offense for which a person is required to register
 21 as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-
 22 901 et seq.

23 (b) A record of an eligible offense of a person shall be automatically
 24 removed from a relevant state agency database or other publically operated or
 25 administered repository under procedures set out under this section if the
 26 following conditions apply:

27 (1) The person would otherwise be eligible to have all records
 28 of the eligible offense sealed by a sentencing court under this subchapter;

29 (2) A period of five (5) years has elapsed since the date of the
 30 person's conviction for a misdemeanor eligible offense upon the completion of
 31 a person's sentence for a felony eligible offense; and

32 (3) The person has not been convicted of a felony or a Class A
 33 misdemeanor since the date of the person's conviction for the eligible
 34 offense.

35 (c) This section does not prohibit a person from having his or her
 36 record otherwise sealed under this subchapter.

1 (d)(1) On a monthly basis the Administrative Office of the Courts
2 shall transmit to the Arkansas Crime Information Center the record of any
3 conviction eligible under this section for automatic removal from a relevant
4 state agency database or other publically operated or administered
5 repository.

6 (2) The center shall validate the information transmitted to the
7 center by the office under this section within thirty (30) days.

8 (3) If the center determines through a validation process that a
9 record is not eligible for removal from a relevant state agency database or
10 other publically operated or administered repository or does not match the
11 information held by the center, the center shall notify the office of this
12 determination within thirty (30) days of receiving that information.

13 (4) If the information transmitted to the center by the office
14 is validated, the center shall then remove the record from the center's own
15 database or other repository and transmit that validation to other relevant
16 state agency databases or other publically operated or administered
17 repositories that the center knows to contain that information.

18 (e) A record removed from a relevant state agency database or other
19 publically operated or administered repository under this section may still
20 be released to those entities listed under § 16-90-1416.

21 (f) A court with jurisdiction may order a record previously removed
22 from a relevant state agency database or other publically operated or
23 administered repository under this section reinstated upon a petition filed
24 by a prosecuting attorney that the record was removed erroneously or not
25 under the requirements of this section.

26 (g) A record for a conviction before January 1, 1990, is not required
27 to be removed from a relevant state agency database or other publically
28 operated or administered repository under this section.

29 (h) The Administrative Office of the Courts and the Arkansas Crime
30 Information Center shall jointly promulgate rules to implement this section.

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32 SECTION 3. DO NOT CODIFY. Record review.

33 (a) The Administrative Office of the Courts and the Arkansas Crime
34 Information Center shall begin within one hundred eighty (180) days after the
35 promulgation of rules under this act a review of all relevant and eligible
36 offenses under this act, beginning with those convictions that occurred in

1 the years 2000-2010, and shall begin the process of automatic removal from
 2 relevant state agency databases or other publically operated or administered
 3 repositories, which shall be completed no later than December 31, 2020.

4 (b) After those eligible convictions under subsection (a) of this
 5 section are reviewed, the office and the center shall begin a second review
 6 of all relevant misdemeanor offenses for the years 1990-2000, which shall be
 7 completed no later than December 31, 2021.

8
 9 SECTION 4. DO NOT CODIFY. Temporary language.

10 (a) When adopting the initial rules to implement § 16-90-1420, the
 11 final rule shall be filed with the Secretary of State for adoption under §
 12 25-15-204(f):

13 (1) On or before December 31, 2019; or

14 (2) If approval under § 10-3-309 has not occurred by December
 15 31, 2019, as soon as practicable after approval under 10-3-309.

16 (b) The Administrative Office of the Courts and the Arkansas Crime
 17 Information Center shall jointly file the proposed rule with the Legislative
 18 Council under § 10-3-309(c) sufficiently in advance of December 31, 2019, so
 19 that the Legislative Council may consider the rule for approval before
 20 December 31, 2019.