

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1635

By: Representative Johnson

By: Senator Elliott

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING CRIMINAL
BACKGROUND CHECKS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING CRIMINAL
BACKGROUND CHECKS.

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

SECTION 1. Arkansas Code § 9-9-212(b)(5), concerning criminal background as part of an adoption home study, is amended to read as follows:

(5)(A) The home study shall include a state-of-residence criminal background check, if available, and national fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with federal law and regulation on the adoptive parents and all household members ~~eighteen (18)~~ eighteen and one-half (18 ½) years of age and older, excluding children in foster care.

(B) If a prospective adoptive parent has lived in a state for at least six (6) years immediately prior to adoption, then only a state-of-residence criminal background check shall be required.

(C) If the Department of Human Services has responsibility for placement and care of the child to be adopted, the home study shall include a national fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with federal law and regulation on the prospective adoptive parents and all household members ~~eighteen (18)~~ eighteen and one-half (18 ½) years of age or older, excluding



children in foster care.

(D) Upon request by the Department of Human Services, local law enforcement shall provide the Department of Human Services with local criminal background information on the prospective adoptive parents and all household members ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older who have applied to be an adoptive family.

SECTION 2. Arkansas Code § 9-28-116(a) and (b), concerning criminal background checks of household members, are amended to read as follows:

(a)(1) A child in the custody of the Department of Human Services shall not be placed in an approved home of any foster parent or adoptive parent unless all household members ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care, have been checked with the Identification Bureau of the Department of Arkansas State Police at a minimum of every two (2) years for convictions of the offenses listed in this subchapter and in § 9-28-409.

(2) Youths in a household who turn eighteen (18) years of age are not required to have a criminal background check until six (6) months after turning eighteen (18) years of age.

(b) A child in the custody of the department shall not be placed in an approved home of any foster or adoptive parent unless all household members ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care, have a fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with federal law and regulation for convictions of the offenses listed in this subchapter and in § 9-28-409.

SECTION 3. Arkansas Code § 9-28-409(b) and (c), concerning criminal record and child maltreatment checks of an employee or agent of a child welfare agency, are amended to read as follows:

(b)(1) Each of the following persons in a child welfare agency shall be checked with the Identification Bureau of the Department of Arkansas State Police to determine if the person has pleaded guilty or nolo contendere to or has been found guilty of the offenses listed in this subchapter in compliance with policy and procedures promulgated by the board:

(A) An employee having direct and unsupervised contact

with children;

(B) A volunteer having direct and unsupervised contact with children;

(C) An owner having direct and unsupervised contact with children;

(D) A member of the agency's board of directors having direct and unsupervised contact with children;

(E) Foster parents, house parents, and each member of the household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care; and

(F)(i) Adoptive parents and each member of the household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care.

(ii) Adoptive parents and each member of the household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care, who are not residents of Arkansas shall provide state-of-residence criminal records checks, if available.

(2) A child in the custody of the Department of Human Services shall not be placed in an approved home of any foster parent or adoptive parent unless all household members eighteen and one-half (18 ½) years of age and older, excluding children in foster care, have been checked with the Identification Bureau of the Department of Arkansas State Police to determine if any of the persons have pleaded guilty or nolo contendere to or been found guilty of the offenses listed in this subchapter in compliance with policy and procedures promulgated by the board at a minimum of every two (2) years.

(3)(A) The owner or operator of a child welfare agency shall maintain on file, subject to inspection by the board, evidence that Department of Arkansas State Police criminal records checks have been initiated on all persons required to be checked and the results of the checks.

(B) Failure to maintain that evidence on file will be prima facie grounds to revoke the license or church-operated exemption of the owner or operator of the child welfare agency.

(4) All persons required to be checked with the Department of Arkansas State Police under this subsection shall repeat the check at a minimum of every five (5) years, except that adoptive parents who reside in

Arkansas shall repeat the check every ~~year~~ two (2) years pending court issuance of a final decree of adoption, at which point repeat checks shall no longer be required.

(c)(1) Each of the following persons in a child welfare agency who has not lived in Arkansas continuously for the past five (5) years shall have a fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with federal law and regulation to determine if the person has pleaded guilty or nolo contendere to or been found guilty of the offenses listed in this subchapter:

(A) An employee having direct and unsupervised contact with children;

(B) A volunteer having direct and unsupervised contact with children;

(C) An owner having direct and unsupervised contact with children;

(D) A member of the agency's board of directors having direct and unsupervised contact with children;

(E) Foster parents, house parents, and each member of the household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care; and

(F)(i) Adoptive parents and each member of the household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care.

(ii) Adoptive parents and each member of the household ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care, shall not be required to have a criminal background check performed by the Federal Bureau of Investigation if:

(a) The adoptive parents and each member of the household ~~age eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care, have continuously resided in a state for at least five (5) years before the adoption; and

(b) The state-of-residence criminal records check is available.

(2)(A)(i) A child in the custody of the Department of Human Services shall not be placed in an approved home of any foster or adoptive

parent unless all household members ~~eighteen (18)~~ eighteen and one-half (18 1/2) years of age and older, excluding children in foster care, have a fingerprint-based criminal background check performed by the Federal Bureau of Investigation in compliance with federal law and regulation to determine if any of the persons has pleaded guilty or nolo contendere to or been found guilty of the offenses listed in this subchapter.

(ii) A household member who turns eighteen (18) years of age has up to six (6) months from the date of his or her eighteenth birthday to have a background check completed.

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

(C) Failure to maintain that evidence on file will be prima facie grounds to revoke the license or church-operated exemption of the owner or operator of the child welfare agency.

APPROVED: 03/18/2015