

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

SENATE BILL 807

By: Senator J. Woods
By: Representative M. Gray

For An Act To Be Entitled

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

Subtitle

TO CLARIFY THE LAW CONCERNING WHO MAY
VIEW A CRIMINAL BACKGROUND CHECK; AND TO
DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 9-9-212(b)(9), concerning a hearing on an adoption, is amended to read as follows:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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~~ documentation that the checks have been completed.

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

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

confidential and shall not be disclosed by the department except:

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

APPROVED: 03/31/2015