

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

As Engrossed: S2/27/19  
**A Bill**

HOUSE BILL 1277

By: Representative Hawks  
By: Senator L. Eads

### For An Act To Be Entitled

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

### Subtitle

TO AMEND LAWS REGARDING CRIMINAL BACKGROUND CHECKS; AND TO REQUIRE CRIMINAL BACKGROUND CHECKS ON CONTRACTORS IN DESIGNATED POSITIONS OR DESIGNATED FINANCIAL OR INFORMATION TECHNOLOGY POSITIONS.

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

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

(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~~ all persons required to be checked with the Identification Bureau of the Department of Arkansas State Police under this subsection have been approved or disqualified in accordance with the rules of the appropriate licensing or



certifying agency.

SECTION 2. 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 documentation that the checks have been completed~~ all persons required to be checked with the Identification Bureau of the Department of Arkansas State Police under this subsection have been approved or disqualified in accordance with the rules of the appropriate licensing or certifying agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Investigation on the applicant; and

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

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

(B) The entity shall:

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

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

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

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

(B) When a ~~service provider initiates~~ licensing or certifying agency submits a request for a national 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 a report to the licensing or certifying agency within ten (10) days after receipt of the results of the national criminal history records check from the Federal Bureau of Investigation.

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

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

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

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

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

*/s/Hawks*

**APPROVED: 3/6/19**