

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 296

By: Senator K. Hammer
By: Representative Lundstrum

For An Act To Be Entitled

AN ACT TO ESTABLISH A CRIMINAL BACKGROUND CHECK
POLICY FOR THE DEPARTMENT OF WORKFORCE SERVICES; TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A CRIMINAL BACKGROUND CHECK
POLICY FOR THE DEPARTMENT OF WORKFORCE
SERVICES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code Title 11, Chapter 10, Subchapter 3, is amended to add an additional section to read as follows:

11-10-302. Criminal background checks.

(a) The Director of the Department of Workforce Services shall establish a criminal background investigation policy for the Department of Workforce Services.

(b)(1) An employee of the Department of Workforce Services or of a contractor of the Department of Workforce Services who may be authorized by the Director of the Department of Workforce Services to access or view federal tax information as part of the employee's job duties shall authorize:

(A) The Director of the Department of Workforce Services or his or her designee to obtain a state and federal criminal background check at the expense of the Department of Workforce Services; and

(B) The release of the criminal background check results to the Director of the Department of Workforce Services or his or her



designee.

(2) The employee of the Department of Workforce Services or of a contractor of the Department of Workforce Services shall be subject to the policy established under subsection (a) of this section that shall include:

(A) A criminal background check to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation that includes the taking of fingerprints;

(B) A criminal background check that satisfies the background investigation standards established by the Internal Revenue Service with regard to access to federal tax information;

(C) A criminal background check to be performed at least one (1) time every ten (10) years;

(D) The Identification Bureau of the Department of Arkansas State Police required to forward to the Director of the Department of Workforce Services or his or her designee all information obtained as a result of the criminal background check;

(E) Information received from a criminal background check to be used only for the purpose of making decisions regarding the retention of an employee in a position in which access to federal tax information may be authorized;

(F) Information received by the Director of the Department of Workforce Services or his or her designee from the Identification Bureau of the Department of Arkansas State Police under subdivision (b)(2)(D) of this section not to be released to any party other than the employee or his or her authorized representative; and

(G)(i) An employee who is employed by the Department of Workforce Services or by a contractor of the Department of Workforce Services required to notify the Director of the Department of Workforce Services or his or her designee of an arrest for a misdemeanor or felony offense within twenty-four hours of the arrest.

(ii) Any information received under subdivision (b)(2)(G)(i) of this section shall be used only for the purpose of the Director of the Department of Workforce Services making a decision regarding retention of an employee following the arrest.

(iii) Failure to provide notice of a subsequent arrest under subdivision (b)(2)(G)(i) of this section is sufficient grounds

for immediate termination of the employee's employment or other action as the Director of the Department of Workforce Services or his or her designee deems appropriate.

(c)(1) An applicant for employment with the Department of Workforce Services or with a contractor of the Department of Workforce Services who may be authorized by the Director of the Department of Workforce Services to access or view federal tax information as part of the applicant's job duties shall authorize:

(A) The Director of the Department of Workforce Services or his or her designee to obtain a state and federal criminal background check at the expense of the Department of Workforce Services; and

(B) The release of the criminal background check results to the Director of the Department of Workforce Services or his or her designee.

(2) An applicant shall be subject to the policy established under subsection (a) of this section that shall include:

(A) A criminal background check to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation that includes the taking of fingerprints;

(B) A criminal background check that satisfies the background investigation standards established by the Internal Revenue Service with regard to access to federal tax information;

(C) A criminal background check required to be performed before the applicant is employed and granted access to federal tax information and continued employment conditioned upon favorable information received from the criminal background check;

(D) The Identification Bureau of the Department of Arkansas State Police required to forward to the Director of the Department of Workforce Services or his or her designee all information obtained as a result of the criminal background check;

(E) Information received from a criminal background check to be used only for the purpose of making decisions regarding the employment of an applicant in a position in which access to federal tax information may or will be authorized; and

(F) Information received by the Director of the Department of Workforce Services or his or her designee from the Identification Bureau

of the Department of Arkansas State Police under subdivision (c)(2)(D) of this section not to be released to any party other than the affected person or his or her authorized representative.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain employees and contractors of the Department of Workforce Services have access to confidential federal income tax information without having undergone a proper criminal background investigation; that to protect certain financial information, any individual that has access to confidential federal income tax information should have appropriate clearance; and that this act is immediately necessary because the Department of Workforce Services must conform with federal laws and regulations regarding confidential federal income tax information. 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: 3/8/19