

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: H3/25/13 H4/11/13  
**A Bill**

HOUSE BILL 2018

By: Representative Bell

### **For An Act To Be Entitled**

AN ACT TO PROVIDE FOR CRIMINAL BACKGROUND CHECKS OF CANDIDATES BEFORE ELECTIONS; TO ALLOW PARTISAN CANDIDATES TO PROVIDE BACKGROUND CHECKS TO THE PARTIES; TO ALLOW CANDIDATES NOT ASSOCIATED WITH A PARTY TO PROVIDE BACKGROUND CHECKS WHEN FILING FOR CANDIDACY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO PROVIDE FOR CRIMINAL BACKGROUND CHECKS OF CANDIDATES BEFORE ELECTIONS; AND TO ALLOW CANDIDATES TO PROVIDE THEIR BACKGROUND CHECKS.

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

*SECTION 1. Arkansas Code § 12-12-1001 is amended to read as follows:  
12-12-1001. Definitions.*

*As used in this subchapter:*

*(1)(A) "Administration of criminal justice" means performing functions of investigation, apprehension, detention, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.*

*(B) "Administration of criminal justice" also includes criminal identification activities and the collection, maintenance, and dissemination of criminal justice information;*

*(2) "Arrest tracking number" means a unique number assigned to*



*an arrestee at the time of each arrest that is used to link that arrest to the final disposition of that charge;*

*(3) "Central repository" means the Arkansas Crime Information Center, which is authorized to collect, maintain, and disseminate criminal history information;*

*(4) "CODIS" means the Federal Bureau of Investigation Laboratory's Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal forensic laboratories, state forensic laboratories, and local forensic laboratories;*

*(5) "Conviction information" means criminal history information disclosing that a person has pleaded guilty or nolo contendere to, or was found guilty of, a criminal offense in a court of law, together with sentencing information;*

*(6)(A) "Criminal history information" means a record compiled by a central repository or the Identification Bureau of the Department of Arkansas State Police on an individual consisting of names and identification data, notations of arrests, detentions, indictments, informations, or other formal criminal charges. This record also includes any dispositions of the charges, as well as notations on correctional supervision and release.*

*(B) "Criminal history information" does not include fingerprint records on individuals not involved in the criminal justice system or driver history records;*

*(7) "Criminal history information system" means the equipment, procedures, agreements, and organizations thereof, for the compilation, processing, preservation, and dissemination of criminal history information;*

*(8) "Criminal justice agency" means a government agency or any subunit of a government agency that is authorized by law to perform the administration of criminal justice and that allocates more than one-half (1/2) its annual budget to the administration of criminal justice;*

*(9) "Criminal justice official" means an employee of a criminal justice agency performing the administration of criminal justice;*

*(10)(A) "Disposition" means information describing the outcome of any criminal charges, including notations that law enforcement officials have elected not to refer the matter to a prosecutor, that a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed.*

(B) "Disposition" also includes acquittals, dismissals, probations, charges pending due to mental disease or defect, guilty pleas, nolle prosequi, nolo contendere pleas, findings of guilt, youthful offender determinations, first offender programs, pardons, commuted sentences, mistrials in which the defendant is discharged, executive clemencies, paroles, releases from correctional supervision, or deaths;

(11) "Dissemination" means disclosing criminal history information or the absence of criminal history information to any person or organization outside the agency possessing the information;

(12) "DNA" means deoxyribonucleic acid that is located in the cells of an individual, provides an individual's personal genetic blueprint, and encodes genetic information that is the basis of human heredity and forensic identification;

(13)(A) "DNA record" means DNA identification information stored in the State DNA Data Base or CODIS for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results.

(B) The DNA record is the result obtained from the DNA typing tests.

(C) The DNA record is composed of the characteristics of a DNA sample that are of value in establishing the identity of individuals.

(D) The results of all DNA identification tests on an individual's DNA sample also are collectively referred to as the DNA profile of an individual;

(14) "DNA sample" means a blood, saliva, or tissue sample provided by any individual as required by this subchapter or submitted to the State Crime Laboratory for analysis or storage, or both;

(15)(A) "Elected official" means a person elected by qualified electors to a municipal, county, or state office or as a member of a school district board of directors.

(B) "Elected official" includes without limitation a person elected to the office of constable;

~~(15)~~(16) "Expunged record" means a record that was expunged under § 16-90-901 et seq.;

~~(16)~~(17) "Identification Bureau" means the Identification Bureau of the Department of Arkansas State Police, which may maintain fingerprint

card files and other identification information on individuals;

~~(17)(A)~~(18)(A) "Juvenile aftercare and custody information" means information maintained by the Division of Youth Services of the Department of Human Services regarding the status of a juvenile committed to or otherwise placed in the custody of the division from the date of commitment until the juvenile is released from aftercare or custody, whichever is later.

(B) "Juvenile aftercare and custody information" may include the name, address, and phone number of a contact person or an entity responsible for the juvenile;

~~(18)~~(19) "Nonconviction information" means arrest information without disposition if an interval of one (1) year has elapsed from the date of arrest and no active prosecution of the charge is pending, as well as all acquittals and all dismissals; and

~~(19)~~(20) "Pending information" means criminal history information in some stage of active prosecution or processing.

SECTION 2. Arkansas Code § 12-12-1010, concerning the dissemination of criminal history for noncriminal justice record searches, is amended to add an additional subdivision to read as follows:

(c)(1) Upon written authorization by the candidate, the criminal history information of a candidate shall be made available to a chair or the designee of the chair of the state or county committee of the political party with which the candidate is filing and which is requesting the criminal history of:

(A) An elected official; or

(B)(i) A candidate to serve as an elected official.

(ii) As used in this subsection, "candidate" means a person who has filed the documents required for candidacy as the elected official at issue.

(2)(A) Criminal history information under subdivision (c)(1) of this section is limited to:

(i) Offenses within the state in which an individual was found guilty or pleaded guilty or nolo contendere; and

(ii) Pending felony and misdemeanor charges within the state occurring within three (3) years of the date of the request for

criminal history information.

(B) Criminal history information under subdivision (c)(1) of this section does not include an expunged record.

(3)(A) Any fee for copies of information under subdivision (c)(1) of this section shall not exceed the sum of:

(i) Twenty-five dollars (\$25.00); and

(ii) The actual costs of reproduction, including the costs of the medium of reproduction, supplies, equipment, and maintenance, but not including existing agency personnel time associated with searching for, retrieving, reviewing, or copying the information.

(B) The fee under subdivision (c)(3)(A) of this section may include the actual cost of mailing or transmitting the information by facsimile or other electronic means.

(C) A person requesting criminal history information under subdivision (c)(1) of this section shall receive an itemized list of charges under this subdivision (c)(3) upon request.

(4)(A) A person requesting criminal history information under subdivision (c)(1) of this section shall submit at the time of his or her request, documentation that verifies that the person whose criminal history information is requested is an elected official or a candidate to serve as an elected official

(B) Documentation under this subdivision (c)(4)(A) is limited to a statement of financial interest or any other document that is signed, dated, and notarized by the elected official or a candidate to serve as an elected official and filed with a state governmental agency.

(C) Documentation under this subdivision (c)(4) shall have been created:

(i) On or after January 1, 2014; and

(ii) Within one (1) year of the date of the request for the criminal history information.

(5)(A) Requests for criminal history information under subdivision (c)(1) of this section shall be made to the Identification Bureau of the Department of Arkansas State Police.

(B) The Identification Bureau of the Department of the Arkansas State Police shall maintain a record of all persons requesting information under subdivision (c)(1) of this section.

*SECTION 3. Arkansas Code § 12-12-1012(a)(2), concerning fees for noncriminal justice record searches, is amended to read as follows:*

*(2)(A) ~~The~~ Except as provided under § 12-12-1010(c)(3), the amount of the fee for electronic Internet submission will be determined jointly by the bureau and the central repository and shall not exceed twenty dollars (\$20.00), exclusive of any third-party electronic processing fee charges.*

*(B) ~~Effective July 1, 2005, the~~ Except as provided under § 12-12-1010(c)(3), the amount of the fee for providing information by means other than the Internet shall be determined jointly by the bureau and the central repository and shall not exceed thirty dollars (\$30.00).*

*/s/Bell*