

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

State of Arkansas  
90th General Assembly  
Regular Session, 2015

As Engrossed: H3/3/15 H3/10/15

## A Bill

HOUSE BILL 1322

By: Representatives Boyd, Love

### For An Act To Be Entitled

AN ACT REQUIRING THAT CERTAIN JUVENILES FIRST BE  
CONVICTED OR FOUND DELINQUENT BEFORE A LAW  
ENFORCEMENT AGENCY MAY TAKE HIS OR HER FINGERPRINTS;  
AND FOR OTHER PURPOSES.

### Subtitle

REQUIRING THAT CERTAIN JUVENILES FIRST BE  
CONVICTED OR FOUND DELINQUENT BEFORE A  
LAW ENFORCEMENT AGENCY MAY TAKE HIS OR  
HER FINGERPRINTS.

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

*SECTION 1. Arkansas Code § 9-27-309(a)(3), concerning confidential juvenile records of delinquency, is amended to read as follows:*

*(3) ~~Records~~ The Administrative Office of the Courts shall provide the Arkansas Crime Information Center with records of delinquency adjudications for a juvenile adjudicated delinquent for any felony or a Class A misdemeanor wherein violence or a weapon was involved shall be made available to the Arkansas Crime Information Center an offense for which juvenile fingerprints shall be taken under § 9-27-320.*

*SECTION 2. Arkansas Code § 9-27-309(j), concerning records of delinquency adjudications, is amended to read as follows:*

*(j) Records of the arrest of a juvenile, the detention of a juvenile, and the proceedings under this subchapter shall be confidential and shall not be subject to disclosure under the Freedom of Information Act of 1967, § 25-*



19-101 et seq., unless:

(1) Authorized by a written order of the juvenile division of circuit court; ~~or~~

(2) The arrest or the proceedings under this subchapter result in the juvenile's being formally charged in the criminal division of circuit court for a felony; or

(3) As allowed under this section or § 9-27-320.

SECTION 2. Arkansas Code § 9-27-320 is amended to read as follows:  
9-27-320. Fingerprinting or photographing.

(a)(1) When a juvenile is arrested for any offense that if committed by an adult would constitute a Class Y, Class A, or Class B felony ~~or a Class A misdemeanor in which violence or the use of a weapon was involved~~, the juvenile shall be photographed and fingerprinted by the law enforcement agency.

(2) In the case of an allegation of delinquency, a juvenile shall not be photographed or fingerprinted under this subchapter by any law enforcement agency unless he or she has been taken into custody for the commission of an offense that, if committed by an adult, would constitute a Class Y, Class A, or Class B felony ~~or a Class A misdemeanor in which violence or the use of a weapon was involved~~.

(b)(1) Copies of a juvenile's fingerprints and photographs shall be made available only to other law enforcement agencies, the Arkansas Crime Information Center, prosecuting attorneys, and the juvenile division of circuit court.

(2) Photographs and fingerprints of juveniles adjudicated delinquent for offenses for which they could have been tried as adults shall be made available to prosecuting attorneys and circuit courts for use at sentencing in subsequent adult criminal proceedings against those same individuals.

(3)(A) When a juvenile departs without authorization from a youth services center or other facility operated by the Division of Youth Services of the Department of Human Services for the care of delinquent juveniles, if at the time of departure the juvenile is committed or detained for an offense for which the juvenile could have been tried as an adult, the Director of the Division of Youth Services of the Department of Human Services shall release

to the general public the name, age, and description of the juvenile and any other pertinent information the Director of the Division of Youth Services of the Department of Human Services deems necessary to aid in the apprehension of the juvenile and to safeguard the public welfare.

(B) When a juvenile departs without authorization from the Arkansas State Hospital, if at the time of departure the juvenile is committed as a result of an acquittal on the grounds of mental disease or defect for an offense for which the juvenile could have been tried as an adult, the Director of the Division of Behavioral Health of the Department of Human Services shall release to the general public the name, age, and description of the juvenile and any other pertinent information the director deems necessary to aid in the apprehension of the juvenile and to safeguard the public welfare.

(C) When a juvenile departs without authorization from a local juvenile detention facility, if at the time of departure the juvenile is committed or detained for an offense for which the juvenile could have been tried as an adult, the director of the juvenile detention facility shall release to the general public the name, age, and description of the juvenile and any other pertinent information the director deems necessary to aid in the apprehension of the juvenile and to safeguard the public welfare.

(c) Each law enforcement agency in the state shall keep a separate file of photographs and fingerprints, it being the intention that the photographs and fingerprints of juveniles not be kept in the same file with those of adults.

(d) When a juvenile is adjudicated delinquent for an offense for which the juvenile could be charged as an adult:

(1) The arresting law enforcement agency shall ensure that the fingerprints and photograph of the juvenile have been properly taken and submitted; and

(2) The court shall submit the adjudicated delinquent information to the center.

~~(d) However, in any case in which~~

(e) If the juvenile is found not to have committed the alleged delinquent act, the ~~circuit~~ court may order ~~any~~ a law enforcement agency to return all pictures and fingerprints to the circuit court and shall order the law enforcement agency that took the juvenile into custody to mark the arrest

*record with the notation "found not to have committed the alleged offense".*

*(f) The center shall create a form to be used for the reporting and expungement of juvenile information.*

*(g) If the juvenile is arrested for a Class Y, Class A, or Class B felony but not charged, the prosecuting attorney shall submit the information to the center and the arrest shall be removed from the center's records.*

*/s/Boyd*