

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: H3/18/15

A Bill

HOUSE BILL 1727

By: Representatives Womack, C. Douglas, Petty

By: Senator Hester

For An Act To Be Entitled

AN ACT TO ALLOW PUBLIC ACCESS TO CERTAIN CRIMINAL RECORDS; TO AMEND THE LAW CONCERNING CRIMINAL RECORDS IN ARKANSAS; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW PUBLIC ACCESS TO CERTAIN CRIMINAL RECORDS; AND TO AMEND THE LAW CONCERNING CRIMINAL RECORDS IN ARKANSAS.

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

SECTION 1. Arkansas Code § 12-12-1502(a), concerning the intent of the subchapter, is amended to add an additional subdivision to read as follows:

(5) Allow dissemination of criminal history information to the public upon proper request and payment without requiring the written consent of the subject of the request.

SECTION 2. Arkansas Code § 12-12-1503(12), concerning the definition of "requestor", is amended to read as follows:

(12) "Requestor" means ~~the~~:

(A) The employer, professional licensing board, institution of higher education, Arkansas Public Defender Commission, or any entity mandated or authorized by Arkansas law to perform criminal background checks through the department or any person who has obtained the written authorization of the subject of the record that has submitted an inquiry into an individual's criminal history information under this subchapter; or



(B) A person who has submitted an inquiry into an individual's criminal history information under § 12-12-1506(d); and

SECTION 3. Arkansas Code § 12-12-1506 is amended to read as follows:
12-12-1506. Unrestricted information – Records – Immunity from civil liability.

(a)(1) All conviction information and felony arrest records may be disseminated as provided in this subchapter.

(2) Any criminal history information of felony arrest records and all conviction information that pertains to a person currently being processed by the criminal justice system, including during the entire period of correctional supervision extending through final discharge from parole, may be disseminated without restriction.

(3)(A) The Identification Bureau of the Department of Arkansas State Police, the Arkansas Crime Information Center, or a third party shall be responsible for the maintenance of information pertaining to dissemination of criminal history information.

(B) The information pertaining to dissemination required to be maintained shall be retained for a period of not less than three (3) years for security purposes.

(4)(A)(i) Each requestor that is allowed access to criminal history information under this subchapter with written consent of the subject of the request shall maintain the written consent document in its files for at least three (3) years ~~the written consent to obtain the criminal history information given by the applicant, employee, student, or prospective student.~~

(ii) Access to criminal history information and sealed or expunged records for the Arkansas Public Defender Commission is authorized without the consent of the subject of the request. However, the commission shall maintain records of the reason the dissemination was requested for a period of three (3) years.

(iii) Any requestor that is granted access to criminal history information under this subchapter shall not disseminate the criminal history information.

(B) These files and any written consent forms documents shall be subject to inspection by the Department of Arkansas State Police or

the center.

(b) This section allows the dissemination of information concerning persons who are required to register as sex offenders.

(c) A criminal justice agency and its employees and officials shall be immune from civil liability except in instances of gross negligence or intentional malice for dissemination of criminal history information under this subchapter.

(d) The Department of Arkansas State Police shall provide criminal history information to any person upon proper request and payment of the requisite fee and without requiring written consent of the subject of the request.

SECTION 4. Arkansas Code § 12-12-1510 is amended to read as follows:

(a)(1) A Except as provided in subdivision (c) of this section, a fee may be charged for providing criminal history information under this subchapter.

(2) The amount of the fee shall be determined jointly by the Department of Arkansas State Police and the Arkansas Crime Information Center and shall not exceed twenty dollars (\$20.00), exclusive of any third-party electronic processing fee charges.

(3)(A) The fees shall be credited fifty percent (50%) to the Crime Information System Fund and fifty percent (50%) to the State Police Equipment Fund.

(B) The center may utilize these funds for the operation or expansion of the automated criminal justice information system, subject to legislative appropriations.

(C) The department may utilize these funds for the operation, expansion, and integration of the automated fingerprint identification system, which includes components and software to support a total integrated solution associated with the system.

(b) Special revenues deposited into the Crime Information System Fund and the State Police Equipment Fund may be used for personal services and operating expenses as provided by law, and any special revenues unused at the end of any fiscal year shall be carried forward.

(c) Any fee collected pursuant to a release of information under § 12-12-1506(d) shall be determined jointly by the Department of Arkansas State

Police and the Arkansas Crime Information Center and shall not exceed twenty dollars (\$20.00) per request, exclusive of any third-party electronic processing or payment fee charged, and shall be credited as follows:

(1) Thirty-eight percent (38%) as special revenues to the State Police Equipment Fund, which may be utilized for the automated fingerprint identification system, and includes components and software to support a total integrated solution associated with the system;

(2) Thirty-eight percent (38%) as special revenues to the Crime Information System Fund, which may be used for the operation or expansion of the automated criminal justice information system; and

(3) Twenty-four percent (24%) to the Crime Victims Reparations Revolving Fund.

SECTION 5. Arkansas Code § 19-5-1101 is amended to read as follows:

19-5-1011. Crime Information System Fund.

(a)(1) The Crime Information System Fund shall consist of those special revenues as specified in §§ 19-6-301(14) and 19-6-301(235), thirty-eight percent (38%) of the fees collected under § 12-12-1510(c), and fifty percent (50%) of § 19-6-301(176) of the Revenue Classification Law, § 19-6-101 et seq., allocations of general revenues as authorized by the General Assembly, moneys transferred or deposited from the State Administration of Justice Fund, and such federal grants and aid or reimbursements as may be received.

(2) The fund shall be used for the maintenance, operation, improvement, and necessary expenditures for administering the Arkansas Crime Information System.

(3) The fund may be used for personal services and operating expenses as provided by law.

(b) The then-current year allocations of general revenues not used or needed for current year operations shall be transferred by the Chief Fiscal Officer of the State to the General Revenue Allotment Reserve Fund.

(c) Beginning July 1, 2013, excluding the disposal fees that are to be deposited into the Marketing Board Fund under § 8-6-607(4), the first one hundred fifty thousand dollars (\$150,000) of fees collected each fiscal year under § 8-6-607 shall be deposited into the State Treasury and credited to the Crime Information System Fund to be used exclusively for the scrap metal logbook program.

(d) Notwithstanding any other rule, regulation, or provision of law to the contrary, the Arkansas Crime Information Center may transfer appropriation from the Contingency line item authorized for the Arkansas Crime Information Center to the Scrap Metal Logbook line item appropriation.

(e) Moneys remaining in the fund at the end of each fiscal year shall carry forward and be made available for the purposes stated in this section in the next fiscal year.

SECTION 6. Arkansas Code § 19-6-474 is amended to read as follows:

19-6-474. State Police Equipment Fund.

(a) The State Police Equipment Fund shall consist of:

(1) Fifty percent (50%) of those special revenues as specified in § 19-6-301(176) and (235), and thirty-eight percent (38%) of the fees collected under § 12-12-1510(c), there to be used for the acquisition, operation, and expansion of an automated fingerprint identification system and for personal services and operating expenses for conducting criminal background checks for noncriminal justice purposes; and

(2) ~~Effective July 1, 1997, for~~ For those purposes as set out in §§ 12-12-1012(b) and 12-12-1609.

(3) The fund may be used for personal services and operating expenses as provided by law.

(b) Moneys remaining in the fund at the end of each fiscal year shall carry forward and be made available for the purposes stated in this section in the next fiscal year.

SECTION 7. Arkansas Code § 19-5-950 is amended to read as follows:

19-5-950. Crime Victims Reparations Revolving Fund.

(a) There is hereby established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the Crime Victims Reparations Revolving Fund.

(b) This fund shall consist of moneys transferred or deposited from the State Administration of Justice Fund, twenty-four percent (24%) of the fees collected under § 12-12-1510(c), and all other moneys received by the Crime Victims Reparations Board, there to be used to compensate and assist victims of criminal acts as set out in the Arkansas Crime Victims Reparations Act, § 16-90-701 et seq.

SECTION 8. Arkansas Code § 19-6-301 is amended to add an additional subdivision to read as follows:

(253) Fees collected under § 12-12-1510(c);

SECTION 9. EFFECTIVE DATE. This act is effective on and after January 1, 2016.

/s/Womack