

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

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 212

By: Senator Irvin
By: Representative L. Johnson

For An Act To Be Entitled

AN ACT TO STREAMLINE CRIMINAL BACKGROUND CHECKS; TO REMOVE THE REQUIREMENT FOR NOTARIZATION FOR REQUESTS FOR CRIMINAL BACKGROUND CHECKS THAT ARE REQUIRED FOR THE LICENSING OF CHILD WELFARE AGENCIES; TO PROVIDE FOR THE SUBMISSION OF ELECTRONIC SIGNATURES ON FORMS FOR CRIMINAL BACKGROUND CHECKS; TO REQUIRE THAT BACKGROUND CHECKS BE FULLY COMPLETED BEFORE EMPLOYMENT OR VOLUNTEERISM WITH A CHILD WELFARE AGENCY BEGINS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REMOVE THE REQUIREMENT FOR NOTARIZATION FOR REQUESTS FOR CRIMINAL BACKGROUND CHECKS THAT ARE REQUIRED FOR THE LICENSING OF CHILD WELFARE AGENCIES; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 9-28-409(d)(1) and (2), concerning criminal records checks conducted under the Child Welfare Agency Licensing Act, is amended to read as follows:

(d)(1) Each person required to have a criminal records check under this subchapter shall complete a criminal records check form developed by the department and shall sign the form that contains the following ~~under oath~~



~~before a notary public:~~

(A) Certification that the subject of the check consents to the completion of the check;

(B) Certification that the subject of the check has not pleaded guilty or nolo contendere to or been found guilty of a crime and if the subject of the check has been convicted of a crime, contains a description of the crime and the particulars of the conviction;

(C) Notification that the subject of the check may challenge the accuracy and completeness of any information in any report and obtain a prompt determination as to the validity of the challenge before a final determination is made by the Child Welfare Agency Review Board with respect to his or her employment status or licensing status;

(D) Notification that the subject of the check may be denied a license or exemption to operate a child welfare agency or may be denied unsupervised access to children in the care of a child welfare agency due to information obtained by the check that indicates that the subject of the check has pleaded guilty or nolo contendere to or been found guilty of or is under pending indictment for a crime listed in this subchapter; ~~and~~

(E) Notification that any background check and the results thereof shall be handled in accordance with the requirements of Pub. L. No. 92-544; and

(F) Under § 25-32-107(d), the subject of the background check may submit an electronic signature to complete the records check.

(2) The owner or operator of the child welfare agency shall submit the criminal records check form to the Division of Child Care and Early Childhood Education for ~~processing within ten (10) days of hiring~~ the employee or volunteer, who shall ~~remain under conditional~~ not begin employment or volunteerism until the registry check and criminal records checks required under this subchapter are completed.

SECTION 2. Arkansas Code § 20-38-104(a)(6), concerning the signature for a state criminal history records check, is amended to read as follows:

(6)(A) Contains the ~~notarized~~ signature of the person who is the subject of the state criminal history records check.

(B) Under § 25-32-107(d), the subject of the background check may submit an electronic signature to complete the state criminal

history records check.

SECTION 3. Arkansas Code § 21-15-107(d)(1), concerning the form developed by the Identification Bureau of the Division of Arkansas State Police, is amended to read as follows:

(d)(1)(A) The Identification Bureau of the Division of Arkansas State Police shall develop a form to be used for criminal history checks conducted under this subchapter.

~~(B) The form shall require the notarized signature of the person who is the subject of the check under subdivision (d)(1)(A) of this section shall be designed so that completion of the form requires:~~

~~(i) The notarized signature of the subject of the criminal history check; or~~

~~(ii) As provided under § 25-32-107(d), the electronic signature of the subject of the criminal history check.~~

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that child welfare agencies have an urgent need for employees, and the requirement that a form for a criminal background check of an applicant for employment be notarized stalls employment and causes undue hardship; that the Arkansas Code already provides that an electronic signature satisfies any law requiring a signature, but further clarity in certain sections of the Arkansas Code requiring background check forms to be signed is necessary; and that the immediate effect of this act is necessary in order to not cause undue delay in the filing of dependency-neglect petitions and to maintain an orderly and efficient system for hiring employees of child welfare agencies. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of 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.