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ARKANSAS

Crime Reporting and Investigations

**12-12-201. Creation — Director.**

(a) There is created the Arkansas Crime Information Center, under the supervision of the supervisory board established by this subchapter.

(b) This center shall consist of a director and such other staff under the general supervision of the director as may be necessary to administer the services of this subchapter, subject to the approval of funds authorized by the General Assembly.

(c) The supervisory board shall name the director of the center.

**12-12-202. Supervisory board — Members — Meetings.**

(a) There is created a Supervisory Board for the Arkansas Crime Information Center.

(b) The supervisory board shall consist of twelve (12) members:

(1) The Attorney General or one (1) of his assistants;

(2) The Chief Justice of the Supreme Court or his designated agent;

(3) A member designated by the Arkansas Association of Prosecuting Attorneys;

(4) A member designated by the Arkansas Sheriffs Association;

(5) A member designated by the Arkansas Association of Municipal Judges;

(6) A member designated by the President of the Arkansas Bar Association who is regularly engaged in criminal defense work;

(7) A citizen of the State of Arkansas to be appointed by the Governor;

(8) A member of the General Assembly appointed by the Governor;

(9) A member designated by the Arkansas Municipal Police Association;

(10) The Director of the Department of Correction or his designated agent;

(11) A member designated by the Arkansas Association of Chiefs of Police;

(12) A member designated by the Association of Arkansas Counties.

(c) The Director of the Department of Arkansas State Police, or a member of his staff designated by him, shall serve as an ex officio member.

(d) No member shall continue to serve on the supervisory board when the member no longer officially represents the function for which the member was appointed, except the citizen appointed by the Governor, who shall serve for a period of four (4) years.

(e) The board, for cause, may remove any board member and shall notify the Governor of the removal and reason therefor.

(f) Members of the board shall serve without compensation but, within the limits of funds available, shall be entitled to reasonable reimbursement for all reasonable expenses incurred in the discharge of their duties.

(g) The supervisory board shall meet at such times and places as it shall deem appropriate. A majority of the board shall constitute a quorum for transacting any business of the board.

**12-12-203. Supervisory board — Duties.**

- (a) The duties and responsibilities of the board are to:
- (1) Maintain and operate the Arkansas Crime Information Center;
  - (2) Provide that the information obtained by this subchapter shall be restricted to the items specified in this subchapter and so administer the center so as not to accumulate any information or distribute any information that is not specifically approved in this subchapter;
  - (3) Provide for adequate security safeguards to ensure that the data available through this system are used only by properly authorized persons and agencies;
  - (4) Provide for uniform reporting and tracking systems to report data authorized by this subchapter. Standard forms and procedures for reporting authorized data under this subchapter shall be prescribed by the board;
  - (5) Establish such regulations and policies as may be necessary for the efficient and effective use and operation of the information center under the limitations imposed by the terms of this subchapter;
  - (6) Provide for the reporting of authorized information under the limitations of this subchapter to the United States Department of Justice under its national system of crime reporting;
  - (7) Provide for research and development activities that will encourage the application of advanced technology, including the development of prototype systems and procedures, the development of plans for the implementing of these prototypes, and the development of technological expertise which can provide assistance in the application of technology in record and communication systems in Arkansas.
- (b) The board shall establish its own rules and regulations for performance of the responsibilities charged to the board in this subchapter.

**12-12-204. Arkansas Crime Prevention Office.**

- (a) There is created an Arkansas Crime Prevention Office to develop and establish a centralized crime prevention agenda that could be coordinated with all Arkansas law enforcement agencies.
- (b) The Arkansas Crime Prevention Office will be located in the Arkansas Crime Information Center.
- (c) This section shall be known as the "Arkansas Crime Prevention Office Act."

**12-12-205. Missing Children Information Clearinghouse.**

(a) There is created a Missing Children Information Clearinghouse within the Arkansas Crime Information Center.

(b) The clearinghouse shall be administered by the Director of the Arkansas Crime Information Center.

(c)(1) The clearinghouse shall establish a computerized file and system to communicate information on children reported to be missing.

(2) The clearinghouse shall interface with the National Crime Information Center for the exchange of information on missing children.

(3) The clearinghouse shall establish educational services and publications deemed appropriate to aid in dealing with missing children.

(4) The clearinghouse shall be authorized to issue regulations and procedures for the orderly collection and entry of missing children information as well as rules governing access to missing children information.

(5) The clearinghouse shall annually compile and make available statistical information on the number of missing children entered into the state and national computer files and, where available, information on the number located.

(6) The clearinghouse shall release information upon request to any court in a pending custody proceeding when the court needs information concerning whether the child is reported as missing.

(d)(1) Upon receiving notice of a child believed to be missing, a law enforcement agency shall immediately complete a missing child report and enter identifying and descriptive information about the child into the state and national files.

(2) It shall be the duty of the initial investigating law enforcement agency to immediately cancel the computer entry when the missing child is located or returned.

(e) As used in this section, unless the context otherwise requires:

(1) "Missing child" means any person:

(A) Who is under the age of eighteen (18) years;

(B) Whose residence is in Arkansas or is believed to be in Arkansas;

(C) Whose location is unknown or who has been taken, enticed, or kept from any person entitled by law or a court decree or order to the right of custody; and

(D) Who has been reported as missing to a law enforcement agency.

(2) "Missing child report" is a report prepared on a form designated by the Arkansas Crime Information Center for use by law enforcement agencies to record missing children information.

**12-12-206. Data processing — Supervision.**

(a) All data files and computer programs making up the Arkansas Crime Information System, in accordance with this subchapter, shall be under the control and jurisdiction of the supervisory board.

(b) The director and the supervisory board of the Arkansas Crime Information Center shall make arrangements for the continued use of existing state computer facilities, computer systems and programming personnel, and communications networks wherever feasible and practical.

**12-12-207. Maintenance and operation of information system.**

(a) The Arkansas Crime Information Center shall be responsible for providing for the maintenance and operation of the computer-based Arkansas Crime Information System.

(b) The use of this system is restricted to serving the informational needs of police, courts, and correction and highway safety agencies through a communications network connecting state, county, and local authorities to a centralized state depository of information.

(c) The information to be stored in the Arkansas Crime Information Center under the authority of this subchapter shall be restricted to records of outstanding warrants for arrest, felony informations, and indictments pending in circuit courts, misdemeanor informations and

indictments to the extent provided in this section pending in municipal and circuit courts, commitments to the penitentiary and other correctional agencies, felony convictions, records of juvenile delinquency adjudications for which the juvenile could have been tried as an adult, persons on felony parole postprison supervision or probation, stolen property, moving traffic violations, traffic accidents, drivers' licenses, vehicle registration, records to prevent misidentification of persons, Class A, Class B, and unclassified misdemeanor criminal records, and convictions for the following specified misdemeanors:

(1) All misdemeanor crimes wherein violence is an element of the offense;

(2) All misdemeanor crimes involving the theft of property;

(3) All misdemeanor crimes involving the use, abuse, misuse, or possession of dangerous drugs or narcotics; and

(4) Driving while under the influence of drugs or intoxicants.

(d) In addition, the center shall collect and maintain in accordance with the procedures established by this subchapter, the following information:

(1) Records of missing persons;

(2) Felony arrest information; and

(3) Misdemeanor arrest information to the extent authorized in this subchapter.

(e) It is the intent of the General Assembly in this legislation that the center shall maintain only the specified records on persons and not maintain any additional records on persons without specific statutory authorization from the General Assembly.

(f) The center shall collect data and compile statistics on the nature and extent of crime and highway safety problems in Arkansas and compile other data related to planning for and operating criminal justice and highway safety agencies, provided that the statistics do not identify persons.

(g) The center shall also periodically publish statistics that do not identify persons and report such information to the Governor, the General Assembly, federal, state, and local criminal agencies, and the general public.



(h) The center, at the direction of the supervisory board, is authorized to design and administer a uniform crime reporting program, uniform records systems, and a criminal offender tracking program known as Offender Based Transaction Statistics to be used by criminal justice agencies for reporting the authorized information under this subchapter. The center shall also provide all standard forms and provide for the instruction of participants in the use of the forms and related standard record systems.

(i) On or before January 1 of each year, the center shall purge its files of all records of a person relating to a crime wherein the person has been acquitted or the charges dismissed.

**12-12-208. Coordination with national crime control information systems.**

(a) The Arkansas Crime Information Center shall be the central access and control agency for Arkansas' input, retrieval, and exchange of criminal justice information in the National Crime Information Center, or its successor, and National Law Enforcement Telecommunications System, or its successor. The center shall be responsible for the coordination of all Arkansas user agencies with the National Crime Information Center and the National Law Enforcement Telecommunications System.

(b) The Director of the Arkansas Crime Information Center, or his designee, shall serve as the National Crime Information Center control terminal officer and the National Law Enforcement Telecommunications System representative.

**12-12-209. Duty to furnish data.**

(a) It shall be the duty of all sheriffs, chiefs of police, city marshals, correction officials, prosecuting attorneys, court clerks, and other state, county, and local officials and agencies so directed to furnish the center all data required by this subchapter.

(b) The data shall be furnished the center in a manner prescribed by the supervisory board.

(c) Any sheriff, chief of police, city marshal, correction official, prosecuting attorney, court clerk, or other state, county, and local official who shall willfully fail to comply with the provisions of this subchapter or any regulation issued by the supervisory board carrying out the provisions of this subchapter shall be found guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars (\$500).

**12-12-210. Special information services agents.**

To insure the accuracy, timeliness, and completeness of all records and information as prescribed by this subchapter, the director shall appoint special information services agents. After proper and sufficient security clearances and training, the agents shall be commissioned to do monitoring and auditing of all records and information as defined by this subchapter and such other duties as may be prescribed by the supervisory board.

**12-12-211. Access to records.**

(a) The center shall make criminal records on persons available only to criminal justice agencies in their official capacity, to regulatory agencies with specific statutory authority of access, and to any person or his attorney who has reason to believe that a criminal history record is being kept on him, or wherein the criminal defendant is charged with either a misdemeanor or felony.

(b) Upon the application of the person or his attorney, it shall be mandatory, upon proper and sufficient identification of the person, for the Arkansas Crime Information Center to make available to the person or his attorney any records on the person making the application.

(c) The supervisory board shall establish regulations and policies to carry out the review and challenge procedures in accordance with this subchapter.

(d)(1) The Child Support Enforcement Unit of the Department of Human Services of this state shall be considered a criminal justice agency solely for the purpose of securing information from the Arkansas Crime Information Center of this state regarding the address or whereabouts of any deserting parent from whom the Child Support Enforcement Unit is charged with collecting child support.

(2) It shall be unlawful, except for the purpose of performing the duties of the Child Support Enforcement Unit or upon court order, for any person to disclose information obtained by this subsection. Upon conviction any person violating this section shall be guilty of a Class A misdemeanor.

(e) An elected law enforcement officer of a political subdivision of this state shall not be allowed access to information from the Arkansas Crime Information Center unless either the elected law enforcement officer or a law enforcement officer within his department has successfully completed the preparatory program of police training required by the Arkansas Commission on Law Enforcement Standards and Training for certification of law enforcement officers.

**12-12-212. Willful release or disclosure to unauthorized person —  
Penalty.**

Every person who shall willfully release or disclose to any unauthorized person any information authorized to be maintained and collected under this subchapter and any person who willfully obtains that information for purposes not specified by this subchapter shall be deemed guilty of a felony. Upon conviction that person shall be punished by a fine not exceeding five thousand dollars (\$5,000) and by imprisonment in the state penitentiary for not exceeding three (3) years.

**12-12-213. Invasion of privacy prohibited.**

Nothing in this subchapter shall be construed so as to give authority to any person, agency, corporation, or other legal entity to invade the privacy of any citizen as defined by the General Assembly or the courts other than to the extent provided in this subchapter.

**12-12-214. Fees from localities — Disposition.**

(a) The Arkansas Crime Information Center is authorized to charge fees to local governmental units in order to reimburse the Arkansas Crime Information Center for expenditures made on behalf of the local governmental units.

(b) The fees are to be deposited into the Crime Information System Fund in the State Treasury as a refund to expenditures.

**12-12-908. Relief from duty to register.**

Any habitual child sex offender registered under the provisions of § 12-12-904 may apply to the circuit court in this state having jurisdiction over the county in which the offender resides for an order relieving him of the duty of further registration. The court shall hold a hearing on the application at which the applicant and any interested persons may present witnesses and other evidence. If, after the hearing, the court finds by a preponderance of the evidence that the habitual child sex offender is rehabilitated, the court shall grant an order relieving him of the duty of further registration under this subchapter.

**12-12-909. Access to information.**

The statements or any other information required by this subchapter shall not be open to inspection by the public and specifically are not subject to the provisions of the Arkansas Freedom of Information Act, § 25-19-101 et seq., nor may this data be obtained by any person other than a law enforcement officer or other individual as may be authorized specifically by law.

**12-12-1001. Definitions.**

As used in this subchapter:

(1) "Administration of criminal justice" means performing functions of investigation, apprehension, detention, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice also includes criminal identification activities and the collection, maintenance, and dissemination of criminal justice information;

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

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

(4)(A) "Criminal history information" means a record compiled by a central repository or identification bureau 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) This term does not include fingerprint records on individuals not involved in the criminal justice system, or driver history records;

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

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

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

(8) "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. Dispositions also include 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;

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

(10) "Expunge" means to restrict access to specific criminal justice purposes as other laws permit;

(11) "Identification Bureau" means the Department of Arkansas State Police Identification Bureau, which is authorized to maintain fingerprint card files and other identification information on individuals;

(12) "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

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

#### **12-12-1002. Penalties.**

(a) Any criminal justice agency or official subject to fingerprinting or reporting requirements under this subchapter that knowingly fails to comply with such reporting requirements shall be deemed guilty of a Class B misdemeanor.

(b) Every person who shall knowingly release or disclose to any unauthorized person any information collected and maintained under this subchapter, and any person who knowingly obtains such information for purposes not authorized by this subchapter, shall be deemed guilty of a Class D felony.

#### **12-12-1003. Scope.**

(a) This subchapter governs the collection, maintenance, and dissemination of criminal history information on identifiable individuals charged or pleading guilty or nolo contendere, or being found guilty of criminal offenses under the laws of the State of Arkansas.

(b) The Arkansas Crime Information Center shall have general authority to issue regulations and implement the provisions of this subchapter.

(c) The reporting requirements of this subchapter apply to law enforcement officials, prosecuting attorneys, judges, and court officials, and probation, correction, and parole officials, within the limits defined in §§ 12-12-1006 and 12-12-1007.

(d) This subchapter does not apply to records of traffic offenses, including misdemeanor offenses of driving while intoxicated, maintained by the Department of Finance and Administration.

(e) Criminal history information collected and maintained by the Arkansas Crime Information Center is not considered public record information within the intent and meaning of the Arkansas Freedom of Information Act, § 25-19-101 et seq.

**12-12-1004. Completeness and accuracy.**

(a) The Arkansas Crime Information Center shall implement procedures that will, to the maximum extent feasible, ensure the completeness and accuracy of all criminal history information in this state.

(b) It shall be the duty of all criminal justice agencies and officials to maintain complete and accurate records, as may be appropriate to their area of operation, and to report information from such records as required in §§ 12-12-1006 and 12-12-1007.

(c) It shall be the duty of the Arkansas Crime Information Center to maintain all information reported under this subchapter in a complete and permanent manner, to ensure that no records are altered, purged, or otherwise lost.

**12-12-1005. Identification Bureau.**

(a) The Identification Bureau shall collect and maintain fingerprint identification records required to be reported by this subchapter.

(b) The Identification Bureau shall provide arrest and identification information for inclusion in the computerized criminal history file, as specified by the Arkansas Crime Information Center.

(c) The Identification Bureau shall be the sole source for the transmission of fingerprint cards or images to and from the Federal Bureau of Investigation.

**12-12-1006. Fingerprinting.**

(a) Immediately following an arrest, the arresting official shall take, or cause to be taken, the fingerprints of the arrested person if the offense is a felony or a Class A misdemeanor.

(b) When the first appearance of a defendant in court is caused by a citation or summons, the arresting official shall take, or cause to be taken, the fingerprints of the arrested person when the offense is a felony or a Class A misdemeanor.

(c) When felony or Class A misdemeanor charges are brought against a person already in the custody of a law enforcement or correctional agency, and such charges are separate from the charges for which the person was previously arrested or confined, the agency shall again take the fingerprints of the person in connection with the new charges.

(d) When a defendant pleads guilty or nolo contendere or is found guilty of any felony or Class A misdemeanor charge, the court shall inquire whether such defendant has previously been fingerprinted in connection with the criminal proceedings leading to the conviction and, if not, shall order that the defendant be immediately fingerprinted by the appropriate law enforcement official.

(e) Fingerprints taken after arrest or court appearance pursuant to subsections (a) and (b) of this section, or taken from persons already in custody pursuant to subsection (c) of this section, shall be forwarded to the Identification Bureau within forty-eight (48) hours after such arrest or appearance. Fingerprints taken pursuant to subsection (d) of this section shall be forwarded to the Identification Bureau by the fingerprinting official within five (5) working days after such plea or finding of guilt.

**12-12-1007. Reporting requirements.**

(a) Certain events occurring during the course of a criminal prosecution must be reported for inclusion in a criminal history record. The following events shall be reportable events:

- (1) An arrest;
  - (2) The release of a person after arrest without filing of a charge;
  - (3) A decision by a prosecutor not to commence criminal proceedings or to defer or indefinitely postpone prosecution;
  - (4) An indictment or criminal information or other statement of charges;
  - (5) The dismissal of an indictment or criminal information, or of any of the charges set out in such indictment or criminal information;
  - (6) An acquittal, finding of guilt, or other court disposition at or following trial, including dispositions of probationary status;
  - (7) The terms and conditions of a sentence;
  - (8) A commitment to a state or local correctional facility;
  - (9) A commitment to a hospital or other facility as not being criminally responsible or as incompetent to stand trial;
  - (10) The entry of an appeal to an appellate court;
  - (11) The judgment of an appellate court;
  - (12) A pardon, reprieve, commutation, or other change in sentence;
- and

(13) Other events occurring during the course of the criminal proceedings determined to be reportable.

(b) Reportable events specified in subsection (a) of this section shall be reported by those criminal justice officials or agencies directly responsible for the reportable action, event, or decision.

(c) The form and content of reported information and the method of reporting shall be specified by the Arkansas Crime Information Center and the Administrative Office of the Courts.

(d) Criminal justice agencies shall report criminal history information, whether directly or indirectly, manually or by means of an automated system in accordance with the following provisions:

- (1) Information pertaining to the release of a person arrested without the filing of charges as required in subdivision (a)(2) of this section, or to a decision by the prosecutor not to commence criminal proceed-

ings or to defer or postpone prosecution indefinitely as required by subdivision (a)(3) of this section shall be reported within five (5) working days; and

(2) Information pertaining to any other reportable events specified in subdivisions (a)(4)-(13) of this section shall be reported at least monthly.

**12-12-1008. Dissemination for criminal justice purposes.**

(a) Pending, conviction and nonconviction information available through the Arkansas Crime Information Center, plus information obtained through the Interstate Identification Index or from another state's record system, shall be disseminated to criminal justice agencies and officials for the administration of criminal justice.

(b) Criminal justice agencies shall query the Arkansas Crime Information Center to obtain the latest updated information prior to disseminating criminal history information, unless the agency knows that the Arkansas Crime Information Center does not maintain the information or is incapable of responding within the necessary time period.

(c) If a criminal justice agency disseminates criminal history information received from the Arkansas Crime Information Center to another criminal justice agency, the disseminating agency shall maintain, for at least one (1) year, a dissemination log recording the identity of the record subject, the agencies or persons to whom the criminal history information was disseminated, and the date it was provided.

(d) Expunged records will be made available to criminal justice agencies for criminal justice purposes as other laws permit.

**12-12-1009. Dissemination of conviction information for non-criminal justice purposes.**

(a) Conviction information shall be made available for the following noncriminal justice purposes:

(1) To any local, state, or federal governmental agency that requests the information for the enforcement of a local, state, or federal law;

(2) To any nongovernmental entity authorized either by the record subject in writing or by state law to receive such information; and

(3) To any federal agency or central repository in another state requesting the information for purposes authorized by law.

(b) Conviction information disseminated for noncriminal justice purposes under this subchapter shall only be used for the purposes for which it was made available and may not be redisseminated.

(c) Nonconviction information shall not be available under the provisions of this subchapter for noncriminal justice purposes.



(d) No agency or individual shall confirm the existence or nonexistence of criminal history information to any person or organization that would not be eligible to receive the information pursuant to this subchapter.

(e) Local agencies may release their own agency records according to their own policies.

**12-12-1010. Dissemination for other purposes.**

(a) Criminal history information shall be made available to the office of the Governor for purposes of carrying out the Governor's constitutional authority involving pardons, executive clemencies, extraditions, or other duties specifically authorized by law.

(b) Criminal history information may be made available to persons performing research related to the administration of criminal justice, subject to conditions approved by the central repository or the Identification Bureau to assure the security of the information and the privacy of individuals to whom the information relates.

(c) Criminal history information shall be made available according to the provisions of the Interstate Compact on the Exchange of Criminal History Records for Noncriminal Justice Purposes following the adoption of such compact by the General Assembly.

**12-12-1011. Dissemination limited.**

(a) Release of criminal history information for noncriminal justice purposes shall only be made by the Identification Bureau or the central repository, under the limitations contained in § 12-12-1009, and such compiled records will not be released or disclosed for noncriminal justice purposes by other agencies in the state.

(b) Intelligence and investigative files maintained by law enforcement agencies shall be kept separated from criminal history information and shall not be subject to dissemination under the provisions of this subchapter.

**12-12-1012. Fees for noncriminal justice record searches.**

(a)(1) A fee may be charged for providing criminal history information for noncriminal justice purposes.

(2) The amount of such fee will be determined jointly by the Identification Bureau and the central repository and shall not exceed twenty dollars (\$20.00).

(b)(1) All fees shall be deposited immediately in the State Treasury as special revenue to the credit of the State Police Equipment Fund.

which is hereby created on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State, there to be used for the acquisition of an automated fingerprint identification system.

(2) Effective July 1, 1998, such fees shall then be credited seventy-five percent (75%) to the Crime Information System Fund and twenty-five percent (25%) to the State Police Equipment Fund, there to be used for the continued operation and expansion of the automated criminal history system and for the operation of the automated fingerprint identification system, subject to legislative appropriations.

(3) Special revenues deposited in the Crime Information System Fund and the State Police Equipment Fund unused at the end of any fiscal year shall be carried forward.

**12-12-1013. Right of review and challenge.**

(a)(1) A person, upon positive verification of his or her identity, may review criminal history information pertaining to such person compiled and maintained by the Identification Bureau or the central repository and may challenge the completeness or accuracy of such information.

(2) The criminal history information may be reviewed only by the subject, or by the subject and his or her attorney, or the subject's attorney authorized in writing by the subject.

(b) If the subject, after appropriate review, believes that the records are incorrect or incomplete in any way, he or she may request an examination and correction of the records by the agency responsible for the records.

(c)(1) Should it be determined as a result of the challenge that the criminal history information is inaccurate, incomplete, or improperly maintained, that information shall be appropriately corrected.

(2) Immediately thereafter, the agency responsible for the records shall notify every agency or person known to have received this information within the previous one-year period and provide them with corrected information.

(3) A person whose record has been corrected shall be entitled to ascertain the names of those agencies or individuals known to have received the previously incorrect criminal history information.

(d)(1) Criminal history information which was recorded prior to August 13, 1993, is subject to the right of review and challenge in accordance with this section. However, the duty is to make a reasonable search for such information.

(2) There is no duty to provide access to that segment of criminal history information that cannot be located after a reasonable search.

(e) The right of a person to review his or her criminal history record shall not be used by a prospective employer or others as a means to circumvent procedures or fees for accessing records for noncriminal justice purposes.

**12-12-1014. Security of criminal history information.**

(a) The Arkansas Crime Information Center shall be authorized to develop standards and implement procedures that will, to the maximum extent feasible, ensure the security and confidentiality of criminal history records.

(b) The Arkansas Crime Information Center shall be authorized to inspect the criminal history records maintained by criminal justice agencies, to evaluate security procedures, and to issue reports on compliance with security standards.

**12-12-1015. Audit of criminal history records.**

The Arkansas Crime Information Center shall be authorized to develop standards and implement a program of audits of all criminal justice agencies that establish, maintain, report, or disseminate criminal history records, to ensure compliance with all provisions of this subchapter. Audit procedures pertaining to the courts shall be coordinated and implemented through the Administrative Office of the Courts.

**SUBCHAPTER 9 — EXPUNGEMENT AND SEALING OF CRIMINAL RECORDS**

**SECTION.**

- 16-90-901. Definition.
- 16-90-902. Effect of expungement.
- 16-90-903. Release of sealed records.
- 16-90-904. Procedure for sealing of records.

**SECTION.**

- 16-90-905. Uniform petition and order to seal records.

**16-90-901. Definition.**

(a) As used in §§ 5-64-407, 5-4-311, 16-90-601, 16-90-602, 16-90-605, 16-93-301 — 16-93-303, and 16-93-1207, "expunge" shall mean that the record or records in question shall be sealed, sequestered, and treated as confidential in accordance with the procedures established by this subchapter.

(b) Unless otherwise provided by this subchapter, "expunge" shall not mean the physical destruction of any records.

**History.** Acts 1995, No. 998, § 7.

**16-90-902. Effect of expungement.**

(a) An individual whose record has been expunged in accordance with the procedures established by this subchapter shall have all privileges and rights restored, shall be completely exonerated, and the record which has been expunged shall not affect any of his civil rights or liberties, unless otherwise specifically provided for by law.

(b) Upon the entry of the uniform order to seal records of an individual, the individual's underlying conduct shall be deemed as a matter of law never to have occurred, and the individual may state that no such conduct ever occurred and that no such records exist.

**History.** Acts 1995, No. 998, § 7.

**16-90-903. Release of sealed records.**

(a) The custodian of the records shall not disclose the existence of such records or release such records except when requested by:

(1) The individual whose records were sealed or the individual's attorney, authorized in writing by the individual;

(2) A criminal justice agency, as defined in § 12-12-1001, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency by the individual whose record has been sealed;

(3) A court, upon a showing of a subsequent adjudication of guilt of the individual whose record has been sealed;

(4) A prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with the prosecution of an offense;

(5) The Arkansas Crime Information Center.

(b)(1) As used in this section, "custodian" shall not mean the Arkansas Crime Information Center.

(2) Access to data maintained by the Arkansas Crime Information Center shall continue to be governed by § 12-12-1001 et seq.

**History.** Acts 1995, No. 998, § 7.

**16-90-904. Procedure for sealing of records.**

(a) Any individual who is eligible to have an offense expunged may file a uniform petition to seal records, as described in § 16-90-905, with the court in the county where the crime was committed.

(b)(1) A copy of the uniform petition for sealing of the record shall be served upon the prosecuting authority for the county in which the petition is filed and upon the arresting agency; however, it shall not be necessary to make any agency a party to the action.

(2)(A) Any person desiring to oppose the sealing of the record shall file a notice of opposition with the court setting forth reasons within thirty (30) days after receipt of the uniform petition or after the uniform petition is filed, whichever is the later date.

(B) If no opposition is filed, the court may grant the petition.

(C) If notice of opposition is filed, the court shall set the matter for a hearing.

(c) If the court determines that the record should be sealed, the uniform order, as described in § 16-90-905, shall be entered and filed with the clerk of the court.

(d) The clerk of the court shall certify copies of the uniform order to the prosecuting attorney who filed the underlying charges, the arresting agency, the Administrative Office of the Courts, and the Arkansas Crime Information Center.

(e)(1) The clerk of the court shall remove all petitions, orders, docket sheets, and documents relating to the case, place them in a file, and sequester them in a separate and confidential holding area within the clerk's office.

(2)(A) A docket sheet shall be prepared to replace the sealed docket sheet.

(B) The replacement docket sheet shall contain the docket number, a statement that the case has been sealed, and the date that the order to seal the record was issued.

(3) All indices to the file of the individual with a sealed record shall be maintained in a manner to prevent general access to the identification of the individual.

(f) Upon notification of an order to seal records, all clerks, arresting agencies, and other criminal justice agencies maintaining such conviction records in a computer-generated database shall either segregate

the entire record into a separate file or by other electronic means ensure that the sealed record shall not be available for general access unless otherwise authorized by law.

**History.** Acts 1995, No. 998, § 7.

**16-90-905. Uniform petition and order to seal records.**

(a)(1) The Arkansas Crime Information Center shall adopt and provide a uniform petition and order to seal records which shall be used by all petitioners and by all circuit and municipal courts in this state.

(2) No order to seal or expunge records covered by this subchapter shall be effective unless the uniform order is entered.

(3) The petition shall include a statement that the information contained in the petition is true and correct to the best of the petitioner's knowledge, and the order shall, at a minimum, contain the following data elements:

(A) The person's full name, race, sex, and date of birth;

(B) The person's full name at the time of arrest and adjudication of guilt, if different than the person's current name;

(C) The crimes for which the person was adjudicated guilty, and the date of the disposition;

(D) The identity of the court;

(E) The provision under which the individual was sentenced that provides for sealing or expungement of the record; and

(F) The specific records to be sealed.

(b)(1) If no record exists in the state central repository of the arrest for the charges in the petition, such record shall be established before the uniform order to seal becomes effective.

(2) When no record exists in the state central repository, it shall be the duty of the petitioner and the original arresting agency to submit fingerprint cards on the petitioner, according to § 12-12-1006 and procedures established by the Arkansas Crime Information Center.

**CHAPTER 13**  
**FIRE PREVENTION**

**25-19-101. Title.**

This chapter shall be known and cited as the "Freedom of Information Act of 1967".

**25-19-102. Legislative intent.**

It is vital in a democratic society that public business be performed in an open and public manner so that the electors shall be advised of the performance of public officials and of the decisions that are reached in public activity and in making public policy. Toward this end, this chapter is adopted, making it possible for them, or their representatives to learn and to report fully the activities of their public officials.

**25-19-103. Definitions.**

As used in this chapter, unless the context otherwise requires:

(1) "Public records" means writings, recorded sounds, films, tapes, or data compilations in any form, required by law to be kept or otherwise kept, and which constitute a record of the performance or lack of performance of official functions which are or should be carried out by a public official or employee, a governmental agency, or any other agency wholly or partially supported by public funds or expending public funds. All records maintained in public offices or by public employees within the scope of their employment shall be presumed to be public records.

(2) "Public meetings" means the meetings of any bureau, commission, or agency of the state, or any political subdivision of the state, including municipalities and counties, boards of education, and all other boards, bureaus, commissions, or organizations in the State of Arkansas, except grand juries, supported wholly or in part by public funds or expending public funds.

**25-19-104. Penalty.**

Any person who negligently violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars (\$200) or thirty (30) days in jail, or both, or a sentence of appropriate public service or education, or both.

**25-19-105. Examination and copying of public records.**

(a) Except as otherwise specifically provided by this section or by laws specifically enacted to provide otherwise, all public records shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the custodian of the records.

(b) It is the specific intent of this section that the following shall not be deemed to be made open to the public under the provisions of this chapter:

- (1) State income tax records;
- (2) Medical records, scholastic records, and adoption records;
- (3) The site files and records maintained by the Arkansas Historic Preservation Program and the Arkansas Archeological Survey;
- (4) Grand jury minutes;
- (5) Unpublished drafts of judicial or quasi-judicial opinions and decisions;
- (6) Undisclosed investigations by law enforcement agencies of suspected criminal activity;
- (7) Unpublished memoranda, working papers, and correspondence of the Governor, members of the General Assembly, Supreme Court Justices, and the Attorney General;

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(8) Documents which are protected from disclosure by order or rule of court;

(9)(A) Files which, if disclosed, would give advantage to competitors or bidders; and

(B) Records maintained by the Arkansas Industrial Development Commission related to any business entity's planning, site location, expansion, operations, or product development and marketing, unless approval for release of such records is granted by the business entity; provided, however, this exemption shall not be applicable to any records of expenditures or grants made or administered by the Arkansas Industrial Development Commission and otherwise disclosable under the provisions of this chapter;

(10) Personnel records to the extent that disclosure would constitute clearly unwarranted invasion of personal privacy; and

(11) The identity of law enforcement officers currently working undercover with their agency and identified in the Arkansas Minimum Standards Office as an undercover officer. Records of the number of undercover officers an agency lists are not exempt from this chapter.

(c)(1) However, all employee evaluation or job performance records, including preliminary notes and other materials, shall be open to public inspection only upon final administrative resolution of any suspension or termination proceeding at which the records form a basis for the decision to suspend or terminate the employee and if there is a compelling public interest in their disclosure.

(2) Any personnel or evaluation records exempt from disclosure under this chapter shall nonetheless be made available to the person about whom the records are maintained or to that person's designated representative.

(3)(A) Upon receiving a request for the examination or copying of personnel or evaluation records, the custodian of the records shall, within twenty-four (24) hours of the receipt of the request, determine whether the records are exempt from disclosure and make efforts to the fullest extent possible to notify the person making the request and the subject of the records of that decision.

(B) If the subject of the records cannot be contacted in person or by telephone within the twenty-four hour period, the custodian shall send written notice via overnight mail to the subject of the records at his last known address. Either the custodian, requester, or the subject of the records may immediately seek an opinion from the Attorney General who, within three (3) working days of receipt of the request, shall issue an opinion stating whether the decision is consistent with this chapter. In the event of a review by the Attorney General, the custodian shall not disclose the records until the Attorney General has issued his opinion.

(C) However, nothing in this subsection shall be construed to prevent the requester or the subject of the records from seeking judicial review of the custodian's decision or the decision of the Attorney General.

(d) Reasonable access to public records and reasonable comforts and facilities for the full exercise of the right to inspect and copy those records shall not be denied to any citizen.

(e) If a public record is in active use or storage and, therefore, not available at the time a citizen asks to examine it, the custodian shall certify this fact in writing to the applicant and set a date and hour within three (3) working days, at which time the record will be available for the exercise of the right given by this chapter.



**25-19-106. Open public meetings.**

(a) Except as otherwise specifically provided by law, all meetings, formal or informal, special or regular, of the governing bodies of all municipalities, counties, townships, and school districts and all boards, bureaus, commissions, or organizations of the State of Arkansas, except grand juries, supported wholly or in part by public funds or expending public funds, shall be public meetings.

(b)(1) The time and place of each regular meeting shall be furnished to anyone who requests the information.

(2) In the event of emergency or special meetings, the person calling the meeting shall notify the representatives of the newspapers, radio

stations, and television stations, if any, located in the county in which the meeting is to be held, and any news media located elsewhere which cover regular meetings of the governing body, and which have requested to be so notified of emergency or special meetings, of the time, place, and date of the meeting. Notification shall be made at least two (2) hours before the meeting takes place in order that the public shall have representatives at the meeting.

(c)(1) Executive sessions will be permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee.

(2)(A) Only the person holding the top administrative position in the public agency, department, or office involved, the immediate supervisor of the employee involved, and the employee may be present at the executive session when so requested by the governing body, board, commission, or other public body holding the executive session.

(B) Any person being interviewed for the top administrative position in the public agency, department, or office involved may be present at the executive session when so requested by the governing board, commission, or other public body holding the executive session.

(3) Executive sessions must never be called for the purpose of defeating the reason or the spirit of this chapter.

(4) No resolution, ordinance, rule, contract, regulation, or motion considered or arrived at in executive session will be legal unless, following the executive session, the public body reconvenes in public session and presents and votes on the resolution, ordinance, rule, contract, regulation, or motion.

**25-19-107. Appeal from denial of rights — Attorney fees.**

(a) Any citizen denied the rights granted to him by this chapter may appeal immediately from the denial to the Pulaski County Circuit Court or to the circuit court of the residence of the aggrieved party, if an agency of the state is involved, or to any of the circuit courts of the appropriate judicial districts when an agency of a county, municipality, township, or school district, or a private organization supported by or expending public funds, is involved.

(b) Upon written application of the person denied the rights provided for in this chapter, or any interested party, it shall be mandatory upon the circuit court having jurisdiction to fix and assess a day the petition is to be heard within seven (7) days of the date of the application of the petitioner, and to hear and determine the case.

(c) Those who refuse to comply with the orders of the court shall be found guilty of contempt of court.

(d) In any action to enforce the rights granted by this chapter, or in any appeal therefrom, the court shall assess against the defendant reasonable attorney fees and other litigation expenses reasonably incurred by a plaintiff who has substantially prevailed unless the court finds that the position of the defendant was substantially justified or that other circumstances make an award of these expenses unjust. However, no expenses shall be assessed against the State of Arkansas or any of its agencies or departments. If the defendant has substantially prevailed in the action, the court may assess expenses against the plaintiff only upon a finding that the action was initiated primarily for frivolous or dilatory purposes.

**Arkansas Statutes Annotated  
Chapter 11  
Arkansas Crime Information Center**

**5-1101. Criminal justice and highway safety information center — Creation — Appointment of administrator. —** There is hereby created a Criminal Justice and Highway Safety Information Center, under the supervision of a Supervisory Board established by this Act [ §§ 5-1101—5-1115 ], and the Department of Public Safety. This Center shall consist of an Administrator of Criminal Justice and Highway Safety Information and such other staff under the general supervision of the Administrator as may be necessary to administer the services of this Act, subject to the approval of funds authorized by the General Assembly. The Supervisory Board shall name the Administrator of the Center with the approval of the Director of the Department of Public Safety. [ Acts 1971, No. 286, § 1, p. 674; 1975, No. 742, § 1, p. —.]

**5-1101.1. Name changed to crime information center. —** Hereafter the Criminal Justice and Highway Safety Information Center, as authorized by Act 286 of 1971, as amended, the same being Arkansas Statute 5-1101, shall be designated and known as the Arkansas Crime Information Center, and that all powers, functions and duties of the Criminal Justice and Highway Safety Information Center shall be performed by the Arkansas Crime Information Center. [ Acts 1979, No. 375, § 1, p. —.]

**5-1102. Maintenance and operation of criminal justice and highway safety information system — Other duties of center — Availability of criminal record. —** This Center shall be responsible for providing for the maintenance and operation of the computer-based Criminal Justice and Highway Safety Information System. The use of this System is restricted to serving the informational needs of police, courts, correction and highway safety agencies through a communications network connecting state, county, and local authorities to a centralized state depository of information. The information to be stored in the Criminal Justice and Highway Safety Information Center under the authority of this Act [ §§ 5-1101—5-1115 ] shall be restricted to records of outstanding warrants for arrest, felony informations and indictments pending in Circuit Court, misdemeanor informations and indictments to the extent provided in this Section pending in Municipal and Circuit Courts, commitments to the penitentiary and other correctional agencies, felony convictions, persons on felony parole or probation, stolen property, moving traffic violations, traffic accidents, drivers licenses, vehicle registration, records to prevent misidentification of persons and convictions for the following specified misdemeanors: