

1 State of Arkansas *As Engrossed: H3/3/15 H3/10/15*

2 90th General Assembly

A Bill

3 Regular Session, 2015

HOUSE BILL 1322

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5 By: Representatives Boyd, Love

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For An Act To Be Entitled

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AN ACT REQUIRING THAT CERTAIN JUVENILES FIRST BE

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CONVICTED OR FOUND DELINQUENT BEFORE A LAW

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ENFORCEMENT AGENCY MAY TAKE HIS OR HER FINGERPRINTS;

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AND FOR OTHER PURPOSES.

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Subtitle

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REQUIRING THAT CERTAIN JUVENILES FIRST BE

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CONVICTED OR FOUND DELINQUENT BEFORE A

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LAW ENFORCEMENT AGENCY MAY TAKE HIS OR

18

HER FINGERPRINTS.

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

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

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(3) ~~Records~~ The Administrative Office of the Courts shall

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provide the Arkansas Crime Information Center with records of delinquency

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adjudications for a juvenile adjudicated delinquent for ~~any felony or a Class~~

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~~A misdemeanor wherein violence or a weapon was involved shall be made~~

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~~available to the Arkansas Crime Information Center~~ an offense for which

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juvenile fingerprints shall be taken under § 9-27-320.

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SECTION 2. Arkansas Code § 9-27-309(j), concerning records of

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delinquency adjudications, is amended to read as follows:

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(j) Records of the arrest of a juvenile, the detention of a juvenile,

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and the proceedings under this subchapter shall be confidential and shall not

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be subject to disclosure under the Freedom of Information Act of 1967, § 25-



1 19-101 et seq., unless:

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

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

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

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9 SECTION 2. Arkansas Code § 9-27-320 is amended to read as follows:
10 9-27-320. Fingerprinting or photographing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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8 */s/Boyd*

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