

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H3/4/05  
**A Bill**

HOUSE BILL 1466

5 By: Representative Verkamp  
6  
7

8 **For An Act To Be Entitled**

9 AN ACT TO PROVIDE THAT CERTAIN EXPUNGED OFFENSES  
10 DO NOT CAUSE DISQUALIFICATION FROM EMPLOYMENT FOR  
11 *PERSONS SUBJECT TO CRIMINAL BACKGROUND CHECKS*  
12 *UNDER ARKANSAS CODE §§ 9-28-409, 17-27-313, 17-*  
13 *87-312, 17-97-312, 17-103-307, 20-13-1106, 20-33-*  
14 *205, 20-48-804, AND 21-15-103; AND FOR OTHER*  
15 *PURPOSES.*

16  
17 **Subtitle**

18 *AN ACT TO PROVIDE THAT EXPUNGED RECORDS*  
19 *OF CERTAIN CRIMINAL OFFENSES DO NOT*  
20 *CAUSE DISQUALIFICATION FROM EMPLOYMENT.*

21  
22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24  
25 *SECTION 1. Arkansas Code § 9-28-409 is amended to read as follows:*  
26 *9-28-409. Criminal record and child maltreatment checks.*

27 *(a)(1) Each of the following persons in a child welfare agency shall*  
28 *be checked with the child maltreatment central registry in his or her state*  
29 *of residence and any state of residence in which the person has lived for the*  
30 *past six (6) years and in the person's state of employment, if different, for*  
31 *reports of child maltreatment in compliance with policy and procedures*  
32 *promulgated by the Child Welfare Agency Review Board:*

33 *(A) An employee having direct and unsupervised contact*  
34 *with children;*

35 *(B) A volunteer having direct and unsupervised contact*  
36 *with children;*



1                   (C) A foster parent and all household members age ten (10)  
2 years and older;

3                   (D) An adoptive parent and all household members age ten  
4 (10) years and older;

5                   (E) An owner having direct and unsupervised contact with  
6 children; and

7                   (F) A member of the agency's board of directors having  
8 direct and unsupervised contact with children.

9                   (2) The board shall have the authority to deny a license or  
10 church-operated exemption to any applicant found to have any record of  
11 founded child maltreatment in the official record of the registry.

12                   (3)(A) Any person required to be checked under this section who  
13 is found to have any record of child maltreatment in the official record of  
14 the registry shall be reviewed by the owner or operator of the facility in  
15 consultation with the board to determine appropriate corrective action  
16 measures which would indicate, but are not limited to, training, probationary  
17 employment, or nonselection for employment.

18                   (B) The board shall also have the authority to deny a  
19 license or church-operated exemption to an applicant who continues to employ  
20 a person with any record of founded child maltreatment.

21                   (4) All persons required to be checked with the registry under  
22 this subsection shall repeat the check every two (2) years, except that  
23 adoptive parents who reside in Arkansas shall repeat the check every year  
24 pending court issuance of a final decree of adoption, at which point repeat  
25 checks shall no longer be required.

26                   (b)(1) Each of the following persons in a child welfare agency who has  
27 lived in Arkansas continuously for six (6) years or more shall be checked  
28 with the Identification Bureau of the Department of Arkansas State Police for  
29 convictions of the offenses listed in this subchapter in compliance with  
30 policy and procedures promulgated by the board:

31                   (A) An employee having direct and unsupervised contact  
32 with children;

33                   (B) A volunteer having direct and unsupervised contact  
34 with children;

35                   (C) A foster parent and all household members age sixteen  
36 (16) years and older;

1                   (D) An owner having direct and unsupervised contact with  
2 children; and

3                   (E) A member of the agency's board of directors having  
4 direct and unsupervised contact with children.

5                   (2)(A) The owner or operator of a child welfare agency shall  
6 maintain on file, subject to inspection by the board, evidence that  
7 Department of Arkansas State Police criminal records checks have been  
8 initiated on all persons required to be checked and the results of the  
9 checks.

10                   (B) Failure to maintain that evidence on file will be  
11 prima facie grounds to revoke the license or church-operated exemption of the  
12 owner or operator of the child welfare agency.

13                   (3) All persons required to be checked with the Department of  
14 Arkansas State Police under this subsection shall repeat the check every five  
15 (5) years, except that adoptive parents shall not repeat the check after  
16 court issuance of a final decree of adoption in the adoption case for which  
17 the check was obtained.

18                   (4) Adoptive parents shall complete background checks as  
19 required by law.

20                   (c)(1) Each of the following persons in a child welfare agency who has  
21 not lived in Arkansas continuously for the past six (6) years shall be  
22 checked with the Federal Bureau of Investigation for convictions of the  
23 offenses listed in this subchapter, in compliance with federal law and  
24 regulations and with policy and procedures promulgated by the board:

25                   (A) An employee having direct and unsupervised contact  
26 with children;

27                   (B) A volunteer having direct and unsupervised contact  
28 with children;

29                   (C) A foster parent and all family members age sixteen  
30 (16) years and older;

31                   (D) An owner having direct and unsupervised contact with  
32 children; and

33                   (E) A member of the agency's board of directors having  
34 direct and unsupervised contact with children.

35                   (2)(A) The owner or operator of a child welfare agency shall  
36 maintain on file, subject to inspection by the board, evidence that the

1 Federal Bureau of Investigation's criminal records checks have been initiated  
2 on all persons required to be checked and the results of the checks.

3 (B) Failure to maintain that evidence on file will be  
4 prima facie grounds to revoke the license or church-operated exemption of the  
5 owner or operator of the child welfare agency.

6 (d)(1) Each person required to have a criminal records check under  
7 this subchapter shall complete a criminal records check form developed by the  
8 Department of Human Services and shall sign the form which contains the  
9 following under oath before a notary public:

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

12 (B) Certification that the subject of the check has not  
13 been convicted of a crime and, if the subject of the check has been convicted  
14 of a crime, contains a description of the crime and the particulars of the  
15 conviction;

16 (C) Notification that the subject of the check may  
17 challenge the accuracy and completeness of any information in any report and  
18 obtain a prompt determination as to the validity of the challenge before a  
19 final determination is made by the board with respect to his or her  
20 employment status or licensing status;

21 (D) Notification that the subject of the check may be  
22 denied a license or exemption to operate a child welfare agency or may be  
23 denied unsupervised access to children in the care of a child welfare agency  
24 due to information obtained by the check which indicates that the subject of  
25 the check has been convicted of, or is under pending indictment for, a crime  
26 listed in this subchapter; and

27 (E) Notification that any background check and the results  
28 thereof shall be handled in accordance with the requirements of Pub. L. 92-  
29 544.

30 (2) The owner or operator of the child welfare agency shall  
31 submit the criminal records check form to the Identification Bureau of the  
32 Department of Arkansas State Police for processing within ten (10) days of  
33 hiring the employee, who shall remain under conditional employment until the  
34 registry check and criminal records checks required under this subchapter are  
35 completed.

36 (3) Nothing in this section shall be construed to prevent the

1 board from denying a license or exemption to an owner or preventing an  
2 operator or employee in a child welfare agency from having unsupervised  
3 access to children by reason of the pending appeal of a criminal conviction  
4 or child maltreatment determination.

5 (4) In the event a legible set of fingerprints as determined by  
6 the Department of Arkansas State Police and the Federal Bureau of  
7 Investigation cannot be obtained after a minimum of three (3) attempts by  
8 qualified law enforcement personnel, the board shall determine eligibility  
9 based upon a name check by the Department of Arkansas State Police and the  
10 Federal Bureau of Investigation.

11 (5)(A) An owner or operator of a child welfare agency shall not  
12 be liable during a conditional period of service for hiring any person  
13 required to have a background check pursuant to this subchapter who may be  
14 subject to a charge of false swearing upon completion of central registry and  
15 criminal records check.

16 (B)(i) Pursuant to this subchapter, false swearing shall  
17 occur when a person while under oath provides false information or omits  
18 information that the person knew or reasonably should have known was  
19 material.

20 (ii) Lack of knowledge that information is material  
21 is not a defense to a charge of false swearing.

22 (C) For purposes of this subchapter, false swearing is a  
23 Class A misdemeanor.

24 (e)(1) Except as provided in ~~subdivision (d)(2)~~ subdivisions (d)(2) or  
25 (h)(1) of this section, no person who is required to have a criminal check  
26 under subdivision (b)(1) or (c)(1) of this section shall be eligible to have  
27 direct and unsupervised contact with a child in the care of a child welfare  
28 agency if that person has pleaded guilty or nolo contendere to or has been  
29 found guilty of any of the following offenses by any court in the State of  
30 Arkansas or of any similar offense by a court in another state or of any  
31 similar offense by a federal court:

32 (A) Capital murder as prohibited in § 5-10-101;

33 (B) Murder in the first degree and murder in the second  
34 degree as prohibited in §§ 5-10-102 and 5-10-103;

35 (C) Manslaughter as prohibited in § 5-10-104;

36 (D) Negligent homicide as prohibited in § 5-10-105;

- 1                   (E) Kidnapping as prohibited in § 5-11-102;
- 2                   (F) False imprisonment in the first degree and false  
3 imprisonment in the second degrees as prohibited in §§ 5-11-103 and 5-11-104;
- 4                   (G) Permanent detention or restraint as prohibited in § 5-  
5 11-106;
- 6                   (H) Battery in the first degree, battery in the second  
7 degree, and battery in the third degree as prohibited in §§ 5-13-201, 5-13-  
8 202 and 5-13-203;
- 9                   (I) Aggravated assault as prohibited in § 5-13-204;
- 10                  (J) Assault in the first degree and assault in the second  
11 degree as prohibited in §§ 5-13-205 and 5-13-206;
- 12                  (K) Terroristic threatening in the first degree and  
13 terroristic threatening in the second degree as prohibited in § 5-13-301(a)  
14 and (b);
- 15                  (L) Any sexual offense as prohibited in § 5-14-101 et  
16 seq.;
- 17                  (M) Permitting abuse of a child as prohibited in § 5-27-  
18 221;
- 19                  (N) Endangering the welfare of a minor in the first degree  
20 and endangering the welfare of a minor in the second degree as prohibited in  
21 §§ 5-27-203 and 5-27-204;
- 22                  (O) Contributing to the delinquency of a minor as  
23 prohibited in § 5-27-205;
- 24                  (P) Engaging children in sexually explicit conduct for use  
25 in visual or print medium, transportation of minors for prohibited sexual  
26 conduct, use of a child or consent to use of a child in sexual performance,  
27 and producing, directing, or promoting sexual performance by a child, as  
28 prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;
- 29                  (Q) Incest, as prohibited in § 5-26-202;
- 30                  (R) Interference with visitation as prohibited in § 5-26-  
31 501;
- 32                  (S) Interference with custody as prohibited in § 5-26-502;
- 33                  (T) Engaging in conduct with respect to controlled  
34 substances as prohibited in § 5-64-401;
- 35                  (U) Distribution to minors as prohibited in § 5-64-406;
- 36                  (V) Public display of obscenity as prohibited in § 5-68-

1 205;

2 (W) Prostitution as prohibited in § 5-70-102;

3 (X) Promoting prostitution in the first degree, promoting  
4 prostitution in the second degree, and promoting prostitution in the third  
5 degree as prohibited in §§ 5-70-104, 5-70-105, and 5-70-106;

6 (Y) Computer child pornography as prohibited in § 5-27-  
7 603;

8 (Z) Computer exploitation of a child in the first degree  
9 as prohibited in § 5-27-605(a);

10 (AA) Criminal attempt, criminal complicity, criminal  
11 solicitation, or criminal conspiracy as prohibited in §§ 5-3-201, 5-3-202, 5-  
12 3-301, and 5-3-401 to commit any of the offenses listed in this section;

13 (BB) Any felony or any misdemeanor involving violence,  
14 threatened violence, or moral turpitude; and

15 (CC) Any former or future law of this or any other state  
16 or of the federal government which is substantially equivalent to one of the  
17 aforementioned offenses.

18 (2)(A) Any person who is required to have a criminal check under  
19 subdivision (b)(1) or (c)(1) of this section who pleads guilty or nolo  
20 contendere to, or is found guilty of, any of the offenses listed in  
21 subdivision (e)(1) of this section shall be absolutely disqualified to be an  
22 owner, operator, volunteer, foster parent, adoptive parent, member of an  
23 agency's board of directors, or employee in a child welfare agency during the  
24 period of his or her confinement, probation, or parole supervision.

25 (B) ~~Any~~ Except as provided in subdivision (h)(1) of this  
26 section, any person who is required to have a criminal check under  
27 subdivision (b)(1) or (c)(1) of this section who pleads guilty or nolo  
28 contendere to, or is found guilty of, any of the offenses listed in  
29 subdivision (e)(1) of this section shall be presumed to be disqualified to be  
30 an owner, operator, volunteer, foster parent, adoptive parent, member of an  
31 agency's board of directors, or employee in a child welfare agency after the  
32 completion of his or her term of confinement, probation, or parole  
33 supervision. This presumption can be rebutted in the following manner:

34 (i) The applicant must petition the board to make a  
35 determination that the applicant does not pose a risk of harm to any person  
36 served by the facility and is therefore qualified to serve in a child welfare

1 agency. The applicant shall bear the burden of making such a showing; and

2 (ii) The board in its discretion may permit an  
3 applicant to serve in a child welfare agency notwithstanding having been  
4 convicted of an offense listed in this section upon making a determination  
5 that the applicant does not pose a risk of harm to any person served by the  
6 facility. In making this determination, the board shall consider the  
7 following factors:

8 (a) The nature and severity of the crime;

9 (b) The consequences of the crime;

10 (c) The number and frequency of crimes;

11 (d) The relation between the crime and the  
12 health, safety, and welfare of persons served by a child welfare agency, such  
13 as:

14 (1) The age and vulnerability of victims  
15 of the crime;

16 (2) The harm suffered by the victim; and

17 (3) The similarity between the victim  
18 and persons served by a child welfare agency;

19 (e) The time elapsed without a repeat of the  
20 same or similar event;

21 (f) Documentation of successful completion of  
22 training or rehabilitation pertinent to the incident; and

23 (g) Any other information that bears on the  
24 applicant's ability to care for children or any other relevant information.

25 (C) The board's decision to disqualify a person serving in  
26 a child welfare agency pursuant to this section shall constitute the final  
27 administrative agency action and shall not be subject to review.

28 (f)(1) No foster child in the custody of the Department of Human  
29 Services shall be placed in the home of any foster or adoptive parent if the  
30 criminal records check reveals a felony conviction for:

31 (A) Child abuse or neglect;

32 (B) Spousal abuse;

33 (C) A crime against children, including child pornography;  
34 or

35 (D) A crime involving violence, including rape, sexual  
36 assault, or homicide, but not including other physical assault or battery.



1           (2) No foster child in the custody of another state agency who  
2 is placed in Arkansas shall be placed in any home if the criminal records  
3 check reveals a felony conviction of an adult in the home for:

4                   (A) Child abuse or neglect;

5                   (B) Spousal abuse;

6                   (C) A crime against children, including child pornography;

7 or

8                   (D) A crime involving violence, including rape, sexual  
9 assault, or homicide, but not including other physical assault or battery.

10           (g)(1) No foster child in the custody of the Department of Human  
11 Services shall be placed in the home of any foster or adoptive parent if the  
12 criminal record check reveals a felony conviction for physical assault,  
13 battery, or a drug-related offense if the offense was committed within the  
14 past five (5) years.

15           (2) No foster child in the custody of another state agency who  
16 is placed in Arkansas shall be placed in any home if the criminal record  
17 check reveals a felony conviction of any adult in the home for physical  
18 assault, battery, or a drug-related offense if the offense was committed  
19 within the past five (5) years.

20           (h)(1) For purposes of this section, an expunged record of a  
21 conviction or plea of guilty or nolo contendere to an offense listed in  
22 subdivision (e)(1) of this section shall not be considered a conviction,  
23 guilty plea, or nolo contendere plea to the offense unless the offense is  
24 also listed in subdivision (h)(2) of this section.

25           (2) Because of the serious nature of the offenses and the close  
26 relationship to the type of work that is to be performed, the following shall  
27 result in permanent disqualification of employment:

28                   (A) Capital murder, as prohibited in § 5-10-101;

29                   (B) Murder in the first degree and murder in the second  
30 degree, as prohibited in §§ 5-10-102 and 5-10-103;

31                   (C) Kidnapping, as prohibited in § 5-11-102;

32                   (D) Rape, as prohibited in § 5-14-103;

33                   (E) Sexual assault in the first degree and second degree,  
34 as prohibited in §§ 5-14-124 and 5-14-125;

35                   (F) Endangering the welfare of a minor in the first degree  
36 and endangering the welfare of a minor in the second degree, as prohibited in

1 §§ 5-27-203 and 5-27-204;

2 (G) Incest, as prohibited in § 5-26-202;

3 (H) Arson, as prohibited in § 5-38-301;

4 (I) Endangering the welfare of incompetent person in the  
5 first degree, as prohibited in § 5-27-201; and

6 (J) Adult abuse that constitutes a felony, as prohibited  
7 in § 5-28-103.

8  
9 SECTION 2. Arkansas Code § 17-27-313 is amended to read as follows:  
10 17-27-313. Criminal background checks.

11 (a) On and after October 1, 1997, each first-time applicant for a  
12 license issued by the Arkansas Board of Examiners in Counseling shall be  
13 required to apply to the Identification Bureau of the Department of Arkansas  
14 State Police for a state and national criminal background check, to be  
15 conducted by the Federal Bureau of Investigation.

16 (b) The check shall conform to the applicable federal standards and  
17 shall include the taking of fingerprints.

18 (c) The applicant shall sign a release of information to the board and  
19 shall be responsible to the Department of Arkansas State Police for the  
20 payment of any fee associated with the criminal background check.

21 (d) Upon completion of the criminal background check, the  
22 Identification Bureau of the Department of Arkansas State Police shall  
23 forward all information obtained concerning the applicant in the commission  
24 of any offense listed in subsection (f) of this section to the board.

25 (e) At the conclusion of any background check required by this  
26 section, the Identification Bureau of the Department of Arkansas State Police  
27 shall promptly destroy the fingerprint card of the applicant.

28 (f) ~~No~~ Except as provided in subdivision (m)(1) of this section, no  
29 person shall be eligible to receive or hold a license issued by the board if  
30 that person has pleaded guilty or nolo contendere to, or been found guilty  
31 of, any of the following offenses by any court in the State of Arkansas or of  
32 any similar offense by a court in another state or of any similar offense by  
33 a federal court:

34 (1) Capital murder, as prohibited in § 5-10-101;

35 (2) Murder in the first degree and second degree, as prohibited  
36 in §§ 5-10-102 and 5-10-103;

- 1 (3) *Manslaughter, as prohibited in § 5-10-104;*
- 2 (4) *Negligent homicide, as prohibited in § 5-10-105;*
- 3 (5) *Kidnapping, as prohibited in § 5-11-102;*
- 4 (6) *False imprisonment in the first degree, as prohibited in §*  
5 *5-11-103;*
- 6 (7) *Permanent detention or restraint, as prohibited in § 5-11-*  
7 *106;*
- 8 (8) *Robbery, as prohibited in § 5-12-102;*
- 9 (9) *Aggravated robbery, as prohibited in § 5-12-103;*
- 10 (10) *Battery in the first degree, as prohibited in § 5-13-201;*
- 11 (11) *Aggravated assault, as prohibited in § 5-13-204;*
- 12 (12) *Introduction of controlled substance into body of another*  
13 *person, as prohibited in § 5-13-210;*
- 14 (13) *Terroristic threatening in the first degree, as prohibited*  
15 *in § 5-13-301;*
- 16 (14) *Rape, as prohibited in § 5-14-103;*
- 17 (15) *Sexual indecency with a child, as prohibited in § 5-14-110;*
- 18 (16) *Sexual assault in the first degree, second degree, third*  
19 *degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;*
- 20 (17) *Incest, as prohibited in § 5-26-202;*
- 21 (18) *Offenses against the family, as prohibited in §§ 5-26-303 -*  
22 *5-26-306;*
- 23 (19) *Endangering the welfare of an incompetent person in the*  
24 *first degree, as prohibited in § 5-27-201;*
- 25 (20) *Endangering the welfare of a minor in the first degree, as*  
26 *prohibited in § 5-27-203;*
- 27 (21) *Permitting abuse of a child, as prohibited in § 5-27-*  
28 *221(a)(1) and (3);*
- 29 (22) *Engaging children in sexually explicit conduct for use in*  
30 *visual or print media, transportation of minors for prohibited sexual*  
31 *conduct, pandering or possessing visual or print medium depicting sexually*  
32 *explicit conduct involving a child, or use of a child or consent to use of a*  
33 *child in a sexual performance by producing, directing, or promoting a sexual*  
34 *performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402,*  
35 *and 5-27-403;*
- 36 (23) *Felony adult abuse, as prohibited in § 5-28-103;*

- 1           (24) Theft of property, as prohibited in § 5-36-103;
- 2           (25) Theft by receiving, as prohibited in § 5-36-106;
- 3           (26) Arson, as prohibited in § 5-38-301;
- 4           (27) Burglary, as prohibited in § 5-39-201;
- 5           (28) Felony violation of the Uniform Controlled Substances Act,
- 6 §§ 5-64-101 - 5-64-608, as prohibited in § 5-64-401;
- 7           (29) Promotion of prostitution in the first degree, as
- 8 prohibited in § 5-70-104;
- 9           (30) Stalking, as prohibited in § 5-71-229;
- 10          (31) Criminal attempt, criminal complicity, criminal
- 11 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
- 12 5-3-301, and 5-3-401, to commit any of the offenses listed in this
- 13 subsection;
- 14          (32) Computer child pornography, as prohibited in § 5-27-603;
- 15 and
- 16          (33) Computer exploitation of a child in the first degree, as
- 17 prohibited in § 5-27-605.
- 18          (g)(1) The board may issue a six-month nonrenewable letter of
- 19 provisional eligibility for licensure to a first-time applicant pending the
- 20 results of the criminal background check.
- 21          (2) ~~Upon~~ Except as provided in subdivision (m)(1) of this
- 22 section, upon receipt of information from the Identification Bureau of the
- 23 Department of Arkansas State Police that the person holding such a letter of
- 24 provisional licensure has pleaded guilty or nolo contendere to, or been found
- 25 guilty of, any offense listed in subsection (f) of this section, the board
- 26 shall immediately revoke the provisional license.
- 27          (h)(1) The provisions of subsection (f) and subdivision (g)(2) of this
- 28 section may be waived by the board upon the request of:
- 29                 (A) An affected applicant for licensure; or
- 30                 (B) The person holding a license subject to revocation.
- 31          (2) Circumstances for which a waiver may be granted shall
- 32 include, but not be limited to, the following:
- 33                 (A) The age at which the crime was committed;
- 34                 (B) The circumstances surrounding the crime;
- 35                 (C) The length of time since the crime;
- 36                 (D) Subsequent work history;

1 (E) Employment references;

2 (F) Character references; and

3 (G) Other evidence demonstrating that the applicant does  
4 not pose a threat to the health or safety of children.

5 (i)(1) Any information received by the board from the Identification  
6 Bureau of the Department of Arkansas State Police pursuant to this section  
7 shall not be available for examination except by the affected applicant for  
8 licensure, or his or her authorized representative, or the person whose  
9 license is subject to revocation, or his or her authorized representative.

10 (2) No record, file, or document shall be removed from the  
11 custody of the Department of Arkansas State Police.

12 (j) Any information made available to the affected applicant for  
13 licensure or the person whose license is subject to revocation shall be  
14 information pertaining to that person only.

15 (k) Rights of privilege and confidentiality established herein shall  
16 not extend to any document created for purposes other than this background  
17 check.

18 (l) The board shall adopt the necessary rules and regulations to fully  
19 implement the provisions of this section.

20 (m)(1) For purposes of this section, an expunged record of a  
21 conviction or plea of guilty or nolo contendere to an offense listed in  
22 subsection (f) of this section shall not be considered a conviction, guilty  
23 plea, or nolo contendere plea to the offense unless the offense is also  
24 listed in subdivision (m)(2) of this section.

25 (2) Because of the serious nature of the offenses and the close  
26 relationship to the type of work that is to be performed, the following shall  
27 result in permanent disqualification of employment:

28 (A) Capital murder, as prohibited in § 5-10-101;

29 (B) Murder in the first degree and murder in the second  
30 degree, as prohibited in §§ 5-10-102 and 5-10-103;

31 (C) Kidnapping, as prohibited in § 5-11-102;

32 (D) Rape, as prohibited in § 5-14-103;

33 (E) Sexual assault in the first degree and second degree,  
34 as prohibited in §§ 5-14-124 and 5-14-125;

35 (F) Endangering the welfare of a minor in the first degree  
36 and endangering the welfare of a minor in the second degree, as prohibited in

1 §§ 5-27-203 and 5-27-204;

2 (G) Incest, as prohibited in § 5-26-202;

3 (H) Arson, as prohibited in § 5-38-301;

4 (I) Endangering the welfare of incompetent person in the  
5 first degree, as prohibited in § 5-27-201; and

6 (J) Adult abuse that constitutes a felony, as prohibited  
7 in § 5-28-103.

8  
9 SECTION 3. Arkansas Code § 17-87-312 is amended to read as follows:  
10 17-87-312. Criminal background checks.

11 (a) Each first-time applicant for a license issued by the Arkansas  
12 State Board of Nursing shall apply to the Identification Bureau of the  
13 Department of Arkansas State Police for a state and national criminal  
14 background check, to be conducted by the Federal Bureau of Investigation.

15 (b) The check shall conform to the applicable federal standards and  
16 shall include the taking of fingerprints.

17 (c) The applicant shall sign a release of information to the board and  
18 shall be responsible to the Department of Arkansas State Police for the  
19 payment of any fee associated with the criminal background check.

20 (d) Upon completion of the criminal background check, the  
21 Identification Bureau of the Department of Arkansas State Police shall  
22 forward all information obtained concerning the applicant in the commission  
23 of any offense listed in subsection (f) of this section to the board.

24 (e) [Repealed].

25 (f) ~~No~~ Except as provided in subdivision (m)(1) of this section, no  
26 person shall be eligible to receive or hold a license issued by the board if  
27 that person has pleaded guilty or nolo contendere to, or has been found  
28 guilty of, any of the following offenses by any court in the State of  
29 Arkansas or of any similar offense by a court in another state or of any  
30 similar offense by a federal court:

31 (1) Capital murder, as prohibited in § 5-10-101;

32 (2) Murder in the first degree and second degree, as prohibited  
33 in §§ 5-10-102 and 5-10-103;

34 (3) Manslaughter, as prohibited in § 5-10-104;

35 (4) Negligent homicide, as prohibited in § 5-10-105;

36 (5) Kidnapping, as prohibited in § 5-11-102;

- 1                   (6) *False imprisonment in the first degree, as prohibited in §*  
2 *5-11-103;*
- 3                   (7) *Permanent detention or restraint, as prohibited in § 5-11-*  
4 *106;*
- 5                   (8) *Robbery, as prohibited in § 5-12-102;*
- 6                   (9) *Aggravated robbery, as prohibited in § 5-12-103;*
- 7                   (10) *Battery in the first degree, as prohibited in § 5-13-201;*
- 8                   (11) *Aggravated assault, as prohibited in § 5-13-204;*
- 9                   (12) *Introduction of a controlled substance into the body of*  
10 *another person, as prohibited in § 5-13-210;*
- 11                  (13) *Terroristic threatening in the first degree, as prohibited*  
12 *in § 5-13-301;*
- 13                  (14) *Rape, as prohibited in § 5-14-103;*
- 14                  (15) *Sexual indecency with a child, as prohibited in § 5-14-110;*
- 15                  (16) *Sexual assault in the first degree, second degree, third*  
16 *degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;*
- 17                  (17) *Incest, as prohibited in § 5-26-202;*
- 18                  (18) *Offenses against the family, as prohibited in §§ 5-26-303 -*  
19 *5-26-306;*
- 20                  (19) *Endangering the welfare of an incompetent person in the*  
21 *first degree, as prohibited in § 5-27-201;*
- 22                  (20) *Endangering the welfare of a minor in the first degree, as*  
23 *prohibited in § 5-27-203;*
- 24                  (21) *Permitting abuse of a child, as prohibited in § 5-27-*  
25 *221(a)(1) and (3);*
- 26                  (22) *Engaging children in sexually explicit conduct for use in*  
27 *visual or print media, transportation of minors for prohibited sexual*  
28 *conduct, pandering or possessing visual or print medium depicting sexually*  
29 *explicit conduct involving a child, or use of a child or consent to use of a*  
30 *child in a sexual performance by producing, directing, or promoting a sexual*  
31 *performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402,*  
32 *and 5-27-403;*
- 33                  (23) *Felony adult abuse, as prohibited in § 5-28-103;*
- 34                  (24) *Theft of property, as prohibited in § 5-36-103;*
- 35                  (25) *Theft by receiving, as prohibited in § 5-36-106;*
- 36                  (26) *Arson, as prohibited in § 5-38-301;*

- 1           (27) Burglary, as prohibited in § 5-39-201;
- 2           (28) Felony violation of the Uniform Controlled Substances Act,  
3 §§ 5-64-101 - 5-64-608, as prohibited in § 5-64-401;
- 4           (29) Promotion of prostitution in the first degree, as  
5 prohibited in § 5-70-104;
- 6           (30) Stalking, as prohibited in § 5-71-229;
- 7           (31) Criminal attempt, criminal complicity, criminal  
8 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,  
9 5-3-301, and 5-3-401, to commit any of the offenses listed in this  
10 subsection;
- 11          (32) Computer child pornography, as prohibited in § 5-27-603;  
12 and
- 13          (33) Computer exploitation of a child in the first degree, as  
14 prohibited in § 5-27-605.
- 15          (g)(1) The board may issue a nonrenewable temporary permit for  
16 licensure to a first-time applicant pending the results of the criminal  
17 background check. The permit shall be valid for no more than six (6) months.
- 18          (2) ~~Upon~~ Except as provided in subdivision (m)(1) of this  
19 section, upon receipt of information from the Identification Bureau of the  
20 Department of Arkansas State Police that the person holding the letter of  
21 provisional licensure has pleaded guilty or nolo contendere to, or has been  
22 found guilty of, any offense listed in subsection (f) of this section, the  
23 board shall immediately revoke the provisional license.
- 24          (h)(1) The provisions of subsection (f) and subdivision (g)(2) of this  
25 section may be waived by the board upon the request of:
- 26               (A) An affected applicant for licensure; or  
27               (B) The person holding a license subject to revocation.
- 28          (2) Circumstances for which a waiver may be granted shall  
29 include, but not be limited to, the following:
- 30               (A) The age at which the crime was committed;  
31               (B) The circumstances surrounding the crime;  
32               (C) The length of time since the crime;  
33               (D) Subsequent work history;  
34               (E) Employment references;  
35               (F) Character references; and  
36               (G) Other evidence demonstrating that the applicant does



1 not pose a threat to the health or safety of the public.

2 (i)(1) Any information received by the board from the Identification  
3 Bureau of the Department of Arkansas State Police pursuant to this section  
4 shall not be available for examination except by:

5 (A) The affected applicant for licensure or his or her  
6 authorized representative; or

7 (B) The person whose license is subject to revocation or  
8 his or her authorized representative.

9 (2) No record, file, or document shall be removed from the  
10 custody of the Department of Arkansas State Police.

11 (j) Any information made available to the affected applicant for  
12 licensure or the person whose license is subject to revocation shall be  
13 information pertaining to that person only.

14 (k) Rights of privilege and confidentiality established in this  
15 section shall not extend to any document created for purposes other than this  
16 background check.

17 (l) The board shall adopt the necessary rules and regulations to fully  
18 implement the provisions of this section.

19 (m)(1) For purposes of this section, an expunged record of a  
20 conviction or plea of guilty or nolo contendere to an offense listed in  
21 subsection (f) of this section shall not be considered a conviction, guilty  
22 plea, or nolo contendere plea to the offense unless the offense is also  
23 listed in subdivision (m)(2) of this section.

24 (2) Because of the serious nature of the offenses and the close  
25 relationship to the type of work that is to be performed, the following shall  
26 result in permanent disqualification of employment:

27 (A) Capital murder, as prohibited in § 5-10-101;

28 (B) Murder in the first degree and murder in the second  
29 degree, as prohibited in §§ 5-10-102 and 5-10-103;

30 (C) Kidnapping, as prohibited in § 5-11-102;

31 (D) Rape, as prohibited in § 5-14-103;

32 (E) Sexual assault in the first degree and second degree,  
33 as prohibited in §§ 5-14-124 and 5-14-125;

34 (F) Endangering the welfare of a minor in the first degree  
35 and endangering the welfare of a minor in the second degree, as prohibited in  
36 §§ 5-27-203 and 5-27-204;

- 1                    (G) Incest, as prohibited in § 5-26-202;  
 2                    (H) Arson, as prohibited in § 5-38-301;  
 3                    (I) Endangering the welfare of incompetent person in the  
 4 first degree, as prohibited in § 5-27-201; and  
 5                    (J) Adult abuse that constitutes a felony, as prohibited  
 6 in § 5-28-103.

7  
 8            SECTION 4. Arkansas Code § 17-97-312 is amended to read as follows:  
 9            17-97-312. Criminal background checks.

10            (a) Each first-time applicant for a license issued by the Arkansas  
 11 Psychology Board shall be required to apply to the Identification Bureau of  
 12 the Department of Arkansas State Police for a state and national criminal  
 13 background check to be conducted by the Federal Bureau of Investigation.

14            (b) The check shall conform to the applicable federal standards and  
 15 shall include the taking of fingerprints.

16            (c) The applicant shall sign a release of information to the board and  
 17 shall be responsible to the Department of Arkansas State Police for the  
 18 payment of any fee associated with the criminal background check.

19            (d) Upon completion of the criminal background check, the  
 20 Identification Bureau of the Department of Arkansas State Police shall  
 21 forward to the board all information obtained concerning the applicant in the  
 22 commission of any offense listed in subsection (f) of this section.

23            (e) At the conclusion of any background check required by this  
 24 section, the Identification Bureau of the Department of Arkansas State Police  
 25 shall promptly destroy the fingerprint card of the applicant.

26            (f) ~~No~~ Except as provided in subdivision (m)(1) of this section, no  
 27 person shall be eligible to receive or hold a license issued by the board if  
 28 that person has pleaded guilty or nolo contendere to, or been found guilty  
 29 of, any of the following offenses by any court in the State of Arkansas or of  
 30 any similar offense by a court in another state or of any similar offense by  
 31 a federal court:

32                    (1) Capital murder, as prohibited in § 5-10-101;

33                    (2) Murder in the first degree and second degree, as prohibited  
 34 in §§ 5-10-102 and 5-10-103;

35                    (3) Manslaughter, as prohibited in § 5-10-104;

36                    (4) Negligent homicide, as prohibited in § 5-10-105;

- 1 (5) Kidnapping, as prohibited in § 5-11-102;
- 2 (6) False imprisonment in the first degree, as prohibited in §  
3 5-11-103;
- 4 (7) Permanent detention or restraint, as prohibited in § 5-11-  
5 106;
- 6 (8) Robbery, as prohibited in § 5-12-102;
- 7 (9) Aggravated robbery, as prohibited in § 5-12-103;
- 8 (10) Battery in the first degree, as prohibited in § 5-13-201;
- 9 (11) Aggravated assault, as prohibited in § 5-13-204;
- 10 (12) Introduction of controlled substance into body of another  
11 person, as prohibited in § 5-13-210;
- 12 (13) Terroristic threatening in the first degree, as prohibited  
13 in § 5-13-301;
- 14 (14) Rape, as prohibited in § 5-14-103;
- 15 (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- 16 (16) Sexual assault in the first degree, second degree, third  
17 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;
- 18 (17) Incest, as prohibited in § 5-26-202;
- 19 (18) Offenses against the family, as prohibited in §§ 5-26-303 -  
20 5-26-306;
- 21 (19) Endangering the welfare of an incompetent person in the  
22 first degree, as prohibited in § 5-27-201;
- 23 (20) Endangering the welfare of a minor in the first degree, as  
24 prohibited in § 5-27-203;
- 25 (21) Permitting abuse of a child, as prohibited in § 5-27-  
26 221(a)(1) and (3);
- 27 (22) Engaging children in sexually explicit conduct for use in  
28 visual or print media, transportation of minors for prohibited sexual  
29 conduct, pandering or possessing visual or print medium depicting sexually  
30 explicit conduct involving a child, or use of a child or consent to use of a  
31 child in a sexual performance by producing, directing, or promoting a sexual  
32 performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402,  
33 and 5-27-403;
- 34 (23) Felony adult abuse, as prohibited in § 5-28-103;
- 35 (24) Theft of property, as prohibited in § 5-36-103;
- 36 (25) Theft by receiving, as prohibited in § 5-36-106;

- 1           (26) Arson, as prohibited in § 5-38-301;
- 2           (27) Burglary, as prohibited in § 5-39-201;
- 3           (28) Felony violation of the Uniform Controlled Substances Act,  
4 §§ 5-64-101 - 5-64-608, as prohibited in § 5-64-401;
- 5           (29) Promotion of prostitution in the first degree, as  
6 prohibited in § 5-70-104;
- 7           (30) Stalking, as prohibited in § 5-71-229;
- 8           (31) Criminal attempt, criminal complicity, criminal  
9 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,  
10 5-3-301, and 5-3-401, to commit any of the offenses listed in this  
11 subsection;
- 12           (32) Computer child pornography, as prohibited in § 5-27-603;  
13 and
- 14           (33) Computer exploitation of a child in the first degree, as  
15 prohibited in § 5-27-605.

16           (g)(1) The board may issue a six-month nonrenewable letter of  
17 provisional eligibility for licensure to a first-time applicant pending the  
18 results of the criminal background check.

19           (2) ~~Upon~~ Except as provided in subdivision (m)(1) of this  
20 section, upon receipt of information from the Identification Bureau of the  
21 Department of Arkansas State Police that the person holding a letter of  
22 provisional licensure has pleaded guilty or nolo contendere to, or been found  
23 guilty of, any offense listed in subsection (f) of this section, the board  
24 shall immediately revoke the provisional license.

25           (h)(1) The provisions of subsection (f) and subdivision (g)(2) of this  
26 section may be waived by the board upon the request of:

- 27                   (A) An affected applicant for licensure; or  
28                   (B) The person holding a license subject to revocation.

29           (2) Circumstances for which a waiver may be granted shall  
30 include, but not be limited to, the following:

- 31                   (A) The age at which the crime was committed;  
32                   (B) The circumstances surrounding the crime;  
33                   (C) The length of time since the crime;  
34                   (D) Subsequent work history;  
35                   (E) Employment references;  
36                   (F) Character references; and

1 (G) Other evidence demonstrating that the applicant does  
2 not pose a threat to the health or safety of children.

3 (i)(1) Any information received by the board from the Identification  
4 Bureau of the Department of Arkansas State Police pursuant to this section  
5 shall not be available for examination except by the affected applicant for  
6 licensure or his or her authorized representative or the person whose license  
7 is subject to revocation, or his or her authorized representative.

8 (2) No record, file, or document shall be removed from the  
9 custody of the department.

10 (j) Any information made available to the affected applicant for  
11 licensure or the person whose license is subject to revocation shall be  
12 information pertaining to that person only.

13 (k) Rights of privilege and confidentiality established herein shall  
14 not extend to any document created for purposes other than this background  
15 check.

16 (l) The board shall adopt the necessary rules and regulations to fully  
17 implement the provisions of this section.

18 (m)(1) For purposes of this section, an expunged record of a  
19 conviction or plea of guilty or nolo contendere to an offense listed in  
20 subsection (f) of this section shall not be considered a conviction, guilty  
21 plea, or nolo contendere plea to the offense unless the offense is also  
22 listed in subdivision (m)(2) of this section.

23 (2) Because of the serious nature of the offenses and the close  
24 relationship to the type of work that is to be performed, the following shall  
25 result in permanent disqualification of employment:

26 (A) Capital murder, as prohibited in § 5-10-101;

27 (B) Murder in the first degree and murder in the second  
28 degree, as prohibited in §§ 5-10-102 and 5-10-103;

29 (C) Kidnapping, as prohibited in § 5-11-102;

30 (D) Rape, as prohibited in § 5-14-103;

31 (E) Sexual assault in the first degree and second degree,  
32 as prohibited in §§ 5-14-124 and 5-14-125;

33 (F) Endangering the welfare of a minor in the first degree  
34 and endangering the welfare of a minor in the second degree, as prohibited in  
35 §§ 5-27-203 and 5-27-204;

36 (G) Incest, as prohibited in § 5-26-202;

- 1                   (H) Arson, as prohibited in § 5-38-301;  
 2                   (I) Endangering the welfare of incompetent person in the  
 3 first degree, as prohibited in § 5-27-201; and  
 4                   (J) Adult abuse that constitutes a felony, as prohibited  
 5 in § 5-28-103.

6  
 7           SECTION 5. Arkansas Code § 17-103-307 is amended to read as follows:  
 8           17-103-307. Criminal background checks.

9           (a) Each first-time applicant for a license issued by the Arkansas  
 10 Social Work Licensing Board shall be required to apply to the Identification  
 11 Bureau of the Department of Arkansas State Police for a state and national  
 12 criminal background check, to be conducted by the Federal Bureau of  
 13 Investigation.

14           (b) The check shall conform to the applicable federal standards and  
 15 shall include the taking of fingerprints.

16           (c) The applicant shall sign a release of information to the board and  
 17 shall be responsible to the Department of Arkansas State Police for the  
 18 payment of any fee associated with the criminal background check.

19           (d) Upon completion of the criminal background check, the  
 20 Identification Bureau of the Department of Arkansas State Police shall  
 21 forward all information obtained concerning the applicant in the commission  
 22 of any offense listed in subsection (f) of this section to the board.

23           (e) At the conclusion of any background check required by this  
 24 section, the Identification Bureau of the Department of Arkansas State Police  
 25 shall promptly destroy the fingerprint card of the applicant.

26           (f) ~~No~~ Except as provided in subdivision (m)(1) of this section, no  
 27 person shall be eligible to receive or hold a license issued by the board if  
 28 that person has pleaded guilty or nolo contendere to, or been found guilty  
 29 of, any of the following offenses by any court in the State of Arkansas or of  
 30 any similar offense by a court in another state or of any similar offense by  
 31 a federal court:

32                   (1) Capital murder, as prohibited in § 5-10-101;

33                   (2) Murder in the first degree and second degree, as prohibited  
 34 in §§ 5-10-102 and 5-10-103;

35                   (3) Manslaughter, as prohibited in § 5-10-104;

36                   (4) Negligent homicide, as prohibited in § 5-10-105;

- 1           (5) *Kidnapping, as prohibited in § 5-11-102;*
- 2           (6) *False imprisonment in the first degree, as prohibited in §*  
3 *5-11-103;*
- 4           (7) *Permanent detention or restraint, as prohibited in § 5-11-*  
5 *106;*
- 6           (8) *Robbery, as prohibited in § 5-12-102;*
- 7           (9) *Aggravated robbery, as prohibited in § 5-12-103;*
- 8           (10) *Battery in the first degree, as prohibited in § 5-13-201;*
- 9           (11) *Aggravated assault, as prohibited in § 5-13-204;*
- 10          (12) *Introduction of controlled substance into body of another*  
11 *person, as prohibited in § 5-13-210;*
- 12          (13) *Terroristic threatening in the first degree, as prohibited*  
13 *in § 5-13-301;*
- 14          (14) *Rape, as prohibited in § 5-14-103;*
- 15          (15) *Sexual indecency with a child, as prohibited in § 5-14-110;*
- 16          (16) *Sexual assault in the first degree, second degree, third*  
17 *degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;*
- 18          (17) *Incest, as prohibited in § 5-26-202;*
- 19          (18) *Offenses against the family, as prohibited in §§ 5-26-303 -*  
20 *5-26-306;*
- 21          (19) *Endangering the welfare of an incompetent person in the*  
22 *first degree, as prohibited in § 5-27-201;*
- 23          (20) *Endangering the welfare of a minor in the first degree, as*  
24 *prohibited in § 5-27-203;*
- 25          (21) *Permitting abuse of a child, as prohibited in § 5-27-*  
26 *221(a)(1) and (3);*
- 27          (22) *Engaging children in sexually explicit conduct for use in*  
28 *visual or print media, transportation of minors for prohibited sexual*  
29 *conduct, pandering or possessing visual or print medium depicting sexually*  
30 *explicit conduct involving a child, or use of a child or consent to use of a*  
31 *child in a sexual performance by producing, directing, or promoting a sexual*  
32 *performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402,*  
33 *and 5-27-403;*
- 34          (23) *Felony adult abuse, as prohibited in § 5-28-103;*
- 35          (24) *Theft of property, as prohibited in § 5-36-103;*
- 36          (25) *Theft by receiving, as prohibited in § 5-36-106;*

- 1           (26) Arson, as prohibited in § 5-38-301;
- 2           (27) Burglary, as prohibited in § 5-39-201;
- 3           (28) Felony violation of the Uniform Controlled Substances Act,
- 4 §§ 5-64-101 - 5-64-608, as prohibited in § 5-64-401;
- 5           (29) Promotion of prostitution in the first degree, as
- 6 prohibited in § 5-70-104;
- 7           (30) Stalking, as prohibited in § 5-71-229;
- 8           (31) Criminal attempt, criminal complicity, criminal
- 9 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
- 10 5-3-301, and 5-3-401, to commit any of the offenses listed in this
- 11 subsection;
- 12           (32) Computer child pornography, as prohibited in § 5-27-603;
- 13 and
- 14           (33) Computer exploitation of a child in the first degree, as
- 15 prohibited in § 5-27-605.

16           (g)(1) The board may issue a six-month nonrenewable letter of  
17 provisional eligibility for licensure to a first-time applicant pending the  
18 results of the criminal background check.

19           (2) ~~Upon~~ Except as provided in subdivision (m)(1) of this  
20 section, upon receipt of information from the Identification Bureau of the  
21 Department of Arkansas State Police that the person holding such a letter of  
22 provisional licensure has pleaded guilty or nolo contendere to, or been found  
23 guilty of, any offense listed in subsection (f) of this section, the board  
24 shall immediately revoke the provisional license.

25           (h)(1) The provisions of subsection (f) and subdivision (g)(2) of this  
26 section may be waived by the board upon the request of:

- 27                   (A) An affected applicant for licensure; or
- 28                   (B) The person holding a license subject to revocation.

29           (2) Circumstances for which a waiver may be granted shall  
30 include, but not be limited to, the following:

- 31                   (A) The age at which the crime was committed;
- 32                   (B) The circumstances surrounding the crime;
- 33                   (C) The length of time since the crime;
- 34                   (D) Subsequent work history;
- 35                   (E) Employment references;
- 36                   (F) Character references; and



1 (G) Other evidence demonstrating that the applicant does  
2 not pose a threat to the health or safety of children.

3 (i) Any information received by the board from the Identification  
4 Bureau of the Department of Arkansas State Police pursuant to this section  
5 shall not be available for examination except by the affected applicant for  
6 licensure, his or her authorized representative, or the person whose license  
7 is subject to revocation or his or her authorized representative. No record,  
8 file, or document shall be removed from the custody of the Department of  
9 Arkansas State Police.

10 (j) Any information made available to the affected applicant for  
11 licensure or the person whose license is subject to revocation shall be  
12 information pertaining to that person only.

13 (k) Rights of privilege and confidentiality established in this  
14 section shall not extend to any document created for purposes other than this  
15 background check.

16 (l) The board shall adopt the necessary rules and regulations to fully  
17 implement the provisions of this section.

18 (m)(1) For purposes of this section, an expunged record of a  
19 conviction or plea of guilty or nolo contendere to an offense listed in  
20 subsection (f) of this section shall not be considered a conviction, guilty  
21 plea, or nolo contendere plea to the offense unless the offense is also  
22 listed in subdivision (m)(2) of this section.

23 (2) Because of the serious nature of the offenses and the close  
24 relationship to the type of work that is to be performed, the following shall  
25 result in permanent disqualification of employment:

26 (A) Capital murder, as prohibited in § 5-10-101;

27 (B) Murder in the first degree and murder in the second  
28 degree, as prohibited in §§ 5-10-102 and 5-10-103;

29 (C) Kidnapping, as prohibited in § 5-11-102;

30 (D) Rape, as prohibited in § 5-14-103;

31 (E) Sexual assault in the first degree and second degree,  
32 as prohibited in §§ 5-14-124 and 5-14-125;

33 (F) Endangering the welfare of a minor in the first degree  
34 and endangering the welfare of a minor in the second degree, as prohibited in  
35 §§ 5-27-203 and 5-27-204;

36 (G) Incest, as prohibited in § 5-26-202;

- 1                   (H) Arson, as prohibited in § 5-38-301;  
2                   (I) Endangering the welfare of incompetent person in the  
3 first degree, as prohibited in § 5-27-201; and  
4                   (J) Adult abuse that constitutes a felony, as prohibited  
5 in § 5-28-103.

6  
7           SECTION 6. Arkansas Code § 20-13-1106 is amended to read as follows:  
8           20-13-1106. Disqualifying offenses - Waiver.

9           (a) ~~The~~ Except as provided in subdivision (e)(1) of this section, the  
10 Division of EMS and Trauma Systems shall issue a determination that a person  
11 is disqualified from certification or recertification if the person has been  
12 found guilty of or has pled guilty or nolo contendere to any of the offenses  
13 listed in subsection (b) of this section. However, the division will forward  
14 a request for a waiver to the Director of the Department of Health on all  
15 applicants who have been convicted of the crimes listed in subsection (b) of  
16 this section if five (5) years have passed since the conviction, if five (5)  
17 years have passed since release from custodial confinement, or if the  
18 applicants are currently certified emergency medical technicians, prior to  
19 making the final determination on certification or recertification. These  
20 individuals will not be suspended prior to the director's making the final  
21 determination.

- 22           (b)(1) Capital murder, as prohibited in § 5-10-101;  
23                 (2) Murder in the first degree and second degree, as prohibited  
24 in §§ 5-10-102 and 5-10-103;  
25                 (3) Manslaughter, as prohibited in § 5-10-104;  
26                 (4) Negligent homicide, as prohibited in § 5-10-105;  
27                 (5) Kidnapping, as prohibited in § 5-11-102;  
28                 (6) False imprisonment in the first degree, as prohibited in §  
29 5-11-103;  
30                 (7) Permanent detention or restraint, as prohibited in § 5-11-  
31 106;  
32                 (8) Robbery, as prohibited in § 5-12-102;  
33                 (9) Aggravated robbery, as prohibited in § 5-12-103;  
34                 (10) Battery in the first degree, as prohibited in § 5-13-201;  
35                 (11) Aggravated assault, as prohibited in § 5-13-204;  
36                 (12) Introduction of controlled substance into the body of

- 1 another person, as prohibited in § 5-13-210;
- 2 (13) Terroristic threatening in the first degree, as prohibited
- 3 in § 5-13-301;
- 4 (14) Rape, as prohibited in § 5-14-103;
- 5 (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- 6 (16) Sexual assault in the first degree, second degree, third
- 7 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;
- 8 (17) Incest, as prohibited in § 5-26-202;
- 9 (18) Offenses against the family, as prohibited in §§ 5-26-303 -
- 10 5-26-306;
- 11 (19) Endangering the welfare of an incompetent person in the
- 12 first degree, as prohibited in § 5-27-201;
- 13 (20) Endangering the welfare of a minor in the first degree, as
- 14 prohibited in § 5-27-203;
- 15 (21) Permitting child abuse, as prohibited in § 5-27-221(a)(1)
- 16 and (3);
- 17 (22) Engaging children in sexually explicit conduct for use in
- 18 visual or print media, transportation of minors for prohibited sexual
- 19 conduct, pandering or possessing visual or print medium depicting sexually
- 20 explicit conduct involving a child, or use of a child or consent to use of a
- 21 child in a sexual performance by producing, directing, or promoting a sexual
- 22 performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402,
- 23 and 5-27-403;
- 24 (23) Felony adult abuse, as prohibited in § 5-28-103;
- 25 (24) Theft of property, as prohibited in § 5-36-103;
- 26 (25) Theft by receiving, as prohibited in § 5-36-106;
- 27 (26) Arson, as prohibited in § 5-38-301;
- 28 (27) Burglary, as prohibited in § 5-39-201;
- 29 (28) Felony violation of the Uniform Controlled Substances Act,
- 30 § 5-64-101 et seq., as prohibited in § 5-64-401;
- 31 (29) Promotion of prostitution in the first degree, as
- 32 prohibited in § 5-70-104;
- 33 (30) Stalking, as prohibited in § 5-71-229;
- 34 (31) Criminal attempt, criminal complicity, criminal
- 35 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
- 36 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection

1 (b);

2 (32) Fourth or subsequent driving while intoxicated violations  
3 which constitute felony offenses under § 5-65-111(b)(3) and (4);

4 (33) Computer child pornography, as prohibited in § 5-27-603;  
5 and

6 (34) Computer exploitation of a child in the first degree, as  
7 prohibited in § 5-27-605.

8 (c) An applicant shall not be disqualified from certification or  
9 recertification when the applicant has been found guilty of or has pled  
10 guilty or nolo contendere to a misdemeanor if the offense did not involve  
11 exploitation of an adult, abuse of a person, neglect of a person, or sexual  
12 contact.

13 (d)(1) The provisions of this section may be waived by the Department  
14 of Health upon written request by the person who is the subject of the  
15 criminal history check.

16 (2) The written request for waiver must be mailed to the  
17 director within fifteen (15) calendar days after receipt of the determination  
18 by the division.

19 (3) Factors to be considered before granting a waiver shall  
20 include, but not be limited to:

21 (A) The age at which the crime was committed;

22 (B) The circumstances surrounding the crime;

23 (C) The length of time since the adjudication of guilt;

24 (D) The person's subsequent work history;

25 (E) The person's employment references;

26 (F) The person's character references; and

27 (G) Any other evidence demonstrating that the person does  
28 not pose a threat to the health or safety of persons to be cared for.

29 (e)(1) For purposes of this section, an expunged record of a  
30 conviction or plea of guilty or nolo contendere to an offense listed in  
31 subsection (b) of this section shall not be considered a conviction, guilty  
32 plea, or nolo contendere plea to the offense unless the offense is also  
33 listed in subdivision (e)(2) of this section.

34 (2) Because of the serious nature of the offenses and the close  
35 relationship to the type of work that is to be performed, the following shall  
36 result in permanent disqualification of employment:

- 1                   (A) Capital murder, as prohibited in § 5-10-101;  
 2                   (B) Murder in the first degree and murder in the second  
 3 degree, as prohibited in §§ 5-10-102 and 5-10-103;  
 4                   (C) Kidnapping, as prohibited in § 5-11-102;  
 5                   (D) Rape, as prohibited in § 5-14-103;  
 6                   (E) Sexual assault in the first degree and second degree,  
 7 as prohibited in §§ 5-14-124 and 5-14-125;  
 8                   (F) Endangering the welfare of a minor in the first degree  
 9 and endangering the welfare of a minor in the second degree, as prohibited in  
 10 §§ 5-27-203 and 5-27-204;  
 11                   (G) Incest, as prohibited in § 5-26-202;  
 12                   (H) Arson, as prohibited in § 5-38-301;  
 13                   (I) Endangering the welfare of incompetent person in the  
 14 first degree, as prohibited in § 5-27-201; and  
 15                   (J) Adult abuse that constitutes a felony, as prohibited  
 16 in § 5-28-103.

17  
 18           SECTION 7. Arkansas Code § 20-33-205 is amended to read as follows:

19           20-33-205. Provisional licenses - Disqualification from employment -  
 20 Resubmission of applications - Denial or revocation - Penalties.

21           (a) Except as provided in ~~subsection (e)~~ subsections (c), (d), or (f)  
 22 of this section:

23                   (1) A licensing agency shall issue a forty-five-day provisional  
 24 license to a qualified entity whose operator has been found guilty or has  
 25 pleaded guilty or nolo contendere to any of the offenses listed in subsection  
 26 (b) of this section;

27                   (2) A licensing agency shall issue a determination that a person  
 28 is disqualified from employment with a qualified entity if the person has  
 29 been found guilty or pleaded guilty or nolo contendere to any of the offenses  
 30 listed in subsection (b) of this section; and

31                   (3)(A) A qualified entity shall not knowingly employ a person  
 32 who has pleaded guilty or nolo contendere to or has been found guilty of any  
 33 of the offenses listed in subsection (b) of this section by any court in the  
 34 State of Arkansas or of any similar offense by a court in another state or of  
 35 any similar offense by a federal court.

36                   (B) Except as provided in ~~subsection (e)~~ subsections (c),

1 (d), or (f) of this section:

2 (i) A licensing agency shall issue a forty-five-day  
3 provisional license to a qualified entity whose operator has been found  
4 guilty of or pleaded guilty or nolo contendere to any of the offenses listed  
5 in subsection (b) of this section; and

6 (ii) A licensing agency shall issue a determination  
7 that a person is disqualified from employment with a qualified entity if the  
8 person has been found guilty of or pleaded guilty or nolo contendere to any  
9 of the offenses listed in subsection (b) of this section. A requesting agency  
10 shall issue a determination that a person or ElderChoices provider is  
11 disqualified from providing care to the elderly or to an individual with a  
12 disability, or both, if the person or provider has been found guilty of or  
13 pleaded guilty or nolo contendere to any of the offenses listed in subsection  
14 (b) of this section.

15 (b)(1) Capital murder, as prohibited in § 5-10-101;

16 (2) Murder in the first degree and second degree, as prohibited  
17 in §§ 5-10-102 and 5-10-103;

18 (3) Manslaughter, as prohibited in § 5-10-104;

19 (4) Negligent homicide, as prohibited in § 5-10-105;

20 (5) Kidnapping, as prohibited in § 5-11-102;

21 (6) False imprisonment in the first degree, as prohibited in §  
22 5-11-103;

23 (7) Permanent detention or restraint, as prohibited in § 5-11-  
24 106;

25 (8) Robbery, as prohibited in § 5-12-102;

26 (9) Aggravated robbery, as prohibited in § 5-12-103;

27 (10) Battery, as prohibited in §§ 5-13-201 - 5-13-203;

28 (11) Aggravated assault, as prohibited in § 5-13-204;

29 (12) Introduction of controlled substance into body of another  
30 person, as prohibited in § 5-13-210;

31 (13) Terroristic threatening in the first degree, as prohibited  
32 in § 5-13-301;

33 (14) Rape, as prohibited in § 5-14-103;

34 (15) Sexual indecency with a child, as prohibited in § 5-14-110;

35 (16) Sexual assault in the first degree, second degree, third  
36 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;

- 1           (17) *Incest, as prohibited in § 5-26-202;*  
2           (18) *Offenses against the family, as prohibited in §§ 5-26-303 -*  
3 *5-26-306;*  
4           (19) *Endangering the welfare of incompetent person in the first*  
5 *degree, as prohibited in § 5-27-201;*  
6           (20) *Endangering the welfare of a minor in the first degree, as*  
7 *prohibited in § 5-27-203;*  
8           (21) *Permitting child abuse, as prohibited in § 5-27-221(a)(1)*  
9 *and (3);*  
10          (22) *Engaging children in sexually explicit conduct for use in*  
11 *visual or print media, transportation of minors for prohibited sexual*  
12 *conduct, pandering or possessing visual or print medium depicting sexually*  
13 *explicit conduct involving a child, or use of a child or consent to use of a*  
14 *child in a sexual performance by producing, directing, or promoting a sexual*  
15 *performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402,*  
16 *and 5-27-403;*  
17          (23) *Felony adult abuse, as prohibited by § 5-28-103;*  
18          (24) *Theft of property, as prohibited in § 5-36-103;*  
19          (25) *Theft by receiving, as prohibited in § 5-36-106;*  
20          (26) *Arson, as prohibited in § 5-38-301;*  
21          (27) *Burglary, as prohibited in § 5-39-201;*  
22          (28) *Felony violation of the Uniform Controlled Substances Act,*  
23 *§ 5-64-101 et seq., as prohibited in § 5-64-401;*  
24          (29) *Promotion of prostitution in the first degree, as*  
25 *prohibited in § 5-70-104;*  
26          (30) *Stalking, as prohibited in § 5-71-229;*  
27          (31) *Criminal attempt, criminal complicity, criminal*  
28 *solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,*  
29 *5-3-301, and 5-3-401, to commit any of the offenses listed in this*  
30 *subsection;*  
31          (32) *Forgery, as prohibited in § 5-37-201;*  
32          (33) *Breaking or entering, as prohibited in § 5-39-202;*  
33          (34) *Obtaining a controlled substance by fraud, as prohibited in*  
34 *§ 5-64-403;*  
35          (35) *Computer child pornography, as prohibited in § 5-27-603;*  
36 *and*

1           (36) Computer exploitation of a child in the first degree, as  
2 prohibited in § 5-27-605.

3           (c) A qualified entity that is issued a provisional license based on  
4 the criminal history of the operator may resubmit the application for  
5 licensure with a new operator. If the qualified entity does not resubmit the  
6 application within fifteen (15) days of the issuance of the provisional  
7 license, then the qualified entity's license shall be immediately denied or  
8 revoked.

9           (d)(1) The provisions of this section shall not be waived by the  
10 licensing or requesting agency.

11           (2)(A) Except as provided in subdivision (d)(2)(B) of this  
12 section, a conviction ~~for an~~ or plea of guilty or nolo contendere for a  
13 felony offense listed in subsection (b) of this section shall not disqualify  
14 an applicant for employment if the date of conviction of the offense is at  
15 least ten (10) years from the date of the application and the individual has  
16 no criminal convictions of any type or nature during the ten-year period. ~~To~~  
17 ~~the extent that there is any conflict with § 17-1-103, this section shall be~~  
18 ~~deemed to supersede § 17-1-103.~~

19           (B) Because of the serious nature of the offenses and the  
20 close relationship to the type of work that is to be performed, the following  
21 shall result in permanent disqualification of employment:

22                   (i) Capital murder, as prohibited in § 5-10-101;

23                   (ii) Murder in the first degree and murder in the  
24 second degree, as prohibited in §§ 5-10-102 and 5-10-103;

25                   (iii) Kidnapping, as prohibited in § 5-11-102;

26                   (iv) Rape, as prohibited in § 5-14-103;

27                   (v) Sexual assault in the first degree and second  
28 degree, as prohibited in §§ 5-14-124 and 5-14-125;

29                   (vi) Endangering the welfare of incompetent person  
30 in the first degree, as prohibited in § 5-27-201;

31                   (vii) Felony adult abuse, as prohibited by § 5-28-  
32 103; and

33                   (viii) Arson, as prohibited in § 5-38-301.

34           (e)(1) A qualified entity shall not be disqualified from licensure  
35 when the operator has been found guilty of or has pleaded guilty or nolo  
36 contendere to a misdemeanor if the offense did not involve exploitation of an



1 adult, abuse of a person, neglect of a person, theft, or sexual contact.

2 (2) An applicant, ElderChoices provider, or employee shall not  
3 be disqualified from permanent employment or providing care to the elderly or  
4 an individual with a disability, or both, when the applicant, provider, or  
5 employee has been found guilty of or has pleaded guilty or nolo contendere to  
6 a misdemeanor if the offense did not involve exploitation of an adult, abuse  
7 of a person, neglect of a person, theft, or sexual contact.

8 (f) For purposes of this section, an expunged record of a conviction  
9 or plea of guilty or nolo contendere to an offense listed in subsection (b)  
10 of this section shall not be considered a conviction, guilty plea, or nolo  
11 contendere plea to the offense unless the offense is also listed in  
12 subdivision (d)(2)(B) of this section.

13 ~~(f)(g)~~ If an operator or qualified entity fails or refuses to  
14 cooperate in obtaining criminal records checks, such circumstances shall be  
15 grounds to deny or revoke the qualified entity's license or other operating  
16 authority, provided the process of obtaining criminal records checks shall  
17 not delay the process of the application for a license or other operational  
18 authority.

19 ~~(g)(h)~~ Any unlicensed qualified entity violating this subchapter shall  
20 be guilty of a Class A misdemeanor for each violation.

21 (i) To the extent that there is any conflict with § 17-1-103, this  
22 section shall supersede § 17-1-103.

23  
24 SECTION 8. Arkansas Code § 20-48-804 is amended to read as follows:

25 20-48-804. Disqualification from employment - Denial or revocation -  
26 Penalties.

27 (a)(1) A Except as provided in subsection (f) of this section, a  
28 licensing agency shall issue a determination that a person is disqualified  
29 from employment with a service provider if the person has been found guilty  
30 of or pleaded guilty or nolo contendere to any of the offenses listed in  
31 subsection (b) of this section.

32 (2) A Except as provided in subsection (f) of this section, a  
33 service provider shall not knowingly employ a person who has pleaded guilty  
34 or nolo contendere to or has been found guilty of any of the offenses listed  
35 in subsection (b) of this section by any court in the State of Arkansas or of  
36 any similar offense by a court in another state or of any similar offense by

- 1 a federal court.
- 2 (b)(1) Capital murder, as prohibited in § 5-10-101;
- 3 (2) Murder in the first degree and second degree, as prohibited  
4 in §§ 5-10-102 and 5-10-103;
- 5 (3) Manslaughter, as prohibited in § 5-10-104;
- 6 (4) Negligent homicide, as prohibited in § 5-10-105;
- 7 (5) Kidnapping, as prohibited in § 5-11-102;
- 8 (6) False imprisonment in the first degree, as prohibited in §  
9 5-11-103;
- 10 (7) Permanent detention or restraint, as prohibited in § 5-11-  
11 106;
- 12 (8) Robbery, as prohibited in § 5-12-102;
- 13 (9) Aggravated robbery, as prohibited in § 5-12-103;
- 14 (10) Battery, as prohibited in §§ 5-13-201 - 5-13-203;
- 15 (11) Aggravated assault, as prohibited in § 5-13-204;
- 16 (12) Introduction of controlled substance into body of another  
17 person, as prohibited in § 5-13-210;
- 18 (13) Terroristic threatening in the first degree, as prohibited  
19 in § 5-13-301;
- 20 (14) Rape, as prohibited in § 5-14-103;
- 21 (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- 22 (16) Sexual assault in the first degree, second degree, third  
23 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;
- 24 (17) Incest, as prohibited in § 5-26-202;
- 25 (18) Offenses against the family, as prohibited in §§ 5-26-303 -  
26 5-26-306;
- 27 (19) Endangering the welfare of an incompetent person in the  
28 first degree, as prohibited in § 5-27-201;
- 29 (20) Endangering the welfare of a minor in the first degree, as  
30 prohibited in § 5-27-203;
- 31 (21) Permitting child abuse, as prohibited in § 5-27-221(a)(1)  
32 and (3);
- 33 (22) Engaging children in sexually explicit conduct for use in  
34 visual or print media, transportation of minors for prohibited sexual  
35 conduct, pandering or possessing visual or print medium depicting sexually  
36 explicit conduct involving a child, or use of a child or consent to use of a

1 child in a sexual performance by producing, directing, or promoting a sexual  
2 performance by a child, as prohibited in §§ 5-27-303, 5-27-304, 5-27-305, 5-  
3 27-402, and 5-27-403;

4 (23) Felony adult abuse, as prohibited in § 5-28-103;

5 (24) Theft of property, as prohibited in § 5-36-103;

6 (25) Theft by receiving, as prohibited in § 5-36-106;

7 (26) Arson, as prohibited in § 5-38-301;

8 (27) Felony violation of the Uniform Controlled Substances Act,  
9 § 5-64-101 et seq., as prohibited in § 5-64-401;

10 (28) Burglary, as prohibited in § 5-39-201;

11 (29) Promotion of prostitution in the first degree, as  
12 prohibited in § 5-70-104;

13 (30) Stalking, as prohibited in § 5-71-229;

14 (31) Forgery, as prohibited in § 5-37-201;

15 (32) Breaking or entering, as prohibited in § 5-39-202;

16 (33) Obtaining a controlled substance by fraud, as prohibited in  
17 § 5-64-403;

18 (34) Criminal attempt, criminal complicity, criminal  
19 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,  
20 5-3-301, and 5-3-401, to commit any of the offenses listed in this  
21 subsection;

22 (35) Computer child pornography, as prohibited in § 5-27-603;

23 and

24 (36) Computer exploitation of a child in the first degree, as  
25 prohibited in § 5-27-605.

26 (c)(1) The provisions of this section shall not be waived by the  
27 licensing or requesting agency. Except as provided in subdivision (c)(2) of  
28 this section, one (1) conviction for an offense listed in subsection (b) of  
29 this section shall not disqualify an applicant for employment if the date of  
30 the conviction is at least ten (10) years prior to the date of the  
31 application and the individual has had no criminal convictions of any type or  
32 nature during the ten-year period.

33 (2) Because of the serious nature of the offenses and the close  
34 relationship to the type of work that is to be performed, the following  
35 offenses shall result in permanent disqualification of employment:

36 (A) Capital murder, as prohibited in § 5-10-101;

1 (B) Murder in the first degree and second degree, as  
2 prohibited in §§ 5-10-102 and 5-10-103;

3 (C) Kidnapping, as prohibited in § 5-11-102;

4 (D) Rape, as prohibited in § 5-14-103;

5 (E) Sexual assault in the first degree and second degree,  
6 as prohibited in §§ 5-14-124 and 5-14-125;

7 (F) Endangering the welfare of an incompetent person in  
8 the first degree, as prohibited in § 5-27-201;

9 (G) Felony adult abuse, as prohibited in § 5-28-103; and

10 (H) Arson, as prohibited in § 5-38-301.

11 (3) An applicant or employee shall not be disqualified from  
12 permanent employment if the applicant or employee has been found guilty of or  
13 has pleaded guilty or nolo contendere to a misdemeanor if the offense did not  
14 involve exploitation of an adult, abuse of a person, neglect of a person,  
15 theft, or sexual contact.

16 (d) If a service provider fails or refuses to cooperate in obtaining  
17 criminal history records checks, those circumstances shall be grounds to deny  
18 or revoke the service provider's license or other operating authority.

19 (e) Any service provider violating this subchapter shall be guilty of  
20 a Class A misdemeanor for each violation.

21 (f) For purposes of this section, an expunged record of a conviction  
22 or plea of guilty or nolo contendere to an offense listed in subsection (b)  
23 of this section shall not be considered a conviction, guilty plea, or nolo  
24 contendere plea to the offense unless the offense is also listed in  
25 subdivision (c)(2) of this section.

26  
27 SECTION 9. Arkansas Code § 21-15-103 is amended to read as follows:

28 21-15-103. Deadline - Scope of check - Report - Notice - Discharge.

29 (a)(1)(A) State agencies shall ensure that all employees in designated  
30 positions will have applied for criminal history checks by October 1, 2000,  
31 and shall adopt a rule that prescribes how criminal background checks on  
32 incumbent employees will be phased in over the period of time prior to July  
33 1, 2000.

34 (B) The rule shall require incumbent employees to apply  
35 for criminal history checks in conjunction with the employee's anniversary of  
36 employment or any time before that date.

1           (2) State agencies shall ensure that all employees in designated  
2 positions will have applied for central registry checks by October 1, 2002,  
3 and shall adopt a rule that prescribes how central registry checks on  
4 incumbent employees will be phased in over the period of time prior to July  
5 1, 2002. The rule shall require incumbent employees to apply for central  
6 registry checks in conjunction with the employee's anniversary of employment  
7 or any time before that date.

8           (3) In accordance with subdivisions (a)(1) and (2) of this  
9 section, each employee of a state agency in a designated position shall  
10 complete a criminal history check form and a central registry check form  
11 obtained from the state agency and shall submit the form to the state agency.  
12 The state agency shall forward:

13                   (A)(i) The criminal history check form to the  
14 Identification Bureau of the Department of Arkansas State Police.

15                           (ii) The state agency shall pay any fee associated  
16 with the criminal history check on behalf of the employee; and

17                   (B)(i) The central registry check to the Child  
18 Maltreatment Central Registry, the Adult Abuse Central Registry, and the  
19 Certified Nurses Assistants Central Registry to review the databases.

20                           (ii) The state agency shall pay any fee associated  
21 with the central registry checks.

22           (b)(1) Except as provided in subdivision (b)(2) of this section, the  
23 bureau shall conduct a state criminal history check and a national criminal  
24 history check on an applicant upon receiving a criminal history check request  
25 from a state agency.

26           (2) If the state agency can verify that the applicant has been  
27 employed by a state agency in a designated position within sixty (60) days  
28 before the application or has lived continuously in the State of Arkansas for  
29 the past five (5) years, the bureau shall conduct only a state criminal  
30 history check on the applicant.

31           (c)(1) Upon completion of a criminal history check on an employee, the  
32 bureau shall issue a report to the state agency.

33                   (2)(A) The state agency shall determine whether the employee is  
34 disqualified from employment under subsection (g) of this section.

35                           (B) If the state agency determines that an employee is  
36 disqualified from employment, then the state agency shall discharge the

1 employee.

2 (d) When a national criminal history check is required under this  
3 section, the criminal history check shall conform to the applicable federal  
4 standards and shall include the taking of fingerprints.

5 (e) If an applicant has been named as an offender or perpetrator in a  
6 true, substantiated, or founded report from the Child Maltreatment Central  
7 Registry, the Adult Abuse Central Registry, or the Certified Nursing  
8 Assistant/Employment Clearance Registry, the state agency shall discharge the  
9 employee.

10 (f) A state agency shall inform all employees in designated positions  
11 that:

12 (1) Continued employment is contingent upon the results of a  
13 criminal history check and a central registry check; and

14 (2) The employee has the right to obtain a copy of his or her:

15 (A) Criminal history report from the bureau; and

16 (B) Central registry report from the registries.

17 (g) A Except as provided in subdivision (h)(1) of this section, a  
18 state agency shall discharge from employment in a designated position any  
19 person who has pleaded guilty or nolo contendere to, or been found guilty of,  
20 any of the following offenses by any court in the State of Arkansas or of any  
21 similar offense by a court in another state or of any similar offense by a  
22 federal court, but only after an opportunity for a hearing conducted in  
23 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et  
24 seq.:

25 (1) Capital murder, as prohibited in § 5-10-101;

26 (2) Murder in the first degree and second degree, as prohibited  
27 in §§ 5-10-102 and 5-10-103;

28 (3) Manslaughter, as prohibited in § 5-10-104;

29 (4) Negligent homicide, as prohibited in § 5-10-105;

30 (5) Kidnapping, as prohibited in § 5-11-102;

31 (6) False imprisonment in the first degree, as prohibited in §  
32 5-11-103;

33 (7) Permanent detention or restraint, as prohibited in § 5-11-  
34 106;

35 (8) Robbery, as prohibited in § 5-12-102;

36 (9) Aggravated robbery, as prohibited in § 5-12-103;

- 1           (10) Battery in the first degree, as prohibited in § 5-13-201;
- 2           (11) Aggravated assault, as prohibited in § 5-13-204;
- 3           (12) Introduction of controlled substance into body of another  
4 person, as prohibited in § 5-13-210;
- 5           (13) Terroristic threatening in the first degree, as prohibited  
6 in § 5-13-301;
- 7           (14) Rape, as prohibited in § 5-14-103;
- 8           (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- 9           (16) Sexual assault in the first degree, second degree, third  
10 degree, or fourth degree as prohibited in §§ 5-14-124 - 5-14-127;
- 11          (17) Incest, as prohibited in § 5-26-202;
- 12          (18) Offenses against the family, as prohibited in §§ 5-26-303 -  
13 5-26-306;
- 14          (19) Endangering the welfare of an incompetent person in the  
15 first degree, as prohibited in § 5-27-201;
- 16          (20) Endangering the welfare of a minor in the first degree, as  
17 prohibited in § 5-27-203;
- 18          (21) Permitting abuse of a child, as prohibited in § 5-27-  
19 221(a)(1) and (3);
- 20          (22) Engaging children in sexually explicit conduct for use in  
21 visual or print medium, transportation of minors for prohibited sexual  
22 conduct, pandering or possessing visual or print medium depicting sexually  
23 explicit conduct involving a child, or the use of a child or consent to the  
24 use of a child in a sexual performance by producing, directing, or promoting  
25 a sexual performance by a child, as prohibited in §§ 5-27-303, 5-27-304, 5-  
26 27-305, 5-27-402, and 5-27-403;
- 27          (23) Felony adult abuse, as prohibited in § 5-28-103;
- 28          (24) Theft of property, as prohibited in § 5-36-103;
- 29          (25) Theft by receiving, as prohibited in § 5-36-106;
- 30          (26) Arson, as prohibited in § 5-38-301;
- 31          (27) Burglary, as prohibited in § 5-39-201;
- 32          (28) Felony violation of the Uniform Controlled Substances Act,  
33 §§ 5-64-101 - 5-64-608, as prohibited in § 5-64-401;
- 34          (29) Promotion of prostitution in the first degree, as  
35 prohibited in § 5-70-104;
- 36          (30) Stalking, as prohibited in § 5-71-229;

