

Arkansas Code §17-103-307 Criminal background checks

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

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

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

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

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

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

- (1) Capital murder, as prohibited in § 5-10-101;
- (2) Murder in the first degree and second degree, as prohibited in §§ 5-10-102 and 5-10-103;
- (3) Manslaughter, as prohibited in § 5-10-104;
- (4) Negligent homicide, as prohibited in § 5-10-105;
- (5) Kidnapping, as prohibited in § 5-11-102;
- (6) False imprisonment in the first degree, as prohibited in § 5-11-103;
- (7) Permanent detention or restraint, as prohibited in § 5-11-106;
- (8) Robbery, as prohibited in § 5-12-102;
- (9) Aggravated robbery, as prohibited in § 5-12-103;
- (10) Battery in the first degree, as prohibited in § 5-13-201;
- (11) Aggravated assault, as prohibited in § 5-13-204;
- (12) Introduction of controlled substance into the body of another person, as prohibited in § 5-13-210;
- (13) Terroristic threatening in the first degree, as prohibited in § 5-13-301;
- (14) Rape and carnal abuse in the first degree, second degree, and third degree, as prohibited in §§ 5-14-103 - 5-14-106;
- (15) Sexual indecency with a child, as prohibited in § 5-14-110;
- (16) Sexual assault in the first degree, second degree, third degree and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;
- (17) Incest, as prohibited in § 5-26-202;
- (18) Offenses against the family, as prohibited in §§ 5-26-303 - 5-26-306;
- (19) Endangering the welfare of an incompetent person in the first degree, as prohibited in § 5-27-201;
- (20) Endangering the welfare of a minor in the first degree, as prohibited in § 5-27-203;
- (21) Permitting abuse of a child, as prohibited in subdivisions § 5-27-221(a) (1) and (3);
- (22) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, or pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402, and 5-27-403;
- (23) Felony adult abuse, as prohibited in § 5-28-103;
- (24) Theft of property, as prohibited in § 5-36-103;
- (25) Theft by receiving, as prohibited in § 5-36-106;
- (26) Arson, as prohibited in § 5-38-301;
- (27) Burglary, as prohibited in § 5-39-201;
- (28) Felony violation of the Uniform Controlled Substances Act, as prohibited in § 5-64-401;
- (29) Promotion of prostitution in the first degree, as prohibited in § 5-70-104;
- (30) Stalking, as prohibited in § 5-71-229;
- (31) Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to commit any of the offenses listed in this subsection;
- (32) Computer child pornography, as prohibited in § 5-27-603; and
- (33) Computer exploitation of a child in the first degree, as prohibited in § 5-27-605.

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

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

(h) (1) The provisions of subsections (f) and (g)(2) of this section may be waived by the Board upon request of:

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

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

- (A) The age at which the crime was committed;
- (B) The circumstances surrounding the crime;
- (C) The length of time since the crime;
- (D) Subsequent work history;
- (E) Employment references;
- (F) Character references; and
- (G) Other evidence demonstrating that the applicant does not pose a threat to the health or safety of children.

(I) Any information received by the Board from the Identification Bureau of the Arkansas State Police pursuant to this section shall not be available for examination except by the affected applicant for licensure, or his authorized representative, or the person whose license is subject to revocation, or his authorized representative. No record, file, or document shall be removed from the custody of the Arkansas State Police.

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

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

(L) The Board shall adopt the necessary rules and regulations to fully implement the provisions of this section.

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

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

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