

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 84th General Assembly  
3 Regular Session, 2003  
4

*As Engrossed: H3/21/03*

# A Bill

HOUSE BILL 2615

5 By: Representatives Norton, S. Prater, Lamoureux, Dickinson, Rosenbaum, Hutchinson, Parks  
6  
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## For An Act To Be Entitled

9 AN ACT TO CREATE A BIOLOGICAL AGENTS REGISTRY  
10 WITHIN THE ARKANSAS DEPARTMENT OF HEALTH AND TO  
11 IMPOSE CIVIL PENALTIES FOR VIOLATION OF REGISTRY  
12 REQUIREMENTS; TO DECLARE AN EMERGENCY; AND FOR  
13 OTHER PURPOSES.  
14

## Subtitle

15 TO CREATE A BIOLOGICAL AGENTS REGISTRY  
16 WITHIN THE ARKANSAS DEPARTMENT OF  
17 HEALTH AND TO IMPOSE CIVIL PENALTIES FOR  
18 VIOLATION OF REGISTRY REQUIREMENTS.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code Title 20 is amended to add an additional  
25 chapter to read as follows:

26 Chapter 36. Arkansas Biological Agent Registry Act.  
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28 20-36-101. Purpose.

29 (a) The Arkansas Department of Health shall establish and administer a  
30 program for the registration of biological agents.

31 (b) The biological agent registry shall identify the biological agents  
32 possessed and maintained by any person in this state and shall contain other  
33 information required under rules adopted by the department.  
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35 20-36-102. Definitions.

36 For purposes of this chapter:



1           (1) “Biological agent” means:

2                   (A) Any select agent that is a microorganism, virus, bacterium,  
3 fungus, rickettsia, or toxin listed in Appendix A of Part 72 of Title 42 of  
4 the Code of Federal Regulations, as in effect on January 1, 2003;

5                   (B) Any genetically modified microorganisms or genetic elements  
6 from an organism on Appendix A of Part 72 of Title 42 of the Code of Federal  
7 Regulations, as in effect on January 1, 2003, shown to produce or encode for  
8 a factor associated with a disease; or

9                   (C) Any genetically modified microorganisms or genetic elements  
10 that contain nucleic acid sequences coding for any of the toxins listed on  
11 Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, as in  
12 effect on January 1, 2003, or their toxic submits;

13           (2) “Person” means any association, business, corporation, facility,  
14 firm, individual, institution of higher education, organization, partnership,  
15 society, state agency, or other legal entity; and

16           (3) “Department” means the Arkansas Department of Health.

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18           20-36-103. Duties.

19           (a)(1) The Arkansas Department of Health shall adopt rules for the  
20 implementation of the registry program, as follows:

21                   (A) Determining and listing the biological agents required to be  
22 reported under this section;

23                   (B) Designating persons required to make reports and specific  
24 information required to be reported including time limits for reporting, form  
25 of reports, and to whom reports shall be submitted;

26                   (C) Providing for the release of information in the registry to  
27 state and federal law enforcement agencies and the United States Centers for  
28 Disease Control and Prevention under a communicable disease investigation  
29 commenced or conducted by the department, or other state or federal law  
30 enforcement agencies having investigatory authority, or in connection with  
31 any investigation involving release, theft, or loss of biological agents;

32                   (D) Establishing a system of safeguards that requires persons  
33 possessing and maintaining biological agents subject to this section to  
34 comply with the same federal standards that apply to persons registered to  
35 possess the same agents under federal law; and

36                   (E) Establishing a process for persons that possess and maintain

1 biological agents to alert appropriate authorities of unauthorized possession  
2 or attempted possession of biological agents.

3 (2) The rules shall designate appropriate authorities for  
4 receipt of alerts from these persons.

5 (b) Any person that possesses and maintains any biological agent  
6 required to be reported under this section shall report to the department the  
7 information required for inclusion in the biological agent registry.

8 (c)(1) Except as otherwise provided in this section, information  
9 prepared for or maintained in the registry under this section shall be  
10 confidential and shall not be a public record under the Freedom of  
11 Information Act, § 25-19-101, et seq.

12 (2) The department may release information contained in the  
13 biological agent registry for the purpose of conducting or aiding in a  
14 communicable disease investigation.

15 (3) The department shall cooperate with and may share  
16 information contained in the biological agent registry with the United States  
17 Centers for Disease Control and Prevention, and state and federal law  
18 enforcement agencies in any investigation involving the release, theft, or  
19 loss of a biological agent required to be reported under this section.

20 (4) Release of information from the registry as authorized under  
21 this subsection shall not render the information released a public record  
22 under the Freedom of Information Act.

23 (5) Release of information from the registry as authorized under  
24 this subsection also shall not render the information prepared for or  
25 maintained in the registry a public record under the Freedom of Information  
26 Act.

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28 20-36-104. Penalty.

29 (a)(1) The Arkansas Department of Health shall impose a civil penalty  
30 for a willful or knowing violation of this section in the amount of up to one  
31 thousand dollars (\$1,000).

32 (2) Each day of a continuing violation shall be a separate  
33 offense.

34 (b) Any person wishing to contest a penalty shall be entitled to an  
35 administrative hearing in accordance with the Arkansas Administrative  
36 Procedure Act, § 25-15-201, et seq.

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20-36-105. Funding.

(a) In order for the Arkansas Department of Health to fully perform the duties outlined in § 20-36-103, the department will diligently pursue funding for bioterrorism and for this registry.

(b) The department’s administration of this registry program is subject to adequate and available funding in which to fully meet the requirements of this chapter.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Department of Health shall establish and administer a program for the registration of biological agents to protect the health and safety of the residents of the State of Arkansas and that this act is immediately necessary because of the imminent threat caused by these biological agents to the people of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill;  
or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

*/s/ Norton, et al*