

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 1202

5 By: Representative Boyd
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE COMPREHENSIVE CRIMINAL RECORD
10 SEALING ACT OF 2013 TO ALLOW A STATE AGENCY OR BOARD
11 ENGAGED IN THE LICENSING OF MEDICAL PROFESSIONALS TO
12 HAVE ACCESS TO AND USE OF EXPUNGED AND SEALED RECORDS
13 OF CRIMINAL CONVICTIONS; AND FOR OTHER PURPOSES.
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Subtitle

15
16 TO AMEND THE COMPREHENSIVE CRIMINAL
17 RECORD SEALING ACT OF 2013 TO ALLOW A
18 STATE AGENCY OR BOARD ENGAGED IN THE
19 LICENSING OF MEDICAL PROFESSIONALS TO
20 HAVE ACCESS TO AND USE OF EXPUNGED AND
21 SEALED RECORDS OF CRIMINAL CONVICTIONS.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code § 16-90-1416(a) is amended to read as
28 follows:

29 (a) The custodian of a sealed record shall not disclose the existence
30 of the sealed record or release the sealed record except when requested by:

31 (1) The person whose record was sealed or the person's attorney
32 when authorized in writing by the person;

33 (2) A criminal justice agency, as defined in § 12-12-1001, and
34 the request is accompanied by a statement that the request is being made in
35 conjunction with:

36 (A) An application for employment with the criminal



1 justice agency by the person whose record has been sealed; or

2 (B) A criminal background check under the Polygraph
 3 Examiners Licensing Act, § 17-39-101 et seq., or the Private Security Agency,
 4 Private Investigator, and School Security Licensing and Credentialing Act, §
 5 17-40-101 et seq.;

6 (3) A court, upon a showing of:

7 (A) A subsequent adjudication of guilt of the person whose
 8 record has been sealed; or

9 (B) Another good reason shown to be in the interests of
 10 justice;

11 (4) A prosecuting attorney, and the request is accompanied by a
 12 statement that the request is being made for a criminal justice purpose; ~~or~~

13 (5) A state agency or board engaged in the licensing of
 14 healthcare professionals; or

15 (6) The Arkansas Crime Information Center.

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 17 SECTION 2. Arkansas Code § 16-90-1417(b)(2), concerning the effect of
 18 sealing records, is amended to read as follows:

19 (2) This subchapter does not prevent the use of the record of a
 20 prior conviction otherwise sealed under this subchapter for the following
 21 purposes:

22 (A) ~~Any~~ A criminal proceeding for any purpose not
 23 otherwise prohibited by law;

24 (B) Determination of offender status under the former § 5-
 25 64-413;

26 (C) Habitual offender status, § 5-4-501 et seq.;

27 (D) Impeachment upon cross-examination as dictated by the
 28 Arkansas Rules of Evidence; ~~or~~

29 (E) Healthcare professional licensure by a state agency or
 30 board; or

31 (F) Any disclosure mandated by Rule 17, 18, or 19 of the
 32 Arkansas Rules of Criminal Procedure.