

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/16/15
A Bill

HOUSE BILL 1805

5 By: Representative Talley
6

7 **For An Act To Be Entitled**

8 AN ACT CONCERNING THE ROLE OF A PROSECUTING ATTORNEY
9 REGARDING THE RELEASE OF REPORTS AND ANALYTICAL WORK
10 PERFORMED BY THE STATE CRIME LABORATORY; AND FOR
11 OTHER PURPOSES.
12
13

14 **Subtitle**

15 CONCERNING THE ROLE OF A PROSECUTING
16 ATTORNEY REGARDING THE RELEASE OF REPORTS
17 AND ANALYTICAL WORK PERFORMED BY THE
18 STATE CRIME LABORATORY.
19
20

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

23 *SECTION 1. Arkansas Code § 12-12-312 is amended to read as follows:*

24 *12-12-312. Records confidential and privileged – Exception – Release.*

25 *(a)(1)(A)(i) The records, files, and information kept, obtained, or retained*
26 *by the State Crime Laboratory under this subchapter are privileged and*
27 *confidential.*

28 *(ii) The records, files, and information shall be*
29 *released only under and by the direction of a court of competent*
30 *jurisdiction, the prosecuting attorney having criminal jurisdiction over the*
31 *case, or the public defender appointed or assigned to the case.*

32 *(iii) In cases in which the cause and manner of*
33 *death are not criminal in nature, the laboratory may communicate without*
34 *prior authorization required under subdivision (a)(1)(A)(ii) of this section*
35 *with the decedent's next of kin or the next of kin's designee, including*
36 *without limitation:*



- 1 (a) Parents;
 2 (b) Grandparents;
 3 (c) Siblings;
 4 (d) Spouses;
 5 (e) Adult children; or
 6 (f) Legal guardians.

7 (B)(i) This section does not diminish the right of a
 8 defendant or his or her attorney to full access to all records pertaining to
 9 the case.

10 (ii) ~~The laboratory shall disclose to a defendant or~~
 11 ~~his or her attorney all evidence in the defendant's case that is kept,~~
 12 ~~obtained, or retained by the laboratory. Promptly after discovering any~~
 13 evidence in a defendant's case that is kept, obtained, or retained by the
 14 laboratory and which tends to negate the guilt of the defendant as to the
 15 offense charged or would tend to reduce the defendant's punishment, the
 16 prosecuting attorney with jurisdiction over the case shall disclose the
 17 existence of the evidence to the defendant or his or her attorney.

18 ~~(iii)~~(C) The Department of Health may access autopsy
 19 records, files, and information under this subchapter for the purpose of
 20 implementing the quality improvement provisions of the Trauma System Act, §
 21 20-13-801 et seq., and the rules adopted by the State Board of Health under
 22 the Trauma System Act, § 20-13-801 et seq.

23 (2) However, a full report of the facts developed by the State
 24 Medical Examiner or his or her assistants shall be promptly filed with the
 25 law enforcement agencies, county coroner, and prosecuting attorney of the
 26 jurisdiction in which the death occurred.

27 (b) The State Crime Laboratory Board shall promulgate rules ~~and~~
 28 ~~regulations~~ not contrary to law regarding the release of reports and
 29 information by the staff of the laboratory.

30 (c) All records, files, and information obtained or developed by the
 31 laboratory pertaining to a capital offense committed by a defendant who is
 32 subsequently sentenced to death for the commission of ~~that~~ the capital
 33 offense shall be preserved and retained until the defendant's execution.

34 /s/Talley

35 **APPROVED: 04/04/2015**

36