

1 State of Arkansas *As Engrossed: S1/27/21 S2/1/21*

2 93rd General Assembly

A Bill

3 Regular Session, 2021

SENATE BILL 172

4

5 By: Senator G. Leding

6 By: Representatives Hudson, *Underwood*

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For An Act To Be Entitled

9 AN ACT CONCERNING RECORDS AND PHOTOGRAPHS KEPT BY THE
10 STATE CRIME LABORATORY; TO DECLARE AN EMERGENCY; AND
11 FOR OTHER PURPOSES.

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Subtitle

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CONCERNING RECORDS AND PHOTOGRAPHS KEPT
16 BY THE STATE CRIME LABORATORY; AND TO
17 DECLARE AN EMERGENCY.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code § 12-12-312(a), concerning confidential and
23 privileged records kept by the State Crime Laboratory, is amended to read as
24 follows:

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

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(ii) *However, the laboratory shall grant access to
29 records pertaining to a defendant's criminal case to the following persons:*

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(a) *The defendant;*

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(b) *The public defender or other attorney of
32 record for the defendant; ~~and~~*

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(c) *The prosecuting attorney or deputy
34 prosecuting attorney having jurisdiction over the criminal case; and*

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(d) *The Attorney General or his or her
36 designee.*



1 (iii) The records, files, and information shall not
2 be released to a person or entity other than those listed in subdivision
3 (a)(1)(A)(ii) of this section except at the direction of a court of competent
4 jurisdiction or the prosecuting attorney having ~~criminal~~ jurisdiction over
5 the criminal case.

6 (iv) In cases in which the cause and manner of death
7 are not criminal in nature, the laboratory may communicate without the prior
8 authorization required under subdivision (a)(1)(A)(iii) of this section with
9 the decedent's next of kin or the next of kin's designee, including without
10 limitation:

- 11 (a) Parents;
- 12 (b) Grandparents;
- 13 (c) Siblings;
- 14 (d) Spouses;
- 15 (e) Adult children; ~~or~~ and
- 16 (f) Legal guardians.

17 (B)(i) This section does not diminish the right of a
18 defendant, his or her attorney, or an attorney who has provided a signed
19 release from the defendant to full access to all records pertaining to the
20 case.

21 (ii) Promptly after discovering any evidence in a
22 defendant's case that is kept, obtained, or retained by the laboratory and
23 ~~which~~ that tends to negate the guilt of the defendant as to the offense
24 charged or would tend to reduce the defendant's punishment, the prosecuting
25 attorney with jurisdiction over the case shall disclose the existence of the
26 evidence to the defendant or his or her attorney.

27 (C) The Department of Health may access autopsy records,
28 files, and information under this subchapter for the purpose of implementing
29 the quality improvement provisions of the Trauma System Act, § 20-13-801 et
30 seq., and the rules adopted by the State Board of Health under the Trauma
31 System Act, § 20-13-801 et seq.

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

36 (3) This section does not require the laboratory to provide a

1 photograph to a defendant in the custody of the Department of Corrections
2 that:

3 (A) Depicts a crime scene;

4 (B) Depicts the victim of a crime; or

5 (C) Was taken in conjunction with an autopsy.

6 (4) This section does not:

7 (A) Deny access to a photograph to an attorney
8 representing an inmate in the custody of the Department of Corrections; or

9 (B) Prohibit a court from ordering the Department of
10 Corrections to provide a photograph to an inmate upon a showing of reasonable
11 need.

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13 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that possession of photographs
15 described in this act by an inmate in the Department of Corrections
16 compromises the security of the correctional facility in which the inmate is
17 housed. Therefore, an emergency is declared to exist, and this act being
18 immediately necessary for the preservation of the public peace, health, and
19 safety shall become effective on:

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

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

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

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27
28 /s/G. Leding

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31 **APPROVED: 2/24/21**