

1 State of Arkansas *As Engrossed: S3/9/15 S3/17/15 S3/30/15*

2 90th General Assembly

# A Bill

3 Regular Session, 2015

SENATE BILL 617

4

5 By: Senators D. Sanders, A. Clark, J. Cooper, J. Dismang, B. King, J. Woods

6 By: Representatives Shepherd, Baine

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## For An Act To Be Entitled

9 AN ACT TO BE KNOWN AS THE PUBLIC SAFETY TRANSPARENCY  
10 AND ACCOUNTABILITY ACT OF 2015; CONCERNING THE  
11 DEPARTMENT OF CORRECTION, DEPARTMENT OF COMMUNITY  
12 CORRECTION, AND THE PAROLE BOARD; CONCERNING INMATE  
13 RECORDS IN THE DEPARTMENT OF CORRECTION; CONCERNING  
14 RECORDS OF PROBATIONERS AND PAROLEES SUPERVISED BY  
15 THE DEPARTMENT OF COMMUNITY CORRECTION; TO DECLARE AN  
16 EMERGENCY; AND FOR OTHER PURPOSES.

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## Subtitle

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

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SECTION 1. DO NOT CODIFY. Temporary legislation.

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SECTION 2. Arkansas Code Title 12, Chapter 1, is amended to add a new section to read as follows:



1 12-1-102. Records to be posted on a public website.

2 (a) Relevant research studies and reports concerning the following  
3 topics that are generated by the research divisions of the Department of  
4 Correction, the Department of Community Correction, and the Parole Board or  
5 by third party contractors on behalf of the Department of Correction, the  
6 Department of Community Correction, and the Parole Board, when applicable,  
7 shall be posted on the Department of Correction's, the Department of  
8 Community Correction's, or board's website:

9 (1) Population projections;

10 (2) Recidivism; and

11 (3) Evaluation of the cost-benefit of evidence-based practices

12 of:

13 (A) Adult prisons;

14 (B) Community corrections facilities;

15 (C) Probation; and

16 (D) Parole.

17 (b) Data posted on the board's, Department of Correction's, or the  
18 Department of Community Correction's websites under this section may be  
19 removed from the board's, Department of Correction's, or the Department of  
20 Community Correction's websites after five (5) years.

21  
22 SECTION 3. Arkansas Code § 12-12-1201 is amended to read as follows:  
23 12-12-1201. Authorization.

24 The Arkansas Crime Information Center is authorized to develop and  
25 operate a computerized victim notification system which shall provide:

26 (1) A mechanism for victims of criminal offenses or the victim's  
27 next of kin to access information about proceedings in the criminal justice  
28 and corrections systems by use of a twenty-four-hour toll-free in-watts  
29 telephone service; and

30 (2) Automatic notification by computerized telephone service to  
31 the victims of criminal offenses or the victim's next of kin about an  
32 inmate's, parolee's, or probationer's ~~custody~~ status, including the location  
33 of the inmate, parolee, or probationer.

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35 SECTION 4. Arkansas Code § 12-12-1202 is amended to read as follows:  
36 12-12-1202. Information provided.

1 (a) A victim notification may be accomplished by means of the  
2 computerized victim notification system established under § 12-12-1201 if  
3 ~~pursuant to~~ under:

4 (1) Section 12-29-114, pertaining to escape;

5 (2) Section 16-21-106, pertaining to assistance to victims and  
6 witnesses of crimes;

7 (3) Section 16-93-204, pertaining to executive clemency;

8 (4) Section 16-93-615, pertaining to transfer hearings;

9 (5) Section 16-93-702, pertaining to parole; or

10 (6) Section 16-97-102, pertaining to sentencing.

11 (b) The computerized victim notification system established under §  
12 12-12-1201 shall also include:

13 ~~(1) information~~ Information about an inmate's custody status in  
14 regard to furloughs, work release, and community correction programs; and

15 (2) The location of information publicly available under § 12-  
16 27-144.

17  
18 SECTION 5. Arkansas Code § 12-27-113(e), concerning inmate records  
19 maintained by the Department of Correction, is amended to read as follows:

20 (e)(1) *The director shall make and preserve a full and complete record*  
21 *of ~~each and every person~~ inmate committed to the Department of Correction,*  
22 *along with a photograph of the ~~person~~ inmate and data pertaining to his or*  
23 *her trial conviction and past history.*

24 (2)(A) *To protect the integrity of ~~those~~ records described in*  
25 *subdivision (e)(1) of this section and to ensure their proper use, it ~~shall~~*  
26 *be is unlawful to permit inspection of or disclose information contained in*  
27 *those records described in subdivision (e)(1) of this section or to copy or*  
28 *issue a copy of all or part of ~~any record~~ a record described in subdivision*  
29 *(e)(1) of this section except:*

30 *(i) ~~as~~ As authorized by ~~administrative regulation~~*  
31 *rule; ~~or~~*

32 *(ii) ~~by~~ By order of a court of competent*  
33 *jurisdiction; ~~or~~*

34 *(iii) Records posted on the Department of*  
35 *Correction's website as required by § 12-27-144.*

36 *(B) ~~The regulations~~ A rule under subdivision (e)(2)(A) of*

1 this section shall provide for adequate standards of security and  
 2 confidentiality of ~~those~~ records described in subdivision (e)(1) of this  
 3 section.

4 (3) For those inmates committed to the Department of Correction  
 5 and judicially transferred to the Department of Community Correction, the  
 6 preparation of ~~this record~~ a record described in subdivision (e)(1) of this  
 7 section may be delegated to the Department of Community Correction pursuant  
 8 to policies applicable to records transmission adopted by the Board of  
 9 Corrections.

10 (4) ~~Administrative regulations~~ A rule under subdivision  
 11 (e)(2)(A) of this section may authorize the disclosure of information  
 12 contained in ~~such records~~ a record described in subdivision (e)(1) of this  
 13 section for research purposes.

14  
 15 SECTION 6. Arkansas Code § 12-27-125(b)(20), concerning records  
 16 maintained by the Department of Community Correction, is amended to read as  
 17 follows:

18 (20)(A) It shall maintain a full and complete record of each  
 19 offender under its supervision.

20 (B)(i) To protect the integrity of a record described in  
 21 subdivision (b)(20)(A) of this section and to ensure its proper use, it is  
 22 unlawful to permit inspection of or disclose information contained in a  
 23 record described in subdivision (b)(20)(A) of this section or to copy or  
 24 issue a copy of any part of the record except:

25 (a) ~~as~~ As authorized by administrative  
 26 ~~regulation or rule;~~

27 (b) ~~by~~ By order of a court of competent  
 28 jurisdiction; or

29 (c) Records posted on the Department of  
 30 Community Correction's website as required by § 12-27-144.

31 (ii) The ~~regulations~~ rules under subdivision  
 32 (b)(20)(B)(i)(a) shall provide for adequate standards of security and  
 33 confidentiality of a record described in subdivision (b)(20)(A) of this  
 34 section; and

35

36 SECTION 7. Arkansas Code Title 12, Chapter 27, is amended to add an

1 additional section to read as follows:

2 12-27-144. Records to be posted on a public website.

3 (a) To the extent permitted by federal law, the Department of  
4 Correction shall post on the Department of Correction's website the following  
5 information concerning an inmate:

6 (1) The offense and sentence for any conviction for which the  
7 inmate is incarcerated, including:

8 (A) Whether the inmate is subject to a suspended sentence,  
9 if known; and

10 (B) The terms of the suspended sentence, if applicable;

11 (2)(A)(i) Beginning July 1, 2015, the disciplinary record for  
12 each inmate.

13 (ii) As used in this subsection, "disciplinary  
14 record" means a list of each major disciplinary violation after July 1, 2015,  
15 for which the inmate has been found guilty.

16 (B) Additionally, the list and the date of major  
17 disciplinary violations for which the inmate was found guilty shall be  
18 displayed during the period the inmate is being considered for transfer to  
19 parole;

20 (3)(A) Risk assessment scores completed after April 1, 2015.

21 (B) Risk assessment scores under this subdivision (a)(3)  
22 shall include the name of the state agency that completed the risk  
23 assessment, the date the risk assessment was conducted, and the level of  
24 assessment.

25 (C) Information by the Department of Correction regarding  
26 how risk assessments are scored shall also be posted;

27 (4) Custody status and level;

28 (5) Any known aliases;

29 (6) A current photograph of the inmate;

30 (7) A complete felony conviction summary to the extent that  
31 information is available to the Department of Correction;

32 (8) To the extent the information is available to the Department  
33 of Correction, if an order of protection, no contact order, or other order  
34 from an in-state or out-of-state court that prohibits contact or  
35 communication with another person is in place;

36 (9) Any programs completed by the inmate while in custody; and

1 (10) An inmate's parole eligibility date or date he or she is to  
2 be released from incarceration as well as a general explanation of how an  
3 inmate's parole eligibility date is calculated, including good time credits.

4 (b)(1) To the extent permitted by federal law, the Department of  
5 Community Correction shall post on the Department of Community Correction's  
6 website the following information concerning a probationer, parolee, or other  
7 person under the supervision of the Department of Community Correction who  
8 has absconded or has had a warrant issued for his or her arrest for evading  
9 supervision:

10 (A) Any offense and sentence for which the probationer,  
11 parolee, or other person under the supervision of the Department of Community  
12 Correction is being supervised, including:

13 (i) Whether the probationer, parolee, or other  
14 person under the supervision of the Department of Community Correction is  
15 subject to a suspended sentence, if known; and

16 (ii) The terms of the suspended sentence, if  
17 applicable;

18 (B) A complete felony conviction summary to the extent  
19 that information is available to the Department of Community Correction;

20 (C)(i) Risk assessment scores completed after April 1,  
21 2015.

22 (ii) Risk assessment scores under this subdivision  
23 (b)(1)(C) shall include the name of the state agency that completed the risk  
24 assessment, the date the risk assessment was conducted, and the level of  
25 assessment.

26 (iii) Information by the Department of Community  
27 Correction regarding how risk assessments are scored shall also be posted;

28 (D) Any known aliases;

29 (E) Most recent photograph of the probationer, parolee, or  
30 other person under the supervision of the Department of Community Correction;

31 (F) To the extent the information is available to the  
32 Department of Community Correction, if an order of protection, no contact  
33 order, or other order from an in-state or out-of-state court that prohibits  
34 contact or communication with another person is in place;

35 (G) All major disciplinary violations while the inmate was  
36 incarcerated and the date of the major disciplinary violation disposition;

1 (H) Any programs completed by the probationer, parolee, or  
2 other person under the supervision of the Department of Community Correction  
3 while on supervision and the date of completion; and

4 (I) A list of previous revocation offenses while on  
5 probation or parole and date of revocation.

6 (2) The Department of Community Correction shall develop a plan  
7 to establish a method for a victim of a crime committed by a probationer,  
8 parolee, or other person under the supervision of the Department of Community  
9 Correction to directly and easily access the information listed under this  
10 subsection.

11 (c)(1) When possible, court-generated records listed under this  
12 section shall be electronic copies of the actual court documents.

13 (2) All victim information included in the court-generated  
14 records under this subsection shall be redacted.

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16 SECTION 8. Arkansas Code Title 12, Chapter 27, is amended to add a new  
17 section to read as follows:

18 12-27-145. Tracking an inmate or person being supervised who is  
19 servicing a suspended sentence.

20 (a) The Department of Community Correction shall track a person under  
21 its supervision who is servicing a suspended sentence and notify the  
22 prosecuting attorney with jurisdiction over the person's suspended sentence  
23 if the department knows that the person has not complied with the terms and  
24 conditions of the suspended sentence.

25 (b) A circuit court shall notify the department of all suspended  
26 sentences to which the circuit court sentences a defendant, including the  
27 defendant's name, the terms and conditions of the suspended sentence, and the  
28 length of the suspended sentence.

29  
30 SECTION 9. Arkansas Code Title 12, Chapter 27, is amended to add a new  
31 section to read as follows:

32 12-27-146. Rulemaking and administrative directive reporting  
33 requirement.

34 (a) A rule implemented by the Board of Corrections, Department of  
35 Correction, Department of Community Correction, or the Parole Board  
36 pertaining to this act shall be approved by the appropriate legislative

1 committee before becoming effective.

2 (b) Any administrative directive or board policy pertaining to this  
 3 act implemented by the Board of Corrections, Department of Correction,  
 4 Department of Community Correction, or the Parole Board shall be reported to  
 5 the Legislative Council.

6  
 7 SECTION 10. Arkansas Code § 16-93-202(d), concerning records kept by  
 8 the Parole Board, is amended to read as follows:

9 (d)(1) A presentence report, a preparole report, and a supervision  
 10 history obtained in the discharge of official duty by any member or employee  
 11 of the board shall be privileged and shall not be disclosed, directly or  
 12 indirectly, to any person other than the board, a court, ~~or~~ others entitled  
 13 under this chapter to receive the information, or as required under § 16-93-  
 14 212.

15 (2) However, the board or a court, at its discretion, may permit  
 16 the inspection of the ~~report or parts thereof~~ presentence report, preparole  
 17 report, or supervision history by a person having a proper interest ~~therein~~  
 18 ~~whenever~~ in the presentence report, preparole report, or supervision history  
 19 if the interests or welfare of the person involved makes that action  
 20 desirable or helpful.

21  
 22 SECTION 11. Arkansas Code Title 16, Chapter 93, Subchapter 2, is  
 23 amended to add an additional section to read as follows:

24 16-93-212. Records to be posted on a website.

25 (a) To the extent permitted by federal law, the Parole Board shall  
 26 post on the board's website the following information concerning an inmate  
 27 who is being considered for parole no less than six (6) months before his or  
 28 her transfer-eligibility or parole-eligibility date, or the date the board  
 29 determines eligibility for parole or transfer if the inmate is past his or  
 30 her transfer-eligibility or parole-eligibility date:

31 (1) The name of the inmate;

32 (2) The Department of Correction identification number of the  
 33 inmate;

34 (3) A current photograph of the inmate;

35 (4) The projected hearing date of the inmate;

36 (5) The number of times, if any, probation or parole has been



1 revoked from the inmate; and

2 (6) A link to information required to be posted about the inmate  
3 by the Department of Correction under § 12-27-144.

4 (b) The information required to be posted on the board's website:

5 (1) Shall be consistently updated as required to be the most  
6 current information available to the board;

7 (2) Shall instruct a victim of a crime as defined by § 16-90-  
8 1101 or § 16-90-1114 on how to contact the board and provide information on  
9 the inmate; and

10 (3) May be removed when the inmate has been either granted or  
11 denied parole.

12  
13 SECTION 12. EMERGENCY CLAUSE. It is found and determined by the  
14 General Assembly of the State of Arkansas that there is an alarming lack of  
15 transparency in the corrections system regarding information about inmates  
16 who will soon be coming up for parole and released into society; that it is  
17 vital to public safety that the public know exactly what potential threats  
18 exist from inmates in the Department of Correction who will soon be  
19 introduced back into society; and that this act is immediately necessary  
20 because the sooner inmate, parolee, and probationer information is made  
21 available to the public, the sooner the public is able to evaluate who is and  
22 who is not a threat to society. Therefore, an emergency is declared to exist,  
23 and this act being immediately necessary for the preservation of the public  
24 peace, health, and safety shall become effective on:

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

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

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

31  
32 /s/D. Sanders  
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