

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S4/3/19 H4/5/19

A Bill

SENATE BILL 646

5 By: Senator G. Leding
6 By: Representative Capp
7

For An Act To Be Entitled

9 AN ACT CONCERNING CONFIDENTIAL AND PRIVILEGED RECORDS
10 OF THE STATE CRIME LABORATORY; AND FOR OTHER
11 PURPOSES.
12
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Subtitle

15 CONCERNING CONFIDENTIAL AND PRIVILEGED
16 RECORDS OF THE STATE CRIME LABORATORY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 *SECTION 1. Arkansas Code § 12-12-312 is amended to read as follows:*

22 *12-12-312. Records confidential and privileged – Exception – Release.*

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

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

28 *(a) The defendant;*

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

31 *(c) The prosecuting attorney or deputy*
32 *prosecuting attorney having jurisdiction over the criminal case.*

33 ~~*(ii)(iii) The records, files, and information shall*~~
34 ~~*not be released only under and by*~~ *to a person or entity other than those*
35 *listed in subdivision (a)(1)(A)(ii) of this section except at the direction*
36 *of a court of competent jurisdiction, or the prosecuting attorney having*



1 criminal jurisdiction over the case, ~~or the public defender appointed or~~
2 ~~assigned to the case.~~

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

- 8 (a) Parents;
- 9 (b) Grandparents;
- 10 (c) Siblings;
- 11 (d) Spouses;
- 12 (e) Adult children; or
- 13 (f) Legal guardians.

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

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

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

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

33 (b) The State Crime Laboratory Board shall promulgate rules not
34 contrary to law regarding the release of reports and information by the staff
35 of the laboratory.

36 (c) All records, files, and information obtained or developed by the

1 *laboratory pertaining to a capital offense committed by a defendant who is*
2 *subsequently sentenced to death for the commission of the capital offense*
3 *shall be preserved and retained until the defendant's execution.*

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/s/G. Leding