

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

HOUSE BILL 1576

5 By: Representative M. Berry  
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## For An Act To Be Entitled

8 AN ACT CONCERNING THE RIGHTS OF A CRIME VICTIM; TO  
9 PROVIDE FOR THE REDACTION OR SEALING OF INFORMATION  
10 THAT IDENTIFIES A VICTIM OF CERTAIN CRIMINAL  
11 OFFENSES; TO PROVIDE FOR THE REMOVAL OF PUBLIC  
12 INFORMATION THAT IDENTIFIES THE VICTIM OF CERTAIN  
13 OFFENSES; AND FOR OTHER PURPOSES.  
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## Subtitle

15  
16 TO PROVIDE FOR THE REDACTION OR SEALING  
17 OF VICTIM INFORMATION; AND TO PROVIDE FOR  
18 THE REMOVAL OF PUBLIC INFORMATION THAT  
19 IDENTIFIES THE VICTIM OF CERTAIN  
20 OFFENSES.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code Title 16, Chapter 90, Subchapter 11, is  
27 amended to add an additional section to read as follows:

28 16-90-1116. Removal or redaction of victim information from public  
29 documents and databases.

30 (a) As used in this section:

31 (1) "Applicable state or local agency or political subdivision"  
32 means any of the following:

33 (A) The county tax assessor for the county where the  
34 victim of an offense resides;

35 (B) The county clerk for the county where the victim of an  
36 offense resides;



1                   (C) The county revenue office for the county where the  
 2 victim of an offense resides;

3                   (D) All county elected officials, excluding governing body  
 4 members;

5                   (E) The city treasurer or city recorder-treasurer for the  
 6 city where the victim of an offense resides, if applicable;

7                   (F) The city clerk for the city where the victim of an  
 8 offense resides, if applicable;

9                   (G) All city elected officials, excluding governing body  
 10 members;

11                   (H) The Office of Motor Vehicle;

12                   (I) The Office of Driver Services;

13                   (J) The Department of Finance and Administration;

14                   (K) The circuit court clerk for the county where the  
 15 victim of an offense resides; or

16                   (L) Any other agency operated by the state, a county, a  
 17 city, or a political subdivision that may publish public documents and  
 18 databases that would be likely to contain identifying information of the  
 19 victim of an offense;

20                   (2) "Identifying information" means a person's:

21                   (A) Date of birth;

22                   (B) Social Security number;

23                   (C) Residential address;

24                   (D) Employment address;

25                   (E) Phone number;

26                   (F) Email address; or

27                   (G) Other information that could reasonably lead a person  
 28 to identify the person;

29                   (3) "Public documents and databases" means any document, list,  
 30 information, or other compiled data that lists a person's name and other  
 31 identifying information that is made available to the public through  
 32 publication or that is contained in a publicly accessible database or on a  
 33 publicly accessible internet website that is operated by an applicable state  
 34 or local agency or political subdivision; and

35                   (4) "Victim of an offense" means a person who was a victim of  
 36 one (1) or more of the following offenses:

1                   (A) A felony involving violence as defined in § 5-4-  
2 501(d)(2); and

3                   (B) A felony offense requiring registration under the Sex  
4 Offender Registration Act of 1997, § 12-12-901 et seq.

5           (b)(1) With the exception of voter records, a victim of an offense may  
6 file a petition in the circuit court with jurisdiction where the victim of an  
7 offense resides to request the removal or redaction of his or her identifying  
8 information from all public documents and databases.

9           (2) The petition under subdivision (b)(1) of this section shall:

10                   (A) Be filed under seal;

11                   (B) List the identifying information that the victim of an  
12 offense requests be removed or redacted from the public documents and  
13 databases;

14                   (C) List the relevant offense for which the victim of an  
15 offense was victimized as well as the name of any defendant who victimized  
16 the victim of an offense, the relevant case number, and the name of the court  
17 in which any defendant was convicted; and

18                   (D) Describe the reason or reasons why the victim of an  
19 offense requests his or her identifying information be removed or redacted  
20 from all public documents and databases.

21           (3) A fee shall not be charged to file the petition.

22           (c)(1) The circuit court shall conduct an in camera hearing on a  
23 petition under subdivision (b)(1) of this section within five (5) days of the  
24 filing of the petition or at a time that the court and the victim of an  
25 offense agree upon if the victim of an offense consents to an in camera  
26 hearing beyond the five-day requirement.

27           (2) The prosecuting attorney in the judicial circuit in which  
28 the petition was filed shall provide assistance to the circuit court when  
29 asked to provide criminal justice-related information, including without  
30 limitation information contained in the Arkansas Crime Information Center  
31 concerning both the specific offense for which the victim of an offense was  
32 victimized as well as information concerning the defendant who was convicted  
33 of the offense, including the defendant's prior criminal history.

34           (3) The victim of an offense may be represented by an attorney  
35 of his or her choosing during the pendency of the petition process described  
36 under this section.

1           (4) The in camera hearing on the petition under this section is  
2 not required to be conducted in person and may be conducted by teleconference  
3 or other remote means at the request of the victim of an offense.

4           (d) The circuit court shall order the removal or redaction of the  
5 identifying information of a victim of an offense from all public documents  
6 and databases created or administered by an applicable state or local agency  
7 or political subdivision after the date of the circuit court's order if the  
8 victim of an offense:

9           (1) Provides evidence that he or she is currently being  
10 subjected to retaliation, retribution, or revenge, or is currently being  
11 victimized again because of his or her status as the victim of an offense;

12           (2) Demonstrates that, while he or she is not currently being  
13 subjected to retaliation, retribution, or revenge, or is not currently being  
14 victimized again because of his or her status as the victim of an offense,  
15 there is a reasonable probability that retaliation, retribution, revenge, or  
16 being victimized again because of his or her status as the victim of an  
17 offense could occur in the future; or

18           (3) Shows by a preponderance of the evidence that the  
19 identifying information should be removed or redacted from all public  
20 documents and databases in the interests of justice.

21           (e)(1) A court order under this section requiring the removal or  
22 redaction from all public documents and databases of the identifying  
23 information of a victim of an offense shall be in effect for a period of five  
24 (5) years.

25           (2)(A)(i) A victim of an offense may request by written letter  
26 the renewal of the court order requiring the removal or redaction of his or  
27 her identifying information from all public documents and databases within  
28 six (6) months of the expiration date of the court order.

29           (ii) The written letter described under subdivision  
30 (e)(2)(A)(i) of this section shall describe in detail why the victim of an  
31 offense requests the renewal of the court order.

32           (iii) The written letter shall become part of the  
33 circuit court's file.

34           (B)(i) The circuit court may renew its court order upon  
35 receipt of the written letter described under subdivision (e)(2)(A) of this  
36 section with or without a hearing if the circuit court finds that one (1) or

1 more of the circumstances described under subsection (d) of this section  
2 remains valid.

3 (ii)(a) If the circuit court requires a hearing, the  
4 same procedures as described under this section concerning the institution of  
5 the original petition shall govern.

6 (b) However, the victim of an offense is not  
7 required to file a new petition.

8 (c) The hearing shall consider only the  
9 reasons stated in the written letter required under subdivision (e)(2)(A) of  
10 this section in determining whether or not to renew the court order.

11 (iii) If the circuit court renews its court order,  
12 the court order shall be sent to the applicable state or local agency or  
13 political subdivision for enforcement.

14 (3) The circuit court may renew its court order as many times as  
15 necessary if the requirements of this subsection are met at the expiration of  
16 the most current court order.

17 (4) If the victim of an offense notifies the circuit court in  
18 which the original petition was filed that the victim of an offense has moved  
19 his or her residence outside of the circuit court's judicial circuit and  
20 provides the circuit court with his or her new address, including the name of  
21 the county in which the victim of an offense currently resides, then the  
22 circuit court shall notify the victim of an offense that he or she is  
23 required to file a new petition with the circuit court in his or her current  
24 judicial circuit, and the circuit court with original jurisdiction shall copy  
25 the case file in its entirety and send the case file to the new circuit court  
26 to supplement the case file of the new circuit court.

27 (f) If the circuit court issues an order removing or redacting the  
28 identifying information of a victim of an offense from all public documents  
29 and databases, the clerk of the circuit court shall mail a copy of the court  
30 order to:

31 (1) The victim of an offense;

32 (2) The department;

33 (3) Any applicable state or local agency or political  
34 subdivision; and

35 (4) Any other person or entity as requested by the victim of an  
36 offense.

1           (g)(1) A victim of an offense who has obtained a court order under  
2 this section may file a request with the circuit court clerk where he or she  
3 is registered to vote to have his or her identifying information that is  
4 contained in all relevant voting records placed under seal.

5           (2) The circuit court clerk shall place the identifying  
6 information of the victim of an offense under seal upon receipt of the court  
7 order unless the circuit court clerk establishes that there is a compelling  
8 reason not to place the identifying information under seal.

9           (3)(A) If the circuit court clerk indicates that there is a  
10 compelling reason not to place the identifying information under seal, the  
11 victim of an offense may file a separate petition in the circuit court with  
12 jurisdiction to request that the information be placed under seal.

13           (B)(i) The requirements and process concerning the filing  
14 of the petition and subsequent standards of proof are the same as described  
15 under subsections (b)-(d) of this section.

16           (ii) The circuit court clerk shall appear to present  
17 evidence of a compelling reason not to place the identifying information  
18 under seal.

19           (h) Any identifying information removed, redacted, or placed under  
20 seal under this section shall be available upon request from the following  
21 entities without the need for a court order:

22           (1) The victim of an offense whose record was removed, redacted,  
23 or placed under seal or an attorney representing the victim of an offense  
24 when authorized in writing by the victim of an offense;

25           (2) A criminal justice agency, as defined in § 12-12-1001, if  
26 the request is accompanied by a statement that the request is being made in  
27 conjunction with:

28           (A) An application for employment with the criminal  
29 justice agency by the victim of an offense whose record has been sealed; or

30           (B) A criminal background check under the Polygraph  
31 Examiners Licensing Act, § 17-39-101 et seq., or the Private Security Agency,  
32 Private Investigator, and School Security Licensing and Credentialing Act, §  
33 17-40-101 et seq.;

34           (3) A court, upon a showing that the release of the identifying  
35 information is needed in the interests of justice;

36           (4) A prosecuting attorney, if the request is accompanied by a

1 statement that the request is being made for a criminal justice purpose;

2 (5) A state agency or board engaged in the licensing of  
3 healthcare or education professionals;

4 (6) The center; or

5 (7) A state or local governmental agency tasked with the  
6 administration of an election or other voting issue.

7 (i)(1) All identifying information removed, redacted, or placed under  
8 seal under this section is confidential and is not subject to examination or  
9 disclosure as public information under the Freedom of Information Act of  
10 1967, § 25-19-101 et seq.

11 (2) An administrative employee of an applicable state or local  
12 agency or political subdivision shall not knowingly disclose identifying  
13 information removed, redacted, or placed under seal under this section  
14 without the consent of the victim of an offense.

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