

Hall of the House of Representatives

83rd General Assembly - Regular Session, 2001

Amendment Form

Subtitle of House Bill No. 1783

"GRANT PROSECUTORS ACCESS TO MEDICAL RECORDS OF PERSONS CHARGED WITH HAVING COMMITTED A SEX CRIME, AND ALLOW PROSECUTORS TO ALERT THE VICTIM OF POSSIBLE HEALTH RISKS RESULTING FROM THE CRIME."

Amendment No. 1 to House Bill No. 1783.

Amend House Bill No. 1783 as originally introduced:

Delete everything after the Enacting Clause and substitute:

"SECTION 1. For purposes of this act:

(1) "Sex crime" means any offense described in Arkansas Code Title 5, Chapter 14 or Chapter 70; and

(2) "Relevant medical records" means those medical records of the person charged with having committed a sex crime which contain information that may reveal a health risk to the victim.

SECTION 2. (a)(1) The prosecuting attorneys of this state, through a warrant issued by a judicial officer under Rule 13, Arkansas Rules of Criminal Procedure, are entitled access to the relevant medical records of any person charged with having committed a sex crime against another person which act could have exposed the victim to a disease carried by the alleged offender.

(2)(A) An application by a prosecuting attorney for relevant medical records shall describe with particularity the person whose relevant medical records are to be obtained, and shall be supported by one (1) or more affidavits or recorded testimony before a judicial officer particularly setting forth the facts and circumstances tending to show that such a person may present a danger to the health of a victim of a crime.

(B) If the judicial officer finds that the application meets the requirements of this subdivision (2) and that, on the basis of the proceeding before the judicial officer, there is reasonable cause to believe that the relevant medical records should be disclosed, the judicial officer shall issue a warrant directing disclosure of those records to the prosecuting attorney.

(b) Persons having custody of the relevant medical records shall grant access to the prosecuting attorneys, upon service of the warrant, and shall not be subject to any liability for granting the access.

(c)(1) If, after reviewing the medical records, the prosecuting

attorney determines that the victim is subject to a health risk as a result of the crime, the prosecuting attorney may convey that health risk information to the victim, and the prosecuting attorney shall not be subject to any liability for disclosing that health risk information to the victim.

(2) The prosecuting attorney may only disclose that health risk information to the victim or, in the event the victim is a minor or is mentally incompetent, then only to the victim's parents or legal guardians.

(d) The prosecuting attorney shall not be subject to any liability to the victim for failing to obtain the medical records or failing to disclose health risk information to the victim.

(e) This act does not repeal nor supercede any rule of evidence or rule of criminal procedure which would allow the admissibility of medical records as evidence in criminal proceedings."

The Amendment was read
By: Representative Verkamp
PBB/RTK - 032220010829
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Chief Clerk