

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Gordon

A Bill

SENATE BILL 283

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §16-46-106 TO
9 PROVIDE THAT PATIENTS COMPELLED TO USE THE SUBPOENA
10 PROCESS TO OBTAIN THEIR OWN MEDICAL RECORDS SHALL BE
11 ENTITLED TO A REASONABLE ATTORNEYS FEE PLUS COST OF COURT;
12 AND FOR OTHER PURPOSES."

Subtitle

15 "TO PROVIDE THAT PATIENTS COMPELLED TO
16 USE THE SUBPOENA PROCESS TO OBTAIN THEIR
17 OWN MEDICAL RECORDS SHALL BE ENTITLED TO
18 A REASONABLE ATTORNEYS FEE PLUS COST OF
19 COURT"

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

23 SECTION 1. Arkansas Code Annotated §16-46-106 is amended to read as
24 follows:

25 "16-46-106. Access to medical records.

26 (a)(1) In contemplation of, preparation for, or use in any legal
27 proceeding, any person who is or has been a patient of a doctor, hospital, or
28 other medical institution shall be entitled to obtain access, personally or
29 by and through his or her attorney, to the information in his or her medical
30 records, upon request and with written patient authorization, and shall be
31 furnished copies of all medical records pertaining to his or her case upon
32 the tender of the expense of such copy or copies.

33 (2) Cost of each photocopy, excluding X rays, shall not exceed
34 one dollar (\$1.00) per page for the first five (5) pages and twenty-five
35 cents (.25¢) for each additional page, except that the minimum charge shall

1 be five dollars (\$5.00).

2 (3) Provided, however, a reasonable retrieval fee for stored
3 records of a hospital may be added to the photocopy charges.

4 (4) Provided, further, this section shall not prohibit
5 reasonable fees for narrative medical reports or medical review when
6 performed by the doctor or medical institution subject to the request.

7 (b)(1) If a doctor believes a patient should be denied access to his
8 or her medical records for any reason, the doctor must provide the patient or
9 the patient's guardian or attorney a written determination that disclosure of
10 such information would be detrimental to the individual's health or
11 well-being.

12 (2)(A) At such time, the patient or the patient's guardian or
13 attorney may select another doctor in the same type practice as the doctor
14 subject to the request to review such information and determine if disclosure
15 of such information would be detrimental to the patient's health or
16 well-being.

17 (B) If the second doctor determines, based upon
18 professional judgment, that disclosure of such information would not be
19 detrimental to the health or well-being of the individual, the medical
20 records shall be released to the patient or the patient's guardian or
21 attorney.

22 (3) If the determination is that disclosure of such information
23 would be detrimental, then it either will not be released or the
24 objectionable material will be obscured before release.

25 (4) The cost of this review of the patient's record will be
26 borne by the patient or the patient's guardian or attorney.

27 (c) Nothing in this section shall preclude the existing subpoena
28 process; however, if a patient is compelled to use the subpoena process in
29 order to obtain access to or copies of their own medical records after
30 reasonable requests have been made and a reasonable time has expired, then
31 the court issuing the subpoena and having jurisdiction over the proceedings
32 shall grant the patient a reasonable attorneys fee plus costs of court
33 against the doctor, hospital or medical institution.

34 (d) This section does not apply to the Department of Correction."
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1 SECTION 2. All provisions of this act of a general and permanent
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
3 Code Revision Commission shall incorporate the same in the Code.

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5 SECTION 3. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 4. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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