

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/23/01

A Bill

HOUSE BILL 1783

5 By: Representatives Verkamp, Hunt
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For An Act To Be Entitled

9 AN ACT TO GRANT PROSECUTING ATTORNEYS ACCESS TO
10 MEDICAL RECORDS OF PERSONS CHARGED WITH HAVING
11 COMMITTED A SEX CRIME, AND TO ALLOW THE
12 PROSECUTING ATTORNEY TO ALERT THE VICTIM OF
13 POSSIBLE HEALTH RISKS RESULTING FROM THE CRIME;
14 AND FOR OTHER PURPOSES.
15

Subtitle

16 GRANT PROSECUTORS ACCESS TO MEDICAL
17 RECORDS OF PERSONS CHARGED WITH HAVING
18 COMMITTED A SEX CRIME, AND ALLOW
19 PROSECUTORS TO ALERT THE VICTIM OF
20 POSSIBLE HEALTH RISKS RESULTING FROM THE
21 CRIME.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 *SECTION 1. For purposes of this act:*

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

30 *(2) "Relevant medical records" means those medical records of the*
31 *person charged with having committed a sex crime which contain information*
32 *that may reveal a health risk to the victim.*
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34 *SECTION 2. (a)(1) The prosecuting attorneys of this state, through a*
35 *warrant issued by a judicial officer under Rule 13, Arkansas Rules of Criminal*
36 *Procedure, are entitled access to the relevant medical records of any person*

1 charged with having committed a sex crime against another person which act
2 could have exposed the victim to a disease carried by the alleged offender.

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

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

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

18 (c)(1) If, after reviewing the medical records, the prosecuting
19 attorney determines that the victim is subject to a health risk as a result of
20 the crime, the prosecuting attorney may convey that health risk information to
21 the victim, and the prosecuting attorney shall not be subject to any liability
22 for disclosing that health risk information to the victim.

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

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

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

32 /s/ Verkamp

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