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4

As Engrossed: S3/9/15

A Bill

SENATE BILL 617

5 By: Senators D. Sanders, *A. Clark, J. Cooper, J. Dismang, B. King, J. Woods*
6 By: Representatives Shepherd, *Baine*
7

For An Act To Be Entitled

9 AN ACT TO BE KNOWN AS THE PUBLIC SAFETY TRANSPARENCY
10 AND ACCOUNTABILITY ACT OF 2015; CONCERNING THE
11 DEPARTMENT OF CORRECTION, DEPARTMENT OF COMMUNITY
12 CORRECTION, AND THE PAROLE BOARD; CONCERNING INMATE
13 RECORDS IN THE DEPARTMENT OF CORRECTION; CONCERNING
14 RECORDS OF PROBATIONERS AND PAROLEES SUPERVISED BY
15 THE DEPARTMENT OF COMMUNITY CORRECTION; TO DECLARE AN
16 EMERGENCY; AND FOR OTHER PURPOSES.
17
18

Subtitle

19 TO BE KNOWN AS THE PUBLIC SAFETY
20 TRANSPARENCY AND ACCOUNTABILITY ACT OF
21 2015; AND TO DECLARE AN EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. DO NOT CODIFY. Temporary legislation.

28 The Department of Correction, the Department of Community Correction,
29 and the Parole Board each shall submit a plan to implement the electronic
30 records provision of § 12-27-144(c) to the Governor, and the chairs of the
31 House Committee on Judiciary, the Senate Judiciary Committee, Legislative
32 Council, and the Joint Performance Review Committee no later than sixty (60)
33 days after the effective date of this act.
34

35 SECTION 2. Arkansas Code Title 12, Chapter 1, is amended to add a new
36 section to read as follows:



1 12-1-102. Records to be posted on a public website.

2 (a) Relevant research studies and reports concerning the following
3 topics that are generated by the research divisions of the Department of
4 Correction, the Department of Community Correction, and the Parole Board or
5 by third party contractors on behalf of the Department of Correction, the
6 Department of Community Correction, and the Parole Board, when applicable,
7 shall be posted on the Department of Correction's, the Department of
8 Community Correction's, or board's website:

9 (1) Population projections;

10 (2) Recidivism; and

11 (3) Evaluation of the cost-benefit of evidence-based practices

12 of:

13 (A) Adult prisons;

14 (B) Community corrections facilities;

15 (C) Probation; and

16 (D) Parole.

17 (b) Data posted on the board's, Department of Correction's, or the
18 Department of Community Correction's websites under this section may be
19 removed from the board's, Department of Correction's, or the Department of
20 Community Correction's websites after five (5) years.

21
22 SECTION 3. Arkansas Code § 12-12-1201 is amended to read as follows:

23 12-12-1201. Authorization.

24 The Arkansas Crime Information Center is authorized to develop and
25 operate a computerized victim notification system which shall provide:

26 (1) A mechanism for victims of criminal offenses or the victim's
27 next of kin to access information about proceedings in the criminal justice
28 and corrections systems by use of a twenty-four-hour toll-free in-watts
29 telephone service; and

30 (2) Automatic notification by computerized telephone service to
31 the victims of criminal offenses or the victim's next of kin about an
32 inmate's, parolee's, or probationer's ~~custody~~ status, including the location
33 of the inmate, parolee, or probationer.

34
35 SECTION 4. Arkansas Code § 12-12-1202 is amended to read as follows:

36 12-12-1202. Information provided.

1 (a) A victim notification may be accomplished by means of the
 2 computerized victim notification system established under § 12-12-1201 if
 3 ~~pursuant to~~ under:

4 (1) Section 12-29-114, pertaining to escape;

5 (2) Section 16-21-106, pertaining to assistance to victims and
 6 witnesses of crimes;

7 (3) Section 16-93-204, pertaining to executive clemency;

8 (4) Section 16-93-615, pertaining to transfer hearings;

9 (5) Section 16-93-702, pertaining to parole; or

10 (6) Section 16-97-102, pertaining to sentencing.

11 (b) The computerized victim notification system established under §
 12 12-12-1201 shall also include:

13 ~~(1) information~~ Information about an inmate's custody status in
 14 regard to furloughs, work release, and community correction programs; and

15 (2) The location of information publicly available under § 12-
 16 27-144.

17
 18 SECTION 5. Arkansas Code § 12-27-113(e), concerning inmate records
 19 maintained by the Department of Correction, is amended to read as follows:

20 (e)(1) *The director shall make and preserve a full and complete record*
 21 *of ~~each and every person~~ inmate committed to the Department of Correction,*
 22 *along with a photograph of the ~~person~~ inmate and data pertaining to his or*
 23 *her trial conviction and past history.*

24 (2)(A) *To protect the integrity of ~~those~~ records described in*
 25 *subdivision (e)(1) of this section and to ensure their proper use, it ~~shall~~*
 26 *be is unlawful to permit inspection of or disclose information contained in*
 27 *~~those~~ records described in subdivision (e)(1) of this section or to copy or*
 28 *issue a copy of all or part of ~~any record~~ a record described in subdivision*
 29 *(e)(1) of this section except:*

30 *(i) ~~as~~ As authorized by ~~administrative regulation~~*
 31 *rule; ~~or~~*

32 *(ii) ~~by~~ By order of a court of competent*
 33 *jurisdiction; ~~or~~*

34 *(iii) Records posted on the Department of*
 35 *Correction's website as required by § 12-27-144.*

36 *(B) ~~The regulations~~ A rule under subdivision (e)(2)(A) of*

1 this section shall provide for adequate standards of security and
 2 confidentiality of ~~those~~ records described in subdivision (e)(1) of this
 3 section.

4 (3) For those inmates committed to the Department of Correction
 5 and judicially transferred to the Department of Community Correction, the
 6 preparation of ~~this record~~ a record described in subdivision (e)(1) of this
 7 section may be delegated to the Department of Community Correction pursuant
 8 to policies applicable to records transmission adopted by the Board of
 9 Corrections.

10 (4) ~~Administrative regulations~~ A rule under subdivision
 11 (e)(2)(A) of this section may authorize the disclosure of information
 12 contained in ~~such records~~ a record described in subdivision (e)(1) of this
 13 section for research purposes.

14
 15 SECTION 6. Arkansas Code § 12-27-125(b)(20), concerning records
 16 maintained by the Department of Community Correction, is amended to read as
 17 follows:

18 (20)(A) It shall maintain a full and complete record of each
 19 offender under its supervision.

20 (B)(i) To protect the integrity of a record described in
 21 subdivision (b)(20)(A) of this section and to ensure its proper use, it is
 22 unlawful to permit inspection of or disclose information contained in a
 23 record described in subdivision (b)(20)(A) of this section or to copy or
 24 issue a copy of any part of the record except:

25 (a) ~~as~~ As authorized by administrative
 26 ~~regulation or rule;~~

27 (b) ~~by~~ By order of a court of competent
 28 jurisdiction; or

29 (c) Records posted on the Department of
 30 Community Correction's website as required by § 12-27-144.

31 (ii) The ~~regulations~~ rules under subdivision
 32 (b)(20)(B)(i)(a) shall provide for adequate standards of security and
 33 confidentiality of a record described in subdivision (b)(20)(A) of this
 34 section; and

35
 36 SECTION 7. Arkansas Code Title 12, Chapter 27, is amended to add an

1 additional section to read as follows:

2 12-27-144. Records to be posted on a public website.

3 (a) To the extent permitted by federal law, the Department of
4 Correction shall post on the Department of Correction's website the following
5 information concerning an inmate:

6 (1) The offense and sentence for any conviction for which the
7 inmate is incarcerated, including:

8 (A) Whether the inmate is subject to a suspended sentence,
9 if known; and

10 (B) The terms of the suspended sentence, if applicable;

11 (2) All major disciplinary violations while the inmate was
12 incarcerated and the date of the major disciplinary violation disposition;

13 (3)(A) Risk assessment scores completed after April 1, 2015.

14 (B) Risk assessment scores under this subdivision (a)(3)
15 shall include the name of the state agency that completed the risk
16 assessment, the date the risk assessment was conducted, and the level of
17 assessment.

18 (C) Information by the Department of Correction regarding
19 how risk assessments are scored shall also be posted;

20 (4) Custody status and level;

21 (5) Any known aliases;

22 (6) A current photograph of the inmate;

23 (7) A complete felony conviction summary to the extent that
24 information is available to the Department of Correction;

25 (8) To the extent the information is available to the Department
26 of Correction, if an order of protection, no contact order, or other order
27 from an in-state or out-of-state court that prohibits contact or
28 communication with another person is in place;

29 (9) Any programs completed by the inmate while in custody; and

30 (10) An inmate's parole eligibility date or date he or she is to
31 be released from incarceration as well as a general explanation of how an
32 inmate's parole eligibility date is calculated, including good time credits.

33 (b)(1) To the extent permitted by federal law, the Department of
34 Community Correction shall post on the Department of Community Correction's
35 website the following information concerning a probationer, parolee, or other
36 person under the supervision of the Department of Community Correction who

1 has absconded or has had a warrant issued for his or her arrest for evading
2 supervision:

3 (A) Any offense and sentence for which the probationer,
4 parolee, or other person under the supervision of the Department of Community
5 Correction is being supervised, including:

6 (i) Whether the probationer, parolee, or other
7 person under the supervision of the Department of Community Correction is
8 subject to a suspended sentence, if known; and

9 (ii) The terms of the suspended sentence, if
10 applicable;

11 (B) A complete felony conviction summary to the extent
12 that information is available to the Department of Community Correction;

13 (C)(i) Risk assessment scores completed after April 1,
14 2015.

15 (ii) Risk assessment scores under this subdivision
16 (b)(1)(C) shall include the name of the state agency that completed the risk
17 assessment, the date the risk assessment was conducted, and the level of
18 assessment.

19 (iii) Information by the Department of Community
20 Correction regarding how risk assessments are scored shall also be posted;

21 (D) Any known aliases;

22 (E) Most recent photograph of the probationer, parolee, or
23 other person under the supervision of the Department of Community Correction;

24 (F) To the extent the information is available to the
25 Department of Community Correction, if an order of protection, no contact
26 order, or other order from an in-state or out-of-state court that prohibits
27 contact or communication with another person is in place;

28 (G) All major disciplinary violations while the inmate was
29 being supervised and the date of the major disciplinary violation
30 disposition;

31 (H) Any programs completed by the probationer, parolee, or
32 other person under the supervision of the Department of Community Correction
33 while on supervision and the date of completion; and

34 (I) A list of previous revocation offenses while on
35 probation or parole and date of revocation.

36 (2) The Department of Community Correction shall develop a plan

1 to establish a method for a victim of a crime committed by a probationer,
2 parolee, or other person under the supervision of the Department of Community
3 Correction to directly and easily access the information listed under this
4 subsection.

5 (c)(1) When possible, court-generated records listed under this
6 section shall be electronic copies of the actual court documents.

7 (2) All victim information included in the court-generated
8 records under this subsection shall be redacted.

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10 SECTION 8. Arkansas Code Title 12, Chapter 27, is amended to add a new
11 section to read as follows:

12 12-27-145. Tracking an inmate or person being supervised who is
13 servicing a suspended sentence.

14 The Department of Community Correction shall track a person under its
15 supervision who is servicing a suspended sentence and notify the prosecuting
16 attorney with jurisdiction over the person's suspended sentence if the person
17 has not complied with the terms and conditions of the suspended sentence.

18

19 SECTION 9. Arkansas Code Title 12, Chapter 27, is amended to add a new
20 section to read as follows:

21 12-27-146. Rulemaking and administrative directive reporting
22 requirement.

23 (a) A rule implemented by the Board of Corrections, Department of
24 Correction, Department of Community Correction, or the Parole Board shall be
25 approved by the appropriate legislative committee before becoming effective.

26 (b) Any administrative directive or board policy implemented by the
27 Board of Corrections, Department of Correction, Department of Community
28 Correction, or the Parole Board concerning this act shall be reported to the
29 Legislative Council.

30

31 SECTION 10. Arkansas Code § 16-93-202(d), concerning records kept by
32 the Parole Board, is amended to read as follows:

33 (d)(1) A presentence report, a preparole report, and a supervision
34 history obtained in the discharge of official duty by any member or employee
35 of the board shall be privileged and shall not be disclosed, directly or
36 indirectly, to any person other than the board, a court, ~~or~~ others entitled

1 under this chapter to receive the information, or as required under § 16-93-
2 212.

3 (2) However, the board or a court, at its discretion, may permit
4 the inspection of the ~~report or parts thereof~~ presentence report, preparole
5 report, or supervision history by a person having a proper interest ~~therein~~
6 whenever in the presentence report, preparole report, or supervision history
7 if the interests or welfare of the person involved makes that action
8 desirable or helpful.

9
10 *SECTION 11. Arkansas Code Title 16, Chapter 93, Subchapter 2, is*
11 *amended to add an additional section to read as follows:*

12 16-93-212. Records to be posted on a website.

13 (a) To the extent permitted by federal law, the Parole Board shall
14 post on the board's website the following information concerning an inmate
15 who is being considered for parole no less than six (6) months before his or
16 her transfer-eligibility or parole-eligibility date, or the date the board
17 determines eligibility for parole or transfer if the inmate is past his or
18 her transfer-eligibility or parole-eligibility date:

19 (1) The name of the inmate;

20 (2) The Department of Correction identification number of the
21 inmate;

22 (3) A current photograph of the inmate;

23 (4) The projected hearing date of the inmate;

24 (5) The number of times, if any, probation or parole has been
25 revoked from the inmate; and

26 (6) A link to information required to be posted about the inmate
27 by the Department of Correction under § 12-27-144.

28 (b) The information required to be posted on the board's website:

29 (1) Shall be consistently updated as required to be the most
30 current information available to the board;

31 (2) Shall instruct a victim of a crime as defined by § 16-90-
32 1101 or § 16-90-1114 on how to contact the board and provide information on
33 the inmate; and

34 (3) May be removed when the inmate has been either granted or
35 denied parole.

36

1 SECTION 12. EMERGENCY CLAUSE. It is found and determined by the
2 General Assembly of the State of Arkansas that there is an alarming lack of
3 transparency in the corrections system regarding information about inmates
4 who will soon be coming up for parole and released into society; that it is
5 vital to public safety that the public know exactly what potential threats
6 exist from inmates in the Department of Correction who will soon be
7 introduced back into society; and that this act is immediately necessary
8 because the sooner inmate, parolee, and probationer information is made
9 available to the public, the sooner the public is able to evaluate who is and
10 who is not a threat to society. Therefore, an emergency is declared to exist,
11 and this act being immediately necessary for the preservation of the public
12 peace, health, and safety shall become effective on:

13 (1) The date of its approval by the Governor;

14 (2) If the bill is neither approved nor vetoed by the Governor,
15 the expiration of the period of time during which the Governor may veto the
16 bill; or

17 (3) If the bill is vetoed by the Governor and the veto is
18 overridden, the date the last house overrides the veto.

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20 */s/D. Sanders*
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