

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: H3/13/15

A Bill

SENATE BILL 698

5 By: Senator J. Hutchinson
6 *By: Representative Wright*
7

For An Act To Be Entitled

9 AN ACT TO GRANT CERTAIN LAW ENFORCEMENT INVESTIGATORS
10 ACCESS TO THE PRESCRIPTION DRUG MONITORING PROGRAM TO
11 ENHANCE INVESTIGATIVE CAPABILITY; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO GRANT CERTAIN LAW ENFORCEMENT
16 INVESTIGATORS ACCESS TO THE PRESCRIPTION
17 DRUG MONITORING PROGRAM TO ENHANCE
18 INVESTIGATIVE CAPABILITY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 20-7-603, concerning the definitions of the
25 Prescription Drug Monitoring Program Act, is amended to add new subdivisions
26 to read as follows:

27 (15) "Schedule V" means controlled substances that are placed in
28 Schedule V under § 5-64-211; ~~and~~

29 (16) "Ultimate user" means a person who lawfully possesses a
30 controlled substance for:

31 (A) The person's own use;

32 (B) The use of a member of the person's household; or

33 (C) Administering to an animal owned by a person or by a
34 member of the person's household;

35 (17) "Certified law enforcement prescription drug diversion
36 investigator" means a certified law enforcement officer assigned by his or



1 her law enforcement agency to investigate prescription drug diversion and who
2 has completed a certification course in prescription drug diversion approved
3 by the Arkansas Prescription Drug Advisory Board and certified by the
4 Arkansas Commission on Law Enforcement Standards and Training; and

5 (18) "Qualified law enforcement agency" means a law enforcement
6 agency that has a certified law enforcement prescription drug diversion
7 investigator and a chief, sheriff, or law enforcement chief executive officer
8 who has successfully completed a certification course in prescription drug
9 diversion approved by the commission.

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11 SECTION 2. Arkansas Code § 20-7-604, concerning the requirements for
12 the Prescription Drug Monitoring Program, is amended to add additional
13 subsections to read as follows:

14 (i) A certified law enforcement prescription drug diversion
15 investigator shall provide to the department the following information in
16 order to be granted grant access to the Prescription Drug Monitoring Program:

17 (1) The identification credentials assigned by the department;
18 and

19 (2) The case number of the investigation.

20 (j)(1) A qualified law enforcement agency shall submit to the
21 department an annual report of the data accessed by all certified law
22 enforcement prescription drug diversion investigators in the qualified law
23 enforcement agency, including without limitation:

24 (A) Written verification that the inquires were part of a
25 lawful prescription drug diversion investigation as provided to the
26 department through the case number of the investigation; and

27 (B) The disposition of the investigation.

28 (2) The department shall:

29 (A) Create a verification form for use under subdivision
30 (j)(1) of this section; and

31 (B) Make the verification form available annually to the
32 qualified law enforcement agency.

33 (3)(A) The verification form under subdivision (j)(1) of this
34 section shall be submitted to the department within thirty (30) days of
35 receipt of the form by the qualified law enforcement agency.

36 (B) Failure to submit a verification form under

1 subdivision (j)(3)(A) of this section shall result in the immediate
2 suspension of the access to the database by the qualified law enforcement
3 agency and its certified law enforcement prescription drug diversion
4 investigators until a determination is made by the department to allow
5 continued access.

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7 SECTION 3. Arkansas Code § 20-7-606(b)(2), concerning confidentiality
8 of the Prescription Drug Monitoring Program, is amended to read as follows:

9 (2) Information in the controlled substances database may be
10 accessed by:

11 (A) A certified law enforcement officer pursuant to a
12 criminal investigation but only after the law enforcement officer obtains a
13 search warrant signed by a judge that demonstrates probable cause to believe
14 that a violation of federal or state criminal law has occurred, that
15 specified information contained in the database would assist in the
16 investigation of the crime, and that the specified information should be
17 released to the certified law enforcement officer;

18 (B) A regulatory body engaged in the supervision of
19 activities of licensing or regulatory boards of practitioners authorized to
20 prescribe or dispense controlled substances;

21 (C) A person or entity investigating a case involving
22 breaches of privacy involving the database or its records; ~~or~~

23 (D) A certified law enforcement prescription drug
24 diversion investigator of a qualified law enforcement agency; or

25 (E) The Department of Human Services or the Crimes Against
26 Children Division of the Department of Arkansas State Police if:

27 (i) The purpose of the database access is related to
28 an investigation under the Child Maltreatment Act, § 12-18-101 et seq., and
29 not pursuant to a criminal investigation by a certified law enforcement
30 officer; and

31 (ii) The Department of Human Services has obtained a
32 court order to access the database under § 12-18-604.

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34 SECTION 4. Arkansas Code § 20-7-607(a)(2), concerning providing
35 prescription monitoring information, is amended to read as follows:

36 (2) If information of misuse or abuse is identified, the

1 department shall notify the practitioners and dispensers who prescribed or
2 dispensed the prescriptions and the Office of Diversion Control of the United
3 States Drug Enforcement Administration.

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/s/J. Hutchinson