

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H3/8/21

A Bill

HOUSE BILL 1323

5 By: Representative Gazaway
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For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS IN-LIFE PHOTOGRAPH ACT;
9 PERMITTING THE IN-LIFE PHOTOGRAPH OF A CRIME VICTIM
10 TO BE DISPLAYED AT THE TRIAL OF A PERSON ACCUSED OF
11 COMMITTING THE HOMICIDE; AND FOR OTHER PURPOSES.
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Subtitle

15 TO CREATE THE ARKANSAS IN-LIFE PHOTOGRAPH
16 ACT; AND PERMITTING THE IN-LIFE
17 PHOTOGRAPH OF A CRIME VICTIM TO BE
18 DISPLAYED AT THE TRIAL OF A PERSON
19 ACCUSED OF COMMITTING THE HOMICIDE.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. DO NOT CODIFY. Legislative findings.

25 The General Assembly finds that:

26 (1) In furtherance of the administration of justice in the State
27 of Arkansas, there is a compelling governmental interest to allow a person
28 who has been the victim of a crime the right to be present at all proceedings
29 at which the defendant accused of committing the homicide has the right to be
30 present;

31 (2) A crime scene or autopsy photograph of a person who has been
32 the victim of a homicide that is typically introduced to a judge and jury is
33 not an acceptable substitution for the presence in the courtroom of the
34 person who has been the victim of a homicide;

35 (3) The introduction of an admissible crime scene or autopsy
36 photograph does not effectively communicate to a judge or jury the personhood



1 of the person who has been the victim of a homicide;

2 (4) Due to the nature of homicide crimes, a trial involving a
3 homicide offense stands apart from other trials in that the person who has
4 been the victim of a homicide can neither be present nor seek justice himself
5 or herself;

6 (5) It is the policy of the State of Arkansas that the display
7 of an in-life photograph of a person who has been the victim of a homicide is
8 not by its nature inflammatory or likely to unduly provoke the sympathies of
9 a judge or jury to a degree as to unfairly prejudice a person accused of
10 committing the homicide or otherwise override the compelling public interest
11 of allowing a person who has been the victim of a homicide to be
12 appropriately represented at a homicide trial;

13 (6) It is a legitimate and compelling policy interest of the
14 State of Arkansas that the courts afford persons who have been victims of a
15 homicide the same consideration as persons who have been the victims of other
16 crimes; and

17 (7) There is a compelling public interest in ensuring that
18 persons who have been a victim of a homicide are granted a respectful
19 presence in a courtroom, not merely a presence diminished in humanity as
20 depicted in a crime scene or autopsy photograph that cannot capture the
21 personhood of the person who once lived, but depicted as a real person, and
22 this compelling public interest is narrowly tailored to achieve this public
23 policy by allowing an appropriate and respectful in-life photograph of the
24 person who has been the victim of a homicide to be displayed to a judge or
25 jury during a trial for a homicide offense.

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27 *SECTION 2. Arkansas Code Title 16, Chapter 90, Subchapter 11, is*
28 *amended to add an additional section to read as follows:*

29 16-90-1116. Photograph of deceased person in homicide case.

30 (a) This section shall be known and may be cited as the "Arkansas In-
31 Life Photograph Act".

32 (b)(1) In a homicide case, the deceased person and the deceased
33 person's family have a right to have a photograph depicting the deceased
34 person as he or she appeared in life before the crime occurred admitted and
35 displayed at trial during the state's case-in-chief, if the photograph is
36 submitted by the prosecution and is a reasonable, accurate, and appropriate

1 depiction of the deceased person, subject to Rule 403 of the Arkansas Rules
2 of Evidence and any other rule or law.

3 (2) The court may limit the size of the photograph, the length
4 of time the photograph is displayed, and give a limiting instruction to the
5 jury as to the weight the photograph should be afforded.

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/s/Gazaway

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