

Stricken language would be deleted from and underlined language would be added to present law.
Act 1001 of the Regular Session

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: S4/3/19 H4/5/19

A Bill

SENATE BILL 646

By: Senator G. Leding
By: Representative Capp

For An Act To Be Entitled

AN ACT CONCERNING CONFIDENTIAL AND PRIVILEGED RECORDS
OF THE STATE CRIME LABORATORY; AND FOR OTHER
PURPOSES.

Subtitle

CONCERNING CONFIDENTIAL AND PRIVILEGED
RECORDS OF THE STATE CRIME LABORATORY.

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

SECTION 1. Arkansas Code § 12-12-312 is amended to read as follows:

12-12-312. Records confidential and privileged – Exception – Release.

(a)(1)(A)(i) The records, files, and information kept, obtained, or retained by the State Crime Laboratory under this subchapter are privileged and confidential.

(ii) However, the laboratory shall grant access to records pertaining to a defendant's criminal case to the following persons:

(a) The defendant;

(b) The public defender or other attorney of record for the defendant; and

(c) The prosecuting attorney or deputy prosecuting attorney having jurisdiction over the criminal case.

~~(ii)(iii)~~ The records, files, and information shall not be released only under and by to a person or entity other than those listed in subdivision (a)(1)(A)(ii) of this section except at the direction of a court of competent jurisdiction, or the prosecuting attorney having



~~criminal jurisdiction over the case, or the public defender appointed or assigned to the case.~~

~~(iii)~~(iv) In cases in which the cause and manner of death are not criminal in nature, the laboratory may communicate without prior authorization required under subdivision ~~(a)(1)(A)(ii)~~ (a)(1)(A)(iii) of this section with the decedent's next of kin or the next of kin's designee, including without limitation:

- (a) Parents;
- (b) Grandparents;
- (c) Siblings;
- (d) Spouses;
- (e) Adult children; or
- (f) Legal guardians.

(B)(i) This section does not diminish the right of a defendant, ~~or~~ his or her attorney, or an attorney who has provided a signed release from the defendant to full access to all records pertaining to the case.

(ii) Promptly after discovering any evidence in a defendant's case that is kept, obtained, or retained by the laboratory and which tends to negate the guilt of the defendant as to the offense charged or would tend to reduce the defendant's punishment, the prosecuting attorney with jurisdiction over the case shall disclose the existence of the evidence to the defendant or his or her attorney.

(C) The Department of Health may access autopsy records, files, and information under this subchapter for the purpose of implementing the quality improvement provisions of the Trauma System Act, § 20-13-801 et seq., and the rules adopted by the State Board of Health under the Trauma System Act, § 20-13-801 et seq.

(2) However, a full report of the facts developed by the State Medical Examiner or his or her assistants shall be promptly filed with the law enforcement agencies, county coroner, and prosecuting attorney of the jurisdiction in which the death occurred.

(b) The State Crime Laboratory Board shall promulgate rules not contrary to law regarding the release of reports and information by the staff of the laboratory.

(c) All records, files, and information obtained or developed by the

laboratory pertaining to a capital offense committed by a defendant who is subsequently sentenced to death for the commission of the capital offense shall be preserved and retained until the defendant's execution.

/s/G. Leding

APPROVED: 4/15/19