

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S1/27/21 S2/1/21
A Bill

SENATE BILL 172

By: Senator G. Leding
By: Representatives Hudson, *Underwood*

For An Act To Be Entitled

AN ACT CONCERNING RECORDS AND PHOTOGRAPHS KEPT BY THE
STATE CRIME LABORATORY; TO DECLARE AN EMERGENCY; AND
FOR OTHER PURPOSES.

Subtitle

CONCERNING RECORDS AND PHOTOGRAPHS KEPT
BY THE STATE CRIME LABORATORY; AND TO
DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 12-12-312(a), concerning confidential and privileged records kept by the State Crime Laboratory, is amended to read as follows:

(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; and*

(d) *The Attorney General or his or her designee.*



(iii) The records, files, and information shall not be released 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 criminal case.

(iv) In cases in which the cause and manner of death are not criminal in nature, the laboratory may communicate without the prior authorization required under subdivision (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~~ and
- (f) Legal guardians.

(B)(i) This section does not diminish the right of a defendant, 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~~ that 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.

(3) This section does not require the laboratory to provide a

photograph to a defendant in the custody of the Department of Corrections that:

(A) Depicts a crime scene;

(B) Depicts the victim of a crime; or

(C) Was taken in conjunction with an autopsy.

(4) This section does not:

(A) Deny access to a photograph to an attorney representing an inmate in the custody of the Department of Corrections; or

(B) Prohibit a court from ordering the Department of Corrections to provide a photograph to an inmate upon a showing of reasonable need.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that possession of photographs described in this act by an inmate in the Department of Corrections compromises the security of the correctional facility in which the inmate is housed. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

/s/G. Leding

APPROVED: 2/24/21