

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: S3/9/15 S3/17/15 S3/30/15*
90th General Assembly **A Bill**
Regular Session, 2015

SENATE BILL 617

By: Senators D. Sanders, *A. Clark, J. Cooper, J. Dismang, B. King, J. Woods*

By: Representatives Shepherd, *Baine*

For An Act To Be Entitled

AN ACT TO BE KNOWN AS THE PUBLIC SAFETY TRANSPARENCY AND ACCOUNTABILITY ACT OF 2015; CONCERNING THE DEPARTMENT OF CORRECTION, DEPARTMENT OF COMMUNITY CORRECTION, AND THE PAROLE BOARD; CONCERNING INMATE RECORDS IN THE DEPARTMENT OF CORRECTION; CONCERNING RECORDS OF PROBATIONERS AND PAROLEES SUPERVISED BY THE DEPARTMENT OF COMMUNITY CORRECTION; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO BE KNOWN AS THE PUBLIC SAFETY TRANSPARENCY AND ACCOUNTABILITY ACT OF 2015; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Temporary legislation.

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

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



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

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

- (1) Population projections;
- (2) Recidivism; and
- (3) Evaluation of the cost-benefit of evidence-based practices

of:

- (A) Adult prisons;
- (B) Community corrections facilities;
- (C) Probation; and
- (D) Parole.

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

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

12-12-1201. Authorization.

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

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

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

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

12-12-1202. Information provided.

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

- (1) Section 12-29-114, pertaining to escape;
- (2) Section 16-21-106, pertaining to assistance to victims and witnesses of crimes;
- (3) Section 16-93-204, pertaining to executive clemency;
- (4) Section 16-93-615, pertaining to transfer hearings;
- (5) Section 16-93-702, pertaining to parole; or
- (6) Section 16-97-102, pertaining to sentencing.

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

- (1) ~~information~~ Information about an inmate's custody status in regard to furloughs, work release, and community correction programs; and
- (2) The location of information publicly available under § 12-27-144.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

additional section to read as follows:

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

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

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

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

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

(2)(A)(i) Beginning July 1, 2015, the disciplinary record for each inmate.

(ii) As used in this subsection, "disciplinary record" means a list of each major disciplinary violation after July 1, 2015, for which the inmate has been found guilty.

(B) Additionally, the list and the date of major disciplinary violations for which the inmate was found guilty shall be displayed during the period the inmate is being considered for transfer to parole;

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

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

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

(4) Custody status and level;

(5) Any known aliases;

(6) A current photograph of the inmate;

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

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

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

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

(b)(1) To the extent permitted by federal law, the Department of Community Correction shall post on the Department of Community Correction's website the following information concerning a probationer, parolee, or other person under the supervision of the Department of Community Correction who has absconded or has had a warrant issued for his or her arrest for evading supervision:

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

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

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

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

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

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

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

(D) Any known aliases;

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

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

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

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

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

(2) The Department of Community Correction shall develop a plan to establish a method for a victim of a crime committed by a probationer, parolee, or other person under the supervision of the Department of Community Correction to directly and easily access the information listed under this subsection.

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

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

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

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

(a) The Department of Community Correction shall track a person under its supervision who is serving a suspended sentence and notify the prosecuting attorney with jurisdiction over the person's suspended sentence if the department knows that the person has not complied with the terms and conditions of the suspended sentence.

(b) A circuit court shall notify the department of all suspended sentences to which the circuit court sentences a defendant, including the defendant's name, the terms and conditions of the suspended sentence, and the length of the suspended sentence.

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

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

(a) A rule implemented by the Board of Corrections, Department of Correction, Department of Community Correction, or the Parole Board pertaining to this act shall be approved by the appropriate legislative

committee before becoming effective.

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

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

(d)(1) A presentence report, a preparole report, and a supervision history obtained in the discharge of official duty by any member or employee of the board shall be privileged and shall not be disclosed, directly or indirectly, to any person other than the board, a court, ~~or~~ others entitled under this chapter to receive the information, or as required under § 16-93-212.

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

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

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

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

(1) The name of the inmate;

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

(3) A current photograph of the inmate;

(4) The projected hearing date of the inmate;

(5) The number of times, if any, probation or parole has been

revoked from the inmate; and

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

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

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

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

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

SECTION 12. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that there is an alarming lack of transparency in the corrections system regarding information about inmates who will soon be coming up for parole and released into society; that it is vital to public safety that the public know exactly what potential threats exist from inmates in the Department of Correction who will soon be introduced back into society; and that this act is immediately necessary because the sooner inmate, parolee, and probationer information is made available to the public, the sooner the public is able to evaluate who is and who is not a threat to society. 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/D. Sanders