

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

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/13/15
A Bill

SENATE BILL 698

By: Senator J. Hutchinson
By: Representative Wright

For An Act To Be Entitled

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

Subtitle

TO GRANT CERTAIN LAW ENFORCEMENT
INVESTIGATORS ACCESS TO THE PRESCRIPTION
DRUG MONITORING PROGRAM TO ENHANCE
INVESTIGATIVE CAPABILITY.

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

SECTION 1. Arkansas Code § 20-7-603, concerning the definitions of the Prescription Drug Monitoring Program Act, is amended to add new subdivisions to read as follows:

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

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

- (A) The person's own use;
- (B) The use of a member of the person's household; or
- (C) Administering to an animal owned by a person or by a member of the person's household;

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



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

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

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

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

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

(2) The case number of the investigation.

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

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

(B) The disposition of the investigation.

(2) The department shall:

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

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

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

(B) Failure to submit a verification form under

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

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

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

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

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

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

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

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

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

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

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

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

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

/s/J. Hutchinson