

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1576

By: Representative M. Berry

For An Act To Be Entitled

AN ACT CONCERNING THE RIGHTS OF A CRIME VICTIM; TO PROVIDE FOR THE REDACTION OR SEALING OF INFORMATION THAT IDENTIFIES A VICTIM OF CERTAIN CRIMINAL OFFENSES; TO PROVIDE FOR THE REMOVAL OF PUBLIC INFORMATION THAT IDENTIFIES THE VICTIM OF CERTAIN OFFENSES; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE FOR THE REDACTION OR SEALING OF VICTIM INFORMATION; AND TO PROVIDE FOR THE REMOVAL OF PUBLIC INFORMATION THAT IDENTIFIES THE VICTIM OF CERTAIN OFFENSES.

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

SECTION 1. Arkansas Code Title 16, Chapter 90, Subchapter 11, is amended to add an additional section to read as follows:

16-90-1116. Removal or redaction of victim information from public documents and databases.

(a) As used in this section:

(1) "Applicable state or local agency or political subdivision" means any of the following:

(A) The county tax assessor for the county where the victim of an offense resides;

(B) The county clerk for the county where the victim of an offense resides;



(C) The county revenue office for the county where the victim of an offense resides;

(D) All county elected officials, excluding governing body members;

(E) The city treasurer or city recorder-treasurer for the city where the victim of an offense resides, if applicable;

(F) The city clerk for the city where the victim of an offense resides, if applicable;

(G) All city elected officials, excluding governing body members;

(H) The Office of Motor Vehicle;

(I) The Office of Driver Services;

(J) The Department of Finance and Administration;

(K) The circuit court clerk for the county where the victim of an offense resides; or

(L) Any other agency operated by the state, a county, a city, or a political subdivision that may publish public documents and databases that would be likely to contain identifying information of the victim of an offense;

(2) "Identifying information" means a person's:

(A) Date of birth;

(B) Social Security number;

(C) Residential address;

(D) Employment address;

(E) Phone number;

(F) Email address; or

(G) Other information that could reasonably lead a person to identify the person;

(3) "Public documents and databases" means any document, list, information, or other compiled data that lists a person's name and other identifying information that is made available to the public through publication or that is contained in a publicly accessible database or on a publicly accessible internet website that is operated by an applicable state or local agency or political subdivision; and

(4) "Victim of an offense" means a person who was a victim of one (1) or more of the following offenses:

(A) A felony involving violence as defined in § 5-4-501(d)(2); and

(B) A felony offense requiring registration under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.

(b)(1) With the exception of voter records, a victim of an offense may file a petition in the circuit court with jurisdiction where the victim of an offense resides to request the removal or redaction of his or her identifying information from all public documents and databases.

(2) The petition under subdivision (b)(1) of this section shall:

(A) Be filed under seal;

(B) List the identifying information that the victim of an offense requests be removed or redacted from the public documents and databases;

(C) List the relevant offense for which the victim of an offense was victimized as well as the name of any defendant who victimized the victim of an offense, the relevant case number, and the name of the court in which any defendant was convicted; and

(D) Describe the reason or reasons why the victim of an offense requests his or her identifying information be removed or redacted from all public documents and databases.

(3) A fee shall not be charged to file the petition.

(c)(1) The circuit court shall conduct an in camera hearing on a petition under subdivision (b)(1) of this section within five (5) days of the filing of the petition or at a time that the court and the victim of an offense agree upon if the victim of an offense consents to an in camera hearing beyond the five-day requirement.

(2) The prosecuting attorney in the judicial circuit in which the petition was filed shall provide assistance to the circuit court when asked to provide criminal justice-related information, including without limitation information contained in the Arkansas Crime Information Center concerning both the specific offense for which the victim of an offense was victimized as well as information concerning the defendant who was convicted of the offense, including the defendant's prior criminal history.

(3) The victim of an offense may be represented by an attorney of his or her choosing during the pendency of the petition process described under this section.

(4) The in camera hearing on the petition under this section is not required to be conducted in person and may be conducted by teleconference or other remote means at the request of the victim of an offense.

(d) The circuit court shall order the removal or redaction of the identifying information of a victim of an offense from all public documents and databases created or administered by an applicable state or local agency or political subdivision after the date of the circuit court's order if the victim of an offense:

(1) Provides evidence that he or she is currently being subjected to retaliation, retribution, or revenge, or is currently being victimized again because of his or her status as the victim of an offense;

(2) Demonstrates that, while he or she is not currently being subjected to retaliation, retribution, or revenge, or is not currently being victimized again because of his or her status as the victim of an offense, there is a reasonable probability that retaliation, retribution, revenge, or being victimized again because of his or her status as the victim of an offense could occur in the future; or

(3) Shows by a preponderance of the evidence that the identifying information should be removed or redacted from all public documents and databases in the interests of justice.

(e)(1) A court order under this section requiring the removal or redaction from all public documents and databases of the identifying information of a victim of an offense shall be in effect for a period of five (5) years.

(2)(A)(i) A victim of an offense may request by written letter the renewal of the court order requiring the removal or redaction of his or her identifying information from all public documents and databases within six (6) months of the expiration date of the court order.

(ii) The written letter described under subdivision (e)(2)(A)(i) of this section shall describe in detail why the victim of an offense requests the renewal of the court order.

(iii) The written letter shall become part of the circuit court's file.

(B)(i) The circuit court may renew its court order upon receipt of the written letter described under subdivision (e)(2)(A) of this section with or without a hearing if the circuit court finds that one (1) or

more of the circumstances described under subsection (d) of this section remains valid.

(ii)(a) If the circuit court requires a hearing, the same procedures as described under this section concerning the institution of the original petition shall govern.

(b) However, the victim of an offense is not required to file a new petition.

(c) The hearing shall consider only the reasons stated in the written letter required under subdivision (e)(2)(A) of this section in determining whether or not to renew the court order.

(iii) If the circuit court renews its court order, the court order shall be sent to the applicable state or local agency or political subdivision for enforcement.

(3) The circuit court may renew its court order as many times as necessary if the requirements of this subsection are met at the expiration of the most current court order.

(4) If the victim of an offense notifies the circuit court in which the original petition was filed that the victim of an offense has moved his or her residence outside of the circuit court's judicial circuit and provides the circuit court with his or her new address, including the name of the county in which the victim of an offense currently resides, then the circuit court shall notify the victim of an offense that he or she is required to file a new petition with the circuit court in his or her current judicial circuit, and the circuit court with original jurisdiction shall copy the case file in its entirety and send the case file to the new circuit court to supplement the case file of the new circuit court.

(f) If the circuit court issues an order removing or redacting the identifying information of a victim of an offense from all public documents and databases, the clerk of the circuit court shall mail a copy of the court order to:

- (1) The victim of an offense;
- (2) The department;
- (3) Any applicable state or local agency or political subdivision; and
- (4) Any other person or entity as requested by the victim of an offense.

(g)(1) A victim of an offense who has obtained a court order under this section may file a request with the circuit court clerk where he or she is registered to vote to have his or her identifying information that is contained in all relevant voting records placed under seal.

(2) The circuit court clerk shall place the identifying information of the victim of an offense under seal upon receipt of the court order unless the circuit court clerk establishes that there is a compelling reason not to place the identifying information under seal.

(3)(A) If the circuit court clerk indicates that there is a compelling reason not to place the identifying information under seal, the victim of an offense may file a separate petition in the circuit court with jurisdiction to request that the information be placed under seal.

(B)(i) The requirements and process concerning the filing of the petition and subsequent standards of proof are the same as described under subsections (b)-(d) of this section.

(ii) The circuit court clerk shall appear to present evidence of a compelling reason not to place the identifying information under seal.

(h) Any identifying information removed, redacted, or placed under seal under this section shall be available upon request from the following entities without the need for a court order:

(1) The victim of an offense whose record was removed, redacted, or placed under seal or an attorney representing the victim of an offense when authorized in writing by the victim of an offense;

(2) A criminal justice agency, as defined in § 12-12-1001, if the request is accompanied by a statement that the request is being made in conjunction with:

(A) An application for employment with the criminal justice agency by the victim of an offense whose record has been sealed; or

(B) A criminal background check under the Polygraph Examiners Licensing Act, § 17-39-101 et seq., or the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, § 17-40-101 et seq.;

(3) A court, upon a showing that the release of the identifying information is needed in the interests of justice;

(4) A prosecuting attorney, if the request is accompanied by a

statement that the request is being made for a criminal justice purpose;

(5) A state agency or board engaged in the licensing of healthcare or education professionals;

(6) The center; or

(7) A state or local governmental agency tasked with the administration of an election or other voting issue.

(i)(1) All identifying information removed, redacted, or placed under seal under this section is confidential and is not subject to examination or disclosure as public information under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) An administrative employee of an applicable state or local agency or political subdivision shall not knowingly disclose identifying information removed, redacted, or placed under seal under this section without the consent of the victim of an offense.