

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

# A Bill

HOUSE BILL 1356

5 By: Representative Shepherd  
6 By: Senator Rapert  
7

## For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 7 OF  
10 THE ARKANSAS CODE CONCERNING ELECTIONS; AND FOR OTHER  
11 PURPOSES.  
12  
13

## Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 7  
16 OF THE ARKANSAS CODE CONCERNING  
17 ELECTIONS.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 7-6-218, concerning citizen complaints to  
23 the Arkansas Ethics Commission, is amended to read as follows to clarify  
24 references to the commission:

25 7-6-218. Citizen complaints.

26 (a)(1) Any citizen may file a complaint with the Arkansas Ethics  
27 Commission against a person covered by this subchapter, by § 7-1-103(a)(1)-  
28 (4), (6), or (7); ~~§ 21-1-401 et seq.~~; the Disclosure Act for Public  
29 Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; §  
30 21-1-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and  
31 State and Local Officials, § 21-8-401 et seq., ~~§ 21-8-501 et seq. [repealed]~~;  
32 § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et  
33 seq.; § 21-8-1001 et seq.; and Arkansas Constitution, Article 19, §§ 28-30;  
34 for an alleged violation of the subchapters or sections. For purposes of this  
35 subdivision (a)(1), the Arkansas Ethics Commission shall be considered a  
36 citizen.



1 (2) A complaint must be filed within four (4) years after the  
 2 alleged violation occurred. If the alleged violation is the failure to file a  
 3 report or the filing of an incorrect report, the complaint ~~must~~ shall be  
 4 filed within four (4) years after the date the report was due.

5 (b)(1)(A) Upon a complaint stating facts constituting an alleged  
 6 violation signed under penalty of perjury by any person, the ~~commission~~  
 7 Arkansas Ethics Commission shall investigate the alleged violation of this  
 8 subchapter or § 7-1-103(a)(1)-(4), (6), or (7); the Disclosure Act for Public  
 9 Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; §  
 10 21-1-401; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and  
 11 Local Officials, § 21-8-401 et seq., ~~§ 21-8-501 et seq. [repealed]~~, § 21-8-  
 12 601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.;  
 13 § 21-8-1001 et seq.; and Arkansas Constitution, Article 19, §§ 28-30.

14 (B) The ~~commission~~ Arkansas Ethics Commission shall  
 15 immediately notify any person under investigation of the investigation and of  
 16 the nature of the alleged violation.

17 (C) The ~~commission~~ Arkansas Ethics Commission in a  
 18 document shall advise the complainant and the respondent of the final action  
 19 taken, together with the reasons for the action, and such document shall be a  
 20 public record.

21 (D) Filing of a frivolous complaint shall be a violation  
 22 of this subchapter. For purposes of this section, "frivolous" means clearly  
 23 lacking any basis in fact or law. In any case in which the ~~commission~~  
 24 Arkansas Ethics Commission has dismissed a complaint, the respondent may  
 25 request in writing that the ~~commission~~ Arkansas Ethics Commission make a  
 26 finding as to whether or not the complaint filed was frivolous. In the event  
 27 that the ~~commission~~ Arkansas Ethics Commission finds that the complaint was  
 28 frivolous, the respondent may file a complaint seeking sanctions as provided  
 29 in ~~§ 7-6-218(b)(4)~~ subdivision (b)(4) of this section.

30 (2) If, after the investigation, the ~~commission~~ Arkansas Ethics  
 31 Commission finds that probable cause exists for a finding of a violation, the  
 32 respondent may request a hearing. The hearing shall be a public hearing.

33 (3)(A) The ~~commission~~ Arkansas Ethics Commission shall keep a  
 34 record of its investigations, inquiries, and proceedings.

35 (B)(i) Except as provided in subdivision  
 36 (b)(3)(B)(ii) of this section, all proceedings, records, and transcripts of

1 any investigations or inquiries shall be kept confidential by the ~~commission~~  
 2 Arkansas Ethics Commission, unless the respondent requests disclosure of  
 3 documents relating to investigation of the case, in case of a hearing under  
 4 subdivision (b)(2) of this section, or in case of judicial review of a  
 5 ~~commission~~ decision of the Arkansas Ethics Commission pursuant to § 25-15-  
 6 212.

7 (ii)(a) Through its members or staff, the ~~commission~~  
 8 Arkansas Ethics Commission may disclose confidential information to proper  
 9 law enforcement officials, agencies, and bodies or as may be required to  
 10 conduct its investigation.

11 (b) If an investigation or inquiry concerns an  
 12 attorney or judge, the ~~commission~~ Arkansas Ethics Commission may, through its  
 13 members or staff, disclose confidential information to the Supreme Court  
 14 Committee on Professional Conduct or the Judicial Discipline and Disability  
 15 Commission.

16 (C) Thirty (30) days after any final adjudication in which  
 17 the ~~commission~~ Arkansas Ethics Commission makes a finding of a violation, all  
 18 records relevant to the investigation and upon which the ~~commission~~ Arkansas  
 19 Ethics Commission has based its decision, except working papers of the  
 20 ~~commission~~ Arkansas Ethics Commission and its staff, shall be open to public  
 21 inspection.

22 (4) If the ~~commission~~ Arkansas Ethics Commission finds a  
 23 violation of this subchapter, § 7-1-103(a)(1)-(4), (6), or (7); §21-1-401 et  
 24 seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and  
 25 Local Officials, § 21-8-401 et seq., ~~§ 21-8-501 et seq., [repealed]~~, § 21-8-  
 26 601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.;  
 27 § 21-8-1001 et seq.; or Arkansas Constitution, Article 19, §§ 28-30; then the  
 28 ~~commission~~ Arkansas Ethics Commission shall do one (1) or more of the  
 29 following, unless good cause be shown for the violation:

30 (A) Issue a public letter of caution or warning or  
 31 reprimand;

32 (B)(i) Notwithstanding the provisions of §§ 7-6-202, 7-9-  
 33 409, 21-8-403, and 21-8-903, impose a fine of not less than fifty dollars  
 34 (\$50.00) nor more than two thousand dollars (\$2,000) for negligent or  
 35 intentional violation of this subchapter; ~~§ 21-8-301 et seq.,~~ the Disclosure  
 36 Act for Public Initiatives, Referenda, and Measures Referred to Voters, § 7-

1 9-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State  
 2 and Local Officials, § 21-8-401 et seq., § 21-8-601 et seq., § 21-8-701 et  
 3 seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; or  
 4 Arkansas Constitution, Article 19, §§ 28-30.

5 (ii) The ~~commission~~ Arkansas Ethics Commission shall  
 6 adopt rules governing the imposition of such fines in accordance with the  
 7 provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

8 (iii) All moneys received by the ~~commission~~ Arkansas  
 9 Ethics Commission in payment of fines shall be deposited into the State  
 10 Treasury as general revenues;

11 (C) Order the respondent to file or amend a statutorily  
 12 required disclosure form; or

13 (D)(i) Report its finding, along with such information and  
 14 documents as it deems appropriate, and make recommendations to the proper law  
 15 enforcement authorities.

16 (ii) When exercising the authority provided in this  
 17 subdivision (b)(4), the ~~commission~~ Arkansas Ethics Commission is not required  
 18 to make a finding of a violation of the laws under its jurisdiction.

19 (5)(A)(i) The ~~commission~~ Arkansas Ethics Commission shall  
 20 complete its investigation of a complaint filed pursuant to this section and  
 21 take final action within two hundred ten (210) days of the filing of the  
 22 complaint.

23 (ii) If a hearing under subdivision (b)(2) of this  
 24 section or other hearing of adjudication is conducted, all action on the  
 25 complaint by the ~~commission~~ Arkansas Ethics Commission shall be completed  
 26 within two hundred forty (240) days.

27 (B) However, such time shall be tolled during the pendency  
 28 of any civil action, civil appeal, or other judicial proceeding involving  
 29 those particular ~~commission~~ Arkansas Ethics Commission proceedings.

30 (c) Any final action of the ~~commission~~ Arkansas Ethics Commission  
 31 under this section shall constitute an adjudication for purposes of judicial  
 32 review under § 25-15-212.

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 34 SECTION 2. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

35 It is the intent of the General Assembly that:

36 (1) The enactment and adoption of this act shall not expressly

1 or impliedly repeal an act passed during the regular session of the Ninety-  
2 First General Assembly;

3 (2) To the extent that a conflict exists between an act of the  
4 regular session of the Ninety-First General Assembly and this act:

5 (A) The act of the regular session of the Ninety-First  
6 General Assembly shall be treated as a subsequent act passed by the General  
7 Assembly for the purpose of:

8 (i) Giving the act of the regular session of the  
9 Ninety-First General Assembly its full force and effect; and

10 (ii) Amending or repealing the appropriate parts of  
11 the Arkansas Code of 1987; and

12 (B) Section 1-2-107 shall not apply; and

13 (3) This act shall make only technical, not substantive, changes  
14 to the Arkansas Code of 1987.

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17 **APPROVED: 02/21/2017**  
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