

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1004

Bill Subtitle: TO CREATE THE ARKANSAS VOTER INTEGRITY AND SECURITY ACT; TO REQUIRE AUTOMATIC VOTER REGISTRATION; TO AMEND ARKANSAS CONSTITUTION, AMENDMENT 51; AND TO AMEND THE LAW CONCERNING ELECTIONS AND VOTING.

Basic Change :

Sponsor: Rep. Blake

HB1004 creates the Arkansas Voter Integrity and Security Act to provide automatic electronic transfer of voter registration information by amending Arkansas Constitution, Amendment 51, § 5 and revises procedures for cancellation of voter registration by amending Arkansas Constitution, Amendment 51, § 11(c).

Currently DFA is required to ask a series of identifying questions at the time of performing any driver's license or identification card transaction. The answers to these questions are sent to the Secretary of State (SOS) electronically for purposes of voter registration. HB1004 will require DFA to collect the following additional information from the licensee or identification card holder when registering to vote:

- Email address (if available);
- Telephone number;
- Political party preference;
- Whether or not the person affirmatively declined to become registered to vote; and
- A notation that the person has attested that he or she is eligible to register to vote.

The bill also repeals §§ 7-1-103(a)(4) and 7-1-104(a)(5) and (6) concerning one misdemeanor and two felony offenses pertaining to: (1) assessing a public employee for a political purpose or to coerce, by threats or otherwise, any public employee into making a subscription or contribution for any political purpose; (2) threatening or attempting to intimidate any elector or the family, business, or profession of the elector; and (3) interfering with or to preventing any qualified elector from voting at any election or to attempt to interfere with or to prevent any qualified elector from voting at any election. The bill also amends Arkansas Code, Title 7 to create an additional section (§ 7-1-115) that consolidates the repealed offenses of §§ 7-1-103 and -104 concerning felony Voter Intimidation Offenses.

Also, under the newly-enacted § 7-1-115(d), a person who is intimidated because of his or her race, ethnicity or religion may pursue a private cause of action against any person or local election official who committed the voter intimidation offense.

Revenue Impact :

None.

Taxpayer Impact :

This bill will require DFA personnel to ask additional questions of customers when performing any driver's license or identification card transaction.

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Resources Required :

DFA's total estimated implementation cost is \$54,000.00 with an ongoing yearly estimated maintenance cost of \$6,000.00. The Secretary of State (SOS) will have additional cost of \$18,375 for programming; \$65,000 for salary and benefits for an additional staff member that will be required and \$100,000 for production and printing of the education materials. The total for both DFA and SOS is \$237,375 with an ongoing yearly estimated maintenance cost of \$6,000.00.

Time Required :

Additional time may be required to implement this bill.

Procedural Changes :

Both DFA and SOS will need to train personnel on new procedures. SOS will also be required to train county personnel on the changes provided in the bill.

Other Comments :

An amendment may be required for the requested implementation date of August 31, 2019 to provide sufficient time for programming, training of staff, educating county officials and Arkansas citizens, among other necessary changes required by the bill.

Legal Analysis :

HB1004 would require DFA, Office of Driver Services (ODS), in consultation with the Arkansas Secretary of State (SOS), to establish a schedule and method for ODS to electronically provide certain information to the SOS for purposes of automatic voter registration. Each time a person seeks to obtain or renew a driver's license, personal identification card, or seeks a duplicate or corrected license or card, or changes his or her address or name, the following information will be electronically provided to the SOS: name, date of birth, residence address and/or mailing address, telephone number, email address (if available), political party preferences, whether or not the person affirmatively declined to become registered to vote during a transaction with the ODS, a notation that the applicant has attested that he or she is eligible to register to vote, and other information specified in rules adopted pursuant to this bill. The Federal Driver's Privacy Protection Act (DPPA) at 18 U.S.C. § 2721 generally prohibits the release and use of certain personal information from state motor vehicle records. However, ODS' disclosure of the information to the SOS would qualify as a permissible use under 18 U.S.C. § 2721(b)(1).

This bill would require that the State Registrar of Vital Records ("Vital Records") notify the Secretary of State (SOS) of the death of a resident each business day. The SOS is required to compile a listing of deceased residents and provide this listing to each county clerk on the same business day so that the voter registration be cancelled. The effect of this amendment is to cause the death records of Arkansas residents be compiled and transmitted between the offices of Vital Records, SOS, and each county clerk on the same business day to expedite the cancellation of voter registrations of deceased residents.

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The bill repeals § 7-1-103(a)(4) which is the misdemeanor offense of assessing a public employee for a political purpose, or causing by threat or otherwise a public employee into making a subscription or contribution for any political purpose.

This bill repeals § 7-1-104(a)(5) and (6) which are the felony offenses of threatening or attempting to intimidate any elector or their family, business, or profession; and repeal the offense of interfering or preventing, or attempting to interfere with or preventing a qualified elector, from voting.

This bill would create four Class D felony offenses related to voter intimidation in a new code section (§ 7-1-115). The effect of this amendment is that any person who recklessly: (1) threatens or attempts to intimidate any elector, or their family, business, or profession; (2) threatens or attempts to intimidate, interferes with or prevents from voting or attempts same; (3) assesses a public employee for a political purpose or coerces by threat or otherwise such employee to make a political subscription or contribution; (4) interferes, prevents, or obstructs required voting assistance to a person who is blind, disabled, or not able to read would be guilty of a Class D felony. Further, this amendment would bar a person convicted of holding public office or employment from date of conviction and create a private cause of action for a person who is intimidated because of race, ethnicity, or religion.