

1
2 State of Arkansas
3 89th General Assembly
4 Regular Session, 2013
5

INTERIM STUDY PROPOSAL 2013-134
As Engrossed: S3/18/13 S3/20/13

A Bill

SENATE BILL 1029

6 By: Senators K. Ingram, *Maloch, R. Thompson*
7 By: Representatives Love, Ferguson

8 Filed with: Interim Senate Committee on State Agencies and Governmental Affairs
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

11 AN ACT TO ENSURE THAT CANDIDATES FOR OFFICE ARE
12 QUALIFIED; TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR
13 CANDIDATES BEFORE THE ELECTION; TO PREVENT CANDIDATES
14 CONVICTED OF CERTAIN CRIMES FROM RUNNING FOR PUBLIC
15 OFFICE; AND FOR OTHER PURPOSES.

Subtitle

19 TO ENSURE THAT CANDIDATES FOR OFFICE ARE
20 QUALIFIED; TO REQUIRE CRIMINAL BACKGROUND
21 CHECKS FOR CANDIDATES BEFORE THE
22 ELECTION; AND TO PREVENT CANDIDATES
23 CONVICTED OF CERTAIN CRIMES FROM RUNNING
24 FOR PUBLIC OFFICE.

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

29 SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 2, is amended
30 to add a new section to read as follows:

31
32 7-5-213. Criminal background checks for candidates.

33 (a) Under the Arkansas Constitution, Article 5, § 9, a candidate is
34 not qualified to hold public office if he or she has been convicted of
35 embezzlement of public money, bribery, forgery, or other infamous crime.

1 (b)(1)(A) A candidate shall file a criminal background check waiver at
2 the same time and place the candidate files his or her political practices
3 pledge under §§ 6-14-111, 7-5-205, 7-6-102, 7-7-103, 7-7-203, 7-10-103, and
4 14-42-206.

5 (B)(i) The candidate shall pay the fees associated with
6 criminal background check.

7 (ii) Payment of the fees shall be remitted to the
8 Secretary of State or the county clerk by check as defined under § 4-3-104
9 made payable to the Department of Arkansas State Police.

10 (2) The waiver shall be on a form prescribed by the State Board
11 of Election Commissioners and shall include:

12 (A) The candidate's:

13 (i) Name;

14 (ii) Date of birth;

15 (iii) Gender;

16 (iv) Race; and

17 (v) Social security number;

18 (B) A statement indicating that the information the
19 candidate has provided is true; and

20 (C) A space for the candidate's printed name, signature,
21 and the date of signing.

22 (3) The waiver shall be filed under seal and shall be exempt
23 from disclosure under the Freedom of Information Act of 1967, § 25-19-101 et
24 seq.

25 (c)(1) Immediately after receipt and filing of the criminal background
26 check waiver, the Secretary of State or county clerk shall submit a copy of
27 the waiver and a request for the criminal background check to the Department
28 of Arkansas State Police.

29 (2) If the waiver was filed with the county clerk, the county
30 clerk immediately shall provide a copy of the waiver to the Secretary of
31 State and notify the Secretary of State of the date and time the waiver was
32 submitted to the Department of Arkansas State Police.

33 (d)(1) The Department of Arkansas State Police shall complete the
34 criminal background check and notify the Secretary of State of the results no
35 later than seven (7) days after the receipt of the waiver.

36 (2) The notification shall be in writing and shall include:

1 (A) The candidate's personal identifying information; and

2 (B) A copy of the candidate's criminal background check
3 information.

4 (e)(1)(A) Except as provided under subdivision (e)(1)(B) of this
5 section, if the candidate's criminal background check results are returned to
6 the Secretary of State indicating that the candidate has been convicted of an
7 offense under subsection (a) of this section, the Secretary of State or county
8 clerk promptly shall:

9 (i) Notify the candidate in writing:

10 (a) Of the conviction; and

11 (b) That the candidate is potentially unqualified to
12 hold public office;

13 (ii) Provide copies of the written document under
14 subdivision (e)(1)(A) of this section to the Attorney General and the
15 prosecuting attorney for the county in which the candidate filed for office;
16 and

17 (iii) Allow the candidate to withdraw from candidacy if he
18 or she chooses.

19 (B) If the candidate filed for office with the county
20 clerk:

21 (i) The Secretary of State promptly shall provide a
22 copy of the criminal background check results for the candidate to the county
23 clerk; and

24 (ii) The county clerk shall perform the functions
25 under subdivision (e)(1)(A) of this section.

26 (2) All documents generated under this section, including
27 without limitation the criminal background check waiver, written
28 notifications, and results of the criminal background checks shall be filed
29 under seal and shall be exempt from disclosure under the Freedom of
30 Information Act of 1967, § 25-19-101 et seq.

31 (3) If the candidate who has been convicted of an offense under
32 subsection (a) of this section is elected to office, upon removal from office
33 the court shall order a penalty of not less than one thousand dollars
34 (\$1,000) and not more than twenty five thousand dollars (\$25,000).

35 (f) This section does not apply to candidates for United States
36 Presidential, Vice Presidential, or Congressional office.

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/s/K. Ingram

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Referred by the Arkansas Senate

Prepared by: JAW/VJF