

# Hall of the House of Representatives

88th General Assembly - Regular Session, 2011

## Amendment Form

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### Subtitle of House Bill No. 2061

TO REQUIRE AND REGULATE THE USE OF A CRIMINAL BACKGROUND CHECK FOR  
CANDIDATES FOR PUBLIC OFFICE.

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### Amendment No. 1 to House Bill No. 2061

Amend House Bill No. 2061 as originally introduced:

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 7-6-102 is amended to read as follows:

7-6-102. Political practices pledge – Penalty for falsification

(a)(1) Candidates for political party nominations for state or district offices shall file with the Secretary of State and candidates for county, municipal, or township offices shall file with the county clerk of the county during the filing period set out in § 7-7-203 for the preferential primary election a pledge in writing stating that they are familiar with the requirements of §§ 7-1-103, 7-1-104, 7-3-108, 7-6-101, 7-6-103, 7-6-104, and this section and will comply in good faith with their terms.

(2) Persons seeking nomination as independent candidates and school district candidates shall file the political practices pledge at the time of filing the petition for nomination.

(3) Independent candidates for municipal office shall file the political practices pledge with the county clerk at the time of filing the petition for nomination.

(4) Persons who wish to be write-in candidates shall file the political practices pledge at the time of filing the notice to be a write-in candidate.

(5) Nonpartisan judicial candidates paying filing fees in accordance with § 7-10-103(b) shall file the political practices pledge at the time of filing for office.

(6) Nonpartisan judicial candidates filing by petition in accordance with § 7-10-103(c) shall file the political practices pledge at the time of filing the petition.

(b) All political practices pledge forms for state or district offices and county, municipal, or township offices shall be required to contain the following additional pledge:

"I hereby certify that I have never been convicted of a any felony or a misdemeanor crime of embezzlement of public money, bribery, or forgery in Arkansas or in any other jurisdiction outside of Arkansas."



(c) Any person who has been convicted of a any felony or a misdemeanor crime of embezzlement of public money, bribery, or forgery and signs the pledge stating that he or she has not been convicted of a any felony or a misdemeanor crime of embezzlement of public money, bribery, or forgery shall be guilty of a Class D felony.

(d) For purposes of this section, a person shall be qualified to be a candidate for a state, district, county, municipal, and township office and may certify that he or she has never been convicted of a any felony or a misdemeanor crime of embezzlement of public money, bribery, or forgery if his or her record was expunged in accordance with §§ 16-93-301 – 16-93-303, or a similar expunction statute in another state, provided, the candidate presents a certificate of expunction from the court that convicted the prospective candidate.

(e)(1) The name of a candidate who fails to sign and file the pledge shall not appear on the ballot.

(2)(A) However, within five (5) days from which the pledge is required to be filed, the Secretary of State or the county clerk shall notify by certified mail that requires a return receipt signed by the candidate those candidates who have failed to file a signed political practice pledge. The notice shall include a copy of the written pledge required by this section.

(B) Failure of the state or district candidate to file with the Secretary of State or of the county, municipal, or township candidate to file with the county clerk within twenty (20) days of receipt or refusal of this notice shall prevent the candidate's name from appearing on the ballot.

SECTION 2. Arkansas Code § 7-7-103, concerning filing as an independent candidate, is amended to add an additional subsection to read as follows:

(c)(1)(A) If an independent candidate qualifies to have his or her name placed on the ballot under subsections (a) and (b) of this section, the independent candidate shall be required to apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check to be conducted by the Identification Bureau and the Federal Bureau of Investigation.

(B) The independent candidate shall apply for the criminal background check within three (3) days of qualifying to have his or her name placed on the ballot.

(2) The criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints.

(3) The independent candidate shall sign a release of information to the Secretary of State or county clerk, as the case may be, and shall be responsible for the payment of any fee associated with the criminal background check.

(4)(A) Upon completion of the criminal background check, the Identification Bureau shall forward to the Secretary of State or the county clerk, as the case may be, all releasable information obtained concerning the independent candidate.

(B) The information provided to the Secretary of State or the county clerk, as the case may be, under subdivision (c)(4)(A) of this section shall be available for public inspection and copying.

(d)(1) The Secretary of State or the county clerk, as the case may be, shall not certify an independent candidate who, as determined by a review of the criminal background check conducted under subsection (a) of this section, has been convicted of:

(A) Any felony; or

(B) A misdemeanor crime of embezzlement of public money, bribery, or forgery.

(2) The name of an independent candidate who is not certified under subdivision (d)(1) of this section shall not appear on the ballot.

SECTION 3. Arkansas Code § 7-7-203(d), concerning the certification of candidates for preferential primary elections, is amended to read as follows:

(d)(1)(A) At least seventy (70) days before the preferential primary election, the Secretary of State shall certify to the various county committees and to the various county boards of election commissioners a list of the names of all candidates who have filed party certificates with the Secretary of State within the time required by law.

(B) The Secretary of State shall not certify a candidate until receiving the results of a criminal background check under § 7-7-206.

(2)(A) At least seventy (70) days before the preferential primary election, the county clerk shall certify to the county committees and to the county board of election commissioners a list of the names of all candidates who have filed party certificates with the county clerk within the time required by law.

(B) The county clerk shall not certify a candidate until receiving the results of a criminal background check under § 7-7-206.

SECTION 4. Arkansas Code § 7-7-205(e)(3), concerning candidates of new political parties, is amended to read as follows:

(3)(A) Nominated candidates shall file a political practice pledge with the Secretary of State or county clerk, as the case may be, no later than sixty (60) days prior to the general election.

(B)(i)(a) A nominated candidate who files a political practice pledge with the Secretary of State or county clerk, as the case may be, shall be required to apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check to be conducted by the Identification Bureau and the Federal Bureau of Investigation.

(b) The nominated candidate shall apply for the criminal background check within three (3) days of filing his or her political practice pledge.

(ii) The criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints.

(iii) The nominated candidate shall sign a release of information to the Secretary of State or county clerk, as the case may be, and shall be responsible for the payment of any fee associated with the criminal background check.

(iv)(a) Upon completion of the criminal background check, the Identification Bureau shall forward to the Secretary of State or the county clerk, as the case may be, all releasable information obtained concerning the nominated candidate.

(b) The information provided to the Secretary of State or the county clerk, as the case may be, under subdivision (e)(3)(B)(iv)(a) of this section shall be available for public inspection and copying.

(C)(i) The Secretary of State or the county clerk, as the case may be, shall not certify a nominated candidate who, as determined by a review of the criminal background check conducted under subdivision (e)(3)(B) of this section, has been convicted of:

(a) Any felony; or

(b) A misdemeanor crime of embezzlement of public money, bribery, or forgery.

(ii) The name of a nominated candidate who is not certified under subdivision (e)(3)(C)(i) of this section shall not appear on the ballot.

SECTION 5. Arkansas Code Title 7, Chapter 7, Subchapter 2 is amended to add an additional section to read as follows:

7-7-206. Criminal background checks.

(a)(1)(A) A candidate who files a party certificate by the filing deadline with the Secretary of State or county clerk, as the case may be, shall be required to apply to the Identification Bureau of the Department of Arkansas State Police for a state and national criminal background check to be conducted by the Identification Bureau and the Federal Bureau of Investigation.

(B) The candidate shall apply for the criminal background check within three (3) days of filing his or her party certificate.

(2) The criminal background check shall conform to applicable federal standards and shall include the taking of fingerprints.

(3) The candidate shall sign a release of information to the Secretary of State or county clerk, as the case may be, and shall be responsible for the payment of any fee associated with the criminal background check.

(4)(A) Upon completion of the criminal background check, the Identification Bureau shall forward to the Secretary of State or the county clerk, as the case may be, all releasable information obtained concerning the candidate.

(B) The information provided to the Secretary of State or the county clerk, as the case may be, under subdivision (a)(4)(A) of this section shall be available for public inspection and copying.

(b)(1) The Secretary of State or the county clerk, as the case may be, shall not certify under § 7-7-203(d) a candidate who, as determined by a review of the criminal background check conducted under subsection (a) of this section, has been convicted of:

(A) Any felony; or

(B) A misdemeanor crime of embezzlement of public money, bribery, or forgery.

(2) The name of a candidate who is not certified under subdivision (b)(1) of this section shall not appear on the ballot.

SECTION 6. Arkansas Code § 7-7-304(a) and (b), concerning names to be included on ballots, is amended to read as follows:

(a)(1) Not less than seventy (70) days before each preferential primary election, the Secretary of State shall certify to all county boards of election commissioners full lists of the names of all candidates who have filed party certificates with him or her to be placed on the ballots in their respective counties at the preferential primary election.

(2) A name of a person shall not be certified and shall not be placed on the ballot if prior to the certification a candidate:

(A) Notifies the Secretary of State in writing, signed by the candidate and acknowledged before an officer authorized to take acknowledgements, of his or her desire to withdraw as a candidate for the office or position; ~~or~~

(B) Dies; or

(C) Is found to have been convicted of any felony or a misdemeanor crime of embezzlement of public money, bribery, or forgery under § 7-7-206.

(b)(1) Not less than seventy (70) days before each preferential primary election, the county clerk shall certify to the county board full lists of the names of all candidates who have filed party certificates with him or her to be placed on the ballot at the preferential primary election.

(2) A name of a person shall not be certified and shall not be placed on the ballot if prior to the certification a candidate:

(A) Notifies the county clerk in writing, signed by the candidate and acknowledged before an officer authorized to take acknowledgements, of his or her desire to withdraw as a candidate for the office or position; ~~or~~

(B) Dies; or

(C) Is found to have been convicted of any felony or a misdemeanor crime of embezzlement of public money, bribery, or forgery under § 7-7-206."

The Amendment was read \_\_\_\_\_  
By: Representative Post  
MBM/BGS - 03/18/11 12:08  
MBM391

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Chief Clerk