

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 2945

4  
5 By: Representative Ledbetter  
6  
7

## For An Act To Be Entitled

9 AN ACT TO PROHIBIT THE HIRING OF RELATIVES BY  
10 PUBLIC OFFICIALS; TO PROHIBIT A STATE AGENCY  
11 EMPLOYEE FROM SUPERVISING A RELATIVE; TO IMPOSE  
12 CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS; AND  
13 FOR OTHER PURPOSES.  
14

## Subtitle

15 PROHIBITS THE HIRING OF RELATIVES BY  
16 PUBLIC OFFICIALS, PROHIBITS A STATE  
17 AGENCY EMPLOYEE FROM SUPERVISING A  
18 RELATIVE, AND IMPOSES CIVIL AND CRIMINAL  
19 PENALTIES FOR VIOLATIONS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code Title 25, Chapter 16 is amended to add a new  
26 subchapter to read as follows:

27 25-16-1001. Definitions.

28 As used in this subchapter:

29 (1) "Permanent employee" means a person whose employment is not  
30 seasonal or temporary and whose actual performance of duty requires one  
31 thousand five hundred (1,500) or more hours during a calendar year;

32 (2) "Public official" means:

33 (A) The Secretary of State, Governor, Lieutenant Governor,  
34 Treasurer of State, Auditor of State, Attorney General, Commissioner of State  
35 Lands, a member of the Senate, and a member of the House of Representatives;  
36 and



1                   (B) The executive head of any agency, department, board,  
 2 commission, institution, bureau, or council of this state;

3                   (3) "Relative" means husband, wife, mother, father, stepmother,  
 4 stepfather, mother-in-law, father-in-law, brother, sister, stepbrother,  
 5 stepsister, half-brother, half-sister, brother-in-law, sister-in-law,  
 6 daughter, son, stepdaughter, stepson, daughter-in-law, son-in-law, uncle,  
 7 aunt, first cousin, nephew, or niece;

8                   (4) "State agency" means:

9                   (A) All boards, commissions, departments, agencies,  
 10 institutions, state-supported institutions of higher learning, and offices of  
 11 constitutional officers of the State of Arkansas; and

12                   (B) The General Assembly, including divisions,  
 13 commissions, and bureaus operating under the authority of the General  
 14 Assembly; and

15                   (5) "Supervisory employee" means any individual having:

16                   (A) Authority in the interest of the state agency to hire,  
 17 transfer, suspend, layoff, recall, promote, discharge, assign, reward, or  
 18 discipline other employees of a state agency; or

19                   (B) The responsibility to direct other employees of a  
 20 state agency, to adjust their grievances, or to effectively recommend an  
 21 action if the exercise of authority is not of a merely routine or clerical  
 22 nature, but requires the use of independent judgment.

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 24                   25-16-1002. Prohibited employment of relatives.

25                   (a) A public official shall not appoint, employ, promote, advance, or  
 26 advocate for appointment, employment, promotion, or advancement, in or to a  
 27 position in the state agency in which the official is serving or over which  
 28 the official exercises jurisdiction or control over any person who:

29                   (1) Is a relative of the public official; and

30                   (2)(A) Is a permanent employee of a state agency; or

31                   (B) As a result of the public official's action would be a  
 32 permanent employee of a state agency.

33                   (b) Within each state agency, no permanent employees who are related  
 34 shall be placed within the same direct line of supervision whereby one (1)  
 35 relative is a supervisory employee and responsible for supervising the job  
 36 performance or work activities of another relative.

1           (c) If a person is placed on the payroll of a state agency in  
 2 violation of subsection (a) or (b) of this section, the person shall not be  
 3 entitled to pay and the employment shall be void.

4  
 5           25-16-1003. Married state agency employees.

6           (a) If as a result of a marriage that occurs after the effective date  
 7 of this act, permanent employees of a state agency are in violation of the  
 8 prohibition established by § 25-16-1002, the violation shall be resolved by:

9                   (1) Transferring one (1) of the employees to another position  
 10 within the state agency;

11                   (2) Transferring one (1) of the employees to another state  
 12 agency; or

13                   (3) The resignation of one (1) of the employees.

14           (b)(1) The public official of the state agency shall provide written  
 15 notice to the employees of each of the alternatives under subsection (b) of  
 16 this section available to eliminate the violation.

17                   (2) The employees shall be given the opportunity to select among  
 18 the available alternatives.

19                   (3) If the employees are unable to agree upon an alternative  
 20 within sixty (60) days of the notice required under subdivision (b)(1) of  
 21 this section, then the public official shall take action to eliminate the  
 22 violation.

23  
 24           25-16-1004. Criminal penalty.

25           (a) A person commits an offense if the person approves an account or  
 26 draws or authorizes the drawing of a warrant or order to pay the compensation  
 27 of another person employed in violation of § 25-16-1002.

28           (b) An offense under subsection (a) of this section is a Class A  
 29 misdemeanor.

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 31           25-16-1005. Civil penalties.

32           (a) A public official who knowingly violates § 25-16-1002(a) shall be  
 33 subject to a civil penalty equal to one thousand dollars (\$1,000).

34           (b)(1) The Attorney General may file suit in Pulaski County Circuit  
 35 Court to collect the penalty.

36                   (2) Penalties collected under this section shall be deposited to

1 the General Revenue Fund Account of the State Apportionment Fund.

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3 25-16-1006. Administration and enforcement.

4 (a) The Office of Personnel Management of the Department of Finance  
5 and Administration shall establish rules and forms for all state agencies  
6 that will enable each public official and each supervisory employee within a  
7 state agency to determine whether:

8 (1) The hiring of a job applicant would violate §§ 25-16-1002 or  
9 25-16-1003; or

10 (2) The promotion or transfer of a permanent employee of a state  
11 agency would violate § 25-16-1003.

12 (b)(1) The office shall also establish rules concerning the procedures  
13 for reporting suspected violations of this subchapter to the Attorney  
14 General.

15 (2) If the Attorney General is suspected of violating this  
16 subchapter, then the suspected violation shall be reported to the Pulaski  
17 County Prosecutor who shall file suit in Pulaski County Circuit Court to  
18 collect the civil penalty imposed under § 25-16-1005.

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20 25-16-1007. This subchapter shall not apply to the hiring, transfer,  
21 or promotion of any person employed in a state agency as of the effective  
22 date of this act.