

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  
4

As Engrossed: H3/31/05

# A Bill

HOUSE BILL 2945

5 By: Representative Ledbetter  
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## 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) "Employee" means a person whose employment is not seasonal  
30 or temporary and whose actual performance of duty requires one thousand  
31 (1,000) or more hours during a fiscal 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 an employee of a state agency; or

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

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

3                   (1) The person shall not be entitled to pay at the rate for  
4 which the employee was initially hired;

5                   (2) The person shall be entitled to receive pay at the greater  
6 of the minimum hourly wage rate under § 11-4-210 or the federal minimum  
7 hourly wage rate under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.,  
8 for time actually worked while in violation of subsection (a) or (b) of this  
9 section; and

10                   (3) The employment shall be void.

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12           25-16-1003. Married state agency employees.

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

16                   (1) Transferring one (1) of the employees to another position  
17 within the state agency;

18                   (2) Transferring one (1) of the employees to another state  
19 agency; or

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

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

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

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

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31           25-16-1004. Criminal penalty.

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

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

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25-16-1005. Civil penalties.

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

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

(2) Penalties collected under this section shall be deposited to the General Revenue Fund Account of the State Apportionment Fund.

25-16-1006. Administration and enforcement.

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

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

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

(b) The office shall also establish rules concerning the procedures for:

(1) Reporting suspected violations of this subchapter to the office; and

(2)(A) Referring suspected violations to the Attorney General or Pulaski County Prosecutor for enforcing civil penalties under § 25-16-1005.

(B) If the Attorney General is suspected of violating this subchapter, the office shall refer the matter to the Pulaski County Prosecutor.

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

*/s/ Ledbetter*