

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

A Bill

HOUSE BILL 1553

5 By: Representative Love
6

For An Act To Be Entitled

8 AN ACT TO CREATE A PROCEDURE FOR CRIMINAL BACKGROUND
9 CHECKS FOR CANDIDATES; TO REQUIRE THAT A CANDIDATE
10 HAVING CRIMINAL HISTORY BE GIVEN NOTICE PRIOR TO THE
11 ELECTION THAT HE OR SHE IS NOT QUALIFIED TO HOLD
12 OFFICE; AND FOR OTHER PURPOSES.
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Subtitle

15 TO CREATE A PROCEDURE FOR CRIMINAL
16 BACKGROUND CHECKS FOR CANDIDATES; AND TO
17 REQUIRE THAT A CANDIDATE HAVING CRIMINAL
18 HISTORY BE GIVEN NOTICE PRIOR TO THE
19 ELECTION THAT HE OR SHE IS NOT QUALIFIED
20 TO HOLD OFFICE.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 2, is amended
27 to add an additional section to read as follows:

28 7-5-213. Criminal background checks for candidates.

29 (a) A candidate is not qualified to hold public office if he or she
30 has entered a plea of guilty or nolo contendere to or has been found guilty
31 of:

32 (1) A felony offense;

33 (2) Theft of property under § 5-36-103;

34 (3) Abuse of office under § 5-52-107; or

35 (4) Witness tampering under § 5-53-110.

36 (b)(1)(A) A candidate shall file a criminal background check waiver at



1 the same time and place the candidate files his or her political practices
2 pledge under § 6-14-111, § 7-5-205, § 7-6-102, § 7-7-103, § 7-7-203, § 7-10-
3 103, and § 14-42-206.

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

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

8 (A) The candidate's:

9 (i) Name;

10 (ii) Date of birth;

11 (iii) Gender;

12 (iv) Race; and

13 (v) Social security number;

14 (B) A statement indicating that the information the
15 candidate has provided is true;

16 (C) A space for the candidate's printed name, signature,
17 and the date of signing; and

18 (D) A space for the Department of Arkansas State Police to
19 indicate:

20 (i) Whether the candidate has previously pleaded
21 guilty or nolo contendere to or been found guilty of an offense under
22 subsection (a) of this section;

23 (ii) The offense the candidate pleaded guilty or
24 nolo contendere to or was found guilty of;

25 (iii) The date of the plea or finding;

26 (iv) The case number; and

27 (v) The county or city in which the plea or finding
28 took place.

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

32 (c)(1) Immediately after receiving the criminal background check
33 waiver, the Secretary of State or county clerk shall submit a copy of the
34 waiver to the Department of Arkansas State Police.

35 (2) If the waiver was filed with the county clerk, the county
36 clerk immediately shall provide a copy of the waiver to the Secretary of

1 State and notify the Secretary of State of the date and time the waiver was
 2 submitted to the Department of Arkansas State Police.

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

6 (2) The notification shall be in writing on the copy of the
 7 candidate's criminal background check waiver and shall include:

8 (A) The candidate's personal identifying information;

9 (B) Whether the candidate has previously pleaded guilty or
 10 nolo contendere to or been found guilty of an offense under subsection (a) of
 11 this section; and

12 (C) If the candidate has pleaded guilty or nolo contendere
 13 to or been found guilty of an offense under subsection (a) of this section,
 14 the:

15 (i) Name of the offense;

16 (ii) Date of the plea or finding;

17 (iii) Case number; and

18 (iv) The county or city in which the plea or finding
 19 took place.

20 (e)(1) If the candidate's criminal background check waiver is returned
 21 to the Secretary of State indicating that the candidate has pladeed guilty or
 22 nolo contendere to or been found guilty of an offense under subsection (a) of
 23 this section, before certification of the candidate's name to the ballot the
 24 Secretary of State shall:

25 (A) Notify the candidate in writing:

26 (i) Of the conviction; and

27 (ii) That the candidate is potentially unqualified
 28 to hold public office; and

29 (B) Allow the candidate to withdraw from candidacy if he
 30 or she chooses.