

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: S3/18/13 S3/20/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 1029

4

5 By: Senators K. Ingram, *Maloch, R. Thompson*

6 By: Representatives Love, Ferguson

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For An Act To Be Entitled

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

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Subtitle

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

23

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

26

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

29

30 7-5-213. Criminal background checks for candidates.

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

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



1 14-42-206.

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

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

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

9 (A) The candidate's:

10 (i) Name;

11 (ii) Date of birth;

12 (iii) Gender;

13 (iv) Race; and

14 (v) Social security number;

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

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

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

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

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

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

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

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

35 (B) A copy of the candidate's criminal background check
36 information.

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

6 (i) Notify the candidate in writing:

7 (a) Of the conviction; and

8 (b) That the candidate is potentially unqualified to
9 hold public office;

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

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

16 (B) If the candidate filed for office with the county
17 clerk:

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

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

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

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

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

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35 /s/K. Ingram
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