

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

1 State of Arkansas As Engrossed: H3/17/15 S3/24/15
2 90th General Assembly **A Bill**
3 Regular Session, 2015

HOUSE BILL 1945

4
5 By: Representative Hammer
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7 **For An Act To Be Entitled**

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING THE
9 PREVENTION AND DETECTION OF FRAUD AND OTHER IMPROPER
10 ACTIVITIES WITHIN STATE GOVERNMENT; AND FOR OTHER
11 PURPOSES.
12

13
14 **Subtitle**

15 TO AMEND ARKANSAS LAW CONCERNING THE
16 PREVENTION AND DETECTION OF FRAUD AND
17 OTHER IMPROPER ACTIVITIES WITHIN STATE
18 GOVERNMENT.
19

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 *SECTION 1. Arkansas Code § 21-1-607 is amended to read as follows:*
24 *21-1-607. Protection of confidentiality.*

25 *(a) This subchapter shall not be construed to permit a disclosure*
26 *which would diminish or impair the rights of any person or any public*
27 *official to the continued protection of confidentiality of records or working*
28 *papers where a statute or the common law provides for protection.*

29 *(b)(1) All materials and documentation, including without limitation*
30 *notes, memoranda, recordings, preliminary drafts of investigation reports,*
31 *and other data gathered in connection with a communication regarding the*
32 *existence of waste or of a violation are privileged and confidential and are*
33 *exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.,*
34 *except as provided in subdivisions (b)(2) and (b)(3) of this section.*

35 *(2) Final reports issued by a public employer or an appropriate*
36 *authority concerning a communication regarding the existence of waste or of a*



1 violation and any supporting documentation shall be open to public inspection
2 and copying, except for documents that are exempt from disclosure under other
3 law.

4 (3) This section does not apply to the name and identifying
5 information of a state employee eligible to receive a reward under § 21-1-610
6 who does not request confidentiality under § 21-1-610(g).

7 (c) This section applies without limitation to communications
8 regarding the existence of waste or of a violation received by a telephone
9 hotline allowing for the reporting of fraud, waste, or abuse in government.

10
11 SECTION 2. Arkansas Code § 21-1-608 is amended to read as follows:
12 21-1-608. Notification of rights.

13 (a) A public employer shall use appropriate means to notify its public
14 employees of their protection and obligations under this subchapter.

15 (b)(1) A public employer shall post in a conspicuous place a printed
16 sign at least eight and one-half inches by eleven inches (8 1/2" x 11") in
17 size that:

18 (A) Informs a public employee of the provisions of this
19 subchapter;

20 (B) Describes an appropriate authority to whom the public
21 employee may communicate in good faith regarding the existence of waste or of
22 a violation; and

23 (C) If a telephone hotline exists for the reporting of
24 fraud, waste, or abuse in government, contains the number of the telephone
25 hotline.

26 (2) Arkansas Legislative Audit shall:

27 (A) Prepare the printed sign under subdivision (b)(1) of
28 this section; and

29 (B) Make the sign available electronically on its Internet
30 website in a format that allows it to be printed by a public employer for
31 posting in compliance with subdivision (b)(1) of this section.

32
33 SECTION 3. Arkansas Code § 21-1-610(h), concerning rewards to state
34 employees when communications of waste or a violation result in a savings of
35 state funds, is amended to read as follows:

36 (h)(1) Except as provided in ~~subdivision~~ subdivisions (h)(2) and

1 (h)(3) of this section, a reward under this section shall not be payable for
2 a communication made by a state employee in the normal course of the state
3 employee's job duties.

4 (2) If a communication in the normal course of a state
5 employee's job duties detailing waste or a violation is not acted upon by the
6 state employer within ninety (90) days, the state employee may make a
7 communication under § 21-1-603 to an appropriate authority and be eligible
8 for a reward under this section.

9 (3) A report by a state employee of a loss of public funds under
10 § 25-1-124 shall be considered a communication in the normal course of the
11 state employee's job duties if the state employee:

12 (A) Handles or exerts control over the funds of the state
13 employer;

14 (B) Participates in making decisions or recommendations
15 concerning the deposit, investment, or expenditure of the funds of the state
16 employer; or

17 (C) Is responsible for auditing the funds of the state
18 employer.

19
20 SECTION 4. Arkansas Code Title 25, Chapter 1, Subchapter 1, is amended
21 to add additional sections to read as follows:

22 25-1-123. Criminal background checks for public employees controlling
23 public funds.

24 (a) As used in this section, "public employer" means any of the
25 following:

26 (1) An agency, department, board, commission, division, office,
27 bureau, council, authority, or other instrumentality of the State of
28 Arkansas, including the offices of the various Arkansas elected
29 constitutional officers and the General Assembly and its agencies, bureaus,
30 and divisions;

31 (2) A state-supported college, university, technical
32 college, community college, or other institution of higher education or
33 department, division, or agency of a state institution of higher education;

34 (3) The Supreme Court, the Court of Appeals, the
35 Administrative Office of the Courts, the circuit courts, and the prosecuting
36 attorneys' offices;

1 (4) An office, department, commission, council, agency,
2 board, bureau, committee, corporation, or other instrumentality of a county
3 government or a municipality or a district court, a county subordinate
4 service district, a municipally owned utility, or a regional or joint
5 governing body of one (1) or more counties or municipalities; or

6 (5) A public school district, school, or an office or
7 department of a public school district in Arkansas.

8 (b)(1) A public employer shall obtain a state criminal background
9 check to be conducted by the Identification Bureau of the Department of
10 Arkansas State Police before finalizing the hiring of an applicant for an
11 employment position with supervisory fiduciary responsibility over all fiscal
12 matters.

13 (2) The applicant shall sign a release of information to the
14 public employer.

15 (3) The public employer may:

16 (A) Choose to be responsible for the payment of any fee
17 associated with the state criminal background check; or

18 (B) Provide that the applicant is responsible for the
19 payment of any fee associated with the criminal background check.

20 (4) Upon completion of the criminal background check, the
21 Identification Bureau shall forward to the public employer all releasable
22 information obtained concerning the applicant.

23
24 25-1-124. Reporting by public employee.

25 (a) As used in this section:

26 (1) "Public employee" means a person who performs a full or
27 part-time service for wages, salary, or other remuneration for a public
28 employer; and

29 (2) "Public employer" means any of the following:

30 (A) An agency, department, board, commission, division,
31 office, bureau, council, authority, or other instrumentality of the State of
32 Arkansas, including the offices of the various Arkansas elected
33 constitutional officers and the General Assembly and its agencies, bureaus,
34 and divisions;

35 (B) A state-supported college, university, technical
36 college, community college, or other institution of higher education or
37 department, division, or agency of a state institution of higher education;

1 (C) The Supreme Court, the Court of Appeals, the
2 Administrative Office of the Courts, the circuit courts, and the prosecuting
3 attorneys' offices;

4 (D) An office, department, commission, council, agency,
5 board, bureau, committee, corporation, or other instrumentality of a county
6 government or a municipality or a district court, a county subordinate
7 service district, a municipally owned utility, or a regional or joint
8 governing body of one (1) or more counties or municipalities; or

9 (E) A public school district, school, or an office or
10 department of a public school district in Arkansas.

11 (b)(1) A public employee shall report a loss of public funds to
12 Arkansas Legislative Audit, including without limitation:

13 (A) Apparent unauthorized disbursements of public funds;
14 or

15 (B) The apparent theft or misappropriation of public funds
16 or property.

17 (2) A report under subdivision (b)(1) shall be made within five
18 (5) business days of the date the public employee learns of the loss of
19 public funds.

20 (c) A public employee who purposely fails to comply with subsection
21 (b) of this section is guilty of a Class A misdemeanor.

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23 /s/Hammer
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