

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1356

By: Representative Shepherd

By: Senator Rapert

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 7 OF
THE ARKANSAS CODE CONCERNING ELECTIONS; AND FOR OTHER
PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 7
OF THE ARKANSAS CODE CONCERNING
ELECTIONS.

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

SECTION 1. Arkansas Code § 7-6-218, concerning citizen complaints to the Arkansas Ethics Commission, is amended to read as follows to clarify references to the commission:

7-6-218. Citizen complaints.

(a)(1) Any citizen may file a complaint with the Arkansas Ethics Commission against a person covered by this subchapter, by § 7-1-103(a)(1)-(4), (6), or (7); ~~§ 21-1-401 et seq.~~; the Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; § 21-1-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., ~~§ 21-8-501 et seq. [repealed]~~; § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; and Arkansas Constitution, Article 19, §§ 28-30; for an alleged violation of the subchapters or sections. For purposes of this subdivision (a)(1), the Arkansas Ethics Commission shall be considered a citizen.



(2) A complaint must be filed within four (4) years after the alleged violation occurred. If the alleged violation is the failure to file a report or the filing of an incorrect report, the complaint ~~must~~ shall be filed within four (4) years after the date the report was due.

(b)(1)(A) Upon a complaint stating facts constituting an alleged violation signed under penalty of perjury by any person, the ~~commission~~ Arkansas Ethics Commission shall investigate the alleged violation of this subchapter or § 7-1-103(a)(1)-(4), (6), or (7); the Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; § 21-1-401; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., ~~§ 21-8-501 et seq. [repealed]~~, § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; and Arkansas Constitution, Article 19, §§ 28-30.

(B) The ~~commission~~ Arkansas Ethics Commission shall immediately notify any person under investigation of the investigation and of the nature of the alleged violation.

(C) The ~~commission~~ Arkansas Ethics Commission in a document shall advise the complainant and the respondent of the final action taken, together with the reasons for the action, and such document shall be a public record.

(D) Filing of a frivolous complaint shall be a violation of this subchapter. For purposes of this section, "frivolous" means clearly lacking any basis in fact or law. In any case in which the ~~commission~~ Arkansas Ethics Commission has dismissed a complaint, the respondent may request in writing that the ~~commission~~ Arkansas Ethics Commission make a finding as to whether or not the complaint filed was frivolous. In the event that the ~~commission~~ Arkansas Ethics Commission finds that the complaint was frivolous, the respondent may file a complaint seeking sanctions as provided in ~~§ 7-6-218(b)(4)~~ subdivision (b)(4) of this section.

(2) If, after the investigation, the ~~commission~~ Arkansas Ethics Commission finds that probable cause exists for a finding of a violation, the respondent may request a hearing. The hearing shall be a public hearing.

(3)(A) The ~~commission~~ Arkansas Ethics Commission shall keep a record of its investigations, inquiries, and proceedings.

(B)(i) Except as provided in subdivision (b)(3)(B)(ii) of this section, all proceedings, records, and transcripts of

any investigations or inquiries shall be kept confidential by the ~~commission~~ Arkansas Ethics Commission, unless the respondent requests disclosure of documents relating to investigation of the case, in case of a hearing under subdivision (b)(2) of this section, or in case of judicial review of a ~~commission~~ decision of the Arkansas Ethics Commission pursuant to § 25-15-212.

(ii)(a) Through its members or staff, the ~~commission~~ Arkansas Ethics Commission may disclose confidential information to proper law enforcement officials, agencies, and bodies or as may be required to conduct its investigation.

(b) If an investigation or inquiry concerns an attorney or judge, the ~~commission~~ Arkansas Ethics Commission may, through its members or staff, disclose confidential information to the Supreme Court Committee on Professional Conduct or the Judicial Discipline and Disability Commission.

(C) Thirty (30) days after any final adjudication in which the ~~commission~~ Arkansas Ethics Commission makes a finding of a violation, all records relevant to the investigation and upon which the ~~commission~~ Arkansas Ethics Commission has based its decision, except working papers of the ~~commission~~ Arkansas Ethics Commission and its staff, shall be open to public inspection.

(4) If the ~~commission~~ Arkansas Ethics Commission finds a violation of this subchapter, § 7-1-103(a)(1)-(4), (6), or (7); § 21-1-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., ~~§ 21-8-501 et seq., [repealed]~~, § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; or Arkansas Constitution, Article 19, §§ 28-30; then the ~~commission~~ Arkansas Ethics Commission shall do one (1) or more of the following, unless good cause be shown for the violation:

(A) Issue a public letter of caution or warning or reprimand;

(B)(i) Notwithstanding the provisions of §§ 7-6-202, 7-9-409, 21-8-403, and 21-8-903, impose a fine of not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000) for negligent or intentional violation of this subchapter; ~~§ 21-8-301 et seq.,~~ the Disclosure Act for Public Initiatives, Referenda, and Measures Referred to Voters, § 7-

9-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; or Arkansas Constitution, Article 19, §§ 28-30.

(ii) The ~~commission~~ Arkansas Ethics Commission shall adopt rules governing the imposition of such fines in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(iii) All moneys received by the ~~commission~~ Arkansas Ethics Commission in payment of fines shall be deposited into the State Treasury as general revenues;

(C) Order the respondent to file or amend a statutorily required disclosure form; or

(D)(i) Report its finding, along with such information and documents as it deems appropriate, and make recommendations to the proper law enforcement authorities.

(ii) When exercising the authority provided in this subdivision (b)(4), the ~~commission~~ Arkansas Ethics Commission is not required to make a finding of a violation of the laws under its jurisdiction.

(5)(A)(i) The ~~commission~~ Arkansas Ethics Commission shall complete its investigation of a complaint filed pursuant to this section and take final action within two hundred ten (210) days of the filing of the complaint.

(ii) If a hearing under subdivision (b)(2) of this section or other hearing of adjudication is conducted, all action on the complaint by the ~~commission~~ Arkansas Ethics Commission shall be completed within two hundred forty (240) days.

(B) However, such time shall be tolled during the pendency of any civil action, civil appeal, or other judicial proceeding involving those particular ~~commission~~ Arkansas Ethics Commission proceedings.

(c) Any final action of the ~~commission~~ Arkansas Ethics Commission under this section shall constitute an adjudication for purposes of judicial review under § 25-15-212.

SECTION 2. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

It is the intent of the General Assembly that:

(1) The enactment and adoption of this act shall not expressly

or impliedly repeal an act passed during the regular session of the Ninety-First General Assembly;

(2) To the extent that a conflict exists between an act of the regular session of the Ninety-First General Assembly and this act:

(A) The act of the regular session of the Ninety-First General Assembly shall be treated as a subsequent act passed by the General Assembly for the purpose of:

(i) Giving the act of the regular session of the Ninety-First General Assembly its full force and effect; and

(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

(B) Section 1-2-107 shall not apply; and

(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987.

APPROVED: 02/21/2017