

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

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S3/18/13 S3/20/13
A Bill

SENATE BILL 1029

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

By: Representatives Love, Ferguson

For An Act To Be Entitled

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

Subtitle

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

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

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

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

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

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



14-42-206.

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

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

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

(A) The candidate's:

(i) Name;

(ii) Date of birth;

(iii) Gender;

(iv) Race; and

(v) Social security number;

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

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

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

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

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

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

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

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

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

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

(i) Notify the candidate in writing:

(a) Of the conviction; and

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

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

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

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

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

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

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

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

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

/s/K. Ingram