

State of Arkansas  
89th General Assembly  
Regular Session, 2013

# A Bill

SENATE BILL 1125

By: Senator Files

## For An Act To Be Entitled

AN ACT TO PROMOTE THE INTEGRITY OF A PUBLIC SERVANT;  
TO REQUIRE THAT A PUBLIC SERVANT FOUND GUILTY OF  
CERTAIN OFFENSES REPAY HIS OR HER DEBT TO THE STATE;  
AND FOR OTHER PURPOSES.

## Subtitle

TO PROMOTE THE INTEGRITY OF A PUBLIC  
SERVANT; AND TO REQUIRE THAT A PUBLIC  
SERVANT FOUND GUILTY OF CERTAIN OFFENSES  
REPAY HIS OR HER DEBT TO THE STATE.

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

SECTION 1. Arkansas Code § 25-16-1101 is amended to read as follows:  
25-16-1101. Legislative intent.

(a) It is the policy of the State of Arkansas to promote integrity in public employment.

(b) It is the intent of this subchapter to require that a public servant who pleads guilty to or nolo contendere to or is found guilty of ~~any felony offense relating to his or her office, position, or employment~~ the following to forfeit his or her office, position, or employment, and thereafter he or she is disqualified from holding ~~any~~ an office, position, or employment with a governmental body:

(1) A felony offense relating to his or her office, position, or employment;

(2) A misdemeanor offense involving fraud, dishonesty, bribery, forgery, or other form of corruption relating to his or her office, position,



or employment; or

(3) Theft of property under § 5-36-103 when the victim of the theft is the governmental body with which the public servant is associated.

SECTION 2. Arkansas Code § 25-16-1103 is amended to read as follows:  
25-16-1103. Forfeiture of office.

(a) ~~Except as provided in subsection (b) of this section, a~~ A public servant holding ~~any~~ an office, position, or employment in a governmental body shall forfeit the office, position, or employment if he or she pleads guilty or nolo contendere to or is found guilty of ~~a~~:

(1) A felony offense relating to the public servant's office, position, or employment;

(2) A misdemeanor offense involving fraud, dishonesty, bribery, forgery, or other form of corruption relating to the public servant's office, position, or employment; or

(3) Theft of property under § 5-36-103 when the victim of the theft is the governmental body with which the public servant is associated.

~~(b)(1) This section does not apply to a member of the General Assembly subject to removal from office under the Arkansas Constitution, Article 5~~ A member of the General Assembly may only be removed from office under the Arkansas Constitution, Article 5.

(2) The General Assembly may consider the offenses in subsection (a) of this section when determining if a member is qualified.

SECTION 3. Arkansas Code § 25-16-1104 is amended to read as follows:  
25-16-1104. Disqualification from office.

A ~~person~~ public servant who pleads guilty or nolo contendere to or is found guilty of ~~a felony offense relating to his or her office, position, or employment in a governmental body~~ an offense under § 25-16-1103(a) shall be disqualified and barred from holding ~~any~~ an office, position, or employment in a governmental body.

SECTION 4. Arkansas Code § 25-16-1105 is amended to read as follows:  
25-16-1105. Enforcement.

(a)(1) Forfeiture of an office, position, or employment may be raised at the time a public servant pleads guilty or nolo contendere to or is found

~~guilty of a felony offense relating to his or her office, position, or employment in a governmental body~~ an offense under § 25-16-1103(a).

(2)(A) If the issue of forfeiture is raised against a public servant, the circuit court shall order the public servant to pay a penalty.

(B) The circuit court shall determine the amount of the penalty under subdivision (a)(2)(A) of this section by considering the following:

(i) The length of time over which the offense occurred;

(ii) The amount of money the offense cost the governmental body;

(iii) The amount of the public servant's salary during the time period in which the offense occurred;

(iv) The severity of the public servant's breach of public trust; and

(v) Any other information the court considers relevant.

(C) A penalty paid under subdivision (a)(2) of this section is in addition to an award to the state for restitution and the sentence of the public servant.

(3) If the issue of forfeiture is raised against a public servant, following sentencing a circuit court shall order forfeiture of an office, position, or employment upon a finding that § 25-16-1103 applies to the public servant.

(b)(1) If the issue of forfeiture is not raised under subsection (a) of this section, an action may be brought to remove the public servant in the manner provided by law to prevent usurpation of office under § 16-118-105.

(2)(A) If a public servant is removed under subdivision (b)(1) of this section, the circuit court shall order the public servant to pay a penalty to the state.

(B) The circuit court shall determine the amount of the penalty under subdivision (b)(2)(A) of this section by considering the factors under subdivision (a)(2)(B) of this section.

(C) A penalty paid under subdivision (b)(2) of this section is in addition to an award to the state for restitution and the sentence of the public servant.

(c)(1) If the General Assembly removes a member under the Arkansas Constitution, Article 5 because he or she pleads guilty or nolo contendere to or is found guilty of an offense that the circuit court determines to be an offense under § 25-16-1103(a) the circuit court shall order the member to pay a penalty.

(2) The circuit court shall determine the amount of the penalty under subdivision (c)(1) of this section by considering the factors under subdivision (a)(2)(B) of this section.

(3) A penalty paid under subdivision (c)(1) of this section is in addition to an award to the state for restitution and the sentence of the member.

~~(e)~~(d) If a person holding an office, position, or employment in ~~any~~ a governmental body is disqualified from the office, position, or employment under § 25-16-1104, an action may be brought to remove the person in the manner provided by law to prevent usurpation of office under § 16-118-105.

~~(d)~~(e) This section ~~shall~~ does not prohibit a taxpayer from bringing a civil action under the Arkansas Constitution, Article 16, § 13.