

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

State of Arkansas
93rd General Assembly
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As Engrossed: S4/13/21
A Bill

SENATE BILL 644

By: Senator K. Hammer
By: Representative Ladyman

For An Act To Be Entitled

AN ACT CONCERNING THE INVESTIGATION OF VIOLATIONS OF ELECTION LAW; TO ESTABLISH AN ELECTION LAW VIOLATION HOTLINE; TO AMEND THE LAW CONCERNING INVESTIGATIONS BY THE STATE BOARD OF ELECTION COMMISSIONERS; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE INVESTIGATION OF VIOLATIONS OF ELECTION LAW; AND TO ESTABLISH AN ELECTION LAW VIOLATION HOTLINE.

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

SECTION 1. Arkansas Code § 7-1-103(b), concerning miscellaneous misdemeanor offenses and penalties related to violations of election laws, is amended to add an additional subdivision to read as follows:

(3) A person convicted of a misdemeanor offense as listed in this section shall be barred from serving as an election official in subsequent elections.

SECTION 2. Arkansas Code § 7-1-104, concerning miscellaneous felonies and penalties related to violations of election laws, is amended to add an additional subsection to read as follows:

(c) A person convicted of a felony as listed in this section shall be barred from serving as an election official in subsequent elections.



SECTION 3. Arkansas Code § 7-4-120(b), concerning complaints of election law violations, is amended to read as follows:

(b)(1) A complaint:

(A) shall ~~shall~~ Shall be filed with the State Board of Election Commissioners in writing within thirty (30) days of:

~~(A)(i)~~ (i) An alleged violation of the voter registration laws; ~~or~~

~~(B)(ii)~~ (ii) The election associated with the complaint;

or

(iii) The alleged election law violation;

~~(2)(B)~~ (B) May be referred to the State Board of Election Commissioners by the Joint Performance Review Committee and is not subject to the thirty (30) day filing requirement under subdivision (b)(1)(A) of this section; and

~~(C)(i)~~ (i) A ~~complaint shall~~ Shall be signed by the complainant under penalty of perjury.

(ii) If a complaint is referred to the State Board of Election Commissioners by the Joint Performance Review Committee under subdivision (b)(1)(B) of this section, the Chair of the Joint Performance Review Committee shall be the complainant.

~~(3)(A)(2)(A)~~ (A) A complaint shall clearly:

(i) Describe the alleged violation, including without limitation the supporting facts for the violation;

(ii) State when the alleged violation occurred; and

(iii) State the location of the alleged violation.

(B)(i) The complaint may specify a desired resolution to the complaint.

(ii) If the complaint is timely filed but does not specify the desired resolution of the complainant:

(a) The State Board of Election Commissioners shall notify the complainant that a desired resolution is not specified; and

(b) The complainant may file the additional information within ten (10) days from mailing of the notice.

(3) If the complaint is referred to the State Board of Election Commissioners by the Joint Performance Review Committee, the complaint shall

include:

(A) A report of the findings of the Joint Performance Review Committee, including any hearing testimony the Joint Performance Review Committee believes relevant; and

(B) The recommendations of the Joint Performance Review Committee that may be submitted to the State Board of Election Commissioners, including without limitation a recommendation:

(i) For a letter of reprimand to an election official;

(ii) For decertification as an election official in the next election cycle, including all associated primary and runoff elections;

(iii) That the State Board of Election Commissioners take over and conduct elections in the county in question if the violation or violations are considered severe by the Joint Performance Review Committee and would threaten a county's ability to conduct an equal, free, and impartial election, or the appearance of an equal, free and impartial election; or

(iv) That state turnback funds be withheld from a county when the State Board of Election Commissioners conducts an election on behalf of a county and the county refuses to reimburse the State Board of Election Commissioners for expenses incurred.

(4)(A) If a complaint does not meet the requirements of this section, the complaint shall be dismissed.

(B) If a complaint is dismissed because it does not meet the requirements of this section, the State Board of Election Commissioners shall notify the complainant of the fact of dismissal.

(5) A person shall not file a frivolous complaint.

(6)(A) If a complaint is filed as required by this section, the State Board of Election Commissioners shall investigate the alleged violation.

(B) Immediately upon beginning an investigation under this section, the State Board of Election Commissioners shall notify the person under investigation of the fact of the investigation and the nature of the investigation.

(C) If at the conclusion of the investigation, the State

Board of Election Commissioners finds that there is probable cause to believe there has been a violation of the voter registration laws or election laws, the State Board of Election Commissioners may set a public hearing.

SECTION 4. Arkansas Code § 7-4-120(e), concerning complaints of election law violations, is amended to read as follows:

(e) If the State Board of Election Commissioners finds a violation of the voter registration laws or election laws under its jurisdiction, the State Board of Election Commissioners may:

- (1) Issue a public letter of caution, warning, or reprimand;
- (2) Impose a fine of no less than twenty-five dollars (\$25.00) and no more than one thousand dollars (\$1,000) for a negligent, knowing, or intentional violation;
- (3) Report the information obtained in the investigation and the findings and determinations of the State Board of Election Commissioners to the appropriate law enforcement authorities;
- (4) Order payment of the costs of the investigation and hearing;

or

(5) Decertify an election official from appointment as an election official;

(6) Issue an order that the State Board of Election Commissioners shall take over and conduct elections in the county in question if the violation is considered severe by the State Board of Election Commissioners and would threaten either a county's ability to conduct an equal, free, and impartial election, or the appearance of an equal, free and impartial election; or

~~(5)(7)~~ Combine any of the sanctions authorized under this section.

SECTION 5. Arkansas Code § 7-5-202(c)(1)(F), concerning public notice of elections, is amended to read as follows:

(F)(i) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation; and

(ii) Information about the availability of the Attorney General's election law violation hotline, including without limitation the hotline telephone number of the Attorney General's election

law violation hotline established under § 25-16-717;

SECTION 6. Arkansas Code § 10-3-902, concerning the duties of the Joint Performance Review Committee, is amended to add an additional subdivision to read as follows:

(7)(A) Investigate allegations of violations of election law referred by the Attorney General's office.

(B) The Joint Performance Review Committee may:

(i) Administer oaths for the purpose of taking sworn statements from witnesses in the course of its investigations;

(ii) Request a person who is the subject of a complaint to answer allegations in writing, produce relevant evidence, or appear in person before the Joint Performance Review Committee;

(iii) Subpoena any person or books, records, or other documents relevant to the investigation or inquiry; and

(iv) Hold public hearings on the allegation of a violation of election law.

(C) The Joint Performance Review Committee may:

(i) Inform a person in writing that an allegation of a violation of election law has been made against him or her;

(ii) Provide notice in writing to the person who is the subject of an alleged violation of election law if a hearing will be held on the alleged violation of election law, including the specific date and time of the hearing;

(iii) Hold a hearing or schedule multiple hearings to investigate an allegation of a violation of election law;

(iv) Provide a person subpoenaed with reasonable notice of the subpoena and an opportunity to respond;

(v) Advise the person who is the subject of the alleged violation of election law in writing of the final recommendations of the Joint Performance Review Committee; and

(vi) Prepare a report of the findings and recommendations of the Joint Performance Review Committee and submit that report to the State Board of Election Commissioners.

SECTION 7. Arkansas Code Title 25, Chapter 16, Subchapter 7, is

amended to add an additional section to read as follows:

25-16-717. Election law violation – Hotline.

(a)(1) The Attorney General shall establish and publish procedures to receive complaints concerning violations of election law.

(2) The procedures shall include the operation of a toll-free hotline and may include procedures to receive written complaints through the mail, email, or fax.

(3) Knowingly filing a false claim of a violation of election law is a Class A misdemeanor punishable under § 7-1-103(c).

(b)(1) The Attorney General shall report all complaints received to the Joint Performance Review Committee within forty-five (45) days following the certified election results of a general election.

(2) The report may contain preliminary findings by the Attorney General as to the validity of the complaint.

(3) The Joint Performance Review Committee may call a meeting within thirty (30) days of receipt of the report for the purpose of investigating election law violations.

(c)(1) If the Attorney General receives a complaint and finds it is likely that a violation of election law has occurred, the Attorney General shall forward the complaint to the Joint Performance Review Committee for preliminary investigation and may forward the complaint to the appropriate prosecuting attorney.

(2) The prosecuting attorney may deputize the Attorney General to act on the prosecuting attorney's behalf if the prosecuting attorney has a conflict of interest in the investigation.

(3) If the Attorney General is deputized by the prosecuting attorney, the Attorney General may investigate or prosecute the alleged violation of election law.

/s/K. Hammer