

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

State of Arkansas
95th General Assembly
Regular Session, 2025

A Bill

HOUSE BILL 1122

By: Representative M. McElroy

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING REPORTS OF
IMPROPER OR ILLEGAL PRACTICES; AND FOR OTHER
PURPOSES.

Subtitle

TO AMEND ARKANSAS LAW CONCERNING REPORTS
OF IMPROPER OR ILLEGAL PRACTICES.

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

SECTION 1. Arkansas Code § 10-4-309 is amended to read as follows:
10-4-309. Enforcement ~~by prosecuting attorney.~~

(a)(1) In such cases when compliance has not been obtained by the public servant within the above-given time periods, the Legislative Joint Auditing Committee shall notify and refer the matter to the respective ~~prosecuting attorney of each public servant and the prosecuting attorney~~ Attorney General, who shall conduct an investigation into the transactions coming within the fiscal management laws contained in § 10-4-304 as to the public servant's compliance with the laws as they related to the public servant's functions within a state agency, institution, department, board, commission, bureau, or within a county, municipality, or school district.

(2) The ~~prosecuting attorney~~ Attorney General shall report back to the Legislative Joint Auditing Committee within forty-five (45) days from the date of the matter's being referred to him or her by the Legislative Joint Auditing Committee.

(3) If at the conclusion of his or her investigation under subsection (a) of this section the Attorney General believes that one (1) or



more criminal charges are warranted, he or she shall notify the prosecuting attorney having criminal jurisdiction in the matter within five (5) days of the conclusion of the investigation.

~~(b) The prosecuting attorney commits the offense of noncompliance if after being duly advised of the given facts of a situation that relate to a charge of noncompliance against another public servant he or she fails or omits to perform the duty of conducting an investigation required of him or her by this section.~~

(b)(1) For purposes of this section, the Attorney General has concurrent jurisdiction with local law enforcement agencies to investigate the transactions under subsection (a) of this section.

(2) If requested by the Attorney General, a law enforcement agency shall assist in the investigation of the transactions under subsection (a) of this section.

(3)(A) Upon request, a public servant and all records of the public servant shall be made available to the Attorney General for the purpose of conducting an investigation under this section.

(B) Upon request, a financial record maintained by a bank or a similar institution shall be made available to the Attorney General for the purpose of conducting an investigation under this section.

(4)(A) A subpoena requiring the production of a document or the attendance of a witness at an interview, trial, or hearing conducted under the jurisdiction of the Attorney General under this section may be served by the Attorney General or any authorized law enforcement officer in this state personally, telephonically, or by registered or certified mail.

(B) In the case of service by registered or certified mail, the return post office receipt of delivery of the subpoena shall accompany the return.

(C)(i) If a person upon whom a subpoena is served objects or otherwise fails to comply with the Attorney General's request for records, the Attorney General may file an action in circuit court for an order to enforce the request.

(ii) Venue for the action to enforce the request is in Pulaski County.

(iii) Upon cause shown, the circuit court shall order the person to tender the requested record to the Attorney General for

the purpose of conducting an investigation under this section.

(D)(i) A record obtained by the Attorney General under this section shall be classified as confidential information, is exempt from the Arkansas Freedom of Information Act of 1967, § 25-19-101 et seq., and is not subject to outside review or release by any individual except when the record is used or is potentially to be used by any governmental entity in any legal, administrative, or judicial proceeding.

(ii) Notwithstanding any other law to the contrary, a person is not subject to any civil or criminal liability for providing a record or providing access to a record under this section to the Attorney General or to a prosecuting attorney.

(c)(1) An attorney employed in the office of the Attorney General may be designated by a prosecuting attorney having criminal jurisdiction in a matter as a special deputy prosecutor for the purpose of prosecuting in a court of competent jurisdiction an action brought in relation to an investigation of a transaction under subsection (a) of this section.

(2)(A) As a special deputy prosecutor, an attorney designated under subdivision (c)(1) of this section may issue a subpoena and administer an oath as provided in § 25-16-705.

(B) The subpoena shall be substantially in the form set forth in § 25-16-705(b).

(3) A special deputy prosecutor appointed and functioning as authorized under this subsection is entitled to the same immunity granted by law to the prosecuting attorney.

(4)(A) Appointment as a special deputy prosecutor does not enable an attorney designated under subdivision (c)(1) of this section to receive any additional fee or salary from the state for a service provided under the appointment.

(B) Any expense of the special deputy prosecutor and any fees and costs incurred by the special deputy prosecutor in the prosecution of a case as provided in this section is the responsibility of the Attorney General.

(5) The prosecuting attorney may revoke the appointment of a special deputy prosecutor under this section at any time.

(d) If the Attorney General or an employee of his or her office is the public servant at issue, the notice and referral under subsection (a) of this

section shall be made to the prosecuting attorney having criminal jurisdiction in the matter, who shall perform the duties of the Attorney General under this section.

SECTION 2. Arkansas Code § 10-4-419 is amended to read as follows:

10-4-419. Report of improper or illegal practices.

(a)(1) If an audit report presented to the Legislative Joint Auditing Committee or the appropriate standing subcommittee of the Legislative Joint Auditing Committee reflects evidence of improper practices of financial administration or inadequacy of fiscal records, the Legislative Auditor shall report the evidence to the appropriate executive official or officials affected thereby and to the governing body of the entity of the state or political subdivision of the state.

(2) If the findings relate to an entity of the state, the Legislative Auditor shall also report the findings to the Chief Fiscal Officer of the State and the Attorney General.

(3) If the findings relate to a prosecuting attorney's office, the Legislative Auditor shall also report the findings to the Attorney General for review and appropriate action.

(b)(1) If an audit report presented to the Legislative Joint Auditing Committee or the appropriate standing subcommittee of the Legislative Joint Auditing Committee reflects evidence of apparent unauthorized disbursements or unaccounted-for funds or property by a public official or employee, the Legislative Auditor shall promptly report the transactions in writing to the ~~prosecuting attorney for the county in which the entity of the state or the political subdivision of the state is located,~~ the Governor, the Attorney General, the appropriate executive official or officials affected thereby, and the governing body of the entity of the state or political subdivision of the state.

(2) If the findings relate to an entity of the state, the Legislative Auditor shall also report the findings to the Chief Fiscal Officer of the State.

(3) [Repealed.]

(c)(1) The Attorney General shall conduct an investigation of a transaction reported under subsection (b) of this section.

(2) If at the conclusion of his or her investigation under this

subsection the Attorney General believes that one (1) or more criminal charges are warranted, he or she shall notify the prosecuting attorney having criminal jurisdiction in the matter within five (5) days of the conclusion of the investigation.

(d)(1) For purposes of this section, the Attorney General has concurrent jurisdiction with local law enforcement agencies to investigate the transactions reported under subsection (b) of this section.

(2) If requested by the Attorney General, a law enforcement agency shall assist in the investigation of the transactions reported under subsection (b) of this section.

(3)(A) Upon request, a public official or employee and all records of the public official or employee shall be made available to the Attorney General for the purpose of conducting an investigation under this section.

(B) Upon request, a financial record maintained by a bank or a similar institution shall be made available to the Attorney General for the purpose of conducting an investigation under this section.

(4)(A) A subpoena requiring the production of a document or the attendance of a witness at an interview, trial, or hearing conducted under the jurisdiction of the Attorney General under this section may be served by the Attorney General or any authorized law enforcement officer in this state personally, telephonically, or by registered or certified mail.

(B) In the case of service by registered or certified mail, the return post office receipt of delivery of the subpoena shall accompany the return.

(C)(i) If a person upon whom a subpoena is served objects or otherwise fails to comply with the Attorney General's request for records, the Attorney General may file an action in circuit court for an order to enforce the request.

(ii) Venue for the action to enforce the request is in Pulaski County.

(iii) Upon cause shown, the circuit court shall order the entity or person to tender the requested record to the Attorney General for the purpose of conducting an investigation under this section.

(D)(i) A record obtained by the Attorney General under this section shall be classified as confidential information, is exempt from

the Arkansas Freedom of Information Act of 1967, § 25-19-101 et seq., and is not subject to outside review or release by any individual except when the record is used or is potentially to be used by any governmental entity in any legal, administrative, or judicial proceeding.

(ii) Notwithstanding any other law to the contrary, a person is not subject to any civil or criminal liability for providing a record or providing access to a record under this section to the Attorney General or to a prosecuting attorney.

(e)(1) An attorney employed in the office of the Attorney General may be designated by a prosecuting attorney having criminal jurisdiction in a matter as a special deputy prosecutor for the purpose of prosecuting in a court of competent jurisdiction an action brought in relation to an investigation of a transaction reported under subsection (b) of this section.

(2)(A) As a special deputy prosecutor, an attorney designated under subdivision (e)(1) of this section may issue a subpoena and administer an oath as provided in § 25-16-705.

(B) The subpoena shall be substantially in the form set forth in § 25-16-705(b).

(3) A special deputy prosecutor appointed and functioning as authorized under this subsection is entitled to the same immunity granted by law to the prosecuting attorney.

(4)(A) Appointment as a special deputy prosecutor does not enable an attorney designated under subdivision (e)(1) of this section to receive any additional fee or salary from the state for a service provided pursuant to the appointment.

(B) Any expense of the special deputy prosecutor and any fees and costs incurred by the special deputy prosecutor in the prosecution of a case as provided in this section is the responsibility of the Attorney General.

(5) The prosecuting attorney may revoke the appointment of a special deputy prosecutor under this section at any time.

~~(e)(1)(f)(1)~~ The Legislative Auditor shall notify and cooperate with the appropriate prosecuting attorney and the Attorney General on all matters that appear to involve a criminal offense.

(2) Upon request and with the approval of the cochairs of the Legislative Joint Auditing Committee, the Legislative Auditor shall cooperate

in any other investigations by the appropriate prosecuting attorney, the Attorney General, the Division of Arkansas State Police, or any other state or federal law enforcement agency.

~~(d)(1)(g)(1)~~ While the Legislative Joint Auditing Committee is not established as an agency to effect through its own direct action the correction of improper practices of financial administration or the inadequacy of fiscal records, the prosecution of defaulting public officials, or the improvement of accounting systems in any entity of the state or political subdivision of the state, it is nevertheless determined that the action or nonaction on the part of the appropriate public officials in respect to the correction of the matters when called to their attention or in respect to the institution of criminal proceedings where proper, has pertinent bearing upon the question of the necessity for future remedial legislation.

(2) It is for this reason that the Legislative Joint Auditing Committee is authorized to inform public officials to the extent provided by law of the findings of the Legislative Auditor in respect to any such matters.

~~(e)(1)(h)~~ If the Legislative Joint Auditing Committee determines that an entity of the state or a political subdivision of the state has not corrected the deficiencies noted in one (1) or more previous reports, the Legislative Joint Auditing Committee may request the ~~prosecuting attorney of the judicial district in which the entity of the state or the political subdivision of the state is located~~ Attorney General to take appropriate action to assure that the records of the entity of the state or the political subdivision of the state are maintained in accordance with law.

~~(2) If the prosecuting attorney fails or refuses to take appropriate action within a reasonable time after receipt of notice from the Legislative Joint Auditing Committee that an entity of the state or a political subdivision of the state is not maintaining its records in substantial compliance with law, the Legislative Joint Auditing Committee may request the Attorney General to take such appropriate action as may be necessary to assure that the records of the entity of the state or political subdivision of the state are maintained in compliance with law.~~

~~(f)(1)(i)(1)~~ By June 30 of each year, the Attorney General ~~and each prosecuting attorney to whom the Legislative Joint Auditing Committee or the~~

~~Legislative Auditor has reported a matter under this section~~ shall file with the Legislative Joint Auditing Committee a disposition report on the status of the matters that have not been previously reported as resolved to the Legislative Joint Auditing Committee.

(2) A disposition report shall address all matters that have not been previously reported as resolved under subdivision ~~(f)(1)~~(i)(1) of this section prior to and during the preceding calendar year.

(3) A disposition report shall include without limitation:

(A) The date the matter was reported to the Attorney General ~~or the prosecuting attorney;~~

(B) The amount of loss or funds unaccounted for in connection with the matter;

(C) The status or disposition of the matter; and

(D) Other comments pertinent to the investigation or disposition of the matter.

(j) If the Attorney General or an employee of his or her office is the public official or employee at issue, the report under subsection (b) of this section shall be made to the prosecuting attorney having criminal jurisdiction in the matter, who shall perform the duties of the Attorney General under this section.