

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

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/9/23

A Bill

HOUSE BILL 1513

5 By: Representatives McCollum, Wing, Achor, Andrews, Barker, Beaty Jr., Beck, Bentley, M. Berry,
6 Breaux, Brooks, K. Brown, M. Brown, Burkes, Joey Carr, C. Cooper, Cozart, Evans, C. Fite, L. Fite,
7 Fortner, Furman, Gazaway, Gonzales, Gramlich, Haak, Hawk, Hollowell, Jean, Ladyman, Long,
8 Lundstrum, Lynch, McAlindon, McClure, M. McElroy, McGrew, B. McKenzie, McNair, S. Meeks,
9 Miller, Milligan, K. Moore, Painter, Pearce, Pilkington, Puryear, R. Scott Richardson, Richmond, Rose,
10 Rye, Schulz, Steimel, Tosh, Underwood, Unger, Vaught, Womack, Wooldridge, Wooten
11 By: Senators J. Petty, K. Hammer, Dees, M. McKee, Stone

For An Act To Be Entitled

12
13 *TO CREATE THE ELECTION INTEGRITY UNIT WITHIN THE*
14 *ATTORNEY GENERAL'S OFFICE; TO AMEND THE DUTIES OF THE*
15 *STATE BOARD OF ELECTION COMMISSIONERS; AND TO AMEND*
16 *THE LAW CONCERNING VIOLATIONS OF ELECTION LAW.*
17
18
19

Subtitle

20
21 TO CREATE THE ELECTION INTEGRITY WITHIN
22 THE ATTORNEY GENERAL'S OFFICE; TO AMEND
23 THE DUTIES OF THE STATE BOARD OF ELECTION
24 COMMISSIONERS; AND TO AMEND THE LAW
25 CONCERNING VIOLATIONS OF ELECTION LAW.
26
27

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

29
30 SECTION 1. Arkansas Code § 7-1-109 is amended to read as follows:
31 7-1-109. Enforcement of election laws.

32 (a) Following a written complaint concerning any election law
33 violation or irregularity to the county board of election commissioners, the
34 written complaint shall be sent by the county board of election commissioners
35 to the State Board of Election Commissioners and the Election Integrity Unit
36 for evaluation and investigation.



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1 (b) A complaint submitted under subsection (a) of this section shall
2 be included by the unit in the Arkansas Election Integrity Database.

3
4 SECTION 2. Arkansas Code § 7-4-120(b)(7), concerning complaints of
5 election law violations, is amended to read as follows:

6 (7)(A) If a complaint is filed as required by this section, the
7 State Board of Election Commissioners shall investigate the alleged violation
8 and notify the Election Integrity Unit to enter the complaint into the
9 Arkansas Election Integrity Database.

10 (B) If at the conclusion of the investigation, the State
11 Board of Election Commissioners find that there is probable cause to believe
12 there has been a criminal violation of the voter registration laws or
13 election laws, the State Board of Election Commissioners may forward the
14 complaint to the prosecuting attorney for criminal prosecution.

15 (C) Immediately upon beginning an investigation under this
16 section, the State Board of Election Commissioners shall notify the person or
17 persons under investigation of the fact of the investigation and the nature
18 of the investigation.

19 ~~(C)~~(D) If at the conclusion of the investigation, the
20 State Board of Election Commissioners finds that there is probable cause to
21 believe there has been a violation of the voter registration laws or election
22 laws, and the complaint has not been referred to the prosecuting attorney,
23 the State Board of Election Commissioners may set a public hearing.

24
25 SECTION 3. Arkansas Code Title 7, Chapter 4, is amended to add an
26 additional subchapter to read as follows:

27 Subchapter 3 – Election Integrity Unit

28
29 7-4-301. Title.

30 This subchapter shall be known and cited as the “Election Integrity
31 Unit Act of 2023”.

32
33 7-4-302. Election Integrity Unit.

34 (a) There is created within the Attorney General’s Office the Election
35 Integrity Unit.

36 (b) The purpose of the Election Integrity Unit is to aid the Secretary

1 of State and the State Board of Election Commissioners in the completion of
2 their duties related to the investigation of election crimes and the security
3 of elections.

4 (c) The director of the Election Integrity Unit shall be known as the
5 “Director of the Election Integrity Unit” and shall be appointed by the
6 Attorney General.

7 (d) The Attorney General may also appoint staff to ensure the
8 efficient operation of the Election Integrity Unit, including without
9 limitation:

10 (1) Assistants;

11 (2) Nonsworn investigators;

12 (3) Professional staff; and

13 (4) Clerical staff.

14 (e) The Election Integrity Unit shall be based in Little Rock,
15 Arkansas.

16
17 7-4-303. Definitions.

18 As used in this subchapter:

19 (1) “Election laws” means the United States Constitution, the
20 Arkansas Constitution, and the statutes, final court decisions of general
21 applicability, and rules of the United States and the State of Arkansas
22 concerning elections conducted by county boards of election commissioners and
23 the rules promulgated by the State Board of Election Commissioners under § 7-
24 4-101 concerning elections conducted by county boards of election
25 commissioners; and

26 (2) “Voter registration laws” means those laws under the United
27 States Constitution, the Arkansas Constitution, and the statutes, final court
28 decisions, and rules promulgated by the United States and the State of
29 Arkansas concerning voter registration laws.

30
31 7-4-304. Duties of the Election Integrity Unit.

32 (a) The Election Integrity Unit shall establish the Arkansas Election
33 Integrity Database that shall be maintained by the Election Integrity Unit,
34 with secure access provided to the Secretary of State and the State Board of
35 Election Commissioners.

36 (b) The Election Integrity Unit shall:

1 (1) Track all alleged violations, complaints, and investigations
2 in the Arkansas Election Integrity Database;

3 (2) Oversee the Attorney General's election law violations
4 hotline pursuant to § 7-4-306;

5 (3) Respond to notifications or complaints generated by election
6 officials or any other person alleging a violation of voter registration laws
7 or election laws;

8 (4) Refer all notifications of complaints to the State Board of
9 Election Commissioners for investigation of any potential civil or criminal
10 acts related to a violation of election law and violations concerning
11 election security reported under § 7-4-120 or this subchapter;

12 (5) Receive sworn statements and issue subpoenas to compel the
13 production of records and other documents pursuant to § 25-16-705; and

14 (6) Enforce the provisions of this subchapter and perform such
15 other functions as may be incidental to the powers and duties set forth in
16 this subchapter.

17 (c) If during the course of an investigation, the State Board of
18 Election Commissioners determines that there may be a criminal violation of
19 voter registration laws or election laws, the findings of the investigation:

20 (1)(A) May be turned over to the appropriate prosecutorial
21 agency for criminal prosecution.

22 (B) A prosecuting attorney having jurisdiction over a
23 violation of voter registration laws or election laws may designate an
24 attorney employed by the Attorney General's office as a special deputy
25 prosecutor to prosecute any charges related to a violation of voter
26 registration laws or election laws or any other charges that may arise from
27 the same factual allegations or may be properly joined under state law.

28 (C)(i) Under Arkansas Constitution, Amendment 80, § 20 and
29 § 16-21-103, only a prosecuting attorney has the duty and authority to
30 commence and prosecute any criminal action under state law.

31 (ii) A special deputy prosecuting attorney's power
32 to prosecute a criminal action under this section is derivative from the
33 prosecuting attorney; and

34 (2) Shall be heard by the State Board of Election Commissioners
35 if the potential violation is a civil violation.

36 (d) This subchapter does not limit the jurisdiction of any other state

1 entity empowered by law to investigate, act upon, or dispose of alleged
2 violations of state voter registration and election laws.

3 (e)(1) By August 1 of each year, the State Board of Election
4 Commissioners shall submit a report of all closed investigations of the
5 previous calendar year to the:

6 (A) Governor;

7 (B) Attorney General; and

8 (C) Joint Performance Review Committee.

9 (2) The report required under subdivision (e)(1) of this section
10 shall:

11 (A) Provide a summary of information on each closed
12 investigation of an alleged violation of election laws conducted during the
13 prior calendar year;

14 (B) Include the total number of:

15 (i) Complaints received;

16 (ii) Independent investigations initiated; and

17 (iii) Number of complaints referred for criminal
18 prosecution; and

19 (C) The current status of any resulting criminal case.

20
21 7-4-305. Election law violation – Hotline.

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

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

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

29 (b)(1) The State Board of Election Commissioners shall report all
30 complaints received through the election law violation hotline to the Joint
31 Performance Review Committee in the report required under § 7-4-304.

32 (2) The report may contain preliminary findings by the State
33 Board of Election Commissioners as to the validity of the complaint if the
34 full investigation is not complete.

35
36 SECTION 4. Arkansas Code § 7-5-202(c)(1)(F)(ii), concerning public

1 notice of elections, is amended to read as follows:

2 (ii) Information about the availability of the
3 Attorney General's election law violation hotline, including without
4 limitation the hotline telephone number of the Attorney General's election
5 law violation hotline established under § ~~25-16-717~~ 7-4-305;

6
7 SECTION 5. Arkansas Code § 25-16-717 is repealed.

8 ~~25-16-717. Election law violation—Hotline.~~

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

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

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

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

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

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

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

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

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

35
36 /s/McCollum