

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1122

5 By: Representative M. McElroy
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS LAW CONCERNING REPORTS OF
10 IMPROPER OR ILLEGAL PRACTICES; AND FOR OTHER
11 PURPOSES.
12
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Subtitle

15 TO AMEND ARKANSAS LAW CONCERNING REPORTS
16 OF IMPROPER OR ILLEGAL PRACTICES.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 10-4-309 is amended to read as follows:

21 10-4-309. Enforcement ~~by prosecuting attorney.~~

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

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

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



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

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

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

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

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

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

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

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

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

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

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

1 the purpose of conducting an investigation under this section.

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

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

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

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

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

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

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

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

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

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

1 section shall be made to the prosecuting attorney having criminal
2 jurisdiction in the matter, who shall perform the duties of the Attorney
3 General under this section.
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5 SECTION 2. Arkansas Code § 10-4-419 is amended to read as follows:

6 10-4-419. Report of improper or illegal practices.

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

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

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

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

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

33 (3) [Repealed.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (3) A disposition report shall include without limitation:

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

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

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

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

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

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