



SPONSOR: Rep. Morrison & Sen. Gay & Rep. K. Williams
Reps. Baumbach, Briggs King, Bush, Ramone,
Michael Smith, Yearick; Sens. Hansen, Hoffner, Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 141

AN ACT TO AMEND TITLES 11 AND 15 OF THE DELAWARE CODE RELATING TO CRIMINAL HISTORY
BACKGROUND CHECKS FOR CANDIDATES FOR STATE AND COUNTY PUBLIC OFFICE.

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

1 Section 1. Amend § 8513, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertion as shown by underline as follows:

3 § 8513. Dissemination of criminal history record information.

4 (a) Upon application, the Bureau shall furnish a copy of all information available pertaining to the identification
5 and criminal history of any person or persons of whom the Bureau has a record to:

6 (4) The Commissioner of Elections when requesting the results of a criminal history background check
7 concerning an individual who seeks to become a candidate for an elected office and, who is required to obtain a
8 criminal history background check under Title 15.

9 Section 2. Amend § 302, Title 15 of the Delaware Code by making deletions as shown by strike through and
10 insertions as shown by underline as follows:

11 § 302. General powers and duties of Commissioner.

12 The Commissioner shall have the following powers and duties:

13 (16) Receive and review the State Bureau of Identification criminal history background checks on candidates
14 for public office.

15 (17) Determine whether an individual is qualified under Section 21 of Article II of the Delaware Constitution
16 to be a candidate for election to public office.

17 Section 3. Amend § 3002, Title 15 of the Delaware Code by making deletions as shown by strike through and
18 insertions as shown by underline as follows:

19 CHAPTER 30. Ballot Qualifications

20 § 3002. Unaffiliated candidates.

21 (g) An unaffiliated candidate for a statewide office, the General Assembly, or any elected county office must
22 request a criminal history background check from the State Bureau of Identification and provide proof of the request before
23 filing a declaration as required in subsection (b) of this section.

24 (1) An unaffiliated candidate who files a declaration under subsection (b) of this section will be considered a
25 provisional candidate for election until the Commissioner has made the determination that the candidate is qualified
26 under paragraph (c)(5) of this section.

27 (2) The State Bureau of Identification must provide the Commissioner within 10 days of the State Bureau of
28 Identification's receipt of the candidate's request, a report of the candidate's criminal history record or a statement that
29 the State Bureau of Identification Central Repository contains no information relating to the candidate.

30 (3) The information received by the Commissioner from the State Bureau of Identification, under this section,
31 is not a public record, as defined under Chapter 100 of Title 29.

32 (4) The criminal history background check must be paid by the candidate but may be reimbursed to the
33 candidate as an authorized campaign expenditure under this title.

34 (5) The Commissioner must determine by September 20 of each general election year that a candidate is
35 qualified under Section 21 of Article II of the Delaware Constitution before an unaffiliated candidate's name may be
36 listed on any general election ballot.

37 Section 4. Amend § 3106, Title 15 of the Delaware Code by making deletions as shown by strike through and
38 insertions as shown by underline as follows:

39 CHAPTER 31. Primary Elections

40 § 3106. Filing of candidacy for nomination at a primary election; withdrawal.

41 (g) All candidates for statewide office, the General Assembly, or any elected county office must request a criminal
42 history background check no later than the filing deadline from the State Bureau of Identification and provide proof that the
43 criminal history background check has been requested before giving notice under subsection (a) of this section.

44 (1) A candidate who gives notice under subsection (a) of this section will be considered a provisional
45 candidate for election until the Commissioner has made the determination that the candidate is qualified under
46 paragraph (g)(5) of this section.

47 (2) The State Bureau of Identification must provide the Commissioner within 10 days of the State Bureau of
48 Identification's receipt of the candidate's request, a report of the candidate's criminal history record or a statement that
49 the State Bureau of Identification's Repository contains no information relating to the candidate.

50 (3) The information received by the Commissioner from the State Bureau of Identification under this section
51 is not a public record, as defined under Chapter 100 of Title 29.

52 (4) The criminal history background check must be paid by the candidate but may be reimbursed to the
53 candidate as an authorized campaign expenditure under this title.

(5) The Commissioner must determine, by August 1 of each general election year that a candidate is qualified under Section 21 of Article II of the Delaware Constitution before the candidate's name may be listed on a ballot in a primary election.

Section 5. Amend § 3301, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 33. Nominations of Candidates by Parties

§ 3301. Certificates of nomination.

(k) All candidates for statewide office, the General Assembly, or any elected county office, who have not already obtained a criminal history background check under §3106 of this title in the same general election year, must request a criminal history background check, no later than the filing deadline, from the State Bureau of Identification and provide proof that the criminal history background check has been requested before being nominated as a candidate.

(1) A candidate will be considered a provisional candidate for election until the Commissioner has made the determination that the candidate is qualified under paragraph (k)(5) of this section.

(2) The State Bureau of Identification must provide the Commissioner within 10 days of the State Bureau of Identification's receipt of the candidate's request a report of the candidate's criminal history record or a statement that the State Bureau of Identification's Repository contains no information relating to the candidate.

(3) The information received by the Commissioner from the State Bureau of Identification under this section is not a public record as defined under Chapter 100 of Title 29.

(4) The criminal history background check must be paid by the candidate but may be reimbursed to the candidate as an authorized campaign expenditure under this title.

(5) The Commissioner must determine by October 1 of each general election year that a candidate is qualified under Section 21 of Article II of the Delaware Constitution before accepting the certificate of nomination for a candidate under this section.

Section 6. Amend § 3402, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 34. Write-In Candidates

§ 3402. Write-in candidates for a general election.

(j) A write-in candidate for statewide office, the General Assembly, or any elected county office must request a criminal history background check no later than the filing deadline from the State Bureau of Identification and provide proof that the criminal history background check has been requested before filing a write-in Candidate Declaration as required under subsection (c) of this section.

(1) A write-in candidate who files a declaration under subsection (c) of this section will be considered a provisional candidate for election until the Commissioner has made the determination that the candidate is qualified under paragraph (j)(5) of this section.

(2) The State Bureau of Identification must provide, within 10 days of the State Bureau of Identification's receipt of the candidate's request, a report of the candidate's criminal history record or a statement that the State Bureau of Identification's Repository contains no information relating to the candidate.

(3) The information received by the Commissioner from the State Bureau of Identification under this section is not a public record as defined under Chapter 100 of Title 29.

(4) The criminal history background check must be paid by the candidate but may be reimbursed to the candidate as an authorized campaign expenditure under this title.

(5) The Commissioner must determine no later than 4 weeks prior to the general election that a candidate is qualified under Section 21 of Article II of the Delaware Constitution before a write-in candidate's name may be listed on any general election ballot.

Section 7. Amend § 7103, Title 15 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 71. Special Election for General Assembly

§ 7103. Candidates.

(d) Any candidate for a vacancy in either house of the General Assembly must request a criminal history background check no less than 25 days before the special election from the State Bureau of Identification and provide proof of the request before they can be nominated as a candidate or file a petition as a candidate under subsection (a) and (b) of this section.

A candidate who is nominated under subsection (a) of this section or files a petition under subsection (b) of this section will be considered a provisional candidate for election until the Commissioner has made the determination that the candidate is qualified under paragraph (d)(5) of this section.

The State Bureau of Identification must provide, within 10 days of the State Bureau of Identification's receipt of the candidate's request, a report of the candidate's criminal history record or a statement that the State Bureau of Identification's Repository contains no information relating to the candidate.

The information received by the Commissioner from the State Bureau of Identification under this section is not a public record as defined in Chapter 100 of Title 29.

The criminal history background check must be paid by the candidate but may be reimbursed to the candidate as an authorized campaign expenditure under this title.

116 The Commissioner must determine a minimum of 15 days before the special election that a candidate is qualified
117 under Section 21 of Article II of the Delaware Constitution before a candidate's name may be listed on a special election
118 ballot.

119 Section 8. Amend § 8020, Title 15 of the Delaware Code by making deletions as shown by strike through and
120 insertions as shown by underline as follows:

121 CHAPTER 80. Campaign Contributions and Expenditures

122 § 8020. Authorized campaign expenditures.

123 No political committee may make any expenditure except for the following purposes:

124 (21) Any fee associated with obtaining a criminal history background check as required under this title.

125 Section 9. This Act takes effect on January 1 following its enactment into law.

SYNOPSIS

 This Act requires all candidates for statewide office, the General Assembly, and all elected county offices, to request a criminal history background check, no later than the filing deadline, from the State Bureau of Identification. The State Bureau of Identification must, within 10 days of receipt of the request, provide the Commissioner of Elections with a report of the candidate's criminal history or a statement that the Bureau's Repository contains no information relating to the candidate. The Commissioner of Elections must then determine if the candidate is qualified under Section 21 of Article II of the Delaware Constitution to be considered a candidate and have their name appear on the ballot. The candidate will be considered a provisional candidate until the Commissioner of Elections determines the candidate is qualified. The information obtained by the Commissioner of Elections, from the Bureau, will not fall under the definition of public record in Chapter 100 of Title 29. The candidate must pay the cost of the criminal history background check, but the cost may be reimbursed from the candidate's campaign funds as an authorized campaign expenditure. This Act will take effect January 1 after enactment.