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
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 1

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:

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

§ 8513. Dissemination of criminal history record information.

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

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

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

§ 302. General powers and duties of Commissioner.

The Commissioner shall have the following powers and duties:

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

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

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

CHAPTER 30. Ballot Qualifications

§ 3002. Unaffiliated candidates.

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(g) An unaffiliated candidate for a statewide office, the General Assembly, or any elected county office must request a criminal history background check from the State Bureau of Identification no earlier than 90 days before the candidate filing deadline and provide proof of the request before filing a declaration as required in subsection (b) of this section.

(1) An unaffiliated candidate who files a declaration 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 (g)(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 Central 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 September 20 of each general election year that a candidate is qualified under Section 21 of Article II of the Delaware Constitution before an unaffiliated candidate's name may be listed on any general election ballot.

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

CHAPTER 31. Primary Elections

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

(g) All candidates for statewide office, the General Assembly, or any elected county office must request a criminal history background check no earlier than the first date an individual may file as a candidate and 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 giving notice under subsection (a) of this section.

(1) A candidate who gives notice under subsection (a) 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 (g)(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 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 earlier than 90 days before the candidate filing deadline and 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 earlier than 90 days before the candidate filing deadline and 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 earlier than 90 days before the candidate filing deadline and 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.

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

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

CHAPTER 80. Campaign Contributions and Expenditures

§ 8020. Authorized campaign expenditures.

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

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

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