

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

State of Arkansas  
89th General Assembly  
Regular Session, 2013

# A Bill

HOUSE BILL 1571

By: Representatives Wright, Steel

## For An Act To Be Entitled

AN ACT TO CLARIFY THE AUTHORITY OF A PROSECUTING ATTORNEY AND HIS OR HER DESIGNATED DEPUTY PROSECUTING ATTORNEYS TO CARRY A FIREARM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### Subtitle

TO CLARIFY THE AUTHORITY OF A PROSECUTING ATTORNEY AND HIS OR HER DESIGNATED DEPUTY PROSECUTING ATTORNEYS TO CARRY A FIREARM; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 5-73-104(b)(1), concerning defenses to prosecution under the possession of a prohibited weapon statute, is amended to read as follows:

(1) The defendant was a law enforcement officer, prosecuting attorney, deputy prosecuting attorney, prison guard, or member of the armed forces acting in the course and scope of his or her duty at the time he or she used or possessed the prohibited weapon; or

SECTION 2. Arkansas Code § 5-73-120(c), concerning defenses to prosecution under the carrying a weapon statute, is amended to add a new subdivision to read as follows:

(9) The person is a prosecuting attorney or deputy prosecuting attorney carrying a firearm under § 16-21-147.



SECTION 3. Arkansas Code § 12-15-202(a), concerning the eligibility to carry a concealed handgun, is amended to read as follows:

(a) Any certified law enforcement officer, prosecuting attorney, or deputy prosecuting attorney designated by the prosecuting attorney may carry a concealed handgun if that certified law enforcement officer, prosecuting attorney, or deputy prosecuting attorney designated by the prosecuting attorney is:

- (1) Presently in the employ of a public law enforcement department, office, or agency;
- (2) Authorized by the public law enforcement department, office, or agency to carry a firearm in the course and scope of his or her duties;
- (3) Not subject to any disciplinary action by the public law enforcement department, office, or agency;
- (4) Carrying a badge and appropriate written identification issued by the public law enforcement department, office, or agency identifying him or her as a certified law enforcement officer, prosecuting attorney, or deputy prosecuting attorney designated by the prosecuting attorney; and
- (5) Not otherwise prohibited under federal law.

SECTION 4. Arkansas Code § 16-21-147(b), concerning powers of a deputy prosecuting attorney, is amended to read as follows:

(b)(1) A prosecuting attorney and those deputy prosecuting attorneys and other staff members he or she designates shall be considered law enforcement officers for the purposes of utilizing emergency, protective, and communication equipment in coordination with interagency cooperative investigations and operations.

(2) ~~Provided, that~~ However, the prosecuting attorney and all members of his or her office shall have no greater arrest powers than those accorded all citizens under the Arkansas Constitution and the Arkansas Code.

(3) A prosecuting attorney and those deputy prosecuting attorneys designated by the prosecuting attorney may carry firearms.

(4) A prosecuting attorney who elects to carry a firearm or authorize his or her deputy prosecuting attorneys to carry a firearm shall adopt a weapons policy and a use of force policy.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that a prosecuting attorney and his or her deputy prosecuting attorneys perform a vital public function and often are in dangerous situations due to the nature of the crimes they prosecute; and that this act is immediately necessary because allowing a prosecuting attorney and his or her deputy prosecuting attorneys to carry a firearm or concealed handgun is essential to the safe operation of criminal justice in this state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.