

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H2/26/19 H2/28/19

A Bill

HOUSE BILL 1429

By: Representative Dotson
By: Senator J. Dismang

For An Act To Be Entitled

AN ACT TO ESTABLISH THE CODE OF ARKANSAS RULES; TO
CREATE AN ONLINE SEARCHABLE DATABASE OF
ADMINISTRATIVE RULES; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH THE CODE OF ARKANSAS RULES.

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

SECTION 1. Arkansas Code § 25-15-203 is amended to add an additional subsection to read as follows:

(c) To the extent possible, a rule shall be written in plain language.

SECTION 2. Arkansas Code § 25-15-204(e)(1)(A), concerning the filing of a rule, is amended to read as follows:

(e)(1)(A) An agency shall file with the Secretary of State and the Legislative Council a:

(i) ~~copy~~ Copy of each rule, including without limitation an emergency rule, proposed by the agency;

(ii) ~~and a financial~~ Financial impact statement for the proposed rule;

(iii) Notice for the adoption, amendment, or repeal of any rule required to be published on the internet under this section;

(iv) Statement setting forth the reason for the proposed rule; and

(v) Summary of the proposed rule.



SECTION 3. Arkansas Code § 25-15-205 is amended to read as follows:

25-15-205. Rules – “The Arkansas Register”.

(a)(1) The Secretary of State shall compile, index, and publish on its website a document to be known as The Arkansas Register.

(2) The Arkansas Register shall contain:

(A) all adopted rules of any agency A copy of each rule, including without limitation an emergency rule, proposed by an agency;

(B) A financial impact statement for the proposed rule;

(C) The notice for the adoption, amendment, or repeal of any rule required to be published on the internet under § 25-15-204;

(D) Statement setting forth the reason for the proposed rule; and

(E) Summary of the proposed rule.

(3) The inclusion of a direct link to an electronic version of the information under subdivision (a)(2) of this section shall satisfy the requirements of this section.

(4)(A) The Secretary of State may omit from publication in the Arkansas Register any rule in which publication would be unduly cumbersome, expensive, or otherwise impractical.

(B) If a rule is omitted from publication under subdivision (a)(4)(A) of this section, the Arkansas Register shall indicate where and how a copy of the omitted rule may be obtained.

(b) The Secretary of State shall update The Arkansas Register at least monthly no later than the first Tuesday of every month, setting forth a synopsis of rules filed by agencies.

(c)(1) If requested, a printed copy of The Arkansas Register shall be furnished to all state agencies and other persons at prices fixed by the Secretary of State to cover publication and mailing costs.

(2) Proceeds from the sale of The Arkansas Register shall be deposited in the Constitutional Officers Fund and the State Central Services Fund in the State Treasury.

(d) A progress report on publication and distribution shall be provided to the Legislative Council annually.

SECTION 4. Arkansas Code § 25-15-202(2), concerning the definition of

"agency", is amended to read as follows:

(2)(A) "Agency" means a board, commission, department, officer, or other authority of the government of the State of Arkansas, whether within, or subject to review by, another agency, except the General Assembly, the courts, and Governor.

(B) The word "agency" shall include the Division of Child Care and Early Childhood Education of the Department of Human Services and the Child Care Appeal Review Panel for purposes of administrative appeal.

(C)(i) The Except as provided in subdivision (2)(C)(ii), of this section, the word "agency" shall not include the Arkansas Public Service Commission, the Arkansas Pollution Control and Ecology Commission, the Workers' Compensation Commission, and the Department of Workforce Services, as the existing laws governing those agencies provide adequate administrative procedures for those agencies.

(ii) As used in § 25-15-218, the word "agency" shall include the Arkansas Public Service Commission, the Arkansas Pollution Control and Ecology Commission, the Workers' Compensation Commission, and the Department of Workforce Services.

(D) This subchapter does not repeal delegations of authority as provided by law;

SECTION 5. Arkansas Code § 25-15-218 is amended to read as follows:

25-15-218. ~~Publication on the Internet—Uniform numbering system~~ Code of Arkansas Rules.

~~(a)(1) The Secretary of State shall publish on the Internet:~~

~~(A) All adopted rules of each agency;~~

~~(B) A copy of each rule proposed by an agency and the financial impact statement for each rule; and~~

~~(C) The notice for the adoption, amendment, or repeal of any rule required to be published on the Internet under § 25-15-204.~~

~~(2) The Secretary of State may publish the rules on the Secretary of State's Internet website or may contract with a provider of Internet services to publish the rules on another Internet website.~~

~~(3) No fee shall be charged for public access to the rules on the Internet website.~~

~~(b) The Secretary of State may omit from publication on its Internet~~

~~website any rules in which publication would be unduly cumbersome, expensive, or otherwise, so long as its Internet website indicates where and how a copy of the omitted materials may be obtained.~~

~~(c) Each agency shall file its adopted rules, proposed rules, and notices with the Secretary of State in an electronic format acceptable to the Secretary of State.~~

~~(d)(1) The Secretary of State shall establish a uniform numbering system for rules of agencies.~~

~~(2) Beginning July 1, 2005, all rules filed with the Secretary of State shall conform with the numbering system.~~

~~(3) By July 1, 2005, each agency shall:~~

~~(A) Revise its rules to comply with the numbering system adopted by the Secretary of State; and~~

~~(B) Provide the Secretary of State with a complete set of the rules in an electronic format acceptable to the Secretary of State.~~

~~(e) The Secretary of State shall adopt rules implementing this section.~~

(a) The Bureau of Legislative Research shall:

(1)(A)(i) Compile, format, and index a codification of the general and permanent rules of agencies to be known as the "Code of Arkansas Rules".

(ii) The Bureau of Legislative Research shall not include in the Code of Arkansas Rules an emergency rule promulgated under § 25-15-204(c).

(B)(i) In carrying out the codification under subdivision (a)(1)(A)(i) of this section, the Bureau of Legislative Research shall have the same powers and duties related to the Code of Arkansas Rules as the Arkansas Code Revision Commission, Code Revisor, and Bureau of Legislative Research have related to the Arkansas Code of 1987 Annotated under § 1-2-303(d)(1).

(ii) The Bureau of Legislative Research shall not make any change in the substance or meaning of any provision of a rule.

(C)(i) The Bureau of Legislative Research shall consult with an agency when codifying a rule of that agency.

(ii) An agency that objects to the form of the codification of a rule by the Bureau of Legislative Research may appeal the

codification of the rule to the:

(a) Legislative Council or a subcommittee of the Legislative Council designated for that purpose; or

(b) If the General Assembly is in session, the Joint Budget Committee or a subcommittee of the Joint Budget Committee designated for that purpose;

(2)(A) Develop a uniform style, format, and numbering system for the rules in the Code of Arkansas Rules.

(B) The uniform style, format, and numbering system developed under subdivision (a)(2)(A) of this section shall conform as nearly as practical to the style of the Arkansas Code of 1987 Annotated.

(C) Rules included in the Code of Arkansas Rules shall be cited and referred to by the numbering system established under subdivision (a)(2)(A) of this section;

(3) Communicate to agencies the uniform style, format, and numbering system;

(4)(A) Cause the Code of Arkansas Rules to be published as an online searchable database that is available for use by the general public at no charge.

(B) The online searchable database under subdivision (a)(4)(A) of this section shall:

(i) Constitute the official version of the Code of Arkansas Rules; and

(ii) Be prima facie evidence of the rules contained in the Code of Arkansas Rules.

(C) In no event shall the Bureau of Legislative Research be required to produce a print version of the Code of Arkansas Rules, including without limitation in response to a request under the Freedom of Information Act of 1967, §§ 25-19-101 et seq.;

(5) Update the Code of Arkansas Rules at least monthly with the current version of each rule adopted by an agency; and

(6) Indicate in bold type on the webpage of the Code of Arkansas Rules the date of the latest update.

(b) Each agency shall draft its rules to comply with the uniform style, format, and numbering system developed by the Bureau of Legislative Research under subdivision (a)(2) of this section.

(c)(1) Except as provided in subdivision (c)(2) of this section, a rule that is not included in the Code of Arkansas Rules is not enforceable by the agency promulgating the rule.

(2)(A) The Bureau of Legislative Research may omit from publication in the Code of Arkansas Rules any rule in which publication would be unduly cumbersome, expensive, or otherwise impractical.

(B) If a rule is omitted from publication under subdivision (c)(2)(A) of this section, the Code of Arkansas Rules shall indicate where and how a copy of the omitted rule may be obtained.

(d)(1) The Bureau of Legislative Research may enter into a professional services contract to assist in carrying out the duties under this section.

(2) The Bureau of Legislative Research shall retain the copyright over the Code of Arkansas Rules.

(e)(1) The Bureau of Legislative Research may prepare guidance documents for agencies regarding matters necessary for the implementation of this section, including without limitation the:

(A) Form and style of content that will be included in the Code of Arkansas Rules; and

(B) Submission of information to the Bureau of Legislative Research for inclusion in the Code of Arkansas Rules.

(2) A guidance document under subdivision (e)(1) of this section is not a rule under § 25-15-202.

SECTION 6. DO NOT CODIFY. (a) No later than December 31, 2019, each agency subject to § 25-15-218 shall transmit to the Bureau of Legislative Research an electronic version of each rule that has been adopted and is currently in effect.

(b) The Bureau of Legislative Research shall:

(1) Inform each agency of the format in which rules shall be transmitted under subsection (a) of this section;

(2) Submit a report on the status of the codification to the Legislative Council on January 1, April 1, July 1, and October 1 of each year until the codification is complete; and

(3) Complete the codification of the Code of Arkansas Rules required in this act by January 1, 2023.

(c)(1) To promote the efficient development of a Code of Arkansas Rules, the Bureau of Legislative Research shall work with the Governor's Office to coordinate and direct agencies in the effort to develop the Code of Arkansas Rules.

(2) The Bureau of Legislative Research may establish a phased approach which requires agencies to submit portions of their rules before December 31, 2019.

/s/Dotson