

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: S3/6/19  
**A Bill**

SENATE BILL 236

By: Senator K. Hammer

### For An Act To Be Entitled

*AN ACT TO AMEND THE PUBLIC EMPLOYEES' POLITICAL  
FREEDOM ACT OF 1999; TO DECLARE AN EMERGENCY; AND FOR  
OTHER PURPOSES.*

### Subtitle

*TO AMEND THE PUBLIC EMPLOYEES' POLITICAL  
FREEDOM ACT OF 1999 AND TO DECLARE AN  
EMERGENCY.*

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

*SECTION 1. Arkansas Code § 21-1-502(1) and (2), concerning definitions under the Public Employees' Political Freedom Act of 1999, are amended to read as follows:*

*(1)(A) "Elected public official" means an individual elected to serve in a public office, including without limitation the Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, Commissioner of State Lands, a member of the Senate, and a member of the House of Representatives, a state office, a county office, a local office, or a federal office.*

*(B) "Elected public official" shall include the staff of an elected public official;*

*(C) "Elected public official" does not mean an individual appointed to an office, board, or commission under this subchapter;*

*(2)(A) "Public employee" means any person providing services for the State of Arkansas, a county, a municipal corporation, or any other political subdivision of this state for which compensation is paid.*



(B) The General Assembly recognizes the non-partisan and confidentiality requirements of legislative staff, and therefore “public employee” does not mean an employee of the General Assembly, including without limitation an employee of the Bureau of Legislative Research and an employee of Arkansas Legislative Audit; and

SECTION 2. Arkansas Code § 21-1-503 is amended to read as follows:

21-1-503. ~~Employer~~ Public employer not to penalize public employee’s political activity.

(a) A public employee shall not be prohibited from communicating with an elected public official or a member of the public concerning a matter related to the public employee’s job, except for a matter exempted under § 25-19-105 or prohibited by law from disclosure.

(b) A public employee shall not be prohibited from exercising a right or privilege under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(c)(1) A public employee shall not be restricted or prohibited from expressing his or her views or opinions related to:

(A) A matter of public concern;

(B) A matter of individual or private concern;

(C) The public employee’s job; or

(D) The action of a public official.

(2) A reasonable time and place restrictions may be established and apply to a public employee if the time and place restriction:

(A) Applies during the employee’s working hours;

(B) Applies while the public employee is located at the public employee’s place of employment; and

(C) Is provided in writing no less than sixty (60) days in advance of implementation.

~~(e)(1)~~ (d)(1) It ~~shall be~~ is unlawful for any public employer to discipline, to threaten to discipline, to reprimand either orally or in writing, to place any notation in a public employee’s personnel file disciplining or reprimanding the public employee, or to otherwise discriminate against a public employee because the public employee exercised the right to communicate with an elected public official, exercised the right to communicate with a member of the public, or exercised a right or privilege

under the Freedom of Information Act of 1967, § 25-19-101 et seq., as granted under this subchapter.

(2) A public employer ~~shall not be~~ is not prohibited from disciplining a public employee who has intentionally made an untrue allegation of illegal activity by an elected public official to an elected public official concerning a matter related to the public employee's job.

(3) A public employer is not prohibited from disciplining a public employee for disclosing information that is prohibited from disclosure by state or federal law.

~~(d)~~(e) Any person ~~willfully violating~~ who negligently violates a provision of this subchapter ~~shall be~~ is guilty of a Class A misdemeanor.

(f)(1) A public employee may bring a civil action for injunctive relief to restrain a violation of this subchapter.

(2) If the court finds that this subchapter has been violated, the court shall restrain the violation by issuing:

(A) A temporary restraining order;

(B) After due notice and hearing, a temporary injunction;

(C) After a final trial, a permanent injunction; and

(D) An award of monetary damages to the public employee in the amount of fifty dollars (\$50.00) for each day of the violation.

(g)(1) The following shall adopt a policy concerning communications with elected public officials:

(A) The House of Representatives;

(B) The Senate;

(C) The Bureau of Legislative Research; and

(D) Arkansas Legislative Audit.

(2)(A) The policy adopted by the Bureau of Legislative Research shall be approved by the Legislative Council, and the policy adopted by Arkansas Legislative Audit shall be approved by the Legislative Joint Auditing Committee.

(B) The policies shall balance the nonpartisan interests of legislative staff with the need for employees of the General Assembly to communicate with elected public officials about matters of public concern, including without limitation exercising rights under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(C) The policy adopted by Arkansas Legislative Audit shall

also be consistent with auditing standards, including without limitation the need to maintain independence.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that public employees face restrictions on their right to express their opinions in the workplace; that these restrictions cause fear in those public employees to use their right of free speech; and that this act is immediately necessary to ensure the public employees' freedom of speech is not restricted. 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.

/s/K. Hammer