

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

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: H3/17/21 H4/14/21

# A Bill

HOUSE BILL 1386

By: Representatives Gonzales, Pilkington, McCollum, Dotson, B. Smith, Rye, Richmond, *Bryant, Bentley, Cavanaugh, Furman, M. Gray, Hawks, Hillman, Ladyman, Lundstrum, Milligan, Underwood, Womack*

By: Senators B. Ballinger, T. Garner

## For An Act To Be Entitled

AN ACT TO BE KNOWN AS THE "ARKANSAS SECOND AMENDMENT LIBERTIES SAFEGUARDS ACT"; TO REQUIRE STATE AGENCIES AND PUBLIC OFFICERS TO DISREGARD UNCONSTITUTIONAL OVERREACHES OF POWER; TO PROTECT THE CONSTITUTIONAL RIGHTS OF ARKANSANS; AND FOR OTHER PURPOSES.

## Subtitle

TO BE KNOWN AS THE "ARKANSAS SECOND AMENDMENT LIBERTIES SAFEGUARDS ACT"; TO REQUIRE STATE AGENCIES AND PUBLIC OFFICERS TO DISREGARD UNCONSTITUTIONAL OVERREACHES OF POWER; AND TO PROTECT THE CONSTITUTIONAL RIGHTS OF ARKANSANS.

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

SECTION 1. DO NOT CODIFY. Scope.

(a)(1) The Tenth Amendment to the United States Constitution guarantees to the states and their people all powers not granted to the United States Government elsewhere in the United States Constitution and reserves to the State of Arkansas and its people certain powers as those powers were understood at the time that Arkansas was admitted into statehood in 1836.

(2) The guaranty of those powers is a matter of contract between



the State of Arkansas and its people and the United States as of the time that the compact with the United States was agreed upon and adopted by Arkansas and the United States in 1836.

(b)(1) The Ninth Amendment to the United States Constitution guarantees to the people rights not granted in the United States Constitution and reserves to the people of Arkansas certain rights as they were understood at the time that Arkansas was admitted into statehood in 1836.

(2) The guaranty of those rights is a matter of contract between the State of Arkansas and its people and the United States as of the time that the compact with the United States was agreed upon and adopted by Arkansas and the United States in 1836.

(c) The regulation of intrastate commerce is vested in the states under the Ninth and Tenth Amendments to the United States Constitution.

(d) The Second Amendment to the United States Constitution reserves the right to keep and bear arms to the people as that right was understood at the time that Arkansas was admitted into statehood in 1836, and the guaranty of the right is a matter of contract between the State of Arkansas and its people and the United States as of the time that the compact with the United States was agreed upon and adopted by Arkansas and the United States in 1836.

(e)(1) Arkansas Constitution, Article 2, § 5, clearly secures to Arkansas citizens and prohibits government interference with the right of individual Arkansas citizens to keep and bear arms.

(2) This constitutional protection is unchanged from the 1836 Arkansas Constitution, which was approved by the United States Congress and the people of Arkansas, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Arkansas and the United States in 1836.

SECTION 2. Arkansas Code Title 5, Chapter 73, Subchapter 1, is amended to add an additional section to read as follows:

5-73-134. Unlawful enforcement of federal statutes.

(a) An employee of an agency of the State of Arkansas or any public servant of the State of Arkansas shall not knowingly enforce or attempt to enforce any act, law, statute, rule, or regulation of the United States Government created or effective on or after January 1, 2021.

(b) A state actor, local government, or political subdivision may not

utilize any resource to enforce any act, law, statute, rule, or regulation of the United States Government created or effective on or after January 1, 2021.

(c) A person who violates this section upon conviction is guilty of a Class A misdemeanor.

SECTION 3. Arkansas Code § 16-81-106(b), concerning authority to arrest without a warrant, is amended to read as follows:

(b) A certified law enforcement officer may make an arrest:

(1) In obedience to a warrant of arrest delivered to him or her;  
and

(2)(A) Without a warrant, ~~where~~ if a public offense is committed in his or her presence or ~~where~~ if he or she has reasonable grounds for believing that the person arrested has committed a felony.

(B) In addition to any other warrantless arrest authority granted by law or court rule, a certified law enforcement officer may arrest a person for a misdemeanor without a warrant if the officer has probable cause to believe that the person has committed battery upon another person, the officer finds evidence of bodily harm, and the officer reasonably believes that there is danger of violence unless the person alleged to have committed the battery is arrested without delay, except as provided in subsection (j) of this section.

SECTION 4. Arkansas Code § 16-81-106(c)(1), concerning authority to arrest without a warrant, is amended to read as follows:

(c)(1) A certified law enforcement officer who is outside his or her jurisdiction may arrest without warrant a person who commits an offense within the officer's presence or view if the offense is a felony or a misdemeanor, except as provided in subsection (j) of this section.

SECTION 5. Arkansas Code § 16-81-106, concerning authority to arrest without a warrant, is amended to add an additional subsection to read as follows:

(j) A certified law enforcement officer shall not make an arrest under § 5-73-134 without a warrant.

SECTION 6. Arkansas Code Title 25, Chapter 16, Subchapter 7, is amended to add an additional section to read as follows:

25-16-717. Intervention in firearm cases.

(a) The Attorney General shall intervene in a case against a resident of Arkansas who is prosecuted by the United States Government after January 1, 2021, for any federal law, rule, regulation, or order relating to the manufacture, sale, transfer, or possession of a firearm, a firearm accessory, or ammunition owned or manufactured if the person was acting in accordance with § 5-73-134 or § 12-15-101.

(b) An intervention under this section shall be for the sole purpose of defending the propriety of the laws of the State of Arkansas.

/s/Gonzales