

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: S2/8/21
A Bill

SENATE BILL 192

By: Senator D. Sullivan
By: Representative Womack

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 nonpartisan and confidentiality requirements of legislative staff and the staff of constitutional officers, and therefore "public employee" does not mean:

(i) An employee of the General Assembly, including without limitation an employee of:

(a) The Bureau of Legislative Research; or

(b) Arkansas Legislative Audit; or

(ii) An employee working as the staff of a constitutional officer, including without limitation an employee working in the office of the:

(a) Governor;

(b) Lieutenant Governor;

(c) Secretary of State;

(d) Treasurer of State;

(e) Auditor of State;

(f) Attorney General; or

(g) Commissioner of State Lands;

(iii) The executive head of an Cabinet-level Department or executive agency appointed by the Governor, and serving at the pleasure of the Governor; 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 or members 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; or

(B) A matter of individual or private concern.

(2) Reasonable time, place, and manner restrictions may be established.

~~(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 or members 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 prohibited from disciplining a public employee who has intentionally made an untrue allegation to an elected public official concerning a matter related to the public employee's job.

~~(d)~~(e) Any person willfully violating 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) This section shall not be construed to interfere with state laws and federal laws for the prohibition of discrimination.

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/D. Sullivan