

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

State of Arkansas
93rd General Assembly
Regular Session, 2021

SJR 3

By: Senator A. Clark

SENATE JOINT RESOLUTION

AN AMENDMENT TO ARKANSAS CONSTITUTION, ARTICLE 5,
SECTION 20, PERMITTING THE STATE OF ARKANSAS TO BE
SUED AS A DEFENDANT IN STATE COURT IN THE SAME
CIRCUMSTANCES AS ANY OTHER PARTY, SUCH AS A PRIVATE
CITIZEN OR CORPORATION.

Subtitle

AN AMENDMENT TO ARKANSAS CONSTITUTION,
ARTICLE 5, SECTION 20, PERMITTING THE
STATE OF ARKANSAS TO BE SUED AS A
DEFENDANT IN STATE COURT IN THE SAME
CIRCUMSTANCES AS ANY OTHER PARTY.

BE IT RESOLVED BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE
STATE OF ARKANSAS, AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL
MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

That the following is proposed as an amendment to the Constitution of
the State of Arkansas, and upon being submitted to the electors of the state
for approval or rejection at the next general election for Representatives
and Senators, if a majority of the electors voting thereon at the election
adopt the amendment, the amendment shall become a part of the Constitution of
the State of Arkansas, to wit:

SECTION 1. Arkansas Constitution, Article 5, § 20, is amended to read
as follows:

§ 20. State ~~not~~ may be made defendant.



(a) The State of Arkansas shall never may be made a defendant in any of her courts in state court in the same circumstances as any other type of party.

(b) As used in subsection (a) of this section, "State of Arkansas" means every department, division, office, board, commission, institution, or other public entity of the State of Arkansas, including without limitation state-supported institutions of higher education.

SECTION 2. (a) This amendment eliminates the sovereign immunity of the State of Arkansas in any and all cases filed in any of her courts.

(b) The General Assembly may enact laws concerning the process for bringing a suit against the State of Arkansas as permitted by Arkansas Constitution, Article 5, § 20.

(c) This amendment does not alter any other substantive or procedural rules of law concerning the State of Arkansas.

(d)(1) This amendment does not address whether a natural person or private artificial person, including without limitation a corporation, may be held liable in their individual capacities for conduct engaged in while acting as an agent of the State of Arkansas.

(2) Individual capacity immunity of a natural person or private artificial person under subdivision (d)(1) of this section is subject to regulation through:

(A) Laws enacted by the General Assembly; and

(B) Common law.

SECTION 3. (a) This amendment:

(1) Is effective on and after November 9, 2022; and

(2) Shall apply retroactively to all claims or actions that are not otherwise barred on other grounds.

(b) On and after the effective date of this amendment, a claim or action against the State of Arkansas that would have been barred from being litigated in a court of competent jurisdiction under Arkansas Constitution, Article 5, § 20, prior to the effective date of this amendment shall not be filed with the Arkansas State Claims Commission.

(c)(1) If a claim or action against the State of Arkansas that would have been barred from being litigated in a court of competent jurisdiction

under Arkansas Constitution, Article 5, § 20, prior to the effective date of this amendment is pending before the Arkansas State Claims Commission or on appeal to the General Assembly on the effective date of this amendment, then the plaintiff may:

(A) Continue to pursue the claim or action before the Arkansas State Claims Commission or General Assembly; or

(B) File the claim or action with a court of competent jurisdiction.

(2) The General Assembly shall enact laws to permit the filing of a claim or action pending before the Arkansas State Claims Commission or on appeal with the General Assembly on the effective date of this amendment with a court of competent jurisdiction if the claim or action would otherwise be barred from being filed in a court of competent jurisdiction under the applicable statute of limitations.

SECTION 4. BALLOT TITLE AND POPULAR NAME. When this proposed amendment is submitted to the electors of this state on the general election ballot:

(1) The ballot title shall be "An Amendment to Arkansas Constitution, Article 5, § 20, Permitting the State of Arkansas to be Sued as a Defendant in State Court in the Same Circumstances as Any Other Type of Party, Such as a Private Citizen or a Corporation."; and

(1) The popular name shall be "An Amendment Permitting the State of Arkansas to be Sued as a Defendant in State Court in the Same Circumstances As Any Other Type of Party, Such as a Private Citizen or a Corporation".