

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

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H4/7/25

A Bill

HOUSE BILL 1832

By: Representative M. Shepherd

By: Senator Hester

For An Act To Be Entitled

TO AMEND THE RULES OF THE SUPREME COURT AND COURT OF APPEALS OF THE STATE OF ARKANSAS TO GRANT EXCLUSIVE ORIGINAL JURISDICTION OF FACIAL CONSTITUTIONAL CHALLENGES TO THE COURT OF APPEALS; TO AMEND A RULE OF THE SUPREME COURT UNDER THE AUTHORITY GRANTED BY ARKANSAS CONSTITUTION, AMENDMENT 80, § 9; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE RULES OF THE SUPREME COURT AND COURT OF APPEALS OF THE STATE OF ARKANSAS; AND TO AMEND A RULE OF THE SUPREME COURT AND COURT OF APPEALS UNDER THE AUTHORITY GRANTED BY THE ARKANSAS CONSTITUTION.

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

SECTION 1. DO NOT CODIFY. LEGISLATIVE INTENT. (a) The General Assembly finds:

(1)(A) Arkansas Constitution, Amendment 80, § 9, provides that any rules promulgated by the Supreme Court under Arkansas Constitution, Amendment 80, §§ 5, 6(B), 7(B), or 8, may be annulled or amended, in whole or in part, by a two-thirds vote of the membership of each house of the General Assembly.

(B) Arkansas Constitution, Amendment 80, § 5, concerns the Court of Appeals.



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(C) Rule 1-2 of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas addresses the jurisdiction of the Court of Appeals; and

(2) Arkansas Constitution, Amendment 80, § 10, provides that the General Assembly shall have the power to establish jurisdiction of all courts and venue of all actions therein, unless otherwise provided in the Arkansas Constitution.

(b) The purpose of this act is to establish the:

(1) Exclusive original jurisdiction of the Court of Appeals under the authority of Arkansas Constitution, Amendment 80, § 9, pertaining to facial constitutional challenges; and

(2) Exclusive original jurisdiction of the Court of Appeals under Arkansas Constitution, Amendment 80, § 10, pertaining to facial constitutional challenges.

SECTION 2. Pursuant to the authority granted under Arkansas Constitution, Amendment 80, § 9, Rule 1-2 of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas is amended to read as follows:

Rule 1-2. ~~Appellate~~ Jurisdiction of the Supreme Court and Court of Appeals.

(a) Original jurisdiction of Court of Appeals for facial constitutional challenges. The Court of Appeals shall have exclusive original jurisdiction over a facial constitutional challenge in which a party seeks in the party's initial or amended pleading to have a provision of an act of the General Assembly, a provision of the Arkansas Code, or a provision of an administrative rule or regulation declared unconstitutional in all of its applications under the United States Constitution or the Arkansas Constitution. In a proceeding under this Rule 1-2(a), the procedure will conform to that prevailing in bench trials in the circuit court. Upon filing the original pleading and payment of a filing fee, a summons or other process will issue by the Clerk. The respondent's pleading must be filed within the time provided by the Arkansas Rules of Civil Procedure. The decision of the Court of Appeals under this Rule 1-2(a) may be appealed to the Supreme Court.

~~(a)~~(b) Supreme Court jurisdiction. All cases appealed shall be filed in the Court of Appeals except that the following cases shall be filed in the Supreme Court:

1. All appeals involving the interpretation or construction of the Constitution of Arkansas;
2. Criminal appeals in which the death penalty or life imprisonment has been imposed;
3. Petitions for quo warranto, prohibition, injunction, or mandamus directed to the state, county, or municipal officials or to circuit courts;
4. Appeals pertaining to elections and election procedures;
5. Appeals involving the discipline of attorneys-at-law and or arising under the power of the Supreme Court to regulate the practice of law;
6. Appeals involving the discipline and disability of judges;
7. Second or subsequent appeals following an appeal which has been decided in the Supreme Court; and
8. Appeals required by law to be heard by the Supreme Court.

~~(b)~~(c) Reassignment of cases. Any case is subject to reassignment by the Supreme Court, and in doing so, the Supreme Court will consider but not be limited to the following:

- (1) issues of first impression,
- (2) issues upon which there is a perceived inconsistency in the decisions of the Court of Appeals or Supreme Court,
- (3) issues involving federal constitutional interpretation,
- (4) issues of substantial public interest,
- (5) significant issues needing clarification or development of the law, or overruling of precedent, and
- (6) appeals involving substantial questions of law concerning the validity, construction, or interpretation of an act of the General Assembly, ordinance of a municipality or county, or a rule or regulation of any court, administrative agency, or regulatory body.

~~(e)~~(d) Transfer and certification. The Supreme Court may transfer to the Court of Appeals any case appealed to the Supreme Court and may transfer to the Supreme Court any case appealed to the Court of Appeals. If the Court of Appeals seeks to transfer a case, the Court of Appeals shall find and certify that the case: (1) is excepted from its jurisdiction by Rule 1-2~~(a)~~(b), or (2) otherwise involves an issue of significant public interest or a legal principle of major importance. The Supreme Court may accept for its docket cases so certified or may remand any of them to the Court of Appeals

for decision. The Clerk of the Court shall notify the parties or their counsel of the transfer of any case.

~~(d)~~(e) Petition for review. ~~No~~ Except as provided in Rule 1-2(a), no appeal as of right shall lie from the Court of Appeals to the Supreme Court. The Supreme Court will exercise its discretion to review an appeal decided by the Court of Appeals only on application by a party to the appeal, upon certification of the Court of Appeals, or if the Supreme Court decides the case is one that should have originally been assigned to the Supreme Court. In determining whether to grant a petition to review, the following, while neither controlling nor fully measuring the Supreme Court's discretion, indicate the character of reasons that will be considered: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is arguably in conflict with a prior holding of a published opinion of either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals arguably erred in some way related to one of the grounds listed in Rule 1-2~~(b)~~(c).

~~(e)~~(f) Improper filing. No case filed in either the Supreme Court or the Court of Appeals shall be dismissed for having been filed in the wrong court but shall be transferred or certified to the proper court.

~~(f)~~(g) Allocation of workload. Notwithstanding the foregoing provisions, cases may be assigned and transferred between the courts by Supreme Court order to achieve a fair allocation of the appellate workload between the Supreme Court and the Court of Appeals.

~~(g)~~(h) In all appeals from criminal convictions or post-conviction relief matters heard in the Court of Appeals, the appellant shall not be required to petition for rehearing in the Court of Appeals or review in the Supreme Court following an adverse decision of the Court of Appeals in order to be deemed to have exhausted all available state remedies respecting a claim of error. When the claim has been presented to the Court of Appeals or the Supreme Court, and relief has been denied, the appellant shall be deemed to have exhausted all available state remedies.

SECTION 3. Pursuant to the authority granted under Arkansas Constitution, Amendment 80, § 9, Rule 2-4(b) of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas, concerning the contents of a petition, is amended to read as follows:

(b) Contents of petition. A petition to the Supreme Court for review of a decision of the Court of Appeals shall not exceed three 8 1/2 x 11", double-spaced pages in length. The petition must briefly and distinctly state the basis upon which the case should be reviewed and may include citations of authority or references to statutes or constitutional provisions. The petition can only be filed by a party to the appeal and is otherwise subject to Rule 1-2~~(e)~~(f).

SECTION 4. Pursuant to the authority granted under Arkansas Constitution, Amendment 80, § 9, Rule 2-4(d) of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas, concerning grounds for review, is amended to read as follows:

(d) Grounds for review. A petition for review must allege one of the following: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is in conflict with a prior holding of a published opinion of either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals otherwise erred with respect to one of the grounds listed in Rules 1-2~~(b)~~(c).

SECTION 5. Arkansas Code § 16-13-201(a), concerning the jurisdiction of circuit courts, is amended to read as follows:

(a)(1) ~~Circuit~~ Except as provided in subdivision (a)(2) of this section, circuit courts shall have original jurisdiction of all justiciable matters not otherwise assigned pursuant to the Arkansas Constitution.

(2) The Court of Appeals shall have exclusive original jurisdiction over a facial constitutional challenge in which a party seeks in the party's initial or amended pleading to have a provision of an act of the General Assembly, a provision of the Arkansas Code, or a provision of an administrative rule or regulation declared unconstitutional in all of its applications under the United States Constitution or the Arkansas Constitution.

SECTION 6. *EFFECTIVE DATE.* This act shall be effective on and after November 1, 2025.

/s/M. Shepherd