

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S2/8/21

# A Bill

SENATE BILL 192

5 By: Senator D. Sullivan  
6 By: Representative Womack  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE PUBLIC EMPLOYEES' POLITICAL  
10 FREEDOM ACT OF 1999; TO DECLARE AN EMERGENCY; AND FOR  
11 OTHER PURPOSES.  
12  
13

## Subtitle

15 TO AMEND THE PUBLIC EMPLOYEES' POLITICAL  
16 FREEDOM ACT OF 1999 AND TO DECLARE AN  
17 EMERGENCY.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

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

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

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

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

35 (2)(A) "Public employee" means any person providing services for  
36 the State of Arkansas, a county, a municipal corporation, or any other



1 political subdivision of this state for which compensation is paid~~+~~.

2 (B) The General Assembly recognizes the nonpartisan and  
 3 confidentiality requirements of legislative staff and the staff of  
 4 constitutional officers, and therefore "public employee" does not mean:

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

7 (a) The Bureau of Legislative Research; or

8 (b) Arkansas Legislative Audit; or

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

12 (a) Governor;

13 (b) Lieutenant Governor;

14 (c) Secretary of State;

15 (d) Treasurer of State;

16 (e) Auditor of State;

17 (f) Attorney General; or

18 (g) Commissioner of State Lands;

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

22  
 23 SECTION 2. Arkansas Code § 21-1-503 is amended to read as follows:

24 21-1-503. ~~Employer~~ Public employer not to penalize public employee's  
 25 political activity.

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

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

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

35 (A) A matter of public concern; or

36 (B) A matter of individual or private concern.

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

3           ~~(e)(1)~~ (d)(1) It ~~shall be~~ is unlawful for any public employer to  
4 discipline, to threaten to discipline, to reprimand either orally or in  
5 writing, to place any notation in a public employee's personnel file  
6 disciplining or reprimanding the public employee, or to otherwise  
7 discriminate against a public employee because the public employee exercised  
8 the right to communicate with an elected public official, exercised the right  
9 to communicate with a member or members of the public, or exercised a right  
10 or privilege under the Freedom of Information Act of 1967, § 25-19-101 et  
11 seq., as granted under this subchapter.

12           (2) A public employer shall not be prohibited from disciplining  
13 a public employee who has intentionally made an untrue allegation to an  
14 elected public official concerning a matter related to the public employee's  
15 job.

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

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

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

22                   (A) A temporary restraining order;

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

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

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

27           (g) This section shall not be construed to interfere with state laws  
28 and federal laws for the prohibition of discrimination.

29  
30           SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
31 General Assembly of the State of Arkansas that public employees face  
32 restrictions on their right to express their opinions in the workplace; that  
33 these restrictions cause fear in those public employees to use their right of  
34 free speech; and that this act is immediately necessary to ensure the public  
35 employees' freedom of speech is not restricted. Therefore, an emergency is  
36 declared to exist, and this act being immediately necessary for the

1 preservation of the public peace, health, and safety shall become effective  
2 on:

3 (1) The date of its approval by the Governor;

4 (2) If the bill is neither approved nor vetoed by the Governor,  
5 the expiration of the period of time during which the Governor may veto the  
6 bill; or

7 (3) If the bill is vetoed by the Governor and the veto is  
8 overridden, the date the last house overrides the veto.

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*/s/D. Sullivan*