

1 State of Arkansas As Engrossed: H3/17/21 H4/14/21

2 93rd General Assembly **A Bill**

3 Regular Session, 2021 HOUSE BILL 1386

4

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

8 By: Senators B. Ballinger, T. Garner

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For An Act To Be Entitled

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

16

17

Subtitle

18

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

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

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29 SECTION 1. DO NOT CODIFY. Scope.

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

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



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

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

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

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

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

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

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

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

31 5-73-134. Unlawful enforcement of federal statutes.

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

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

1 utilize any resource to enforce any act, law, statute, rule, or regulation of
2 the United States Government created or effective on or after January 1,
3 2021.

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

6
7 SECTION 3. Arkansas Code § 16-81-106(b), concerning authority to
8 arrest without a warrant, is amended to read as follows:

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

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

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

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

23
24 SECTION 4. Arkansas Code § 16-81-106(c)(1), concerning authority to
25 arrest without a warrant, is amended to read as follows:

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

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

34 (j) A certified law enforcement officer shall not make an arrest under
35 § 5-73-134 without a warrant.

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