

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

# A Bill

HOUSE BILL 1729

5 By: Representative Mahony  
6  
7

## For An Act To Be Entitled

9 AN ACT TO REPEAL OBSOLETE PROVISIONS OF THE  
10 ARKANSAS CODE CONCERNING THE COMMUNIST PARTY; AND  
11 FOR OTHER PURPOSES.  
12

## Subtitle

13 AN ACT TO REPEAL OBSOLETE PROVISIONS OF  
14 THE ARKANSAS CODE CONCERNING THE  
15 COMMUNIST PARTY.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code §§ 5-51-401 through 5-51-404 are repealed.

22 ~~5-51-401. Definition.~~

23 ~~As used in this subchapter, unless the context otherwise requires,~~

24 ~~"Communist Party" means:~~

25 ~~(1) The Communist Party of the United States;~~

26 ~~(2) The Communist Political Association;~~

27 ~~(3) The Communist Party of any state of the United States, of~~  
28 ~~any foreign state, or any political or geographical subdivision of any~~  
29 ~~foreign state;~~

30 ~~(4) Any section, subsidiary, branch, affiliate, or subdivision~~  
31 ~~of any such association or party; or~~

32 ~~(5) Any organization which advocates or teaches the overthrow by~~  
33 ~~force or violence or other unconstitutional means of the governments of the~~  
34 ~~United States or the State of Arkansas.~~

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36 ~~5-51-402. Legislative determination.~~



1           ~~The General Assembly of the State of Arkansas finds and determines~~  
2 ~~that:~~

3                   ~~(1) The Communist Party advocates, teaches, and encourages the~~  
4 ~~overthrow of the governments of the United States and of the State of~~  
5 ~~Arkansas by force and violence, the same being contrary to the Constitutions~~  
6 ~~of the United States and of the State of Arkansas; and~~

7                   ~~(2) The existence of the Communist Party and membership in such~~  
8 ~~party is an immediate and constant threat to the peace, safety, and security~~  
9 ~~of the State of Arkansas and of the people thereof.~~

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11           ~~5-51-403. Prohibition on party operation and membership.~~

12           ~~(a) It shall be unlawful for the Communist Party to operate in the~~  
13 ~~State of Arkansas, and it shall be unlawful for any person in the State of~~  
14 ~~Arkansas to knowingly be a member of or belong to the Communist Party.~~  
15 ~~Membership in the Communist Party shall be prima facie evidence that a person~~  
16 ~~advocates, teaches, and encourages the forceful and violent overthrow of the~~  
17 ~~government of the State of Arkansas.~~

18           ~~(b) Any person violating the provisions of this section shall, upon~~  
19 ~~conviction, be imprisoned for a period of not less than one (1) year nor more~~  
20 ~~than twenty one (21) years or shall be fined in an amount of not less than~~  
21 ~~one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000),~~  
22 ~~or be both so fined and imprisoned.~~

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24           ~~5-51-404. Registration requirements.~~

25           ~~(a) Any member of one (1) of the following organizations is required~~  
26 ~~to register with the Director of the Department of Arkansas State Police:~~

27                   ~~(1) The Communist Party of the United States;~~

28                   ~~(2) The Communist Political Association;~~

29                   ~~(3) The Communist Party of any state of the United States, of~~  
30 ~~any foreign state, or of any political or geographical subdivision of any~~  
31 ~~foreign state;~~

32                   ~~(4) Any section, subsidiary, branch, affiliate, or subdivision~~  
33 ~~of any such association or party;~~

34                   ~~(5) The direct predecessor or successors of any association or~~  
35 ~~party, regardless of what name such group or organization may have used, may~~  
36 ~~now bear, or may hereafter adopt;~~

1           ~~(6) Any organization which advocates or teaches the overthrow by~~  
2 ~~force or violence or other unconstitutional means of the governments of the~~  
3 ~~United States or the State of Arkansas;~~

4           ~~(7) An individual who is not a member of one (1) of the above~~  
5 ~~organizations but who writes, publishes, or causes to be written or published~~  
6 ~~or who circulates, orally or otherwise, any information advocating or~~  
7 ~~teaching the overthrow by force or violence or other unconstitutional means~~  
8 ~~of the governments of the United States or the State of Arkansas.~~

9           ~~(b) The Director of the Department of Arkansas State Police will~~  
10 ~~maintain registration in a file which shall be open to the public at all~~  
11 ~~times.~~

12           ~~(c) Any person falling within the class enumerated in this section who~~  
13 ~~shall fail to so register commits a Class D felony.~~

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15           SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
16 General Assembly that Arkansas Code §§ 5-51-401 through 5-51-404 have never  
17 been enforced; that these sections of the Arkansas Code are of dubious  
18 validity under the First Amendment to the United States Constitution; that  
19 litigation is currently pending challenging the constitutionality of these  
20 unenforced sections of the Arkansas Code; and this act is immediately  
21 necessary because the state wishes to avoid any liability for attorneys' fees  
22 or costs as a result of the litigation. Therefore, an emergency is declared  
23 to exist and this act being immediately necessary for the preservation of the  
24 public peace, health, and safety shall become effective on:

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

26           (2) If the bill is neither approved nor vetoed by the Governor, the  
27 expiration of the period of time during which the Governor may veto the bill;

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

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