

1 State of Arkansas As Engrossed: H2/26/19 H2/28/19

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

HOUSE BILL 1429

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5 By: Representative Dotson

6 By: Senator J. Dismang

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## For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE CODE OF ARKANSAS RULES; TO  
10 CREATE AN ONLINE SEARCHABLE DATABASE OF  
11 ADMINISTRATIVE RULES; AND FOR OTHER PURPOSES.

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## Subtitle

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TO ESTABLISH THE CODE OF ARKANSAS RULES.

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

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20 SECTION 1. Arkansas Code § 25-15-203 is amended to add an additional  
21 subsection to read as follows:

22 (c) To the extent possible, a rule shall be written in plain language.

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24 SECTION 2. Arkansas Code § 25-15-204(e)(1)(A), concerning the filing  
25 of a rule, is amended to read as follows:

26 (e)(1)(A) An agency shall file with the Secretary of State and the  
27 Legislative Council a:

28 (i) ~~copy~~ Copy of each rule, including without  
29 limitation an emergency rule, proposed by the agency;

30 (ii) ~~and a financial~~ Financial impact statement for  
31 the proposed rule;

32 (iii) Notice for the adoption, amendment, or repeal  
33 of any rule required to be published on the internet under this section;

34 (iv) Statement setting forth the reason for the  
35 proposed rule; and

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(v) Summary of the proposed rule.



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2 SECTION 3. Arkansas Code § 25-15-205 is amended to read as follows:  
3 25-15-205. Rules – “The Arkansas Register”.

4 (a)(1) The Secretary of State shall compile, index, and publish on its  
5 website a document to be known as The Arkansas Register.

6 (2) The Arkansas Register shall contain:

7 (A) all adopted rules of any agency A copy of each rule,  
8 including without limitation an emergency rule, proposed by an agency;

9 (B) A financial impact statement for the proposed rule;

10 (C) The notice for the adoption, amendment, or repeal of  
11 any rule required to be published on the internet under § 25-15-204;

12 (D) Statement setting forth the reason for the proposed  
13 rule; and

14 (E) Summary of the proposed rule.

15 (3) The inclusion of a direct link to an electronic version of  
16 the information under subdivision (a)(2) of this section shall satisfy the  
17 requirements of this section.

18 (4)(A) The Secretary of State may omit from publication in the  
19 Arkansas Register any rule in which publication would be unduly cumbersome,  
20 expensive, or otherwise impractical.

21 (B) If a rule is omitted from publication under  
22 subdivision (a)(4)(A) of this section, the Arkansas Register shall indicate  
23 where and how a copy of the omitted rule may be obtained.

24 (b) The Secretary of State shall update The Arkansas Register at least  
25 monthly no later than the first Tuesday of every month, setting forth a  
26 synopsis of rules filed by agencies.

27 (c)(1) If requested, a printed copy of The Arkansas Register shall be  
28 furnished to all state agencies and other persons at prices fixed by the  
29 Secretary of State to cover publication and mailing costs.

30 (2) Proceeds from the sale of The Arkansas Register shall be  
31 deposited in the Constitutional Officers Fund and the State Central Services  
32 Fund in the State Treasury.

33 (d) A progress report on publication and distribution shall be  
34 provided to the Legislative Council annually.

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36 SECTION 4. Arkansas Code § 25-15-202(2), concerning the definition of

1 "agency", is amended to read as follows:

2 (2)(A) "Agency" means a board, commission, department, officer, or  
3 other authority of the government of the State of Arkansas, whether within,  
4 or subject to review by, another agency, except the General Assembly, the  
5 courts, and Governor.

6 (B) The word "agency" shall include the Division of Child  
7 Care and Early Childhood Education of the Department of Human Services and  
8 the Child Care Appeal Review Panel for purposes of administrative appeal.

9 (C)(i) The Except as provided in subdivision (2)(C)(ii),  
10 of this section, the word "agency" shall not include the Arkansas Public  
11 Service Commission, the Arkansas Pollution Control and Ecology Commission,  
12 the Workers' Compensation Commission, and the Department of Workforce  
13 Services, as the existing laws governing those agencies provide adequate  
14 administrative procedures for those agencies.

15 (ii) As used in § 25-15-218, the word "agency" shall  
16 include the Arkansas Public Service Commission, the Arkansas Pollution  
17 Control and Ecology Commission, the Workers' Compensation Commission, and the  
18 Department of Workforce Services.

19 (D) This subchapter does not repeal delegations of  
20 authority as provided by law;

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22 SECTION 5. Arkansas Code § 25-15-218 is amended to read as follows:

23 25-15-218. ~~Publication on the Internet—Uniform numbering system~~ Code  
24 of Arkansas Rules.

25 ~~(a)(1) The Secretary of State shall publish on the Internet:~~

26 ~~(A) All adopted rules of each agency;~~

27 ~~(B) A copy of each rule proposed by an agency and the~~  
28 ~~financial impact statement for each rule; and~~

29 ~~(C) The notice for the adoption, amendment, or repeal of~~  
30 ~~any rule required to be published on the Internet under § 25-15-204.~~

31 ~~(2) The Secretary of State may publish the rules on the~~  
32 ~~Secretary of State's Internet website or may contract with a provider of~~  
33 ~~Internet services to publish the rules on another Internet website.~~

34 ~~(3) No fee shall be charged for public access to the rules on~~  
35 ~~the Internet website.~~

36 ~~(b) The Secretary of State may omit from publication on its Internet~~

1 ~~website any rules in which publication would be unduly cumbersome, expensive,~~  
2 ~~or otherwise, so long as its Internet website indicates where and how a copy~~  
3 ~~of the omitted materials may be obtained.~~

4 ~~(c) Each agency shall file its adopted rules, proposed rules, and~~  
5 ~~notices with the Secretary of State in an electronic format acceptable to the~~  
6 ~~Secretary of State.~~

7 ~~(d)(1) The Secretary of State shall establish a uniform numbering~~  
8 ~~system for rules of agencies.~~

9 ~~(2) Beginning July 1, 2005, all rules filed with the Secretary~~  
10 ~~of State shall conform with the numbering system.~~

11 ~~(3) By July 1, 2005, each agency shall:~~

12 ~~(A) Revise its rules to comply with the numbering system~~  
13 ~~adopted by the Secretary of State; and~~

14 ~~(B) Provide the Secretary of State with a complete set of~~  
15 ~~the rules in an electronic format acceptable to the Secretary of State.~~

16 ~~(e) The Secretary of State shall adopt rules implementing this~~  
17 ~~section.~~

18 (a) The Bureau of Legislative Research shall:

19 (1)(A)(i) Compile, format, and index a codification of the  
20 general and permanent rules of agencies to be known as the "Code of Arkansas  
21 Rules".

22 (ii) The Bureau of Legislative Research shall not  
23 include in the Code of Arkansas Rules an emergency rule promulgated under §  
24 25-15-204(c).

25 (B)(i) In carrying out the codification under subdivision  
26 (a)(1)(A)(i) of this section, the Bureau of Legislative Research shall have  
27 the same powers and duties related to the Code of Arkansas Rules as the  
28 Arkansas Code Revision Commission, Code Revisor, and Bureau of Legislative  
29 Research have related to the Arkansas Code of 1987 Annotated under § 1-2-  
30 303(d)(1).

31 (ii) The Bureau of Legislative Research shall not  
32 make any change in the substance or meaning of any provision of a rule.

33 (C)(i) The Bureau of Legislative Research shall consult  
34 with an agency when codifying a rule of that agency.

35 (ii) An agency that objects to the form of the  
36 codification of a rule by the Bureau of Legislative Research may appeal the

1 codification of the rule to the:

2 (a) Legislative Council or a subcommittee of  
3 the Legislative Council designated for that purpose; or

4 (b) If the General Assembly is in session, the  
5 Joint Budget Committee or a subcommittee of the Joint Budget Committee  
6 designated for that purpose;

7 (2)(A) Develop a uniform style, format, and numbering system for  
8 the rules in the Code of Arkansas Rules.

9 (B) The uniform style, format, and numbering system  
10 developed under subdivision (a)(2)(A) of this section shall conform as nearly  
11 as practical to the style of the Arkansas Code of 1987 Annotated.

12 (C) Rules included in the Code of Arkansas Rules shall be  
13 cited and referred to by the numbering system established under subdivision  
14 (a)(2)(A) of this section;

15 (3) Communicate to agencies the uniform style, format, and  
16 numbering system;

17 (4)(A) Cause the Code of Arkansas Rules to be published as an  
18 online searchable database that is available for use by the general public at  
19 no charge.

20 (B) The online searchable database under subdivision  
21 (a)(4)(A) of this section shall:

22 (i) Constitute the official version of the Code of  
23 Arkansas Rules; and

24 (ii) Be prima facie evidence of the rules contained  
25 in the Code of Arkansas Rules.

26 (C) In no event shall the Bureau of Legislative Research  
27 be required to produce a print version of the Code of Arkansas Rules,  
28 including without limitation in response to a request under the Freedom of  
29 Information Act of 1967, §§ 25-19-101 et seq.;

30 (5) Update the Code of Arkansas Rules at least monthly with the  
31 current version of each rule adopted by an agency; and

32 (6) Indicate in bold type on the webpage of the Code of Arkansas  
33 Rules the date of the latest update.

34 (b) Each agency shall draft its rules to comply with the uniform  
35 style, format, and numbering system developed by the Bureau of Legislative  
36 Research under subdivision (a)(2) of this section.

1 (c)(1) Except as provided in subdivision (c)(2) of this section, a  
2 rule that is not included in the Code of Arkansas Rules is not enforceable by  
3 the agency promulgating the rule.

4 (2)(A) The Bureau of Legislative Research may omit from  
5 publication in the Code of Arkansas Rules any rule in which publication would  
6 be unduly cumbersome, expensive, or otherwise impractical.

7 (B) If a rule is omitted from publication under  
8 subdivision (c)(2)(A) of this section, the Code of Arkansas Rules shall  
9 indicate where and how a copy of the omitted rule may be obtained.

10 (d)(1) The Bureau of Legislative Research may enter into a  
11 professional services contract to assist in carrying out the duties under  
12 this section.

13 (2) The Bureau of Legislative Research shall retain the  
14 copyright over the Code of Arkansas Rules.

15 (e)(1) The Bureau of Legislative Research may prepare guidance  
16 documents for agencies regarding matters necessary for the implementation of  
17 this section, including without limitation the:

18 (A) Form and style of content that will be included in the  
19 Code of Arkansas Rules; and

20 (B) Submission of information to the Bureau of Legislative  
21 Research for inclusion in the Code of Arkansas Rules.

22 (2) A guidance document under subdivision (e)(1) of this section  
23 is not a rule under § 25-15-202.

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25 SECTION 6. DO NOT CODIFY. (a) No later than December 31, 2019, each  
26 agency subject to § 25-15-218 shall transmit to the Bureau of Legislative  
27 Research an electronic version of each rule that has been adopted and is  
28 currently in effect.

29 (b) The Bureau of Legislative Research shall:

30 (1) Inform each agency of the format in which rules shall be  
31 transmitted under subsection (a) of this section;

32 (2) Submit a report on the status of the codification to the  
33 Legislative Council on January 1, April 1, July 1, and October 1 of each year  
34 until the codification is complete; and

35 (3) Complete the codification of the Code of Arkansas Rules  
36 required in this act by January 1, 2023.

1           (c)(1) To promote the efficient development of a Code of Arkansas  
2 Rules, the Bureau of Legislative Research shall work with the Governor's  
3 Office to coordinate and direct agencies in the effort to develop the Code of  
4 Arkansas Rules.

5           (2) The Bureau of Legislative Research may establish a phased  
6 approach which requires agencies to submit portions of their rules before  
7 December 31, 2019.

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/s/Dotson