

As Engrossed: 2/2/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Walker**

A Bill

ACT 480 OF 1995
SENATE BILL 119

For An Act To Be Entitled

"AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 16, CHAPTER
123, SUBCHAPTER 1 CONCERNING THE ARKANSAS CIVIL RIGHTS ACT
OF 1993; AND FOR OTHER PURPOSES."

Subtitle

"AN ACT TO AMEND VARIOUS SECTIONS OF THE
ARKANSAS CIVIL RIGHTS ACT OF 1993."

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

SECTION 1. Arkansas Code 16-123-102 (4) is amended to read as follows:

"(4) Employee does not include:

(A) Any individual employed by his or her parents, spouse, or
child;

(B) An individual participating in a specialized employment
training program conducted by a nonprofit sheltered workshop or rehabilitation
facility; or

(C) An individual employed outside the State of Arkansas;"

SECTION 2. Arkansas Code 16-123-103 (a) is amended to read as follows:

"(a) Every person who, under color of any statute, ordinance,
regulation, custom, or usage, of this state or any of its political
subdivisions subjects, or causes to be subjected, any person within the
jurisdiction thereof to the deprivation of any rights, privileges, or
immunities secured by the Arkansas Constitution, shall be liable to the party
injured in an action at law, a suit in equity, or other proper proceeding for
redress."

SECTION 3. Arkansas Code 16-123-107 is amended to read as follows:

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1 "§16-123-107. Discrimination offenses.

2 (a) The right of an otherwise qualified person to be free from
3 discrimination because of race, religion, national origin, gender, or the
4 presence of any sensory, mental, or physical disability is recognized as and
5 declared to be a civil right. This right shall include, but not be limited
6 to:

7 (1) The right to obtain and hold employment without
8 discrimination;

9 (2) The right to the full enjoyment of any of the accommodations,
10 advantages, facilities, or privileges of any place of public resort,
11 accommodation, assemblage, or amusement;

12 (3) The right to engage in property transactions without
13 discrimination;

14 (4) The right to engage in credit and other contractual
15 transactions without discrimination; and

16 (5) The right to vote and participate fully in the political
17 process.

18 (b) Any person who is injured by an intentional act of discrimination
19 in violation of subdivisions (a) (2) - (5) of this section shall have a civil
20 action in a court of competent jurisdiction to enjoin further violations, to
21 recover compensatory and punitive damages, and, in the discretion of the
22 court, to recover the cost of litigation, and a reasonable attorney's fee.

23 (c) (1) (A) Any individual who is injured by employment discrimination by
24 an employer in violation of subdivision (a) (1) of this section shall have a
25 civil action in a court of competent jurisdiction, which may issue an order
26 prohibiting the discriminatory practices and provide affirmative relief from
27 the effects of the practices, and award back pay, interest on back pay, and,
28 in the discretion of the court, the cost of litigation and a reasonable
29 attorney's fee.

30 (B) No liability for back pay shall accrue from a date more
31 than two (2) years prior to the filing of an action.

32 (2) (A) In addition to the remedies under subdivision (c) (1) (A) of
33 this section, any individual who is injured by intentional discrimination by
34 an employer in violation of subdivision (a) (1) of this section shall be
35 entitled to recover compensatory damages and punitive damages. The total

1 compensatory and punitive damages awarded under this subdivision (c) (2) (A)
2 shall not exceed:

3 (i) The sum of fifteen thousand dollars (\$15,000) in the
4 case of an employer who employs fewer than fifteen (15) employees in each of
5 twenty (20) or more calendar weeks in the current or preceding calendar year;

6 (ii) The sum of fifty thousand dollars (\$50,000) in the
7 case of an employer who employs more than fourteen (14) and fewer than one
8 hundred one (101) employees in each of twenty (20) or more calendar weeks in
9 the current or preceding calendar year;

10 (iii) The sum of one hundred thousand dollars (\$100,000) in
11 the case of an employer who employs more than one hundred (100) and fewer than
12 two hundred one (201) employees in each of twenty (20) or more calendar weeks
13 in the current or preceding calendar year;

14 (iv) The sum of two hundred thousand dollars (\$200,000) in
15 the case of an employer who employs more than two hundred (200) and fewer than
16 five hundred one (501) employees in each of twenty (20) or more calendar weeks
17 in the current or preceding calendar year; and

18 (v) The sum of three hundred thousand dollars (\$300,000) in
19 the case of an employer who employs more than five hundred (500) employees in
20 each of twenty (20) or more calendar weeks in the current or preceding
21 calendar year.

22 (3) Any action based on employment discrimination in violation of
23 subdivision (a) (1) of this section shall be brought within one (1) year after
24 the alleged employment discrimination occurred, or within ninety (90) days of
25 receipt of a "Right to Sue" letter or a notice of "Determination" from the
26 United States Equal Employment Opportunity Commission concerning the alleged
27 unlawful employment practice, whichever is later."

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29 SECTION 4. Arkansas Code Title 16, Chapter 123, Subchapter 1 is amended
30 to add the following new section:

31 "16-123-110. Retaliation and coercion.

32 (a) Retaliation. No person shall discriminate against any individual
33 because such individual *in good faith* has opposed any act or practice made
34 unlawful by this act or because such individual *in good faith* made a charge,
35 testified, assisted, or participated in any manner in an investigation,

1 proceeding, or hearing under this act.

2 (b) Interference, coercion, or Intimidation. It shall be unlawful to
3 coerce, intimidate, threaten, or interfere with any individual in the exercise
4 or enjoyment of, or on account of his or her having exercised or enjoyed, or
5 on account of his or her having aided or encouraged any other individual in
6 the exercise or enjoyment of, any right granted or protected by this act.

7 (c) Remedies and Procedures. The remedies and procedures available in
8 Section 16-123-106 shall be available to aggrieved persons for violations of
9 subsections (a) and (b) of this section."

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11 SECTION 5 . All provisions of this act of a general and permanent
12 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
13 Code Revision Commission shall incorporate the same in the Code.

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15 SECTION 6 . If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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21 SECTION 7 . All laws and parts of laws in conflict with this act are
22 hereby repealed.

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24 /s/Walker

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26 APPROVED: 2-28-95

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