

1 INTERIM STUDY PROPOSAL 2013-131

2 State of Arkansas *As Engrossed: S3/28/13 S4/16/13 S4/17/13*

3 89th General Assembly

A Bill

4 Regular Session, 2013

SENATE BILL 1164

5
6 By: Senator Rapert

7 Filed with: Interim Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

9 **For An Act To Be Entitled**

10 AN ACT TO PROVIDE LEGAL STANDING AND NOTIFICATION TO
11 MEMBERS OF THE GENERAL ASSEMBLY AND THE LEGISLATIVE
12 COUNCIL CONCERNING A CONSTITUTIONAL CHALLENGE TO OR
13 THE INTERPRETATION OF CERTAIN ARKANSAS LAWS; AND FOR
14 OTHER PURPOSES.

15
16
17 **Subtitle**

18 TO PROVIDE LEGAL STANDING AND
19 NOTIFICATION TO MEMBERS OF THE GENERAL
20 ASSEMBLY AND THE LEGISLATIVE COUNCIL
21 CONCERNING A CONSTITUTIONAL CHALLENGE TO
22 OR THE INTERPRETATION OF CERTAIN ARKANSAS
23 LAWS.

24
25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

27
28 *SECTION 1. Arkansas Code Title 10, Chapter 1, is amended to add*
29 *additional subchapters to read as follows:*

30 *Subchapter 1 – General Provisions [Reserved]*

31
32 *Subchapter 2 – Judicial Proceedings Legislative Standing and*
33 *Intervention Act*

34
35 *10-1-201. Title.*

1 This subchapter shall be known and may be cited as the "Judicial
2 Proceedings Legislative Standing and Intervention Act".

3
4 10-1-202. Findings – Declaration of public policy – Legislative
5 intent.

6 (a) The General Assembly finds that:

7 (1) The proper interpretation, implementation, and
8 administration of the constitution and laws of the state are matters of great
9 public interest and significant and distinct importance to the General
10 Assembly;

11 (2) Separate, distinct, and distinguishable from the general
12 public, a member has:

13 (A) A plain, direct, and adequate interest in maintaining
14 the effectiveness of the votes for an act; and

15 (B) An informed, direct, personal, and official stake in
16 ensuring the proper interpretation and administration of an act;

17 (3) There are times when the state is best served by permitting
18 a member to present arguments to defend or assert the constitutionality of an
19 act;

20 (4) The perspective provided by a member would be beneficial to
21 the court in determining the constitutionality of an act;

22 (5) No harm will result by permitting a member the right to
23 facilitate the proper disposition of cases involving the constitutionality of
24 an act; and

25 (6) If a circumstance described in § 10-1-204 exists, the
26 state's interests can be adequately represented only by authorizing a member
27 in his or her official capacity to intervene as a matter of right, defend, or
28 prosecute a judicial proceeding concerning the constitutionality of an act.

29 (b) For the reasons stated in subsection (a) of this section and to
30 promote the proper interpretation, implementation, and administration of
31 state law and to ensure adequate representation, the General Assembly
32 declares that it is the public policy of this state and the intent of this
33 subchapter to allow a member legal standing in the member's official capacity
34 as a matter of right to advocate or defend the constitutionality of an act in
35 a judicial proceeding.

1 10-1-203. Definitions.

2 As used in this subchapter:

3 (1) "Act" means all or part of a law enacted by the General
4 Assembly; and

5 (2) "Member" means a member of the General Assembly who is the:

6 (A) Speaker of the House of Representatives;

7 (B) President Pro Tempore of the Senate;

8 (C) Lead sponsor of an act in the House of
9 Representatives; or

10 (D) Lead sponsor of an act in the Senate.

11
12 10-1-204. Legislative standing and intervention rights.

13 At any stage of a judicial proceeding, a member has, as a matter of
14 right, standing in the member's official capacity and the right to intervene
15 in the judicial proceeding to assert, defend, or establish the
16 constitutionality of an act.

17
18 10-1-205. Applicability.

19 This subchapter does not:

20 (1) Supersede a law or constitutional provision concerning the
21 authority of the Attorney General to perform the duties of his or her office;
22 or

23 (2) Prevent the Attorney General from performing the duties of
24 his or her office.

25
26 /s/Rapert

27
28
29 Referred by the Arkansas Senate

30 Prepared by: DLP/VJF