

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

A Bill

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."

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

2 "§16-123-107. Discrimination offenses.

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

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

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

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

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

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

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

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

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

33 (2)(A) In addition to the remedies under subdivision (c)(1)(A)
34 of this section, any individual who is injured by intentional discrimination
35 by an employer in violation of subdivision (a)(1) of this section shall be

1 entitled to recover compensatory damages and punitive damages. The total
2 compensatory and punitive damages awarded under this subdivision (c)(2)(A)
3 shall not exceed:

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

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

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

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

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

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

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

32 "16-123-110. Retaliation and coercion.

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

1 testified, assisted, or participated in any manner in an investigation,
2 proceeding, or hearing under this act.

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

9 (c) Remedies and Procedures. The remedies and procedures available in
10 Section 16-123-106 shall be available to aggrieved persons for violations of
11 subsections (a) and (b) of this section."
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13 SECTION 5 . All provisions of this act of a general and permanent
14 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
15 Code Revision Commission shall incorporate the same in the Code.
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17 SECTION 6 . If any provision of this act or the application thereof to
18 any person or circumstance is held invalid, such invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provision or application, and to this end the provisions of this
21 act are declared to be severable.
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23 SECTION 7 . All laws and parts of laws in conflict with this act are
24 hereby repealed.
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26 /s/Walker
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