

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas As Engrossed: H2/20/97

2 81st General Assembly

# A Bill

3 Regular Session, 1997

SENATE BILL 122

4

5 By: Senator Beebe

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## For An Act To Be Entitled

8

"AN ACT TO ESTABLISH GUIDELINES FOR THE CODIFICATION OF

9

THE ACTS OF THE GENERAL ASSEMBLY; AND FOR OTHER PURPOSES."

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11

## Subtitle

12

"TO ESTABLISH GUIDELINES FOR

13

CODIFICATION OF THE ACTS OF THE GENERAL

14

ASSEMBLY."

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

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18 SECTION 1. Arkansas Code 1-2-303(d) is amended to read as follows:

19 "(d)(1) In exercising the powers and duties imposed upon it by this

20 section, the commission shall not authorize any change in the substance or

21 meaning of any provision of the Arkansas Code, any Act of the General

22 Assembly, or any regulation. However, the commission is authorized to:

23 (A) Correct the spelling of words;

24 (B) Change the capitalization for the purpose of uniformity;

25 ~~(C) Correct manifest typographical and grammatical errors;~~

26 ~~(D)~~(C) Correct manifest errors in references to laws;

27 ~~(E)~~(D) Correct manifest errors in internal reference numbers;

28 ~~(F)~~(E) Substitute the proper Code section number, subchapter

29 number, chapter number, subtitle number, title number, or other number or

30 designation for the terms this Act, the preceding Code section, this

31 regulation, the preceding regulation, or any similar words or phrases;

32 ~~(G) Renumber, redesignate, and rearrange chapters, subchapters,~~

33 ~~sections, subsections, and subdivisions, or any combination or portion~~

34 ~~thereof;~~

35 ~~(H)~~(F) Change internal reference numbers to agree with renumbered

36 chapters, subchapters, sections, subsections, subdivisions, or portions

1 thereof;

2       ~~\_\_\_\_\_~~ (I)(G) Substitute the correct calendar date for the effective  
3 date of this Act or the effective date of this regulation and other phrases  
4 of similar import;

5       ~~\_\_\_\_\_~~ (J) ~~Correct inaccurate references to the titles of officers, the~~  
6 ~~names of departments or other agencies of the state or local governments, or~~  
7 ~~the federal government, and to the short titles of other laws, and make any~~  
8 ~~other name changes necessary to be consistent with the laws currently in~~  
9 ~~effect;~~

10       ~~\_\_\_\_\_~~ (K)(H) Rearrange definitions in alphabetical order;

11       ~~\_\_\_\_\_~~ (L)(I) Insert or delete hyphens in words so as to follow correct  
12 grammatical usage;

13       ~~\_\_\_\_\_~~ (M)(J) Change numerals or symbols to words or vice versa and add  
14 figures or words if they are merely a repetition of written words or vice  
15 versa for purposes of uniformity and style;

16       ~~\_\_\_\_\_~~ (N)(K) Change nouns from the singular to the plural or vice versa  
17 and change forms of verbs for purposes of style and grammar; and

18               (1) If the acts of the General Assembly are in markup format,  
19 language overstricken shall not be codified and underlined language shall not  
20 be underlined in the Code.

21       ~~\_\_\_\_\_~~ (O) ~~Change punctuation for purposes of uniformity and consistency~~  
22 ~~of style.~~

23               (2) Except as provided in subdivision (d)(1) of this section, the  
24 wording, punctuation, and format of sections of acts shall appear in the Code  
25 exactly as enacted by the General Assembly.

26               (3) No law may be removed from the Arkansas Code unless specifically  
27 repealed by the General Assembly.

28               (4) Every section of each act which is required to be codified shall be  
29 codified as a complete section of the Arkansas Code.

30               (5) Sections of acts shall not be combined into the same Code section  
31 unless they are identical or they specifically amend the same Code section.

32               (6) No section of an act shall be codified in more than one section of  
33 the Arkansas Code. If a section is applicable to more than one title,  
34 chapter, subchapter, or section of the Arkansas Code, it shall be codified in  
35 one section only with notes indicating its applicability to other portions of  
36 the Code.

1           (7) The Code Revision Commission shall notify the Legislative Council  
2 as soon as possible after the discovery of problems with the acts or the Code  
3 and recommend corrections.

4           (8) The Code Revision Commission shall insert a codifiers note under  
5 appropriate Code sections to alert the reader to conflicting Code provisions  
6 and other problems identified by the Commission.

7           (9) The Code Revision Commission shall report to the Legislative  
8 Council as soon as possible after the adjournment of each session of the  
9 General Assembly regarding the acts and parts of acts of that session which  
10 were not codified. The Commission is not required to report uncodedified  
11 appropriation sections and other sections specifically referring to an  
12 appropriation.

13           ~~-(2)(10)~~ This subsection shall not apply to the publication known as the  
14 Acts of Arkansas. The Acts of Arkansas shall be published containing the acts  
15 of the General Assembly exactly as enacted by the General Assembly. No  
16 correction, change, renumbering, substitution, redesignation, or rearrangement  
17 shall be made to the text of the acts published in the Acts of Arkansas."  
18

19           SECTION 2. Arkansas Code 1-2-303 is amended by inserting an additional  
20 subsection at the end thereof to read as follows:

21           "(e) Substantive provisions of acts which are not codified shall be  
22 published as a separate volume or volumes by the Arkansas Code Revision  
23 Commission."

24  
25           SECTION 3. Arkansas Code 1-2-301 is amended to read as follows:

26           "1-2-301. Creation - Members.

27           (a) There is created a commission, to be known as the Arkansas Code  
28 Revision Commission.

29           (b) The commission shall consist of ~~six (6)~~ seven (7) voting members  
30 and ~~two (2)~~ four (4) nonvoting observer members:

31           (1) The voting members shall be selected and appointed as follows:

32           (A) Two (2) members of the Senate appointed by the Committee on  
33 Committees of the Senate;

34           (B) Two (2) members of the House appointed by the Speaker of the House  
35 of Representatives; and

36           (C) Three (3) members of the Bar of Arkansas appointed by the Supreme

1 Court of Arkansas.

2 (2) The nonvoting observer members shall be:

3 (A) The Dean of the School of Law of the University of Arkansas  
4 at Fayetteville or, if there is no such dean, the individual occupying the  
5 position of acting dean;

6 (B) The Dean of the School of Law of the University of Arkansas  
7 at Little Rock or, if there is no such dean, the individual occupying the  
8 position of acting dean;

9 (C) The Attorney General or his authorized representative; and

10 ~~\_\_\_\_\_ (D) Three (3) members of the Bar of Arkansas to be appointed by  
11 the Supreme Court of Arkansas;~~

12 (D) The Director of the Bureau of Legislative Research or his  
13 designee.

14 ~~\_\_\_\_\_ (E) All of the six (6) aforementioned members shall take the oath  
15 of office prescribed by law which shall be filed with the Clerk of the Supreme  
16 Court;~~

17 ~~\_\_\_\_\_ (2)(A) In addition to the six (6) voting members of the commission  
18 listed above, the Committee on Committees of the Senate shall name one (1)  
19 member of the Senate to serve as a nonvoting observer member of the  
20 commission, and the Speaker of the House of Representatives shall appoint one  
21 (1) member of the House of Representatives to serve as a nonvoting observer  
22 member of the commission.~~

23 ~~\_\_\_\_\_ (B) (c)~~ (c) The nonvoting observer members of the commission shall be  
24 privileged to attend all meetings of the commission and shall enjoy the full  
25 rights of membership on the commission, including the right to discuss matters  
26 pending before the commission and to participate in debate of issues before  
27 the commission, but shall not cast a vote on any issue pending before the  
28 commission.

29 ~~\_\_\_\_\_ (e)~~ (d) The members appointed by the Supreme Court of Arkansas  
30 shall serve for a term of four (4) years, and the ~~nonvoting observer~~ members  
31 appointed by the ~~President~~ Committee on Committees of the Senate and the  
32 Speaker of the House shall serve for a term of two (2) years.

33 ~~\_\_\_\_\_ (d)~~ (e) The appointing authorities shall have power to fill any  
34 vacancies occurring in the membership appointed by them.

35 ~~\_\_\_\_\_ (e)~~ (f) The commission shall meet and select a chairman and a secretary.

36 ~~\_\_\_\_\_ (f)~~ (g) Members of the commission shall not be entitled to compensation

1 for their services but shall be eligible to receive reimbursement for mileage  
2 and ~~other per diem expenses incurred in performance of their duties in~~  
3 ~~accordance with the rates and standards for reimbursement to state employees~~  
4 reimbursement for expenses in accordance with Arkansas Code 25-16-901 et seq.  
5 Legislative members shall be entitled to reimbursement for expenses and per  
6 diem at the same rate as provided by law for members of the General Assembly  
7 attending meetings of interim committees."

8

9 SECTION 4. Arkansas Code 1-2-303(a) through (c) are amended to read as  
10 follows:

11 "(a)(1)~~(A)~~ The Arkansas Code Revision Commission shall, from time to  
12 time, arrange for the publication of compilations, recompilations, revisions,  
13 codifications, or recodifications of, or cumulative or noncumulative  
14 supplements to, the statutes of Arkansas.

15 ~~(B) The Arkansas Code Revision Commission shall, from time to time,~~  
16 ~~arrange for the publication of complete compilations, recompilations,~~  
17 ~~codifications, or recodifications of the regulations of each agency having~~  
18 ~~general applicability and legal effect, issued or promulgated by the agency,~~  
19 ~~which are relied upon by the agency as authority for, or are invoked or used~~  
20 ~~by it in the discharge of, its activities or functions.~~

21 (2) The commission shall arrange for the solicitation and receipt of  
22 competitive bids for all these publications on such terms as it deems  
23 reasonable.

24 (3) Specifications for the publications shall be drawn under the  
25 supervision of and subject to approval by the commission.

26 (4)(A) Contracts shall be awarded to the lowest responsible bidder,  
27 taking into consideration, among other things, estimated time of performance,  
28 quality of work, probability of timely and adequate performance, and  
29 experience of the company regarding the services sought by the commission.

30 (B) If the best interests of the state would be served, any and all  
31 bids submitted to the commission regarding any publication project may be  
32 rejected, and the commission may negotiate any necessary contract with the  
33 party most qualified to perform the services sought by the commission.

34 (5) The price at which publications under this section shall be sold  
35 shall, from time to time, be fixed by the Arkansas Code Revision Commission.  
36 If the commission enters into a contract with a publisher for any publication,

1 the price at which the publication under the contract shall be sold shall,  
2 from time to time, be fixed by agreement between the commission and the  
3 publishers.

4 (6) Supplements and replacement volumes published under the supervision  
5 of the commission shall be prima facie evidence of the law ~~or regulations~~  
6 contained therein.

7 (b) The Arkansas Code Revision Commission, in its discretion and subject  
8 to the provisions and requirements of § 19-4-1109, may enter into contracts  
9 for professional services to the commission, which contracts may include, but  
10 are not limited to, the purposes of:

11 (1) Creation and maintenance of up-to-date continuing computerized data  
12 base banks of the statutes ~~and regulations~~ of Arkansas by use of magnetic tape  
13 or other means of photographic or electronic preservation and reproduction  
14 systems with facilities for electronic access and retrieval.

15 (A) However, before the commission shall enter into any contract for  
16 computerized data base banks of the statutes ~~or regulations~~ of Arkansas, the  
17 commission shall confer with and seek the advice of the President Pro Tempore  
18 of the Senate and the Speaker of the House of Representatives, the Arkansas  
19 Legislative Council, and the Bureau of Legislative Research with respect to  
20 the needs and requirements for use of computerized data base banks of the  
21 statutes ~~or regulations~~ of Arkansas:

22 (i) For electronic access and statutory retrieval in connection with a  
23 computerized bill drafting and bill processing system;

24 (ii) To meet the needs of the General Assembly and the committees  
25 thereof; and

26 (iii) To assist in the preparation of acts signed by the Governor for  
27 printing of the official Acts of Arkansas.

28 (B) The commission shall confer periodically with the President Pro  
29 Tempore of the Senate and the Speaker of the House of Representatives, the  
30 Legislative Council, and the Bureau of Legislative Research and shall seek  
31 their advice with respect to means of upgrading and improving the computerized  
32 data base banks to meet the needs and requirements for their respective uses;

33 (2) Providing continuing assistance to the commission in the maintenance  
34 of the data bases and the appropriate codification of legislation adopted by  
35 the General Assembly ~~and compilation or codification of regulations~~  
36 ~~promulgated by state agencies;~~

1 (3) Performing those other services which are determined by the  
2 commission, from time to time, to be reasonably required and necessary in  
3 order to maintain availability to the State of Arkansas of up-to-date  
4 computerized data base indices of the statutes ~~and regulations~~ of Arkansas and  
5 in furtherance of its duties and authority as otherwise provided by this  
6 subchapter and by other provisions of law;

7 ~~(4) Preparation of a compilation or codification of all regulations of~~  
8 ~~Arkansas in a code of regulations, or, in lieu of a single compilation or~~  
9 ~~codification of all regulations, preparation of compilations or codifications~~  
10 ~~of a similar subject or nature, from time to time, with the overall objective~~  
11 ~~of eventually incorporating all regulations in a compilation or codification~~  
12 ~~of those regulations; and~~

13 ~~(5)~~ (4) Preparation of a codification of all the statutes of a general  
14 and permanent nature in a proposed code of laws, to be presented to the  
15 General Assembly of the State of Arkansas for approval and enactment, or, in  
16 lieu of a single codification of all of the state's statutes of a general and  
17 permanent nature, preparation of recommended codes of a similar subject or  
18 nature in proposed titles or chapters of a code for consideration by the  
19 General Assembly for enactment, from time to time, with the overall objective  
20 of eventually incorporating all of the state's statutes of a general and  
21 permanent nature in a unified codification of those laws.

22 (c) The Arkansas Code Revision Commission shall cause the executive  
23 director and other staff members of the commission:

24 (1) To make continual studies and conduct reviews of the common law,  
25 statutes, and current judicial decisions of the state in order to identify:

26 (A) Obsolete statutes;

27 (B) Overlapping and duplicating laws;

28 (C) Inequitable or inconsistent laws;

29 (D) Deficiencies in existing laws which contribute to indefiniteness of  
30 interpretation of the purpose of those laws or the legislative intent thereof;

31 (E) Deficiencies in administrative procedures;

32 (F) Defects in practice and procedure;

33 (G) Deficiencies of due process provisions in the enforcement of the  
34 criminal laws of this state;

35 (2) To provide for other and similar studies designed to lead to the  
36 preparation of drafts of corrective legislation for presentation, after review

1 and approval by the Legislative Council, to each session of the General  
2 Assembly for enactment; and

3 (3) To make studies of the methods, means, and systems used in the  
4 various states for the compilation, codification, revision, and publication of  
5 the compilations, codifications, or statutes of those states. These studies  
6 are to be used by the commission in determining means of improving the  
7 codification of the statutes of Arkansas ~~and the compilation or codification~~  
8 ~~of the regulations of Arkansas~~ and to prepare recommendations to the General  
9 Assembly in regard thereto."

10

11 SECTION 5. Arkansas Code 1-2-307 is repealed.

12 ~~§ 1-2-307. Code of state regulations.~~

13 ~~(a) The format and indexing of a code of state regulations shall~~  
14 ~~conform as nearly as practical to the format and indexing of the~~  
15 ~~Arkansas Code of 1987 Annotated.~~

16 ~~(b) To be accepted by the Arkansas Code Revision Commission for~~  
17 ~~publication in a code of state regulations, a rule shall:~~

18 ~~(1) Cite the law under which the rule is adopted;~~

19 ~~(2) Be signed by the head of the agency or the rule-making~~  
20 ~~coordinator for the agency adopting the rule; and~~

21 ~~(3) Be in the physical form specified by the commission.~~

22 ~~(c) In the performance of its duties under this subchapter, the~~  
23 ~~commission may:~~

24 ~~(1) Call upon an agency to submit to the commission one (1) or~~  
25 ~~more copies of all existing rules as well as subsequent amendments,~~  
26 ~~repeals, additions, or new rules;~~

27 ~~(2) Advise agencies as to the form and style of their rules as~~  
28 ~~well as the compilation or codification thereof; and~~

29 ~~(3) Promulgate general or special rules respecting the nature and~~  
30 ~~content of the code of state regulations, making exceptions to it,~~  
31 ~~supplementing or limiting the duties of agencies under this subchapter,~~  
32 ~~and otherwise carrying out the purposes of this subchapter.~~

33 ~~(d)(1) After consulting with the agency that adopted the rule,~~  
34 ~~the commission may revise the form of a rule submitted for inclusion in~~  
35 ~~a code of state regulations to do one (1) or more of the following:~~

36 ~~(A) Rearrange the order of the rule in the code or the~~



1 ~~order of the subsections, subdivisions, or other subparts of the rule;~~  
2 ~~\_\_\_\_\_ (B) Provide a heading for the rule or revise the heading of~~  
3 ~~the rule;~~  
4 ~~\_\_\_\_\_ (C) Reletter or renumber the rule or the subparts of the~~  
5 ~~rule in accordance with a uniform system;~~  
6 ~~\_\_\_\_\_ (D) Rearrange definitions and lists; and~~  
7 ~~\_\_\_\_\_ (E) Make any other changes in arrangement or in form that~~  
8 ~~do not change the substance of the rule and are necessary or desirable~~  
9 ~~for a clear and orderly arrangement of the rule.~~  
10 ~~\_\_\_\_\_ (2) Revision of a rule by the commission under this section does~~  
11 ~~not affect the effective date of the rule or require the agency to~~  
12 ~~readopt or resubmit the rule. When the commission revises the form of a~~  
13 ~~rule, the commission shall send the agency that adopted the rule a copy~~  
14 ~~of the revised rule. The revised rule is the official rule.~~  
15 ~~\_\_\_\_\_ (e) No rule shall be valid unless adopted and filed in~~  
16 ~~substantial compliance with this section.~~

17  
18 SECTION 6. Arkansas Code 25-15-204(d) is amended to read as  
19 follows:

20 "(d)(1) Every agency, including those exempted under § 25-15-202,  
21 shall file with the Secretary of State, and the Arkansas State Library,  
22 and the Arkansas Code Revision Commission Bureau of Legislative Research  
23 a copy of each rule and regulation adopted by it and a statement of  
24 financial impact for the rule or regulation.

25 (2) The Secretary of State shall keep a register of the rules open  
26 to public inspection, and it shall be a permanent register.

27 (3) The Arkansas Code Revision Commission shall publish a code of  
28 state regulations pursuant to § 1-2-301 et seq. Each agency shall  
29 provide its regulations to the Bureau of Legislative Research in an  
30 electronic format acceptable to the Bureau. The Bureau shall place the  
31 agency regulations in the General Assembly's internet web site.

32 (4) (A) The scope of the financial impact statement shall be  
33 determined by the agency, but shall include, at a minimum, the estimated  
34 cost of complying with the rule and the estimated cost for the agency to  
35 implement the rule.

36 (B) If the agency has reason to believe that the development of a

1 financial impact statement will be so speculative as to be cost  
2 prohibitive, the agency shall submit a statement and explanation to that  
3 effect.

4 (C) If the purpose of a state agency rule or regulation is to  
5 implement a federal rule or regulation, the financial impact statement  
6 shall be limited to any incremental additional cost of the state rule or  
7 regulation as opposed to the federal rule or regulation."

8

9 SECTION 7. All provisions of this act of a general and permanent  
10 nature are amendatory to the Arkansas Code of 1987 Annotated and the  
11 Arkansas Code Revision Commission shall incorporate the same in the  
12 Code.

13

14 SECTION 8. If any provision of this act or the application  
15 thereof to any person or circumstance is held invalid, such invalidity  
16 shall not affect other provisions or applications of the act which can  
17 be given effect without the invalid provision or application, and to  
18 this end the provisions of this act are declared to be severable.

19

20 SECTION 9. All laws and parts of laws in conflict with this act  
21 are hereby repealed.

22

23 SECTION 10. EMERGENCY. It is hereby found and determined by the  
24 General Assembly that it is necessary to modify guidelines for the  
25 codification of the acts of the General Assembly; that such guidelines  
26 should be in effect prior to the adjournment of this regular session in  
27 order to insure that the acts of this regular session are codified in  
28 accordance with this act; and that unless this emergency clause is  
29 adopted, this act will not go into effect until ninety days after  
30 adjournment of the regular session which would most likely result in an  
31 unacceptable delay in the codification process. Therefore an emergency  
32 is declared to exist and this act being immediately necessary for the  
33 preservation of the public peace, health and safety shall become  
34 effective on the date of its approval by the Governor. If the bill is  
35 neither approved nor vetoed by the Governor, it shall become effective  
36 on the expiration of the period of time during which the Governor may

1 veto the bill. If the bill is vetoed by the Governor and the veto is  
2 overridden, it shall become effective on the date the last house  
3 overrides the veto.

4 /s/Senator Beebe

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