

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

89th General Assembly

# A Bill

Regular Session, 2013

SENATE BILL 1164

By: Senator Rapert

## For An Act To Be Entitled

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

## Subtitle

TO PROVIDE LEGAL STANDING AND NOTIFICATION TO MEMBERS OF THE GENERAL ASSEMBLY AND THE LEGISLATIVE COUNCIL CONCERNING A CONSTITUTIONAL CHALLENGE TO OR THE INTERPRETATION OF CERTAIN ARKANSAS LAWS.

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

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

*Subchapter 1 – General Provisions [Reserved]*

*Subchapter 2 – Judicial Proceedings Legislative Standing and Intervention Act*

*10-1-201. Title.*

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



1 10-1-202. Findings – Declaration of public policy – Legislative  
2 intent.

3 (a) The General Assembly finds that:

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

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

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

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

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

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

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

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

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

33  
34 10-1-203. Definitions.

35 As used in this subchapter:

36 (1) "Act" means all or part of a law enacted by the General

1 Assembly; and

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

3 (A) Speaker of the House of Representatives;

4 (B) President Pro Tempore of the Senate;

5 (C) Lead sponsor of an act in the House of

6 Representatives; or

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

8  
9 10-1-204. Legislative standing and intervention rights.

10 At any stage of a judicial proceeding, a member has, as a matter of  
11 right, standing in the member's official capacity and the right to intervene  
12 in the judicial proceeding to assert, defend, or establish the  
13 constitutionality of an act if:

14 (1) The act became law after the act was vetoed by the Governor;

15 (2) The constitutionality of the act is formally or informally  
16 questioned by the Attorney General; or

17 (3) The Attorney General for any reason fails or refuses to:

18 (A) File in a judicial proceeding a responsive pleading to  
19 defend the constitutionality of the act;

20 (B) Enter an appearance or file an appeal in a judicial  
21 proceeding concerning the constitutionality of the act;

22 (C) File a responsive pleading or brief to defend the  
23 constitutionality of the act; or

24 (D) Present appropriate evidence to support or rebut a  
25 claim concerning the constitutionality of the act.

26  
27 10-1-205. Applicability.

28 This subchapter does not:

29 (1) Supersede a law or constitutional provision concerning the  
30 authority of the Attorney General to perform the duties of his or her office;  
31 or

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

34  
35 /s/Rapert