

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4
5 By: Senator A. Clark

SJR 3

SENATE JOINT RESOLUTION

AN AMENDMENT TO ARKANSAS CONSTITUTION, ARTICLE 5,
SECTION 20, PERMITTING THE STATE OF ARKANSAS TO BE
SUED AS A DEFENDANT IN STATE COURT IN THE SAME
CIRCUMSTANCES AS ANY OTHER PARTY, SUCH AS A PRIVATE
CITIZEN OR CORPORATION.

Subtitle

AN AMENDMENT TO ARKANSAS CONSTITUTION,
ARTICLE 5, SECTION 20, PERMITTING THE
STATE OF ARKANSAS TO BE SUED AS A
DEFENDANT IN STATE COURT IN THE SAME
CIRCUMSTANCES AS ANY OTHER PARTY.

BE IT RESOLVED BY THE SENATE OF THE NINETY-THIRD GENERAL ASSEMBLY OF THE
STATE OF ARKANSAS, AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL
MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

That the following is proposed as an amendment to the Constitution of
the State of Arkansas, and upon being submitted to the electors of the state
for approval or rejection at the next general election for Representatives
and Senators, if a majority of the electors voting thereon at the election
adopt the amendment, the amendment shall become a part of the Constitution of
the State of Arkansas, to wit:

SECTION 1. Arkansas Constitution, Article 5, § 20, is amended to read
as follows:

§ 20. State ~~not~~ may be made defendant.



1 (a) The State of Arkansas shall never may be made a defendant in any
2 of her courts in state court in the same circumstances as any other type of
3 party.

4 (b) As used in subsection (a) of this section, "State of Arkansas"
5 means every department, division, office, board, commission, institution, or
6 other public entity of the State of Arkansas, including without limitation
7 state-supported institutions of higher education.

8
9 SECTION 2. (a) This amendment eliminates the sovereign immunity of
10 the State of Arkansas in any and all cases filed in any of her courts.

11 (b) The General Assembly may enact laws concerning the process for
12 bringing a suit against the State of Arkansas as permitted by Arkansas
13 Constitution, Article 5, § 20.

14 (c) This amendment does not alter any other substantive or procedural
15 rules of law concerning the State of Arkansas.

16 (d)(1) This amendment does not address whether a natural person or
17 private artificial person, including without limitation a corporation, may be
18 held liable in their individual capacities for conduct engaged in while
19 acting as an agent of the State of Arkansas.

20 (2) Individual capacity immunity of a natural person or private
21 artificial person under subdivision (d)(1) of this section is subject to
22 regulation through:

23 (A) Laws enacted by the General Assembly; and

24 (B) Common law.

25
26 SECTION 3. (a) This amendment:

27 (1) Is effective on and after November 9, 2022; and

28 (2) Shall apply retroactively to all claims or actions that are
29 not otherwise barred on other grounds.

30 (b) On and after the effective date of this amendment, a claim or
31 action against the State of Arkansas that would have been barred from being
32 litigated in a court of competent jurisdiction under Arkansas Constitution,
33 Article 5, § 20, prior to the effective date of this amendment shall not be
34 filed with the Arkansas State Claims Commission.

35 (c)(1) If a claim or action against the State of Arkansas that would
36 have been barred from being litigated in a court of competent jurisdiction

1 under Arkansas Constitution, Article 5, § 20, prior to the effective date of
2 this amendment is pending before the Arkansas State Claims Commission or on
3 appeal to the General Assembly on the effective date of this amendment, then
4 the plaintiff may:

5 (A) Continue to pursue the claim or action before the
6 Arkansas State Claims Commission or General Assembly; or

7 (B) File the claim or action with a court of competent
8 jurisdiction.

9 (2) The General Assembly shall enact laws to permit the filing
10 of a claim or action pending before the Arkansas State Claims Commission or
11 on appeal with the General Assembly on the effective date of this amendment
12 with a court of competent jurisdiction if the claim or action would otherwise
13 be barred from being filed in a court of competent jurisdiction under the
14 applicable statute of limitations.

15
16 SECTION 4. BALLOT TITLE AND POPULAR NAME. When this proposed
17 amendment is submitted to the electors of this state on the general election
18 ballot:

19 (1) The ballot title shall be "An Amendment to Arkansas
20 Constitution, Article 5, § 20, Permitting the State of Arkansas to be Sued as
21 a Defendant in State Court in the Same Circumstances as Any Other Type of
22 Party, Such as a Private Citizen or a Corporation."; and

23 (1) The popular name shall be "An Amendment Permitting the State
24 of Arkansas to be Sued as a Defendant in State Court in the Same
25 Circumstances As Any Other Type of Party, Such as a Private Citizen or a
26 Corporation".