

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1832

5 By: Representative M. Shepherd
6 By: Senator Hester
7

For An Act To Be Entitled

9 TO AMEND THE RULES OF THE SUPREME COURT AND COURT OF
10 APPEALS OF THE STATE OF ARKANSAS TO GRANT EXCLUSIVE
11 ORIGINAL JURISDICTION OF FACIAL CONSTITUTIONAL
12 CHALLENGES TO THE COURT OF APPEALS; TO AMEND A RULE
13 OF THE SUPREME COURT UNDER THE AUTHORITY GRANTED BY
14 ARKANSAS CONSTITUTION, AMENDMENT 80, § 9; AND FOR
15 OTHER PURPOSES.
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Subtitle

19 TO AMEND THE RULES OF THE SUPREME COURT
20 AND COURT OF APPEALS OF THE STATE OF
21 ARKANSAS; AND TO AMEND A RULE OF THE
22 SUPREME COURT AND COURT OF APPEALS UNDER
23 THE AUTHORITY GRANTED BY THE ARKANSAS
24 CONSTITUTION.
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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. DO NOT CODIFY. LEGISLATIVE INTENT. (a) The General
29 Assembly finds:

30 (1) Arkansas Constitution, Amendment 80, § 9, provides that any
31 rules promulgated by the Supreme Court under Arkansas Constitution, Amendment
32 80, §§ 5, 6(B), 7(B), or 8, may be annulled or amended, in whole or in part,
33 by a two-thirds vote of the membership of each house of the General Assembly;
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35 (2) Arkansas Constitution, Amendment 80, § 5, concerns the Court
36 of Appeals; and



1 (3) Rule 1-2 of the Rules of the Supreme Court and Court of
 2 Appeals of the State of Arkansas addresses the jurisdiction of the Court of
 3 Appeals.

4 (b) The purpose of this act is to establish the exclusive original
 5 jurisdiction of the Court of Appeals under the authority of Arkansas
 6 Constitution, Amendment 80, § 9, pertaining to facial constitutional
 7 challenges.

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 9 SECTION 2. Pursuant to the authority granted under Arkansas
 10 Constitution, Amendment 80, § 9, Rule 1-2 of the Rules of the Supreme Court
 11 and Court of Appeals of the State of Arkansas is amended to read as follows:
 12 Rule 1-2. ~~Appellate~~ Jurisdiction of the Supreme Court and Court of
 13 Appeals.

14 (a) Original jurisdiction of Court of Appeals for facial
 15 constitutional challenges. The Court of Appeals shall have exclusive
 16 original jurisdiction over a facial constitutional challenge in which a party
 17 seeks in the party’s initial or amended pleading to have a provision of an
 18 act of the General Assembly, a provision of the Arkansas Code, or a provision
 19 of an administrative rule or regulation declared unconstitutional in all of
 20 its applications under the United States Constitution or the Arkansas
 21 Constitution. In a proceeding under this Rule 1-2(a), the procedure will
 22 conform to that prevailing in bench trials in the circuit court. Upon filing
 23 the original pleading and payment of a filing fee, a summons or other process
 24 will issue by the Clerk. The respondent’s pleading must be filed within the
 25 time provided by the Arkansas Rules of Civil Procedure. The decision of the
 26 Court of Appeals under this Rule 1-2(a) may be appealed to the Supreme Court.

27 ~~(a)~~(b) Supreme Court jurisdiction. All cases appealed shall be filed
 28 in the Court of Appeals except that the following cases shall be filed in the
 29 Supreme Court:

- 30 1. All appeals involving the interpretation or construction of
- 31 the Constitution of Arkansas;
- 32 2. Criminal appeals in which the death penalty or life
- 33 imprisonment has been imposed;
- 34 3. Petitions for quo warranto, prohibition, injunction, or
- 35 mandamus directed to the state, county, or municipal officials or to circuit
- 36 courts;

1 4. Appeals pertaining to elections and election procedures;

2 5. Appeals involving the discipline of attorneys-at-law and or
3 arising under the power of the Supreme Court to regulate the practice of law;

4 6. Appeals involving the discipline and disability of judges;

5 7. Second or subsequent appeals following an appeal which has
6 been decided in the Supreme Court; and

7 8. Appeals required by law to be heard by the Supreme Court.

8 ~~(b)(c)~~ Reassignment of cases. Any case is subject to reassignment by
9 the Supreme Court, and in doing so, the Supreme Court will consider but not
10 be limited to the following:

11 (1) issues of first impression,

12 (2) issues upon which there is a perceived inconsistency in the
13 decisions of the Court of Appeals or Supreme Court,

14 (3) issues involving federal constitutional interpretation,

15 (4) issues of substantial public interest,

16 (5) significant issues needing clarification or development of
17 the law, or overruling of precedent, and

18 (6) appeals involving substantial questions of law concerning
19 the validity, construction, or interpretation of an act of the General
20 Assembly, ordinance of a municipality or county, or a rule or regulation of
21 any court, administrative agency, or regulatory body.

22 ~~(e)(d)~~ Transfer and certification. The Supreme Court may transfer to
23 the Court of Appeals any case appealed to the Supreme Court and may transfer
24 to the Supreme Court any case appealed to the Court of Appeals. If the Court
25 of Appeals seeks to transfer a case, the Court of Appeals shall find and
26 certify that the case: (1) is excepted from its jurisdiction by Rule 1-
27 2~~(a)(b)~~, or (2) otherwise involves an issue of significant public interest or
28 a legal principle of major importance. The Supreme Court may accept for its
29 docket cases so certified or may remand any of them to the Court of Appeals
30 for decision. The Clerk of the Court shall notify the parties or their
31 counsel of the transfer of any case.

32 ~~(d)(e)~~ Petition for review. ~~No~~ Except as provided in Rule 1-2(a), no
33 appeal as of right shall lie from the Court of Appeals to the Supreme Court.
34 The Supreme Court will exercise its discretion to review an appeal decided by
35 the Court of Appeals only on application by a party to the appeal, upon
36 certification of the Court of Appeals, or if the Supreme Court decides the

1 case is one that should have originally been assigned to the Supreme Court.
2 In determining whether to grant a petition to review, the following, while
3 neither controlling nor fully measuring the Supreme Court's discretion,
4 indicate the character of reasons that will be considered: (i) the case was
5 decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals
6 rendered a decision which is arguably in conflict with a prior holding of a
7 published opinion of either the Supreme Court or the Court of Appeals, or
8 (iii) the Court of Appeals arguably erred in some way related to one of the
9 grounds listed in Rule 1-2~~(b)~~(c).

10 ~~(e)~~(f) Improper filing. No case filed in either the Supreme Court or
11 the Court of Appeals shall be dismissed for having been filed in the wrong
12 court but shall be transferred or certified to the proper court.

13 ~~(f)~~(g) Allocation of workload. Notwithstanding the foregoing
14 provisions, cases may be assigned and transferred between the courts by
15 Supreme Court order to achieve a fair allocation of the appellate workload
16 between the Supreme Court and the Court of Appeals.

17 ~~(g)~~(h) In all appeals from criminal convictions or post-conviction
18 relief matters heard in the Court of Appeals, the appellant shall not be
19 required to petition for rehearing in the Court of Appeals or review in the
20 Supreme Court following an adverse decision of the Court of Appeals in order
21 to be deemed to have exhausted all available state remedies respecting a
22 claim of error. When the claim has been presented to the Court of Appeals or
23 the Supreme Court, and relief has been denied, the appellant shall be deemed
24 to have exhausted all available state remedies.

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26 SECTION 3. Pursuant to the authority granted under Arkansas
27 Constitution, Amendment 80, § 9, Rule 2-4(b) of the Rules of the Supreme
28 Court and Court of Appeals of the State of Arkansas, concerning the contents
29 of a petition, is amended to read as follows:

30 (b) Contents of petition. A petition to the Supreme Court for review
31 of a decision of the Court of Appeals shall not exceed three 8 1/2 x 11",
32 double-spaced pages in length. The petition must briefly and distinctly
33 state the basis upon which the case should be reviewed and may include
34 citations of authority or references to statutes or constitutional
35 provisions. The petition can only be filed by a party to the appeal and is
36 otherwise subject to Rule 1-2~~(e)~~(f).

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2 SECTION 4. Pursuant to the authority granted under Arkansas
3 Constitution, Amendment 80, § 9, Rule 2-4(d) of the Rules of the Supreme
4 Court and Court of Appeals of the State of Arkansas, concerning grounds for
5 review, is amended to read as follows:

6 (d) Grounds for review. A petition for review must allege one of the
7 following: (i) the case was decided in the Court of Appeals by a tie vote,
8 (ii) the Court of Appeals rendered a decision which is in conflict with a
9 prior holding of a published opinion of either the Supreme Court or the Court
10 of Appeals, or (iii) the Court of Appeals otherwise erred with respect to one
11 of the grounds listed in Rules 1-2~~(b)~~(c).
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13 SECTION 5. Arkansas Code § 16-13-201(a), concerning the jurisdiction
14 of circuit courts, is amended to read as follows:

15 (a) Circuit courts shall have original jurisdiction of all justiciable
16 matters not otherwise assigned pursuant to the Arkansas Constitution or the
17 Rules of the Supreme Court and Court of Appeals of the State of Arkansas.
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19 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
20 General Assembly of the State of Arkansas that facial constitutional
21 challenges to acts of the General Assembly, provisions of the Arkansas Code,
22 and administrative rules and regulations impact the public peace, health and
23 safety as they directly affect the rights and privileges of all citizens of
24 the state; to protect those rights and privileges, it is critical to provide
25 for the consistent legal interpretation of facial constitutional challenges
26 to acts of the General Assembly, provisions of the Arkansas Code, and
27 administrative rules and regulations; and the provisions of this act should
28 take effect at the earliest opportunity to preserve the public peace, health,
29 and safety by providing for the consistent interpretation of such facial
30 constitutional challenges and providing representation from across the state
31 on these matters that impacts the rights of all citizens. Therefore, an
32 emergency is declared to exist, and this act being immediately necessary for
33 the preservation of the public peace, health, and safety shall become
34 effective on:

35 (1) The date of its approval by the Governor;

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

3 (3) If the bill is vetoed by the Governor and the veto is
4 overridden, the date the last house overrides the veto.

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