

State of Arkansas

As Engrossed: H4/7/25

95th General Assembly

## A Bill

Regular Session, 2025

HOUSE BILL 1832

By: Representative M. Shepherd

By: Senator Hester

### For An Act To Be Entitled

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

### Subtitle

TO AMEND THE RULES OF THE SUPREME COURT AND COURT OF APPEALS OF THE STATE OF ARKANSAS; AND TO AMEND A RULE OF THE SUPREME COURT AND COURT OF APPEALS UNDER THE AUTHORITY GRANTED BY THE ARKANSAS CONSTITUTION.

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

SECTION 1. DO NOT CODIFY. LEGISLATIVE INTENT. (a) The General Assembly finds:

(1)(A) Arkansas Constitution, Amendment 80, § 9, provides that any rules promulgated by the Supreme Court under Arkansas Constitution, Amendment 80, §§ 5, 6(B), 7(B), or 8, may be annulled or amended, in whole or in part, by a two-thirds vote of the membership of each house of the General Assembly.

(B) Arkansas Constitution, Amendment 80, § 5, concerns the Court of Appeals.



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

4 (2) Arkansas Constitution, Amendment 80, § 10, provides that the  
5 General Assembly shall have the power to establish jurisdiction of all courts  
6 and venue of all actions therein, unless otherwise provided in the Arkansas  
7 Constitution.

8 (b) The purpose of this act is to establish the:

9 (1) Exclusive original jurisdiction of the Court of Appeals  
10 under the authority of Arkansas Constitution, Amendment 80, § 9, pertaining  
11 to facial constitutional challenges; and

12 (2) Exclusive original jurisdiction of the Court of Appeals  
13 under Arkansas Constitution, Amendment 80, § 10, pertaining to facial  
14 constitutional challenges.

15  
16 SECTION 2. Pursuant to the authority granted under Arkansas  
17 Constitution, Amendment 80, § 9, Rule 1-2 of the Rules of the Supreme Court  
18 and Court of Appeals of the State of Arkansas is amended to read as follows:

19 Rule 1-2. ~~Appellate~~ Jurisdiction of the Supreme Court and Court of  
20 Appeals.

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

34 ~~(a)~~(b) Supreme Court jurisdiction. All cases appealed shall be filed  
35 in the Court of Appeals except that the following cases shall be filed in the  
36 Supreme Court:

1           1. All appeals involving the interpretation or construction of  
2 the Constitution of Arkansas;

3           2. Criminal appeals in which the death penalty or life  
4 imprisonment has been imposed;

5           3. Petitions for quo warranto, prohibition, injunction, or  
6 mandamus directed to the state, county, or municipal officials or to circuit  
7 courts;

8           4. Appeals pertaining to elections and election procedures;

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

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

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

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

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

18           (1) issues of first impression,

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

21           (3) issues involving federal constitutional interpretation,

22           (4) issues of substantial public interest,

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

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

29       ~~(e)~~(d) Transfer and certification. The Supreme Court may transfer to  
30 the Court of Appeals any case appealed to the Supreme Court and may transfer  
31 to the Supreme Court any case appealed to the Court of Appeals. If the Court  
32 of Appeals seeks to transfer a case, the Court of Appeals shall find and  
33 certify that the case: (1) is excepted from its jurisdiction by Rule 1-  
34 2~~(a)~~(b), or (2) otherwise involves an issue of significant public interest or  
35 a legal principle of major importance. The Supreme Court may accept for its  
36 docket cases so certified or may remand any of them to the Court of Appeals

1 for decision. The Clerk of the Court shall notify the parties or their  
2 counsel of the transfer of any case.

3 ~~(d)~~(e) Petition for review. ~~No~~ Except as provided in Rule 1-2(a), no  
4 appeal as of right shall lie from the Court of Appeals to the Supreme Court.  
5 The Supreme Court will exercise its discretion to review an appeal decided by  
6 the Court of Appeals only on application by a party to the appeal, upon  
7 certification of the Court of Appeals, or if the Supreme Court decides the  
8 case is one that should have originally been assigned to the Supreme Court.  
9 In determining whether to grant a petition to review, the following, while  
10 neither controlling nor fully measuring the Supreme Court's discretion,  
11 indicate the character of reasons that will be considered: (i) the case was  
12 decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals  
13 rendered a decision which is arguably in conflict with a prior holding of a  
14 published opinion of either the Supreme Court or the Court of Appeals, or  
15 (iii) the Court of Appeals arguably erred in some way related to one of the  
16 grounds listed in Rule 1-2~~(b)~~(c).

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

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

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

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

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

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

(d) Grounds for review. A petition for review must allege one of the following: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is in conflict with a prior holding of a published opinion of either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals otherwise erred with respect to one of the grounds listed in Rules 1-2(b)(c).

SECTION 5. Arkansas Code § 16-13-201(a), concerning the jurisdiction of circuit courts, is amended to read as follows:

(a)(1) ~~Circuit~~ Except as provided in subdivision (a)(2) of this section, circuit courts shall have original jurisdiction of all justiciable matters not otherwise assigned pursuant to the Arkansas Constitution.

(2) The Court of Appeals shall have exclusive original jurisdiction over a facial constitutional challenge in which a party seeks in the party's initial or amended pleading to have a provision of an act of the General Assembly, a provision of the Arkansas Code, or a provision of an administrative rule or regulation declared unconstitutional in all of its applications under the United States Constitution or the Arkansas Constitution.

SECTION 6. EFFECTIVE DATE. This act shall be effective on and after November 1, 2025.

APPROVED: 4/22/25