

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

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

HJR 1009

4  
5 By: Representative Carroll  
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8 **HOUSE JOINT RESOLUTION**

9 AMENDING THE ARKANSAS CONSTITUTION TO REPEAL THE  
10 PROHIBITION AGAINST AN ATHEIST HOLDING ANY OFFICE  
11 IN THE CIVIL DEPARTMENTS OF THE STATE OF ARKANSAS  
12 OR TESTIFYING AS A WITNESS IN ANY COURT.  
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14 **Subtitle**

15 AMENDING THE ARKANSAS CONSTITUTION TO  
16 REPEAL THE PROHIBITION AGAINST AN  
17 ATHEIST HOLDING ANY OFFICE IN THE CIVIL  
18 DEPARTMENTS OF THE STATE OF ARKANSAS OR  
19 TESTIFYING AS A WITNESS IN ANY COURT.  
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22 WHEREAS, the First Amendment of the United States Constitution declares  
23 that Congress shall make no law respecting an establishment of religion or  
24 prohibiting the free exercise thereof; and  
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26 WHEREAS, Article 19 Section 1 of the Arkansas Constitution denies a  
27 state office or the ability to testify in court to a person who denies the  
28 being of a God; and  
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30 WHEREAS, in Flora v. White, 692 F.2d 53 (8<sup>th</sup> Cir. 1982), the United  
31 States Eighth Circuit Court of Appeals suggested in a footnote that Article  
32 19, Section 1 was unconstitutional under the principles of law enumerated in  
33 Torcaso v. Watkins, 367 U.S. 488 (1961); and  
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35 WHEREAS, Arkansas Attorney General Opinion 1992-164 likewise theorized  
36 that Article 19, Section 1 would most likely be declared unconstitutional



1 upon an appropriate challenge,

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3 NOW THEREFORE,

4 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-SEVENTH GENERAL  
5 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL  
6 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

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

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15 SECTION 1. Article 19, Section 1 of the Arkansas Constitution is  
16 repealed.

17 ~~§ 1. Atheists disqualified from holding office or testifying as~~  
18 ~~witness.~~

19 ~~No person who denies the being of a God shall hold any office in the~~  
20 ~~civil departments of this State, nor be competent to testify as a witness in~~  
21 ~~any Court.~~

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