

1 State of Arkansas
2 93rd General Assembly
3 Second Extraordinary Session, 2021
4

A Bill

SENATE BILL 12

5 By: Senators T. Garner, B. Ballinger, Beckham, Hester, M. Johnson, Rapert
6 By: Representatives Lowery, Miller, Pilkington
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE PROPAGATION OF DIVISIVE
10 CONCEPTS; TO PROHIBIT THE PROPAGATION OF DIVISIVE
11 CONCEPTS IN CERTAIN PUBLIC ENTITIES, INCLUDING
12 WITHOUT LIMITATION PUBLIC SCHOOLS AND EDUCATION
13 SERVICE COOPERATIVES; TO PROVIDE FOR A PENALTY FOR
14 VIOLATING THE LAW CONCERNING THE PROPAGATION OF
15 DIVISIVE CONCEPTS; TO ALLOW THE ARKANSAS STATE CLAIMS
16 COMMISSION TO HAVE JURISDICTION OVER CLAIMS OF
17 VIOLATIONS OF THE LAW PROHIBITING THE PROPAGATION OF
18 DIVISIVE CONCEPTS; TO DECLARE AN EMERGENCY; AND FOR
19 OTHER PURPOSES.
20
21

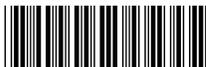
Subtitle

23 TO PROHIBIT THE PROPAGATION OF DIVISIVE
24 CONCEPTS IN CERTAIN PUBLIC ENTITIES; TO
25 PROVIDE FOR A PENALTY FOR VIOLATING THE
26 LAW CONCERNING THE PROPAGATION OF
27 DIVISIVE CONCEPTS; AND TO DECLARE AN
28 EMERGENCY.
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31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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33 SECTION 1. Arkansas Code § 25-1-901(1)(A), concerning the definitions
34 used in relation to the prohibition on the propagation of divisive concepts,
35 is amended to read as follows:

36 (1)(A) "Divisive concept" means the concept that:



1 (i) One race or sex is inherently superior to
2 another race or sex;

3 (ii) The State of Arkansas or the United States is
4 fundamentally racist or sexist;

5 (iii) An individual, by virtue of his or her race or
6 sex, is inherently racist, sexist, or oppressive, whether consciously or
7 unconsciously;

8 (iv) An individual should be discriminated against
9 or receive adverse treatment solely or partly because of his or her race or
10 sex;

11 (v) An individual's moral character is necessarily
12 determined by his or her race or sex;

13 (vi) An individual, by virtue of his or her race or
14 sex, bears responsibility for actions committed in the past by other members
15 of the same race or sex; or

16 ~~(vii) Any individual should feel discomfort, guilt,
17 anguish, or any other form of psychological distress on account of his or her
18 race or sex; or~~

19 ~~(viii) Meritocracy or traits such as a hard work
20 ethic are racist or sexist, or were created by a particular race to oppress
21 another race.~~

22
23 SECTION 2. Arkansas Code § 25-1-901(4), concerning the definitions
24 used in relation to the prohibition on the propagation of divisive concepts,
25 is amended to read as follows:

26 (4)(A) "State entity" means an instrumentality or subdivision of
27 state government, including:

28 (i) The Department of Agriculture;

29 (ii) The Department of Commerce;

30 (iii) The Department of Corrections;

31 (iv) The Department of Education;

32 (v) The Department of Energy and Environment;

33 (vi) The Department of Finance and Administration;

34 (vii) The Department of Health;

35 (viii) The Department of Human Services;

36 (ix) The Department of Inspector General;

1 (x) The Department of Labor and Licensing;
 2 (xi) The Department of the Military;
 3 (xii) The Department of Parks, Heritage, and
 4 Tourism;
 5 (xiii) The Department of Public Safety;
 6 (xiv) The Department of Transformation and Shared
 7 Services; ~~and~~
 8 (xv) The Department of Veterans Affairs;
 9 (xvi) A public school;
 10 (xvii) An open-enrollment public charter school; and
 11 (xviii) An education service cooperative established
 12 under § 6-13-1002.

13 (B) "State entity" does not include:
 14 (i) Political subdivisions of the state;
 15 (ii) ~~Public schools;~~
 16 ~~(iii) Charter schools;~~
 17 ~~(iv) Institutions of higher education;~~
 18 ~~(v)(iii) The offices of constitutional officers; or~~
 19 ~~(vi)(iv) Law enforcement training certified by the~~
 20 Arkansas Commission on Law Enforcement Standards and Training.
 21

22 SECTION 3. Arkansas Code Title 25, Chapter 1, Subchapter 9, is amended
 23 to add an additional section to read as follows:

24 25-1-907. Cause of action – Penalty.

25 (a)(1) Any individual may bring a claim or action before the Arkansas
 26 State Claims Commission against a state entity that violates this subchapter.

27 (2) A claim or action brought under this section shall be filed
 28 with the commission within one (1) year from the date of the violation.

29 (b)(1) A state entity that is determined under a final order of the
 30 commission to have violated this subchapter is subject to a penalty of ten
 31 thousand dollars (\$10,000) for each day of each violation of the subchapter.

32 (2) A penalty under this section shall be paid to the Director
 33 of the Arkansas State Claims Commission and credited to the Division of
 34 Elementary and Secondary Education Fund Account to be used exclusively for
 35 the Succeed Scholarship Program, § 6-41-901 et seq.

36 (c) An individual who brings a claim or action under this section that

1 is determined to be a valid claim or action shall be awarded his or her
 2 attorney's fees, witness fees, and any other costs or fees incurred directly
 3 in bring the claim or action before the commission.

4
 5 SECTION 4. Arkansas Code § 19-5-304(1)(B), concerning the Division of
 6 Elementary and Secondary Education Fund Account, is amended to read as
 7 follows:

8 (B) The Division of Elementary and Secondary Education
 9 Fund Account shall consist of:

10 (i) Those general revenues as may be provided by the
 11 Revenue Stabilization Law, § 19-5-101 et seq.; ~~and~~

12 (ii) Nonrevenue income derived from services
 13 provided by those programs supported from the Division of Elementary and
 14 Secondary Education Fund Account, including any rental property located on
 15 the State Capitol grounds owned by the Division of Elementary and Secondary
 16 Education; and

17 (iii) Revenues from penalties under § 25-1-907;
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19 SECTION 5. Arkansas Code § 19-10-204(a), concerning the claims and
 20 actions over which the Arkansas State Claims Commission has jurisdiction, is
 21 amended to add an additional subdivision to read as follows:

22 (5) A claim or action under § 25-1-907.
 23

24 SECTION 6. Arkansas Code § 19-10-204(b)(1), concerning the claims and
 25 actions over which the Arkansas State Claims Commission does not have
 26 jurisdiction, is amended to read as follows:

27 (1) Against a municipality, county, school district, or any
 28 other political subdivision of the state, except as provided under
 29 subdivision (a)(5) of this section;
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31 SECTION 7. Arkansas Code § 19-10-213(a), concerning payment by a state
 32 agency of a claim or action determined to be valid by the Arkansas State
 33 Claims Commission, is amended to read as follows:

34 (a)(1) When a claim or action is determined to be a valid claim or
 35 action ~~against the state~~ under this chapter and the claim or action is to be
 36 paid from funds not in the State Treasury, the Director of the Arkansas State

1 Claims Commission shall notify the state agency or other public entity
2 against which the claim or action is to be charged of the amount of the claim
3 or action.

4 (2)(A) Upon receipt of the notification under subdivision (a)(1)
5 of this section, the state agency or other public entity shall deliver a
6 check to the director who shall deposit the funds as a nonrevenue receipt
7 into the Miscellaneous Revolving Fund from which the director shall disburse
8 the amount of the claim or action to the claimant.

9 (B) For a claim or action under § 25-1-907, the director
10 shall disburse any:

11 (i) Attorney's fees, witness fees, and other costs
12 or fees awarded by the Arkansas State Claims Commission to the claimant; and

13 (ii) Penalty amounts to the Division of Elementary
14 and Secondary Education Fund Account.

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16 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
17 General Assembly of the State of Arkansas that the effective date for Acts
18 2021, No. 1100, concerning the prohibition against state entities propagating
19 divisive concepts, is January 1, 2022; that this act extends the prohibition
20 against propagating divisive concepts to public schools, open-enrollment
21 public charter schools, and education service cooperatives; that the second
22 semester of the 2021-2022 school year for elementary and secondary schools
23 begins in January 2022; that the law prohibiting the propagation of divisive
24 concepts should become effective for all entities subject to the law at the
25 same time; and that this act is necessary because the propagation of divisive
26 concepts in schools is harming children in the state and the propagation of
27 divisive concepts in state entities is having a negative effect on recruiting
28 staff for state agencies. Therefore, an emergency is declared to exist, and
29 this act being necessary for the preservation of the public peace, health,
30 and safety shall become effective on January 1, 2022.

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