

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

*As Engrossed: H3/5/15*

HJR 1016

5 By: Representatives *Davis, Bell, Dotson, M. Gray, Lundstrum, Tosh, Vaught*  
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7 **HOUSE JOINT RESOLUTION**

8 *AN AMENDMENT TO THE ARKANSAS CONSTITUTION CONCERNING*  
9 *THE JUDICIAL BRANCH OF STATE GOVERNMENT; TO PROVIDE*  
10 *THAT THE GENERAL ASSEMBLY MAY ENACT "LOSER PAYS" LAWS*  
11 *CONCERNING THE AWARD OF COSTS AND ATTORNEY'S FEES TO*  
12 *A PARTY AGAINST WHOM A FRIVOLOUS CLAIM IS DISMISSED;*  
13 *TO PROVIDE THAT THE GENERAL ASSEMBLY MAY ENACT LAWS*  
14 *REGULATING THE AWARD OF NONECONOMIC DAMAGES AND*  
15 *PUNITIVE DAMAGES IN CIVIL CASES; AND TO PROVIDE THAT*  
16 *THE GENERAL ASSEMBLY MAY BY LAW AMEND OR ANNUL RULES*  
17 *PROMULGATED BY THE SUPREME COURT.*

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20 **Subtitle**

21 AN AMENDMENT TO THE ARKANSAS CONSTITUTION  
22 CONCERNING THE JUDICIAL BRANCH OF STATE  
23 GOVERNMENT.  
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26 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE NINETIETH GENERAL  
27 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL  
28 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:  
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30 That the following is proposed as an amendment to the Constitution of  
31 the State of Arkansas, and upon being submitted to the electors of the state  
32 for approval or rejection at the next general election for Representatives  
33 and Senators, if a majority of the electors voting thereon at the election  
34 adopt the amendment, the amendment shall become a part of the Constitution of  
35 the State of Arkansas, to wit:  
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1           SECTION 1. Arkansas Constitution Article 5, § 32, is amended to read  
2 as follows:

3           § 32. Workmen's Compensation Laws – Actions for personal injuries.

4           (a) The General Assembly shall have power to enact laws prescribing  
5 the amount of compensation to be paid by employers for injuries to or death  
6 of employees, and to whom said payment shall be made. It shall have power to  
7 provide the means, methods, and forum for adjudicating claims arising under  
8 said laws, and for securing payment of same. Provided, that otherwise,  
9 except as provided in subsection (b) of this section, no law shall be enacted  
10 limiting the amount to be recovered for injuries resulting in death or for  
11 injuries to persons or property; and in case of death from such injuries the  
12 right of action shall survive, and the General Assembly shall prescribe for  
13 whose benefit such action shall be prosecuted.

14           (b)(1) By a vote of not less than a majority of the members of each  
15 house, the General Assembly may enact laws regulating the award of:

16                   (A) Noneconomic damages in civil cases; and

17                   (B) Punitive damages in civil cases.

18           (2) After laws regulating the award of noneconomic damages,  
19 punitive damages, or both are enacted by not less than a majority of the  
20 members of each house, the General Assembly may amend the laws regulating the  
21 award of noneconomic damages, punitive damages, or both, by a vote of not  
22 less than two-thirds (2/3) of the members of each house.

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24           SECTION 2. Arkansas Constitution, Amendment 80, § 3, is amended to  
25 read as follows:

26           § 3. Rules of pleading, practice, and procedure.

27           (a) The Except as provided in this Constitution, the Supreme Court  
28 shall prescribe the rules of pleading, practice and procedure for all courts;  
29 provided these rules shall not abridge, enlarge or modify any substantive  
30 right and shall preserve the right of trial by jury as declared in this  
31 Constitution.

32           (b)(1) The General Assembly may enact "loser pays" laws requiring a  
33 court to award costs, attorney's fees, or both to a party or parties against  
34 whom a claim is dismissed if the court determines that the dismissed claim  
35 was frivolous.

36           (2) Laws enacted to implement subdivision (b)(1) of this section

1 may include definitions of terms used in subdivision (b)(1) of this section,  
2 including without limitation a definition of "frivolous".

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4 SECTION 3. Arkansas Constitution, Amendment 80, § 9, is amended to  
5 read as follows:

6 § 9. Annulment or amendment of rules.

7 (a) Any rules promulgated by the Supreme Court pursuant to Sections 5,  
8 6(B), 7(B), 7(D), or 8 of this Amendment may be annulled or amended, in whole  
9 or in part, by a two-thirds (2/3) vote of the membership of each house of the  
10 General Assembly.

11 (b) The Supreme Court shall not annul or amend a rule annulled or  
12 amended by the General Assembly under subsection (a) of this section in a  
13 manner that:

14 (1) Negates an action of the General Assembly under subsection  
15 (a) of this section; or

16 (2) Is inconsistent with the policy and purposes of an annulment  
17 or amendment by the General Assembly under subsection (a) of this section.

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19 SECTION 4. (a) This amendment becomes effective on January 1, 2017.

20 (b) Upon the effective date of this amendment, revisions to rules of  
21 the Supreme Court promulgated after January 1, 2015, shall be negated and the  
22 rules shall read as they existed on January 1, 2015, until amended by the  
23 Supreme Court or the General Assembly.

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25 SECTION 5. This amendment does not supersede or amend the right of  
26 trial by jury as declared in this Constitution.

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28 SECTION 6. BALLOT TITLE AND POPULAR NAME. When this proposed  
29 amendment is submitted to the electors of this state on the general election  
30 ballot:

31 (1) The title of this Joint Resolution shall be the ballot  
32 title; and

33 (2) The popular name shall be "A Constitutional Amendment  
34 Concerning the Judicial Branch of State Government and Authorizing the  
35 General Assembly to Enact "Loser Pays" Laws Concerning the Award of Costs and  
36 Attorney's Fees to a Party Against Whom a Frivolous Claim is Dismissed, Laws

1 Concerning the Award of Punitive and Noneconomic Damages in Civil Cases, and  
2 Laws Amending or Annuling Rules promulgated by the Supreme Court".

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/s/Davis