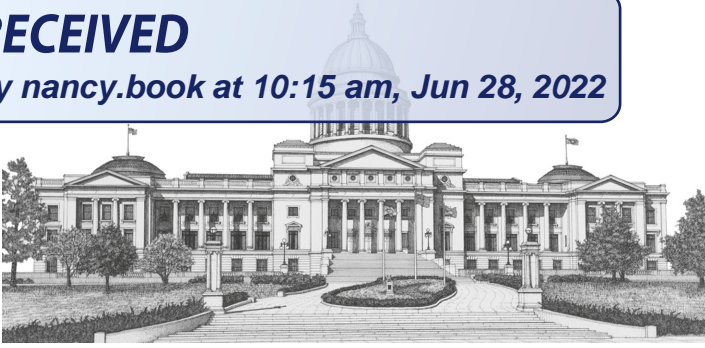


ARKANSAS REGISTER

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Proposed Rule Cover Sheet

Secretary of State

John Thurston

500 Woodlane Street, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services

DIVISION Office of Chief Counsel

PERSON COMPLETING THIS STATEMENT Jason Callan

TELEPHONE 501-320-6540 **FAX** _____ **EMAIL:** Jason.Callan@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Declaratory Orders

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

(b) The reason for adoption of the more costly rule;

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	<u>\$ 0</u>
Federal Funds	<u>\$ 0</u>
Cash Funds	<u>\$ 0</u>
Special Revenue	<u>\$ 0</u>

Next Fiscal Year

General Revenue	<u>\$ 0</u>
Federal Funds	<u>\$ 0</u>
Cash Funds	<u>\$ 0</u>
Special Revenue	<u>\$ 0</u>

Other (Identify) \$ 0

Total \$ 0

Other (Identify) \$ 0

Total \$ 0

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue \$ 0

Federal Funds \$ 0

Cash Funds \$ 0

Special Revenue \$ 0

Other (Identify) \$ 0

Total \$ 0

Next Fiscal Year

General Revenue \$ 0

Federal Funds \$ 0

Cash Funds \$ 0

Special Revenue \$ 0

Other (Identify) \$ 0

Total \$ 0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Statement of Necessity and Rule Summary

Declaratory Orders

Statement of Necessity:

Ark. Code. Ann. § 25-15-206 requires that each state agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders as to the applicability of any rule, statute, or order enforced by it. DHS has not promulgated such a rule.

Summary:

DHS promulgates a rule providing for the filing and prompt disposition of petitions for declaratory orders.

NOTICE OF RULE MAKING

The Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: §§20-76-201 and 25-15-206.

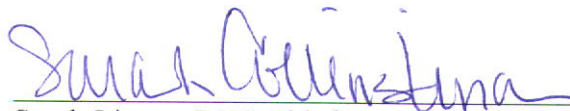
Effective October 1, 2022:

The Department of Human Services proposes the Declaratory Orders Rule to comply with Arkansas Code Annotated § 25-15-206, which requires that each state agency provide by rule for the filing and prompt disposition of petitions for declaratory orders as to the applicability of any rule, statute, or order enforced by it.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: ORP@dhs.arkansas.gov. All public comments must be received by DHS no later than **July 25, 2022**. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-534-4138.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color or national origin. **4502026953**



Sarah Linam, DHS Chief Counsel
Office of Chief Counsel

Declaratory Orders

A. Purpose and Use of Declaratory Orders

A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has enforcement authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency. A petition for declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

B. The Petition

The process for obtaining a declaratory order is begun by filing with the Arkansas Department of Human Services-Office of Chief Counsel a petition that provides the following information:

1. The name, address, telephone number, and email of the petitioner;
2. The name, address, telephone number, and email of the attorney of the petitioner;
3. The statutory provision, agency rules, or agency order on which the declaratory order is sought;
4. Statements of fact setting forth the petitioner's particular set of circumstances that the petitioner alleges may be substantially affected by the statute, rule, or order;
5. A description of how the statute, rule, or order may substantially affect the petitioner's particular set of circumstances;
6. The question or issue on which the petitioner seeks a declaratory order;
7. The signature of the petitioner or petitioner's attorney; and
8. The date.

C. Agency Disposition

1. The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within ninety (90) days of the filing of the petition, the agency will render a final order denying the petition or issuing a declaratory order.
2. The petitioner may request administrative reconsideration of a declaratory order. A basis must be provided for the request and the petitioner may submit information or documentation for consideration by the agency.
3. A request for administrative reconsideration must be submitted to the agency within thirty (30) days of issuance of the declaratory order. The agency will render a decision within thirty (30) days of the filing of the request for administrative reconsideration.
4. Requests for administrative reconsideration must be mailed to:

Arkansas Department of Human Services
Office of Chief Counsel
P.O. Box 1437-Slot S260
Little Rock, AR 72203-1437