

As Engrossed: 3/13/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Senate Judiciary Committee**

A Bill

SENATE BILL 586

For An Act To Be Entitled

8 "AN ACT TO ADD JUDGES TO THE ARKANSAS COURT OF APPEALS, TO
9 PRESCRIBE THE METHOD OF THEIR SELECTION AND THEIR TERMS OF
10 OFFICE, TO AMEND SECTIONS 16-12-103, 109, 110, 111, 113,
11 AND 114 OF THE ARKANSAS CODE OF 1987 ANNOTATED, TO PROVIDE
12 FOR MOTIONS TO BE HEARD BY TWO DIVISIONS OF THE COURT; AND
13 FOR OTHER PURPOSES."

14
15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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17 *SECTION 1. On and after January 1, 1993, the Court of Appeals shall be*
18 *composed of twelve (12) judges, six (6) of whom shall be the judges holding*
19 *office on that date whose terms of office shall not be affected by this act.*
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21 *SECTION 2. The qualified electors of the First and Second Court of*
22 *Appeals Districts, as established pursuant to Act 208 of 1979, shall elect the*
23 *additional Court of Appeals judges at the November 1992 general election to*
24 *take office on January 1, 1993. These additional Court of Appeals judges*
25 *shall serve an initial term of four (4) years.*
26

27 *SECTION 3. The qualified electors of the Third and Fourth Court of*
28 *Appeals Districts, as established pursuant to Act 208 of 1979, shall elect the*
29 *additional Court of Appeals judges at the November 1992 general election to*
30 *take office on January 1, 1993. These additional Court of Appeals judges*
31 *shall serve an initial term of eight (8) years.*
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33 *SECTION 4. The qualified electors of the Fifth and Sixth Court of*
34 *Appeals Districts, as established pursuant to Act 208 of 1979, shall elect the*
35 *additional Court of Appeals judges at the November 1992 general election to*

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1 take office on January 1, 1993. These additional Court of Appeals judges
2 shall serve an initial term of six (6) years.

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4 SECTION 5. The initial terms of office of these additional Court of
5 Appeals judges shall be as stated in this Act and thereafter they shall be
6 elected for full eight (8) year terms. Each of these additional judges shall
7 be a resident of the district from which elected and shall have the same
8 qualifications for holding office and shall receive the same salary, expenses,
9 and other allowances as provided by law for judges of the Court of Appeals.

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11 SECTION 6. Arkansas Code of 1987 Annotated, Section 16-12-103, is
12 hereby amended to read as follows:

13 "16-12-103. Location of court.

14 The Court of Appeals shall be located in Little Rock and shall have
15 offices as convenient to the State Capitol and the Law Library in the Justice
16 Building as can be arranged, but the court en banc, or any division thereof,
17 may sit in any county seat for the purpose of hearing argument in cases before
18 it."

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20 SECTION 7. Arkansas Code of 1987 Annotated, Section 16-12-109, is
21 hereby amended to read as follows:

22 "16-12-109. Divisions of court.

23 (a) Four (4) divisions of the Court of Appeals, to be known as
24 Divisions I, II, III and IV are authorized. Each of the divisions shall
25 consist of no less than three (3) judges of the Court of Appeals, but no judge
26 shall be permanently assigned to either division. The judges constituting the
27 respective divisions shall be rotated not less frequently than semiannually
28 under rules prescribed by the Court of Appeals."

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30 SECTION 8. Arkansas Code of 1987 Annotated, Section 16-12-110, is
31 hereby amended to read as follows:

32 "16-12-110. Presiding judge in each division.

33 The Chief Judge of the Court of Appeals shall preside over the court
34 sitting en banc and over any division or divisions of which he or she is a
35 member. The presiding judges of other divisions shall be selected under rules

1 prescribed by the Court of Appeals."

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3 SECTION 9. Arkansas Code of 1987 Annotated, Section 16-12-111, is
4 hereby amended to read as follows:

5 "16-12-111. Assignment of cases.

6 Any case submitted to the Court of Appeals for action may be heard by
7 the court en banc or assigned to one (1) or more of the divisions created by
8 this chapter."

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10 SECTION 10. Arkansas Code of 1987 Annotated, Section 16-12-113, is
11 hereby amended to read as follows:

12 "16-12-113. Decisions of court.

13 The decision of a division must be unanimous. If the decision is not
14 unanimous, the case shall be resubmitted, under rules prescribed by the Court
15 of Appeals, to the original division to which the case was submitted and
16 another of the divisions authorized by Section 7 of this Act. These two
17 divisions shall then decide the case by majority vote; however, if there is a
18 tie vote, the decision appealed from shall be affirmed."

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20 SECTION 11. Arkansas Code of 1987 Annotated, Section 16-12-114, is
21 hereby amended to read as follows:

22 "16-12-114. Rehearings.

23 (a) A party aggrieved by the decision of a division of the Court of
24 Appeals shall have the right to petition for a rehearing which shall be
25 decided, under rules prescribed by the Court of Appeals, by the original
26 division which decided the case and another of the divisions authorized by
27 Section 7 of this Act. If the petition is granted, the rehearing shall be
28 decided by the majority vote of the two divisions which granted the rehearing
29 and if there is a tie vote on rehearing the decision of the original division
30 shall stand.

31 (b) Petitions for rehearing in cases decided by the vote of two
32 divisions sitting together shall be decided, in the same manner provided in
33 (a), by the same divisions which made the original decision.

34 (c) Motions filed in the Court of Appeals shall be submitted to and
35 decided by at least two divisions sitting together, under rules prescribed by

1 the Court of Appeals."

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3 SECTION 12. The effective date of this Act shall be January 1, 1992.

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5 SECTION 13. All provisions of this act of a general and permanent
6 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
7 Code Revision Commission shall incorporate the same in the Code.

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9 SECTION 14. If any provision of this act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 act are declared to be severable.

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15 SECTION 15. All laws and parts of laws in conflict with this act are
16 hereby repealed.

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18 /s/Howell

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