

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Senator Dowd**

# A Bill

**SENATE BILL 537**

## **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 16-12-101, 103, 109, 110, 111,  
11 113, AND 114 OF THE ARKANSAS CODE OF 1987 ANNOTATED, TO  
12 PROVIDE FOR MOTIONS TO BE HEARD BY TWO (2) DIVISIONS OF  
13 THE COURT; AND FOR OTHER PURPOSES."

## **Subtitle**

16 "ENLARGING THE COURT OF APPEALS."

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20 SECTION 1. On and after *July 1, 1995*, the Court of Appeals shall be  
21 composed of twelve (12) judges. The terms of office of the six (6) Court of  
22 Appeals judges currently holding office shall not be affected by this act.

24 SECTION 2. (a) *The additional judgeships created by Section 1 of this*  
25 *act shall be effective on and after July 1, 1995. The Governor shall appoint*  
26 *one (1) person from each of the new districts to serve from July 1, 1995*  
27 *through December 31, 1996. Said judges shall be residents of the district*  
28 *from which appointed. None of those appointees shall be eligible to seek*  
29 *election as a member of the court in the 1996 general election.*

30 (b) *The qualified electors of the Court of Appeals Districts*  
31 *established in compliance with Section 4 of this act shall elect the*  
32 *additional Court of Appeals judges at the November, 1996 general election to*  
33 *take office on January 1, 1997.*

35 SECTION 3. *Two (2) of the additional Court of Appeals judges elected*

1 pursuant to Section 2(b) of this act shall be elected to an initial term of  
2 four (4) years; two (2) shall be elected to an initial term of six (6) years;  
3 and two (2) shall be elected to an initial term of eight (8) years. The  
4 initial terms of these additional judges shall be determined by lot during the  
5 first public session of the court after their terms shall commence.  
6 Thereafter, these judges shall be elected for full eight (8) year terms. Each  
7 of the judges shall be a resident of the district from which elected and shall  
8 have the same qualifications for holding office and shall receive the same  
9 salary, expenses and other allowances as provided by law for other judges of  
10 the Court of Appeals.

11

12       SECTION 4. (a) The 1995 General Assembly shall determine the number  
13 and location of Court of Appeals districts from which the members of the Court  
14 of Appeals shall be selected.

15       (b) In order to assist the General Assembly with the establishment of  
16 these districts, there is hereby created the Court of Appeals Apportionment  
17 Commission to be composed of the following persons:

18               (1) The Governor or his designee;

19               (2) The Chairman of the Senate Judiciary Committee or his  
20 designee, plus one (1) other member of the Senate Judiciary Committee to be  
21 selected by the President Pro Tempore of the Senate.;

22               (3) The Chairman of the House Judiciary Committee or his  
23 designee, plus one (1) other member of the House Judiciary Committee to be  
24 selected by the Speaker of the House;

25               (4) The Chief Judge of the Court of Appeals;

26               (5) A citizen, appointed by the Governor, who shall represent the  
27 interest of minority voters; and

28               (6) A member to be selected by the Arkansas Bar Association.

29       (c) The Commission shall review the current Court of Appeals districts  
30 and shall make a recommendation to the 1995 General Assembly on the changes,  
31 if any, to be made to the districts, effective July 1, 1995.

32

33       SECTION 5. The Joint Interim Judiciary Committee shall review and make  
34 recommendations on the additional needs of the Court of Appeals, such as  
35 facilities, equipment, and operational funds, created by the passage of this

1 act.

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

4 "§16-12-103. Location of court.

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

10

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

13 "§16-12-109. Divisions of court.

14 Four (4) divisions of the Court of Appeals, to be known and designated  
15 as Division I, II, III, and IV are authorized. Each of the divisions  
16 authorized shall consist of three (3) judges of the Court of Appeals, but no  
17 judge shall be permanently assigned to any division. The judges constituting  
18 the respective divisions shall be rotated not less frequently than  
19 semiannually under rules prescribed by the Court of Appeals."

20

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

23 "§16-12-110. Presiding judge in each division.

24 The Chief Judge of the Court of Appeals shall preside over the court  
25 sitting en banc and over any division or divisions of which he or she is a  
26 member. The presiding judges of other divisions shall be selected under rules  
27 prescribed by the Court of Appeals."

28

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

31 "§16-12-111. Assignment of cases.

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

35

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

3 "§16-12-113. Decisions of court.

4 The decision of a division must be unanimous. If the decision is not  
5 unanimous, the case shall be resubmitted under rules prescribed by the Court  
6 of Appeals, to the original division to which the case was submitted and  
7 another of the divisions authorized by Section 6 of this act. These two (2)  
8 divisions shall then decide the case by majority vote; however, if there is a  
9 tie vote, the decision appealed from shall be affirmed."

10

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

13 "§16-12-114. Rehearings.

14 (a) A party aggrieved by the decision of a division of the Court of  
15 Appeals shall have the right to petition for a rehearing which shall be  
16 decided, under rules prescribed by the Court of Appeals, by the original  
17 division which decided the case and another of the divisions authorized by  
18 Section 6 of this act. If the petition is granted, the rehearing shall be  
19 decided by the majority vote of the two (2) divisions which granted the  
20 rehearing and if there is a tie vote on rehearing the decision of the original  
21 division shall stand.

22 (b) Petitions for rehearing in cases decided by the vote of two (2)  
23 divisions sitting together shall be decided, in the same manner provided in  
24 (a), by the same divisions which made the original decision.

25 (c) Motions filed in the Court of Appeals shall be submitted to and  
26 decided by at least two (2) divisions sitting together, under rules prescribed  
27 by the Court of Appeals."

28

29 SECTION 12. The effective date of Sections 6 through 11 of this act  
30 shall be July 1, 1995.

31

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

35

1           SECTION 14. If any provision of this act or the application thereof to  
2 any person or circumstance is held invalid, such invalidity shall not affect  
3 other provisions or applications of the act which can be given effect without  
4 the invalid provision or application, and to this end the provisions of this  
5 act are declared to be severable.

6

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

9

10

11

12

13

14

15

16

17

*/s/Senator Dowd*

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

1

2

3

4