

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Shaver**
5
6

A BILL ACT 904 OF 1991
HOUSE BILL 1756

7
8 **For An Act To Be Entitled**

9 "AN ACT TO PROVIDE FOR THE STANDARDIZATION OF THE
10 OPERATIVE LANGUAGE OF CERTAIN COURT COST STATUTES; TO
11 PERMIT THE ALLOCATION AND DISTRIBUTION OF TIME OR PARTIAL
12 PAYMENTS OF FINES AND COSTS IN MUNICIPAL COURTS, POLICE
13 COURTS, CITY COURTS AND JUSTICE OF THE PEACE COURTS; TO
14 STATE LEGISLATIVE FINDINGS; TO NEGATE LIABILITY ABSENT
15 MALICE; AND FOR OTHER PURPOSES."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 SECTION 1. Arkansas Code Revision Fund. Arkansas Code Annotated §1-2-
19 306(a)(2) is hereby amended to read as follows:

20 "(2) Upon conviction or plea of guilty, plea of nolo contendere, or
21 bond forfeiture, in each felony or misdemeanor or traffic violation for
22 violation of state law or local ordinance case in each circuit court and each
23 municipal court in this state, to be paid by the defendant, the sum of
24 twenty-five cents (25¢)."
25

26 SECTION 2. Legal Education Fund. Arkansas Code Annotated §6-64-
27 603(a)(1) is hereby amended to read as follows:

28 "(1) From each defendant upon conviction and upon each plea of guilty
29 or nolo contendere or forfeiture of bonds in felony, misdemeanor, and traffic
30 violation for violation of state law or local ordinance cases as follows:

31 (A) In the circuit court, the sum of five dollars (\$5.00);

32 (B) In the municipal court, the sum of five dollars
33 (\$5.00);

34 (C) In the police court, the sum of five dollars (\$5.00);

35 (D) In the city court, the sum of five dollars (\$5.00); and

36 (E) In the justice of the peace court, the sum of five

1 dollars (\$5.00);"

2

3 SECTION 3. County Jail Revenue Fund. Arkansas Code Annotated §12-41-
4 617(a) and (b) is hereby amended to read as follows:

5 "(a) (1) In addition to the fees and costs now provided by law, any
6 county adopting an ordinance providing for the establishment of a county jail
7 board and authorizing the board to issue county jail revenue bonds as
8 authorized in this subchapter may levy a fee as a part of the cost to be paid
9 by all persons convicted of, or who plead guilty or nolo contendere to,
10 felonies, misdemeanors, or traffic violation for violation of state law or
11 local ordinance, or any person committed to the county jail in the circuit,
12 chancery, probate, municipal courts, city courts, and police courts in the
13 county, in an amount to be determined by the quorum court but not to exceed
14 ten dollars (\$10.00) per conviction, plea of guilty, or plea of nolo
15 contendere.

16 (2) Except as provided in subsection (f), all fees so collected
17 shall be remitted to and deposited by the county treasurer in one (1) or more
18 banks doing business in the county, to the credit of a county jail revenue
19 bond fund to be used solely for the purposes as provided in this subchapter.

20 (b) Any person charged with a felony or misdemeanor, or traffic
21 violation for violation of state law or local ordinance, who posts bond and
22 forfeits it upon failure to appear on the date set for trial shall equally be
23 charged the fee imposed in this subchapter. This fee shall be deposited in the
24 county jail revenue bond fund as provided in this subchapter."

25

26 SECTION 4. Indigent Defense Fund. Arkansas Code Annotated §14-20-
27 102(b) (1) is hereby amended to read as follows:

28 "(b) (1) Any court desiring to establish such a fund shall have the
29 authority to provide for the payment of a fee, not to exceed the sum of five
30 dollars (\$5.00), to be taxed as costs in all civil cases filed, and upon a
31 person upon conviction, plea of guilty, plea of nolo contendere, or bond
32 forfeiture, in felony, misdemeanor, traffic violation cases for violation of
33 state law or local ordinance, and violation of city ordinances, filed in any
34 circuit, chancery, probate, municipal, city, or police court within the
35 county. However, no such fees shall be taxed as costs in any action filed in

1 any small claims court."

2

3 SECTION 5. Intoxication Detection Equipment Fund. Arkansas Code
4 Annotated §16-17-109(a) is hereby amended to read as follows:

5 "(a) The city council of any municipality establishing a municipal
6 court under subchapter 2 of this chapter may by ordinance direct the taxing of
7 costs on criminal convictions, or plea of guilty, nolo contendere, or bond
8 forfeiture, in addition to such costs as provided by law:

9 (1) public drunkenness..... \$1.00

10 (2) driving while under the influence of
11 intoxicants..... \$5.00"

12

13 SECTION 6. Municipal Court Administration. Arkansas Code Annotated
14 §16-17-111(a) (1) is hereby amended to read as follows:

15 "(1) In addition to all other costs provided by law, there may be
16 levied and collected from each defendant upon each conviction, each plea of
17 guilty or nolo contendere, or forfeiture of bond, for misdemeanors or traffic
18 violations for violation of state law or local ordinance, in any municipal,
19 police, or city court a sum not to exceed five dollars (\$5.00)."

20

21 SECTION 7. Administration of Justice -- Intergovernmental Agreements.
22 Arkansas Code Annotated §16-17-113(a) is hereby amended to read as follows:

23 "(a) In addition to all other costs provided by law, there may be
24 levied and collected from each defendant upon each conviction, each plea of
25 guilty, nolo contendere, forfeiture of bond, for misdemeanors or traffic
26 violations for violation of state law or local ordinance, in any municipal
27 court or city court, a sum not to exceed three dollars (\$3.00). However, the
28 additional court cost authorized by this section and by §16-17-111 shall be
29 levied by ordinance of the governing body of the municipality wherein the
30 municipal court or city court is located."

31

32 SECTION 8. Joint Municipal Court Cost. Arkansas Code Annotated §16-17-
33 402(c) is hereby amended to read as follows:

34 "(c) The municipal court may impose a fee of not more than twenty
35 dollars (\$20.00) payable by the plaintiff in civil cases and payable by the

1 defendant upon conviction, plea of guilty, plea of nolo contendere, or bond
2 forfeiture, in criminal cases, including misdemeanors, traffic violations for
3 violation of state law of local ordinance and violation of city ordinances .
4 The court shall distribute this fee to the cities served by the court in such
5 proportion as shall be determined by the cities."

6
7 SECTION 9. Prosecuting Attorney Sixth Judicial District. Arkansas Code
8 Annotated §16-21-1104 is hereby repealed.

9
10 SECTION 10. Investigators authorized. Arkansas Code Annotated §16-87-
11 111 (b) (1) is hereby amended to read as follows:

12 "(1) The court cost shall be assessed upon each judgment of conviction,
13 upon each plea of guilty, and upon each plea of nolo contendere or bond
14 forfeiture in felony, misdemeanor, and traffic violation cases for violation
15 of state law or local ordinance, in circuit courts, justice of the peace
16 courts, municipal courts, police courts, or city courts."

17
18 SECTION 11. Crime Victims Reparations Revolving Fund. Arkansas Code
19 Annotated §16-90-718(b) is hereby amended to read as follows:

20 "(b) In addition to the imposition of any costs, penalties, or fines
21 imposed pursuant to law, any person convicted or pleading guilty or nolo
22 contendere of a felony, or a *misdemeanor* for violation of state law or local
23 ordinance, which are not described in subsection (a) of this section, the
24 court shall levy a victim reparations assessment of twenty dollars (\$20.00)
25 for each felony and *ten dollars (\$10.00)* for each misdemeanor violation of
26 state law or local ordinance, upon every fine, penalty, and forfeiture imposed
27 and collected. When a cash bond is posted for any offense included in this
28 subsection, the bond shall also include a sufficient amount to cover the
29 victim reparations assessment."

30
31 SECTION 12. State Police Retirement Fund. Arkansas Code Annotated §16-
32 92-110(a) (1) is hereby amended to read as follows:

33 "(a) (1) In addition to all other costs as provided by law, there shall
34 be taxed and collected from each defendant as costs upon each judgment of
35 conviction and upon each plea of guilty, each plea of nolo contendere, and

1 bond forfeiture, in felony, misdemeanor, and traffic violation for violation
2 of state law or local ordinance, the following:

3 (A) In the circuit court, the sum of five dollars (\$5.00); and

4 (B) In justice of the peace, municipal, traffic, police, or city
5 courts, the sum of three dollars (\$3.00)."

6
7 *SECTION 13. Judicial District Prosecuting Attorneys for counties over*
8 *200,000 population. Arkansas Code Annotated §16-92-111 is hereby amended to*
9 *read as follows:*

10 "(a) There shall be assessed and collected in all criminal cases in all
11 courts of any county in this state, having a population in excess of two
12 hundred thousand (200,000) persons according to the most recent federal
13 census, the following court costs for the prosecuting attorney in addition to
14 all other court costs imposed:

15 (1) For each judgment obtained on complaint, information, or
16 otherwise in the name of the state or any county, the sum of five dollars
17 (\$5.00);

18 (2) For each conviction, plea of guilty or nolo contendere, or
19 bond forfeiture, or indictment, presentment, issuance of affidavit, or
20 information for misdemeanor or breach of the peace, the sum of ten dollars
21 (\$10.00);

22 (3) For each conviction, plea of guilty or nolo contendere, or
23 bond forfeiture, or indictment for any felony not capital, the sum of
24 twenty-five dollars (\$25.00);

25 (4) For each conviction, plea of guilty or nolo contendere, or
26 bond forfeiture for homicide other than capital, the sum of thirty-five
27 dollars (\$35.00); and

28 (5) For each conviction, plea of guilty or nolo contendere, or
29 bond forfeiture, in capital cases, the sum of seventy-five dollars (\$75.00).

30 (b) All court costs assessed and collected pursuant to subsection (a)
31 of this section, plus ten percent (10%) of the amount on forfeited bail bonds
32 and recognizances, shall be deposited in the county general fund."

33

34 *SECTION 14. Assistance to Victims and Witnesses of Crimes. Arkansas*
35 *Code Annotated §16-21-106 (b) (2) (B) is hereby amended to read as follows:*

1 "(B) The quorum court may, if it deems it to be necessary, provide for
2 the levy of an additional cost, not to exceed five dollars (\$5.00), upon each
3 civil action filed, and upon each conviction, plea of guilty, plea of nolo
4 contendere, or bond forfeiture, in felony, misdemeanor, and traffic violation
5 cases for violation of state law or local ordinance, in all courts in the
6 county to provide moneys necessary to defray the cost of the program."
7

8 SECTION 15. Prosecuting and city attorneys. Arkansas Code Annotated
9 §21-6-410 is hereby amended to read as follows:

10 "(a) Prosecuting attorneysshall be allowed the following fees:

11 (1) For each judgment obtained on complaint, information, or
12 otherwise, in the name of the state or any county \$ 5.00

13 (2) For each conviction, plea of guilty or nolo contendere, or
14 bond forfeiture, or indictment, presentment, issuance of affidavit, or
15 information for misdemeanor, ordinance violation, or breach of the peace
16 \$10.00

17 (3) For each conviction, plea of guilty or nolo contendere, or
18 bond forfeiture in cases of gambling \$25.00

19 (4) For each conviction, plea of guilty or nolo contendere, or
20 bond forfeiture for any felony not capital \$25.00

21 (5) For each conviction, plea of guilty or nolo contendere, or
22 bond forfeiture for homicide, other than capital \$35.00

23 (6) For each conviction, plea of guilty or nolo contendere, or
24 bond forfeiture in capital cases \$75.00

25 (b) They shall be allowed ten percent (10%) of the amount on forfeited
26 bail bonds and recognizances.

27 (c) Prosecuting attorneys shall be entitled to the same fees for
28 prosecuting in cases of misdemeanors before justices of the peace as in the
29 circuit court.

30 (d) No prosecuting attorney may in any case receive more than two (2)
31 fees for conviction, plea of guilty or nolo contendere, or bond forfeiture, of
32 one (1) defendant under one (1) indictment, presentment, affidavit, or
33 information, regardless of the number of counts therein.

34 (e) When city attorneys appear and prosecute misdemeanor and city
35 ordinance violation cases in municipal, police, and city courts, they shall be

1 entitled to the same fees as are granted to prosecutors under subsection (a)
2 above. The fees shall be collected and paid into the city treasury to the
3 credit of the general revenue bond."
4

5 SECTION 16. Municipal Court Retirement Act. Arkansas Code Annotated
6 §24-8-303(a) is hereby amended to read as follows:

7 "(a) To provide funds for the retirement benefits provided in this
8 subchapter, costs, in addition to the costs now provided by law, shall be
9 assessed as follows:

10 (1) A fee of one dollar (\$1.00) for entering upon the records of
11 the court each conviction, plea of guilty, plea of nolo contendere, and bond
12 forfeiture in misdemeanor, traffic violations cases for violation of state law
13 or local ordinance, and city ordinance violation cases; and

14 (2) A fee of twenty cents (\$.20) and, if approved by the local
15 governing body, up to one dollar (\$1.00), for the issuance of each summons in
16 a civil action."
17

18 SECTION 17. Collected for Policemen's Pension and Relief Fund.
19 Arkansas Code Annotated §27-50-401 is hereby amended to read as follows:

20 "(a) (1) In addition to any fines provided by law, there shall be
21 assessed and collected a penalty of three dollars (\$3.00) for each conviction,
22 each plea of guilty or nolo contendere, of a traffic violation, where the
23 conviction arises out of the operation of a motor vehicle in violation of
24 municipal ordinances or the laws of this state.

25 (2) This penalty shall also apply to each conviction, plea of
26 guilty or nolo contendere, for the violation of municipal ordinances or a
27 criminal law of this state.

28 (b) For the purposes of this subchapter, the term conviction shall
29 include forfeiture of bond. Any bond posted pursuant to a charge or citation
30 for violation of any law or ordinance specified in this section shall include
31 the three dollars (\$3.00) additional penalty provided in this section."
32

33 SECTION 18. Arkansas Code Annotated § 16-17-212(b) is repealed.
34

35 SECTION 19. Arkansas Code Annotated §16-68-409(b) (2) is hereby

1 repealed.

2

3 SECTION 20. The costs set forth in this act may be imposed at the
4 conclusion of any criminal case that does not end in an acquittal, dismissal,
5 or, with the consent of the prosecution, a nolle prosequi, including, but not
6 limited to, cases involving a suspended or probated sentence that at any time
7 may be expunged or otherwise removed from the defendant's record.

8

9 SECTION 21. Time pay account alternative. Arkansas Code Annotated §16-
10 10-209(5) (F) is hereby amended to read as follows:

11 "(F) (1) All time payments shall initially be deemed to be collections
12 of court costs until the costs have been collected in full, with any remaining
13 time payments representing collections of fines. The court clerk shall prepare
14 at least monthly a separate court report for all time payments made on
15 accounts. The monetary settlement for this separate court report shall be made
16 on or before the fifth day of the next following month. No settlement shall
17 be made on any time payment account until all of the court costs applicable to
18 the account have been collected in full, except that court costs on DWI cases
19 may be settled as collected. Any subsequent collections on the time payment
20 account, representing fines collected, shall be settled on the appropriate
21 court report as they are collected.

22 (2) A municipal or county governing body may provide by appropriate
23 municipal or county legislation an alternative method of time payment
24 allocation as follows:

25 (a) All time payments shall be allocated fifty percent (50%) to
26 court cost and fifty percent (50%) to fines. Whenever either court costs or
27 fines are fully paid, all remaining time payments shall be allocated to
28 remaining amounts due.

29 (b) The court clerk shall prepare at least monthly a separate
30 court report for all time payments made on accounts. The monetary settlement
31 for this separate court report shall be made on or before the fifth day the
32 next following month."

33

34 SECTION 22. Legislative Findings. It is hereby found that the passage
35 of many court cost bills over several legislative sessions has caused

1 confusion in the collection of such costs and that reasonable people can
2 interpret the varying language of such court costs statutes differently. This
3 legislation is necessary to standardize the language of such court cost
4 statutes to provide that such costs are collected in a uniform manner
5 statewide.

6
7 SECTION 23. Act remedial in nature. This act is hereby declared to be
8 remedial in nature and is to be liberally construed to effect its purpose.

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10 SECTION 24. Probation fees. Nothing herein shall prohibit courts from
11 assessing reasonable probation fees.

12
13 SECTION 25. Act amends the Arkansas Code of 1987 Annotated. All
14 provisions of this act of a general and permanent nature are amendatory to the
15 Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission
16 shall incorporate the same in the Code.

17
18 SECTION 26. Severability. If any provision of this act or the
19 application thereof to any person or circumstance is held invalid, such
20 invalidity shall not affect other provisions or applications of the act which
21 can be given effect without the invalid provision or application, and to this
22 end the provisions of this act are declared to be severable.

23
24 SECTION 27. Repealer. All laws and parts of laws in conflict with this
25 act are hereby repealed.

26
27 SECTION 28. EMERGENCY CLAUSE. It is hereby found and determined by the
28 General Assembly that the language of certain court cost statutes lacks
29 uniformity; that such lack of uniformity is detrimental to the proper
30 collection of such court costs; and that such language should be standardized
31 to promote the proper collection of such costs. Therefore, an emergency is
32 hereby declared to exist and this act being necessary for the immediate
33 preservation of the public peace, health and safety shall be in full force and
34 effect from and after its passage and approval.

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/s/J. L. Shaver

APPROVED: 3/29/91