

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

A Bill

ACT 278 OF 1997
HOUSE BILL 1363

5 By: Representative Young, Kidd, Luker, McJunkin, McKissack, Miller, Willems, Bush, DeLay, Joe Hudson, and Mullenix
6 By: Senator Bradford, Canada, Scott
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For An Act To Be Entitled

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10 "AN ACT TO AMEND ARKANSAS CODE 16-93-104 PERTAINING TO THE
11 PROBATION AND PAROLE SUPERVISION FEES; TO REPEAL ARKANSAS
12 CODE 16-93-105; AND FOR OTHER PURPOSES."
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Subtitle

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15 "AN ACT PERTAINING TO THE PROBATION AND
16 PAROLE SUPERVISION FEES."
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code 16-93-104 is amended to read as follows:

22 "16-93-104. Supervision fee - Direct payment by offender - Failure to
23 pay.

24 (a)(1) Any offender on probation or parole ~~from a facility of the~~
25 ~~Department of Correction~~ under supervision of the Department of Community
26 Punishment who remains under the supervision of the Department of Correction
27 shall pay to the department a fee as determined by the Board of Correction and
28 Community Punishment.

29 (2) The Director of the Department of ~~Correction~~ Community Punishment or
30 his or her designee shall deposit the payments received into ~~a fund, or~~
31 ~~special revenues of the State Treasury, which is created by this section and~~
32 which the State Treasury as special revenues credited to ~~shall be known as the~~
33 Community Service Punishment Revolving Fund.

34 (3) Expenditures from the fund shall be ~~made used for the establishment~~
35 ~~and operation~~ continuation and expansion of community service punishment
36 programs ~~including, but not limited to, work-release, prerelease, and~~

1 ~~restitution centers, alternative service programs, and other similar community~~
 2 ~~service programs in operation or~~ as established and approved by the Board of
 3 Correction and Community Punishment.

4 (b)(1) ~~The~~ When an offender on probation ~~may be imprisoned until the~~
 5 ~~payments are made, if the offender is financially able to make the payments~~
 6 ~~and the court in the county where the offender resides so finds, subject to~~
 7 ~~the limitations set out in this subsection.~~ defaults in the payment of
 8 supervision fees or any installment thereof, the court may require him to show
 9 cause why he would not be imprisoned for nonpayment.

10 (2) The offender shall not be imprisoned if the offender is financially
 11 unable to make the payments and states so to the court in writing, under oath,
 12 and the court so finds.

13 (3) Unless the offender shows that his default was not attributable to a
 14 purposeful refusal to obey the sentence of the court, or to a failure on his
 15 part to make a good faith effort to obtain the funds required for payment, the
 16 court may order the defendant imprisoned until the payments are made.

17 (4) If the court determines that the default in payment is not
 18 attributable to the causes specified in subdivision (b)(3) of this section,
 19 the court may enter an order allowing the offender additional time for
 20 payment, reducing the amount of each installment, or revoking the fees or the
 21 unpaid portion thereof, in whole or in part.

22 (c)(1) The offender on parole may be imprisoned for violation of parole,
 23 if the offender is financially able to make the payments and if the payments
 24 are not made and the ~~Board of Pardons and Paroles~~ Post Prison Transfer Board
 25 so finds, subject to the limitations set out in this subsection.

26 (2) The offender shall not be imprisoned if the offender is financially
 27 unable to make the payments and states so to the ~~Board of Pardons and Paroles~~
 28 Post Prison Transfer Board in writing, under oath, and the board so finds."
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30 SECTION 2. Arkansas Code 16-93-105 is repealed.

31 ~~— "16-93-105. Supervision fee - Withholding by employers.~~

32 ~~(a)(1) Whenever an inmate in a facility of the Department of Correction~~
 33 ~~becomes eligible for parole and makes application for release on parole, the~~
 34 ~~Board of Pardons and Paroles may require, as a condition of granting the~~
 35 ~~parole, that the parolee, upon parole, consent to his employer's withholding~~
 36 ~~and remitting to the Department of Correction the monthly charge as~~

1 ~~established by regulations of the Board of Correction to defray the cost of~~
 2 ~~supervision of the parolee during his release on parole.~~

3 ~~(2) The provisions shall also be applicable to persons on probation~~
 4 ~~supervised by the Board of Pardons and Paroles.~~

5 ~~(b) The Board of Pardons and Paroles may promulgate reasonable rules and~~
 6 ~~regulations and forms to be followed by employers in withholding and remitting~~
 7 ~~to the Department of Correction each month the amounts charged to defray the~~
 8 ~~cost of the parolee's or probationer's supervision while on parole or~~
 9 ~~probation.~~

10 ~~(c) Each employer withholding amounts as provided in this section from~~
 11 ~~the wages of employees who are on parole or probation supervision of the~~
 12 ~~Department of Correction shall remit the amounts to the department not later~~
 13 ~~than the tenth day of each month.~~

14 ~~(d) For the purposes of this section, the amounts to be remitted to the~~
 15 ~~Department of Correction to defray the cost of supervision of inmates of the~~
 16 ~~Department of Correction who are on parole or probation shall be as fixed by~~
 17 ~~the Board of Correction under the provisions of ~~§ 16-93-104~~ or under the~~
 18 ~~Youthful Offenders Alternative Service Act of 1975, as amended, ~~§ 16-93-501~~ et~~
 19 ~~seq. and ~~§ 16-93-601~~, with respect to persons committed and sentenced under~~
 20 ~~that act.~~

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22 SECTION 3. All provisions of this act of a general and permanent
 23 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
 24 Code Revision Commission shall incorporate the same in the Code.

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26 SECTION 4. If any provision of this act or the application thereof to
 27 any person or circumstance is held invalid, such invalidity shall not affect
 28 other provisions or applications of the act which can be given effect without
 29 the invalid provision or application, and to this end the provisions of this
 30 act are declared to be severable.

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32 SECTION 5. All laws and parts of laws in conflict with this act are
 33 hereby repealed.

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APPROVED: 2-26-97

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