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1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S3/20/03 H3/28/03 H4/2/03

A Bill

Act 1185 of 2003
SENATE BILL 462

5 By: Senator Luker
6 By: Representative Mahony
7

For An Act To Be Entitled

8
9
10 AN ACT TO ADOPT TECHNICAL CORRECTIONS FOR THE
11 IMPLEMENTATION OF AMENDMENT 80 TO THE ARKANSAS
12 CONSTITUTION; AND FOR OTHER PURPOSES.
13

Subtitle

14
15 AN ACT TO ADOPT TECHNICAL CORRECTIONS
16 FOR THE IMPLEMENTATION OF AMENDMENT 80
17 TO THE ARKANSAS CONSTITUTION; AND FOR
18 OTHER PURPOSES.
19

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 3-2-304(a), concerning search warrants for
24 alcoholic beverages in prohibited districts, is amended to read as follows:

25 (a) It is made and declared to be the duty of the ~~chancellors, circuit~~
26 ~~judges, justices of the peace, mayors, and police judges~~ circuit, district,
27 city, and police courts, on information given, on their own knowledge, or
28 when they have reasonable grounds to believe that alcohol, spirituous,
29 ardent, vinous, malt, or fermented liquors, or any compound or preparation
30 thereof commonly called tonics, bitters, or medicated liquors of any kind,
31 are kept in any prohibited district to be sold contrary to law or have been
32 shipped into any prohibited district to be sold contrary to law, that they
33 issue a warrant, directed to some peace officer, directing in the warrant a
34 search for intoxicating liquors and specifying in the warrant the place to be
35 searched.
36



1 SECTION 2. Effective January 1, 2005, Arkansas Code § 3-2-304(a)
2 amended to read as follows:

3 (a) It is made and declared to be the duty of the ~~chancellors, circuit~~
4 ~~judges, justices of the peace, mayors, and police judges~~ circuit, district,
5 and city courts, on information given, on their own knowledge, or when they
6 have reasonable grounds to believe that alcohol, spirituous, ardent, vinous,
7 malt, or fermented liquors, or any compound or preparation thereof commonly
8 called tonics, bitters, or medicated liquors of any kind, are kept in any
9 prohibited district to be sold contrary to law or have been shipped into any
10 prohibited district to be sold contrary to law, that they issue a warrant,
11 directed to some peace officer, directing in the warrant a search for
12 intoxicating liquors and specifying in the warrant the place to be searched.
13

14 SECTION 3. Arkansas Code § 5-2-314 is amended to read as follows:

15 5-2-314. Acquittal -- Examination of defendant -- Hearing.

16 (a) When a defendant is acquitted on the ground of mental disease or
17 defect, the circuit court shall be required to determine, and to include such
18 determination in the order of acquittal, one (1) of the following:

19 (1) The offense involved bodily injury to another person or
20 serious damage to the property of another or involved a substantial risk of
21 such injury or damage, and that the defendant remains affected by mental
22 disease or defect; or

23 (2) The offense involved bodily injury to another person or
24 serious damage to the property of another or involved a substantial risk of
25 such injury or damage, and that the defendant is no longer affected by mental
26 disease or defect; or

27 (3) The offense did not involve bodily injury to another person
28 or serious damage to the property of another nor did it involve substantial
29 risk of such injury or damage, and that the defendant remains affected by
30 mental disease or defect; or

31 (4) The offense did not involve bodily injury to another person
32 or serious damage to the property of another nor did it involve a substantial
33 risk of such injury or damage, and that the defendant is no longer affected
34 by mental disease or defect.

35 (b) If the court enters a determination based on subdivision (a)(1) or
36 (3) of this section, the circuit court shall order the defendant committed to

1 the custody of the Director of the Department of Human Services for an
2 examination by a psychiatrist or a licensed psychologist.

3 (c) If the court enters a determination based on subdivision (a)(2) or
4 (4) of this section, the court shall immediately discharge the defendant.

5 (d) The Director of the Department of Human Services shall file the
6 psychiatric or psychological report with a the probate clerk of the circuit
7 court having venue within thirty (30) days following entry of order of
8 acquittal. A hearing shall be conducted by the ~~probate~~ court and shall take
9 place not later than ten (10) days following the filing of the report with
10 the ~~probate~~ court.

11 (e) A person found not guilty, on the ground of mental disease or
12 defect, of an offense involving bodily injury to another person, or serious
13 damage to the property of another, or involving a substantial risk of such
14 injury or damage, has the burden of proving by clear and convincing evidence
15 that his release would not create a substantial risk of bodily injury to
16 another person or serious damage to property of another due to a present
17 mental disease or defect. With respect to any other offense, the person has
18 the burden of proof by a preponderance of the evidence.

19 (f) The acquittee whose mental condition is the subject of a hearing
20 has a right to counsel. If it appears to the court that the acquittee is in
21 need of counsel, counsel shall be appointed immediately upon filing of the
22 original petition. Whenever legal counsel is appointed by the court, such
23 court shall determine the amount of the fee to be paid the attorney so
24 appointed and issue an order of payment. The amount allowed shall be based
25 upon the time and effort of the attorney in the investigation, preparation,
26 and representation of the client at the court hearings.

27 (g) The quorum court of each county shall appropriate funds for the
28 purpose of payment of the attorney's fees provided for by subsection (f) of
29 this section and upon presentment of a claim accompanied by an order of the
30 ~~probate~~ circuit court fixing the fee, the same shall be approved by the
31 county court and paid in the same manner as other claims against the county
32 are paid.

33 (h) The hearings conducted pursuant to subsection (d) of this section
34 may be held at the Arkansas State Hospital or a receiving facility or program
35 where the acquittee is detained.

36 (i) The ~~probate~~ circuit judge, when conducting any hearing set out in

1 this section, may conduct said hearing within any county of his or her
 2 jurisdictional district.

3 (j) It shall be the duty of the prosecuting attorney's office in the
 4 county where the petition is filed to represent the State of Arkansas at all
 5 hearings held ~~in the probate court~~ pursuant to this section, except those
 6 hearings pending ~~before the probate judge~~ at the Arkansas State Hospital in
 7 Pulaski County. A prosecuting attorney may contract with other attorneys to
 8 provide these services. The Office of the Prosecutor Coordinator shall appear
 9 for and on behalf of the State of Arkansas ~~before the mental health probate~~
 10 ~~judge~~ at the Arkansas State Hospital in Little Rock. Such representation
 11 shall be a part of the official duties of the prosecuting attorney or the
 12 Prosecutor Coordinator, and the prosecuting attorney or the Prosecutor
 13 Coordinator shall be immune from civil liability in the performance of this
 14 official duty.

15

16 SECTION 4. Arkansas Code § 5-2-317 is amended to read as follows:

17 5-2-317. Jurisdiction and venue.

18 (a) The ~~probate~~ circuit courts of this state shall have exclusive
 19 jurisdiction over these persons acquitted by reason of mental disease or
 20 defect and committed to the custody of the Director of the Department of
 21 Human Services pursuant to § 5-2-314(b).

22 (b) Venue shall be determined as follows:

23 (1) For persons committed to the custody of the Department of
 24 Human Services pursuant to § 5-2-314 (b) and who have been committed to the
 25 Arkansas State Hospital for examination, venue may be in ~~the~~ Pulaski County
 26 ~~Probate Court, Ninth Division,~~ for the initial hearing pursuant to § 5-2-314,
 27 and for conditional release hearings pursuant to § 5-2-315.

28 (2) For persons who have been conditionally released pursuant to
 29 § 5-2-315, venue for any hearing seeking the modification, revocation, or
 30 dismissal of a conditional release order shall be in ~~the probate court~~ of the
 31 county where the person currently resides.

32 (3) The witness and travel fees, as provided for in the Arkansas
 33 Rules of Civil Procedure, for employees of a designated receiving facility
 34 whose presence ~~in the probate court~~ is compelled pursuant to a subpoena shall
 35 be paid by the designated receiving facility to which the acquittee is, or
 36 will be, conditionally released.

1
2 SECTION 5. Arkansas Code § 5-53-101(a)(1), concerning the definition of
3 “juror” with respect to certain offenses against the administration of
4 government is amended to read as follows:

5 (1) “Juror” means a member of any jury, including grand, and
6 ~~petit, coroner’s, justice of the peace, or chancery court~~ juries, and further
7 includes any person who has been drawn or summoned as a prospective juror;

8
9 SECTION 6. Effective January 1, 2005, Arkansas Code § 7-6-217(g)(8)(A),
10 concerning the authority of the Arkansas Ethics Commission, is amended to
11 read as follows:

12 (8)(A) File suit in the Circuit Court of Pulaski County or in the
13 circuit court of the county wherein the debtor resides, or, pursuant to ~~the~~
14 ~~Small Claims Procedure Act, § 16-17-601 et seq., § 16-17-706~~ in the small
15 claims division ~~of~~ established in any ~~municipal~~ district court in the State
16 of Arkansas, to obtain a judgment for the amount of any fine imposed pursuant
17 to § 7-6-218(b)(4)(B)(i)-(iii).

18
19 SECTION 7. Arkansas Code § 9-9-209(b), concerning withdrawal of consent
20 to adoption, is amended to read as follows:

21 (b)(1) A consent to adopt may be withdrawn within ten (10) calendar
22 days after it is signed or the child is born, whichever is later, by filing
23 an affidavit with the probate clerk of the ~~probate~~ circuit court in the
24 county designated by the consent as the county in which the guardianship
25 petition will be filed, if there is a guardianship, or where the petition for
26 adoption will be filed, if there is no guardianship. If the ten-day period
27 ends on a weekend or a legal holiday, the person may file the affidavit the
28 next working day. No fee shall be charged for the filing of the affidavit.
29 The ten-day period for filing a withdrawal of consent shall not apply to
30 agencies as defined by
31 § 9-9-202(5).

32 (2) The consent shall state that the person has the right of
33 withdrawal of consent and shall provide the address of the probate clerk of
34 ~~the probate~~ circuit court ~~clerk~~ of the county in which the guardianship will
35 be filed, if there is a guardianship, or where the petition for adoption will
36 be filed, if there is no guardianship.

1
2 SECTION 8. Arkansas Code § 9-9-220(b)(1) and (2), concerning
3 relinquishment and termination of parent and child relationships, are amended
4 to read as follows:

5 (1)(A) The relinquishment may be withdrawn within ten (10)
6 calendar days after it is signed or the child is born, whichever is later.

7 (i) Notice of withdrawal shall be given by filing an
8 affidavit with the probate clerk of the ~~probate~~ circuit court in the county
9 designated by the writing as the county in which the guardianship petition
10 will be filed, if there is a guardianship, or where the petition for adoption
11 will be filed, if there is no guardianship. If the ten-day period ends on a
12 weekend or legal holiday, the person may file the affidavit the next working
13 day.

14 (ii) No fee shall be charged for the filing of the
15 affidavit.

16 (B) The relinquishment shall state that the parent has this
17 right of withdrawal, and shall provide the address of the probate~~court~~ clerk
18 of the circuit court in the county in which the guardianship will be filed,
19 if there is a guardianship, or where the petition for adoption will be filed,
20 if there is no guardianship; or

21 (2) In any other situation, if notice of the adoption proceeding
22 has been given to the parent and the court finds, after considering the
23 circumstances of the relinquishment and the continued custody by the
24 petitioner, that the best interest of the child requires the granting of the
25 adoption.

26
27 SECTION 9. Arkansas Code § 9-10-101 is repealed.

28
29 SECTION 10. Arkansas Code § 9-10-102 is amended to read as follows:

30 9-10-102. Actions Governed by Rules of Civil Procedure -- Limitations
31 periods -- Venue -- Summons -- Transfer between local jurisdictions.

32 (a) An action to establish the paternity of a child or children shall
33 be commenced and proceed under the Arkansas Rules of Civil Procedure
34 applicable in circuit court ~~and chancery court, and the juvenile division~~
35 ~~thereof~~, as amended from time to time by the Arkansas Supreme Court ~~or the~~
36 ~~General Assembly~~.

1 (b) Actions brought in the State of Arkansas to establish paternity may
2 be brought at any time. Any action brought prior to August 1, 1985, but
3 dismissed because of a statute of limitations in effect prior to that date,
4 may be brought for any person for whom paternity has not yet been
5 established.

6 (c) Venue of paternity actions shall be in the county in which the
7 plaintiff resides or, in cases involving a juvenile, in the county in which
8 the juvenile resides.

9 (d) Summons may be issued in any county of this state in which the
10 defendant may be found.

11 (e)(1) Upon a default by the defendant, the court shall grant a finding
12 of paternity and shall establish a child support order based on an
13 application in accordance with the Arkansas Rules of Civil Procedure and the
14 family support chart.

15 (2) The court's granting of a default paternity judgment shall be
16 based on the presumed mother's affidavit of facts in which the presumed
17 mother names the defendant as the father of her child and states the
18 defendant's access during the probable period of conception.

19 (f)(1)(A) The court where the final decree of paternity is rendered
20 shall retain jurisdiction of all matters following the entry of the decree.

21 (B)(i) If more than six (6) months subsequent to the final
22 adjudication, however, each of the parties to the action has established a
23 residence in a county of another ~~chancery~~ judicial district within the state,
24 one (1) or both of the parties may petition the court which entered the final
25 adjudication to request that the case be transferred to another county.

26 (ii) The case shall not be transferred absent a
27 showing that the best interest of the parties justifies the transfer.

28 (iii) If a justification for transfer of the case has
29 been made, there shall be an initial presumption for transfer of the case to
30 the county of residence of the physical custodian of the child.

31 (2) If the court which entered the final adjudication agrees to
32 transfer the case to another ~~chancery~~ judicial district, upon proper motion
33 and affidavit and notice and payment of a refiling fee, the court shall enter
34 an order transferring the case and the refiling fee and charging the clerk of
35 the court to transmit forthwith certified copies of all records pertaining to
36 the case to the clerk of the court in the ~~chancery district~~ county where the

1 case is being transferred.

2 (3) An affidavit shall accompany the motion to transfer and
3 recite that the parent or parents, the physical custodian, and the Office of
4 Child Support Enforcement of the Revenue Division of the Department of
5 Finance and Administration, as appropriate, have been notified in writing
6 that a request has been made to transfer the case ~~to another chancery~~
7 ~~district~~.

8 (4) Notification pursuant to this section must inform each
9 recipient that any objection must be filed within twenty (20) days from the
10 date of receipt of the affidavit and motion for transfer.

11 (5) The ~~chancery~~ clerk receiving a transferred case shall, within
12 fourteen (14) days of receipt, set up a case file, docket the case, and
13 afford the case full faith and credit as if the case had originated in that
14 judicial district.

15

16 SECTION 11. Arkansas Code § 9-10-103(a) through (c), concerning orders
17 for paternity testing, is amended to read as follows:

18 (a) If the child is not born when the accused appears before the
19 circuit court, the court may hear evidence and may make temporary orders and
20 findings pending the birth of the child.

21 (b)(1) If the parentage of a child has not been established, the Office
22 of Child Support Enforcement of the Revenue Division of the Department of
23 Finance and Administration shall send a notice to the putative father, or
24 mother, as appropriate, that he or she is a biological parent of the child.
25 The notice shall inform the parties that the putative father and the mother
26 of the child may sign an affidavit acknowledging paternity and that any party
27 may request that scientifically accepted paternity testing be conducted to
28 assist in determining the identities of the child's parents.

29 (2) In all cases brought pursuant to Title IV-D of the federal
30 Social Security Act, upon sworn statement of the mother, putative father, or
31 the Office of Child Support Enforcement alleging paternity, the Office of
32 Child Support Enforcement shall issue an administrative order for paternity
33 testing which requires the mother, putative father, and minor child to submit
34 themselves for paternity testing.

35 (A) The Office of Child Support Enforcement shall cause a
36 copy of the administrative order for paternity testing to be served on the

1 mother and putative father.

2 (B) Paternity testing accomplished pursuant to an
3 administrative order shall be conducted pursuant to the guidelines and
4 procedures set out in § 9-10-108.

5 (C) Any party to an administrative order for paternity
6 testing may object to the administrative order within twenty (20) days after
7 receiving the order and request an administrative hearing to determine if
8 paternity testing under the administrative order should be conducted by the
9 Office of Child Support Enforcement.

10 (3)(A) The request for paternity testing shall be accompanied by
11 an affidavit alleging paternity, and setting forth facts establishing a
12 reasonable possibility of the requisite sexual contact between the mother and
13 putative father; or

14 (B) An affidavit denying paternity, and setting forth facts
15 establishing a reasonable possibility of the nonexistence of sexual contact
16 between the mother and putative father.

17 (4)(A) The Office of Child Support Enforcement shall initially
18 pay the costs of administrative paternity testing, but those costs shall be
19 assessed against the putative father if paternity is established or against
20 the applicant for services if the putative father is excluded as the
21 biological father.

22 (B) Recovery by the Office of Child Support Enforcement
23 through all available processes shall be initiated, including income
24 withholding, when appropriate.

25 (5) Any party who objects to the results of such paternity
26 testing may request additional testing upon proper notice and advance payment
27 for retesting, and the Office of Child Support Enforcement shall assist the
28 contestant in obtaining such additional testing as may be requested.

29 (6) If the results of paternity testing establish a ninety-five
30 percent or more probability of inclusion that the putative father is the
31 biological father of the child, then the Office of Child Support Enforcement
32 may file a complaint for paternity and child support in the circuit court
33 ~~thereof, as appropriate.~~

34 (c) Any paternity testing results obtained pursuant to an
35 administrative order for paternity testing shall be admissible into evidence
36 in any circuit court for the purpose of adjudicating paternity, as provided

1 by § 9-10-108.

2
3 SECTION 12. Arkansas Code § 9-10-105 is amended to read as follows:
4 9-10-105. Trial by court ~~or chancellor.~~

5 When the case is ready for trial, if the accused denies being the
6 father of the child, the ~~chancery~~ circuit court ~~or chancellor~~ shall hear the
7 evidence and decide the case ~~as other issues at law.~~

8
9 SECTION 13. Arkansas Code § 9-10-113(b), concerning a custody petition
10 by the biological father of an illegitimate child, is amended to read as
11 follows:

12 (b) A biological father, provided he has established paternity in a
13 court of competent jurisdiction, may petition the ~~chancery~~ circuit court, ~~or~~
14 ~~other court of competent jurisdiction, wherein~~ in the county where the child
15 resides, for custody of the child.

16
17 SECTION 14. Arkansas Code § 9-10-116 is repealed.

18
19 SECTION 15. Arkansas Code § 9-10-117 is repealed.

20
21 SECTION 16. Arkansas Code § 9-11-213(a)(8), concerning persons who may
22 solemnize marriages, is amended to read as follows:

23 (8) Any elected ~~municipal~~ district court judge, ~~including and~~ any
24 former municipal or district court judge who served at least four (4) years.

25
26 SECTION 17. Arkansas Code § 9-14-239(h) and (i), concerning suspension
27 of a license for failure to pay child support, are amended to read as
28 follows:

29 (h)(1)(A) Any noncustodial parent whose license or permanent license
30 plate has been suspended may appeal to the circuit court of the county in
31 which the child support order was entered or transferred, within thirty (30)
32 days after the effective date of the suspension, by filing a petition with a
33 copy of the notice of the suspension attached, or with a copy of the final
34 administrative hearing decision of the office, with the clerk of the ~~chancery~~
35 court and causing a summons to be served on the administrator of the office.

36 (B) For persons paying child support pursuant to § 9-17-501

1 or § 9-17-507, the foreign order shall be registered by the office pursuant
2 to § 9-17-601 et seq.

3 (2) The case shall be tried de novo ~~in the chancery court, or the~~
4 ~~juvenile division thereof, as appropriate.~~

5 (3) The circuit judges are vested with jurisdiction to determine
6 whether the petitioner is entitled to a license or permanent license plate or
7 whether the decision of the hearing officer should be affirmed, modified, or
8 reversed.

9 (i) Nothing provided in this section shall be interpreted to prohibit
10 the ~~chancery~~ circuit court, ~~or the juvenile division thereof,~~ from suspending
11 a permanent license plate or a license through contempt proceedings resulting
12 from the nonpayment of child support.

13
14 SECTION 18. Arkansas Code § 12-12-906(a), concerning registration of
15 sex offenders, is amended to read as follows:

16 (a)(1)(A) At the time of adjudication of guilt, the sentencing court
17 shall enter on the judgment and commitment or judgment and disposition form
18 whether or not the offender is required to register as a sex offender.

19 (B) The Department of Correction shall ensure that
20 offenders received for incarceration complete the registration form prepared
21 by the Director of the Arkansas Crime Information Center pursuant to §
22 12-12-908.

23 (C) The Department of Community Correction shall ensure
24 that offenders placed on probation or another form of community supervision
25 complete the registration form.

26 (D) The Arkansas State Hospital shall ensure that the
27 registration form is completed for any offender found not guilty by reason of
28 insanity and shall arrange an evaluation by Sex Offender Screening and Risk
29 Assessment.

30 (E) The Division of Youth Services of the Department of
31 Human Services shall ensure that juveniles ordered by the ~~juvenile~~ circuit
32 court to register complete the registration form.

33 (2)(A) A sex offender moving to or returning to this state from
34 another jurisdiction shall register with the local law enforcement agency
35 having jurisdiction no later than thirty (30) days after August 1, 1997, or
36 thirty (30) days after the offender establishes residency in a municipality

1 or county of this state, whichever is later.

2 (B)(i) All persons living in this state who would be
3 required to register as sex offenders in the jurisdiction in which they were
4 adjudicated guilty of a sex offense are required to register as sex offenders
5 in this state whether living, working, or attending school or other training
6 in Arkansas.

7 (ii) Nonresident workers or students who enter the
8 state for fourteen (14) or more consecutive days to work or study or who
9 enter the state for an aggregate of thirty (30) days or more a year are
10 required to register in compliance with 64 Fed. Reg. 585 2nd, as it existed
11 on January 1, 2001.

12 (C) A sex offender sentenced and required to register
13 outside of Arkansas, whether as an adult or a juvenile, must submit to
14 reassessment by Sex Offender Screening and Risk Assessment, provide a
15 deoxyribonucleic acid sample if a sample is not already accessible to the
16 Arkansas State Crime Laboratory, and pay the mandatory fee of two hundred
17 fifty dollars (\$ 250) to the DNA Detection Fund established under §
18 12-12-1101 et seq.

19 (3)(A) ~~After September 1, 1999, a juvenile judge~~ The circuit
20 court shall require a juvenile sex offender to submit at the time of
21 adjudication of a sex offense to an assessment by Sex Offender Screening and
22 Risk Assessment.

23 (B)(i) Sex Offender Screening and Risk Assessment shall
24 submit its assessment and recommendation to the ~~juvenile judge court~~, ~~and the~~
25 ~~juvenile judge~~ which may order registration by so indicating on the proper
26 form.

27 (ii)(a) Upon the decision by the ~~juvenile judge court~~
28 to order registration by the juvenile, the juvenile shall comply with all the
29 provisions of this subchapter.

30 (b) The ~~juvenile court judge~~ may order
31 reassessment by Sex Offender Screening and Risk Assessment at any time during
32 the ~~juvenile judge's court's~~ court's jurisdiction over the juvenile.

33 (c) The ~~juvenile court judge~~ may order
34 registration of the juvenile adjudicated delinquent of a sex offense at any
35 time during the ~~juvenile judge's court's~~ court's jurisdiction over the juvenile.

36

1 SECTION 19. Arkansas Code § 12-41-203(c), concerning contracts for
2 criminal justice centers, is amended to read as follows:

3 (c) The county and municipality in this state may contract for the
4 center to contain:

5 (1) Courtrooms and office space needed by ~~municipal, justice,~~
6 county, district, and appellate courts;

7 (2) Jail, lockup, and other detention facilities;

8 (3) Federal, county, precinct, and municipal offices for
9 prosecuting attorneys and other personnel as needed;

10 (4) Adult or juvenile probation offices;

11 (5) Any other offices that either the county or municipality is
12 separately authorized or required to operate or provide; and

13 (6) Parking space, dining areas, and other facilities incidental
14 to operation of the center.

15
16 SECTION 20. Arkansas Code § 13-4-201 is amended to read as follows:

17 13-4-201. Electronic reproduction of court records.

18 ~~The circuit clerks, county clerks, municipal clerks and recorders,~~
19 Court clerks and any other public officers whose duty it is to make and
20 maintain court records are authorized to use and employ an approved system of
21 photographic recording, photostatic recording, microfilm, microcard,
22 miniature photographic recording, digital compact disc, optical disc, and any
23 other process which accurately reproduces or forms a durable medium for
24 reproducing the original.

25
26 SECTION 21. Arkansas Code § 14-14-916 is amended to read as follows:

27 14-14-916. Judicial jurisdiction over initiative and referendum.

28 (a) Jurisdiction of Chancery Circuit Court. Jurisdiction is vested upon
29 the ~~chancery circuit courts and chancellors in vacation~~ to hear and determine
30 petitions for writs of mandamus, injunctions, and all other actions affecting
31 the submission of any proposed county initiative or referendum petitions. All
32 such proceedings and actions shall be heard summarily ~~in term time or in~~
33 ~~vacation~~ upon five (5) calendar days' notice in writing and shall have
34 precedence over all other suits and matters before the court ~~or chancellor~~.
35 ~~When any such action or proceeding is filed, if the court is not in session,~~
36 ~~it shall be the duty of the chancellor, by order made in vacation, to call a~~

~~special term of the court to convene, within ten (10) calendar days after notice, to hear and determine the cause.~~

(b) Limitation of Injunction or Stay of Proceedings. No procedural steps in submitting an initiative or referendum measure shall be enjoined, stayed, or delayed by the order of any court or judge after the petition shall have been declared sufficient, except in ~~chancery~~ circuit court on petition to review as provided in this section. During the pendency of any proceeding to review, the findings of the county clerk shall be conclusive and binding and shall not be changed or modified by any temporary order or ruling, and no court or judge shall entertain jurisdiction of any action or proceeding questioning the validity of any such ordinance or measure until after it shall have been adopted by the people.

SECTION 22. Arkansas Code § 14-14-1002 is amended to read as follows:

14-14-1002. Other judicial authorities of county court.

(a) Injunctions, ~~and Restraining Orders,~~ and Provisional Writs. In case of the absence of the ~~chancellor of chancery~~ circuit judge from the county, the county court may issue ~~writs of injunctions,~~ ~~or~~ restraining orders, and other provisional writs after the action has been commenced, but not before. However, either party may have the order reviewed by the circuit judge.

(b) Defense of County. In cases when appeals are prosecuted in the circuit court or Supreme Court, the county judge shall defend them, and all expenses or money paid out by reason of his defense shall be repaid by the proper county, by order of the county court.

~~(c) Injunctions and Provisional Writs. In the absence of the circuit judge from the county, the county judge of any county shall have power to issue orders from injunctions and other provisional writs in his county, returnable to the court having jurisdiction.~~

~~(d) (c) Writs of Habeas Corpus. The county judge shall receive such compensation for his services as presiding judge of the county court or judge of the court of common pleas, when established, as may be provided by law. In the absence of the circuit judge from the county, the county judge shall have power to issue orders for injunctions and other provisional writs in his county, returnable to the court having jurisdiction. However, either party may have the order reviewed by any superior judge in vacation in such manner as shall be provided by law. The county judge shall have power, in the~~

1 absence of the circuit judge from the county, to issue, hear, and determine
 2 writs of habeas corpus, under such regulations and restrictions as shall be
 3 provided by law.

4 (d) Compensation. The county judge shall receive such compensation for
 5 his services as presiding judge of the county court as may be provided by
 6 law.

7
 8 SECTION 23. Arkansas Code § 14-14-1301(a)(2) and (3), concerning circuit
 9 and county clerks, are amended to read as follows:

10 (2) Clerk of the Circuit Court. The clerk of the circuit court
 11 shall be clerk of all divisions of the court, ex officio clerk of the county
 12 ~~and probate courts court~~, and recorder~~+~~, except as provided in subdivision
 13 (3) of this subsection (a); ~~However, there may be elected a county clerk in~~
 14 ~~like manner as a circuit clerk, and in such cases, the clerk may be ex~~
 15 ~~officio clerk of the probate court in such county, until otherwise provided~~
 16 ~~by the General Assembly, and shall bear witness and sign all writs and other~~
 17 ~~judicial process acted upon by the respective courts served by the clerk;~~

18 (3) County Clerk. A county clerk may be elected in like manner as
 19 a circuit clerk, and in such cases, the clerk may be ex officio clerk of the
 20 probate division of circuit court, if such division exists, in the county,
 21 until otherwise provided by the General Assembly, and shall, if created as a
 22 separate office, bear witness and sign all writs and other judicial process
 23 acted upon by the respective courts served by the clerk;

24
 25 SECTION 24. Arkansas Code § 14-42-206(c)(3), concerning nominating
 26 petitions for municipal judge elections, is repealed.

27 ~~(3) Any municipal judge position that is elected other than~~
 28 ~~citywide will not be affected by this section.~~

29
 30 SECTION 25. Arkansas Code § 14-43-303(a)(3)(A), concerning officials in
 31 mayor-council cities of 50,000 or more, is amended to read as follows:

32 (3)(A) At the general election in the year 1962, and every four
 33 (4) years thereafter, the city shall elect:

34 (i) One (1) city attorney;

35 (ii) One (1) city treasurer; and

36 ~~(iii) One (1) municipal judge; and~~

1 ~~(iv)~~(iii) One (1) alderman from each ward of the city.

2
3 SECTION 26. Arkansas Code § 14-44-108 is amended to read as follows:
4 14-44-108. Mayor and city court.

5 ~~(a) The mayor of a city of the second class shall have, within the~~
6 ~~limits of the city, all the jurisdiction and power of a justice of the peace~~
7 ~~in all civil or criminal matters arising under the laws of this state, to all~~
8 ~~intents and purposes. For crimes and offenses committed within the limits of~~
9 ~~the city, the mayor's jurisdiction shall be coextensive with the county. The~~
10 ~~mayor and city court of a city of the second class shall be subject to § 16-~~
11 ~~18-112.~~

12 ~~(b) Any mayor may designate, at such times as he shall choose to do~~
13 ~~so, any attorney regularly licensed to practice law and a resident of the~~
14 ~~county in which the city or town is located, to sit in the mayor's stead as~~
15 ~~judge of the city court. All fines and penalties assessed by the court in~~
16 ~~such a case shall continue to be paid into the city treasury. The attorney~~
17 ~~sitting in the stead of the mayor shall charge and collect the same fees as~~
18 ~~justices of the peace are allowed for similar service. The city court shall~~
19 ~~have jurisdiction as provided by § 16-88-101.~~

20 (c) The mayor shall perform all duties required by the ordinances of
21 the city and shall give bond and security in any amount to be determined and
22 approved by the city council.

23 ~~(d)(1) The mayor shall have exclusive jurisdiction of all prosecutions~~
24 ~~for violation of any ordinances of the city;~~

25 ~~(2) He may award and issue any process or writs that may be~~
26 ~~necessary to enforce the administration of justice throughout the city, and~~
27 ~~for the lawful exercise of his jurisdiction, according to the usages and~~
28 ~~principles of law; and~~

29 ~~(3) He shall receive, in the discharge of the duties of a~~
30 ~~justice of the peace, the same fees and compensation as may be allowed them~~
31 ~~by law.~~

32
33 SECTION 27. Arkansas Code § 14-45-106 is amended to read as follows:
34 14-45-106. Mayor and city court.

35 (a) ~~The mayor of an incorporated town shall be a conservator of the~~
36 ~~peace throughout its limits and shall have, within the town, all power and~~

1 ~~jurisdiction of a justice of the peace in all civil or criminal matters~~
 2 ~~arising under the laws of the state, to all intents and purposes whatever.~~
 3 ~~For crimes and offenses committed within the limits of the town, the mayor's~~
 4 ~~jurisdiction shall be coextensive with the county. The mayor and city court~~
 5 ~~of an incorporated town shall be subject to § 16-18-112.~~

6 ~~(b) Any mayor may designate, at such times as he shall choose to do~~
 7 ~~so, any attorney regularly licensed to practice law and a resident of the~~
 8 ~~county in which the city or town is located, to sit in the mayor's stead as~~
 9 ~~judge of the city court. All fines and penalties assessed by the court in~~
 10 ~~such a case shall continue to be paid into the city or town treasury. The~~
 11 ~~attorney sitting in the stead of the mayor shall charge and collect the same~~
 12 ~~fees as justices of the peace are allowed for similar service. The city court~~
 13 ~~shall have jurisdiction as provided by § 16-88-101.~~

14 ~~(c) The mayor shall perform all duties required by the ordinances of~~
 15 ~~the town and shall give bond and security in any amount to be ascertained and~~
 16 ~~approved by the town council.~~

17 ~~(d) The mayor shall:~~

18 ~~(1) Perform all duties required of him by the ordinances of the~~
 19 ~~town, and appeals may be taken in the same manner as from decisions of~~
 20 ~~justices of the peace; and~~

21 ~~(2)(A) Keep a docket and charge and collect the same fees as~~
 22 ~~justices of the peace are allowed for similar services.~~

23 ~~(B)(i) In addition for his services as mayor, the council~~
 24 ~~may, by ordinance, make proper allowance for, and payment of, compensation.~~

25 ~~(ii) Clay, Craighead, Greene, Ashley, and Chicot counties~~
 26 ~~shall be exempted from the provisions of this section.~~

27 ~~(d) In addition for his or her services as mayor, the council may, by~~
 28 ~~ordinance, make proper allowance for, and payment of, compensation.~~

29
 30 SECTION 28. Arkansas Code § 14-47-108(b)(2), concerning reorganization
 31 of municipalities, is amended to read as follows:

32 (2)(A) The reorganization shall not operate to abolish,
 33 terminate, or otherwise affect any of the following departments, commissions,
 34 authorities, agencies, or offices of the city government then existing:

35 (i) Waterworks commission existing under §§ 14-234-301 --
 36 14-234-309;

1 (ii) Sewer committee existing under § 14-235-206;
2 (iii) Airport commission existing under § 14-359-103;
3 (iv) Housing authority existing under § 14-169-208.
4 (v) Any board of civil service commissioners serving under
5 § 14-49-201 et seq., § 14-50-201 et seq., § 14-51-201 et seq., or under any
6 other statute enacted;

7 (vi) Auditorium commission existing under § 14-141-104;

8 (vii) Library trustees existing under § 13-2-502;

9 (viii) City planning commission existing under Acts 1929,
10 No. 108, § 1 [repealed];

11 (ix) Office of judge of the ~~municipal~~ district court
12 ~~existing under Act No. 87 enacted in the year 1915, as amended by Act No. 49~~
13 ~~enacted in the year 1951, or existing under § 16-17-204, or existing under §~~
14 ~~16-17-303, or existing under any other statute in effect;~~

15 (x) Office of judge of the police court as existing under
16 either § 14-43-302 [repealed] or § 16-18-101, or existing under § 16-18-109,
17 or existing under § 16-18-110 [repealed], or under any other statute in
18 effect; or

19 (xi) Board of commissioners of any improvement district;

20 (B)(i) The reorganization shall not terminate, impair, or
21 otherwise affect the official status, tenure of office, or powers of the
22 persons serving as commissioners, committeemen, trustees, or members of any
23 of the boards, authorities, commissions, agencies, or departments listed in
24 this subdivision or as judge or clerk of any ~~municipal~~ district or police
25 court listed.

26 (ii) This power, whether consisting of the power to appoint
27 or the power to confirm appointments or nominations, as may be vested in the
28 municipal council immediately prior to the reorganization in respect to the
29 filling of vacancies on the boards, authorities, commissions, agencies,
30 departments, or in the judgeships listed in this subdivision (b)(2)(B) shall
31 be transferred to and vested in the board of directors or the mayor, if the
32 mayor has appointment power pursuant to § 14-47-108(a)(2)(C). Each appointee
33 designated by the board or by the mayor, if authorized, to fill a vacancy in
34 any such position shall serve for the statutory term, if any, applicable to
35 the vacancy or, if there is no statutory term, shall serve at the will of the
36 board or the mayor, if authorized. However, each judgeship, whether a

1 judgeship on a ~~municipal~~ district court or on a police court, which on the
 2 effective date of the reorganization is on an elective basis, shall remain on
 3 an elective basis and shall not be subject to the appointive power of the
 4 board or the mayor.

5
 6 SECTION 29. Effective January 1, 2005, Arkansas Code § 14-47-108(b)(2)
 7 is amended to read as follows:

8 (2)(A) The reorganization shall not operate to abolish,
 9 terminate, or otherwise affect any of the following departments, commissions,
 10 authorities, agencies, or offices of the city government then existing:

11 (i) Waterworks commission existing under §§ 14-234-301 --
 12 14-234-309;

13 (ii) Sewer committee existing under § 14-235-206;

14 (iii) Airport commission existing under § 14-359-103;

15 (iv) Housing authority existing under § 14-169-208.

16 (v) Any board of civil service commissioners serving
 17 under § 14-49-201 et seq., § 14-50-201 et seq., § 14-51-201 et seq., or under
 18 any other statute enacted;

19 (vi) Auditorium commission existing under § 14-141-104;

20 (vii) Library trustees existing under § 13-2-502;

21 (viii) City planning commission existing under Acts 1929,
 22 No. 108, § 1 [repealed]; or

23 ~~(ix) Office of judge of the municipal court existing under~~
 24 ~~any statute in effect;~~

25 ~~(x) Office of judge of the police court as existing under~~
 26 ~~either § 14-43-302 [repealed] or § 16-18-101, or existing under § 16-18-109,~~
 27 ~~or existing under § 16-18-110 [repealed], or under any other statute in~~
 28 ~~effect; or~~

29 ~~(xi) (ix) Board of commissioners of any improvement~~
 30 ~~district;~~

31 (B)(i) The reorganization shall not terminate, impair, or
 32 otherwise affect the official status, tenure of office, or powers of the
 33 persons serving as commissioners, committeemen, trustees, or members of any
 34 of the boards, authorities, commissions, agencies, or departments listed in
 35 this subdivision ~~or as judge or clerk of any district or police court listed.~~

36 (ii) This power, whether consisting of the power to appoint

1 or the power to confirm appointments or nominations, as may be vested in the
 2 municipal council immediately prior to the reorganization in respect to the
 3 filling of vacancies on the boards, authorities, commissions, agencies,
 4 departments, or in the judgeships listed in this subdivision (b)(2)(B) shall
 5 be transferred to and vested in the board of directors or the mayor, if the
 6 mayor has appointment power pursuant to § 14-47-108(a)(2)(C). Each appointee
 7 designated by the board or by the mayor, if authorized, to fill a vacancy in
 8 any such position shall serve for the statutory term, if any, applicable to
 9 the vacancy or, if there is no statutory term, shall serve at the will of the
 10 board or the mayor, if authorized. ~~However, each judgeship, whether a~~
 11 ~~judgeship on a municipal court or on a police court, which on the effective~~
 12 ~~date of the reorganization is on an elective basis, shall remain on an~~
 13 ~~elective basis and shall not be subject to the appointive power of the board~~
 14 ~~or the mayor.~~

15
 16 SECTION 30. Effective January 1, 2005, Arkansas Code § 14-47-120(4)(C)
 17 is amended to read as follows:

18 (C) The provisions of this subdivision (4) shall have no
 19 application to offices and employments controlled by any civil service or
 20 merit plan lawfully in effect in the city. ~~Moreover, in cities maintaining~~
 21 ~~municipal courts or police courts under the authority of any statute in~~
 22 ~~effect, the municipal judge, police judge, and the clerk of any such court~~
 23 ~~shall be elected and appointed in the manner prescribed by law;~~

24
 25 SECTION 31. Effective January 1, 2005, Arkansas Code § 14-47-122 is
 26 repealed.

27
 28 SECTION 32. Effective January 1, 2005, Arkansas Code § 14-48-106(b)(2)
 29 is amended to read as follows:

30 (2)(A) Reorganization under this chapter shall not operate to
 31 abolish or terminate any of the following listed departments, commissions,
 32 authorities, or agencies of the city government:

33 (i) Waterworks commission existing under §§ 14-234-
 34 301 -- 14-234-309;

35 (ii) Sewer committee existing under §14-235-206;

36 (iii) Airport commission existing under §14-359-103;

1 (iv) Housing authority existing under §14-169-208;

2 (v) Any board of civil service commissioners
3 serving under §14-49-201 et seq., §14-50-201 et seq., or §14-51-201 et seq.;

4 (vi) Auditorium commission existing under §14-141-
5 104;

6 (vii) Library trustees existing under §13-2-502;

7 (viii) City planning commission existing under §14-
8 56-404; and

9 ~~(ix) Municipal court existing pursuant to other laws~~
10 ~~of the State of Arkansas; and~~

11 ~~(ix)~~ (ix) Parking authority existing under §§ 14-304-
12 101 -- 14-304-106, 14-304-108 -- 14-304-111, and 14-304-201 -- 14-304-210
13 [repealed];

14 (B)(i) The reorganization shall not terminate, impair, or
15 otherwise affect the official status, statutory tenure of office, if any, or
16 powers of the persons serving as commissioners, committeemen, trustees, or
17 members of any of the boards, authorities, commissions, agencies, or
18 departments listed in this subdivision (b)(2)(A), except as specifically
19 provided by this chapter.

20 (ii) Whether consisting of the power to appoint or
21 the power to confirm appointments or nominations, such power as may be vested
22 in the mayor and the municipal council or in the mayor and other municipal
23 legislative body immediately prior to the reorganization in respect to the
24 filling of vacancies on the boards, authorities, commissions, agencies, or
25 departments listed in this subdivision shall be transferred to, and vested
26 in, the city administrator, with the approval of the board of directors. Each
27 appointee designated by the city administrator, with the approval of the
28 board of directors, to fill a vacancy on any of these bodies shall serve for
29 the statutory term, if any, applicable to the vacancy or, if there is no
30 statutory term, shall serve at the will of the board. ~~However, each~~
31 ~~judgeship, whether a judgeship on a municipal court or a police court~~
32 ~~judgeship which on the effective date of the reorganization is on an elective~~
33 ~~basis, shall remain on an elective basis and shall not be subject to the~~
34 ~~appointive power of the city administrator and the board of directors. The~~
35 boards, authorities, commissions, agencies, or departments listed in
36 subdivision (b)(2)(A) of this section may be required by the board of

1 directors, by ordinance duly adopted, to purchase all vehicles, equipment,
2 materials, supplies, and services through a central municipal purchasing
3 agent or department. The boards, authorities, commissions, agencies, or
4 departments may be required to adopt and conform to the city personnel
5 policies duly adopted by ordinance or resolution including, but not limited
6 to, the amount and form of remuneration, job classification, and civil
7 service plans.

8
9 SECTION 33. Effective January 1, 2005, Arkansas Code § 14-48-117(4) is
10 amended to read as follows:

11 (4) He shall nominate, subject to confirmation by the board,
12 persons to fill all vacancies at any time occurring in any office,
13 employment, board, authority, or commission to which the board's appointive
14 power extends. He may remove from office all officials and employees
15 including, but not limited to, members of any board, authority, or commission
16 who, under existing or future laws, whether applicable to cities under the
17 aldermanic, manager, or commission form of government, may be removed by the
18 city's legislative body. Removal by the city administrator shall be approved
19 by the board. Where, under the statute applicable to any specific employment
20 or office, the incumbent may be removed only upon the vote of a specified
21 majority of the city's legislative body, the removal of the person by the
22 city administrator may be confirmed only upon the vote of the specified
23 majority of the board members. However, the provisions of this subdivision
24 shall have no application to offices and employments controlled by any civil
25 service or merit plan lawfully in effect in the city. ~~Moreover, in cities~~
26 ~~maintaining municipal courts or police courts under the authority of any~~
27 ~~statute, the municipal judge, police judge, and clerk of any such court shall~~
28 ~~be elected and appointed in the manner prescribed by law;~~

29
30 SECTION 34. Arkansas Code § 14-48-119 is repealed.

31
32 SECTION 35. Arkansas Code § 14-55-606 is amended to read as follows:
33 14-55-606. Additional remedies of cities of first class.

34 (a)(1) In all cases of violation of any of its ordinances, any city of
35 the first class, in addition to any other mode provided by law, shall have
36 the right to recover in a civil action the amount of the lowest penalty or

1 fines provided in the ordinance for each violation or, where the offense is
 2 in its nature continuous in respect to time, for each day's violation
 3 thereof, and also the amount of any license which the person guilty of the
 4 violations was required by any such ordinance to take out.

5 (2) The ~~municipal~~ district court shall have jurisdiction in all
 6 such actions ~~concurrent with justices of the peace.~~

7 (b) In all cases where a fine may have been imposed by the ~~municipal~~
 8 district court, that court, in addition to the power of enforcing payment of
 9 the fine by imprisonment, shall have full power to issue an execution or writ
 10 of garnishment, to be executed by the chief of police, ~~in like manner and~~
 11 ~~with like effect as if issued by a justice of the peace in any civil case~~
 12 ~~tried before him, and like proceedings may be had thereunder.~~

13
 14 SECTION 36. Effective January 1, 2005, Arkansas Code § 14-77-
 15 102(5)(B)(vii) is amended to read as follows:

16 (vii) ~~Arkansas municipal District courts, police~~
 17 ~~courts, and city courts, and justice of the peace courts accounting law:~~
 18 Accounting Practices § 16-10-201 et seq.; and

19
 20 SECTION 37. Arkansas Code § 16-3-101 is amended to read as follows:
 21 16-3-101. Publication of required advertisements generally.

22 (a) All advertisements and orders of publication required by law or
 23 order of any court, or in conformity with any deed of trust, or real estate
 24 mortgage, or chattel mortgage where the amount therein received exceeds the
 25 sum of three hundred fifty dollars (\$350), or power of attorney or
 26 administrators' notices, to be made, shall be published in at least one (1)
 27 newspaper published and having a bona fide circulation in the county in which
 28 the proceedings are had, to which the advertisement or order of publication
 29 shall pertain.

30 (b) If there is no newspaper published in the county, then publication
 31 shall be made by posting five (5) written or printed notices in five (5) of
 32 the most public places in the county.

33 (c) If there is more than one (1) legal newspaper in a county,
 34 publication may be made in each newspaper.

35 ~~(d) The provisions of this section and §§ 16-3-102 — 16-3-104 shall~~
 36 ~~not apply to sales under executions issued by justices of the peace.~~

1 ~~(e)~~ (d) As to amounts under three hundred fifty dollars (\$350), written
2 or printed notices may be posted in five (5) conspicuous places in the
3 county. Notice shall be served in all cases upon the debtor as summons are
4 served.

5 (e) This section shall not apply to warning orders governed by Rule
6 4(f) of the Arkansas Rules of Civil Procedure.

7
8 SECTION 38. Arkansas Code § 16-10-101(b)(1), concerning administrative
9 responsibilities of the Supreme Court, is amended to read as follows:

10 (b)(1) Under rules prescribed by the Supreme Court, the Chief Justice
11 may require reports from all courts of the state and may issue such orders
12 and regulations as may be necessary for the efficient operation of those
13 courts to ensure the prompt and proper administration of justice and may
14 assign, reassign, and modify assignments of circuit and district judges ~~of~~
15 ~~the circuit court, the chancery court, and the probate court~~ to hold, upon a
16 temporary basis, regular or special sessions for the transaction of civil or
17 criminal business within any other such court.

18
19 SECTION 39. Arkansas Code § 16-10-104 is amended to read as follows:
20 16-10-104. Courts of record.

21 The Supreme Court, Court of Appeals, and all circuit, ~~probate~~, and
22 county courts shall be courts of record and shall keep just and faithful
23 records of their proceedings.

24
25 SECTION 40. Arkansas Code § 16-10-110(a), concerning court seals, is
26 amended to read as follows:

27 (a) The Supreme Court and each of the circuit, ~~probate~~ district, city,
28 and county courts shall preserve and keep a seal, with such emblems and
29 devices as the court shall think proper.

30
31 SECTION 41. Arkansas Code § 16-10-111 is repealed.

32
33 SECTION 42. Arkansas Code § 16-10-116 is repealed.

34
35 SECTION 43. Arkansas Code § 16-10-118(c), concerning judicial
36 officeholders as candidates for nonjudicial office, is amended to read as

1 follows:

2 (c) As used in this section, "judicial office" is defined to mean the
3 office of ~~municipal~~ district judge, ~~probate judge, chancery judge,~~ circuit
4 judge, Judge or Chief Judge of the Arkansas Court of Appeals, and Associate
5 Justice or Chief Justice of the Arkansas Supreme Court.

6

7 SECTION 44. Arkansas Code § 16-10-129 is repealed.

8

9 SECTION 45. Arkansas Code § 16-10-132 is amended to read as follows:
10 16-10-132. Addresses of parties.

11 The records of all judgments rendered in any circuit, ~~chancery,~~
12 ~~probate,~~ county, district, or ~~municipal~~ city court shall contain the
13 addresses of all parties, when reasonably ascertainable.

14

15 SECTION 46. Arkansas Code §§ 16-10-201 through 16-10-203 are amended to
16 read as follows:

17 16-10-201. Title.

18 This subchapter shall be known and cited as "The Arkansas ~~Municipal~~
19 District Courts, Police Courts, and City Courts, ~~and Justice of the Peace~~
20 ~~Courts Accounting Law of 1977."~~

21

22 16-10-202. Definition.

23 As used in this subchapter, unless the context otherwise requires,
24 "court" means any and all of the ~~municipal~~ district, police, and city, ~~and~~
25 ~~justice of the peace~~ courts in the State of Arkansas.

26

27 16-10-203. Applicability of subchapter.

28 This subchapter shall apply to all ~~municipal~~ district courts, police
29 courts, and city courts, ~~and justice of the peace courts~~ within the State of
30 Arkansas.

31

32 SECTION 47. Effective January 1, 2005, Arkansas Code §§ 16-10-201
33 through 16-10-203, are amended to read as follows:

34 16-10-201. Title.

35 This subchapter shall be known and cited as the "Arkansas ~~Municipal~~
36 District Courts, ~~Police Courts,~~ and City Courts, ~~and Justice of the Peace~~

1 ~~Courts Accounting Law of 1977~~".

2
3 16-10-202. Definition.

4 As used in this subchapter, unless the context otherwise requires,
5 "court" means any and all of the ~~municipal, police, district and city, and~~
6 ~~justice of the peace~~ courts in the State of Arkansas.

7
8 16-10-203. Applicability of subchapter.

9 This subchapter shall apply to all ~~municipal~~ district courts, ~~police~~
10 ~~courts, and~~ city courts, ~~and justice of the peace courts~~ within the State of
11 Arkansas.

12
13 SECTION 48. Effective January 1, 2005, Arkansas Code § 16-10-303 is
14 amended to read as follows:

15 16-10-303. Filing fees.

16 (a)(1) The uniform filing fee to be charged by clerks for initiating a
17 civil cause of action in city ~~or police~~ courts in this state shall be twenty-
18 five dollars (\$25.00).

19 (2) No portion of the filing fee shall be refunded.

20 (b) No city shall authorize, and no city ~~or police~~ court clerk shall
21 assess or collect, any other filing fees than those authorized by this act,
22 unless specifically provided by state law.

23
24 SECTION 49. Effective January 1, 2005, Arkansas Code § 16-10-305 is
25 amended to read as follows:

26 16-10-305. Court costs.

27 (a) There shall be levied and collected the following court costs from
28 each defendant upon each conviction, each plea of guilty or nolo contendere,
29 or each forfeiture of bond:

30 (1) For misdemeanor or felony violations of state law, excluding
31 violations of the Omnibus DWI Act, § 5-65-101 et seq., in circuit court, one
32 hundred fifty dollars (\$150);

33 (2) For offenses which are misdemeanors or violations of state
34 law, excluding violations of the Omnibus DWI Act, § 5-65-101 et seq., in
35 ~~municipal~~ district court, one hundred dollars (\$100.00);

36 (3) For traffic offenses which are misdemeanors or violations

1 under state law or local ordinance, excluding violations of the Omnibus DWI
2 Act, § 5-65-101 et seq., in ~~municipal~~ municipal district court, seventy-five dollars
3 (\$75.00);

4 (4) For nontraffic offenses which are misdemeanors or violations
5 under local ordinance in ~~municipal~~ municipal district or city, ~~or police~~ court, twenty-
6 five dollars (\$25.00);

7 (5) For violations of the Omnibus DWI Act, § 5-65-101 et seq.,
8 in circuit court, ~~municipal~~ municipal district court, or city court, ~~or police court~~,
9 three hundred dollars (\$300);

10 (6) For offenses which are misdemeanors or violations under
11 state law, excluding violations of the Omnibus DWI Act, § 5-65-101 et seq.,
12 seventy-five dollars (\$75.00) in city court ~~and police court~~; and

13 (7) For traffic offenses which are misdemeanors or violations
14 under state law or local ordinance, excluding violations of the Omnibus DWI
15 Act, § 5-65-101 et seq., fifty dollars (\$50.00) in city court ~~and police~~
16 ~~court~~.

17 (b)(1) The costs set forth in this section shall be imposed at the
18 conclusion of any criminal case enumerated in subsection (a) of this section
19 that does not end in an acquittal, dismissal, or, with the consent of the
20 prosecution, a nolle prosequi.

21 (2) The costs shall be imposed at the conclusion of cases
22 involving a suspended or probated sentence even though that sentence may be
23 expunged or otherwise removed from the defendant's record.

24 (c) No county, municipality, or town shall be liable for the payment
25 of the costs taxed under this section in any instance where they are not
26 collected, or in any case in which the defendant pays the costs by serving
27 time in a jail, on a county farm, or at any other official place of detention
28 or work.

29 (d) No municipality or county shall authorize and no ~~police court~~,
30 city court, ~~municipal~~ municipal district court, or circuit court shall assess or
31 collect any other court costs other than those authorized by this act, unless
32 specifically provided by state law.

33 (e) This section shall become effective July 1, 2001, and the revised
34 court costs shall be imposed on all cases which come before the court for
35 final disposition on or after July 1, 2001.

36

1 SECTION 50. Effective January 1, 2005, Arkansas Code § 16-10-306(b)(1)
2 is amended to read as follows:

3 (b)(1) There is hereby created in the Department of Finance and
4 Administration an Administration of Justice Funds Section, to which shall be
5 remitted court costs and filing fees enumerated in §§ 21-6-403, ~~16-14-105,~~
6 16-17-705, 16-10-303, and 16-10-305, as provided in this act, which are
7 assessed and collected in the ~~police courts,~~ city courts, ~~municipal district~~
8 courts, ~~chancery courts,~~ ~~probate courts,~~ and circuit courts in this state.

9
10 SECTION 51. Arkansas Code § 16-10-307(e), concerning the County
11 Administration of Justice Fund, is amended to read as follows:

12 (e) The county shall, on or before the tenth day of November, 1995, and
13 on or before the tenth day of each month thereafter, remit all sums received
14 in excess of the amounts necessary to fund the expenses enumerated in
15 subsections (b) and (c) of this section during the previous month from the
16 uniform filing fees provided for in ~~§§ § 16-14-105 and~~ 21-6-403 and the
17 uniform court costs provided for in § 16-10-305 to the Department of Finance
18 and Administration, Administration of Justice Funds Section, for deposit in
19 the State Administration of Justice Fund.

20
21 SECTION 52. Arkansas Code § 16-10-308(a), concerning city
22 administration of justice funds, is amended to read as follows:

23 (a) There is hereby created in each municipality which operates a
24 police, city, or ~~municipal district~~ court a fund in the office of the city
25 treasurer to be known as the "city administration of justice fund".

26
27 SECTION 53. Effective January 1, 2005, Arkansas Code § 16-10-308(a) is
28 amended to read as follows:

29 (a) There is hereby created in each municipality which operates a
30 ~~police,~~ city, or ~~municipal district~~ court a fund in the office of the city
31 treasurer to be known as the "city administration of justice fund".

32
33 SECTION 54. Arkansas Code § 16-10-310(b)(10), concerning revenue from
34 the State Administration of Justice Fund, is amended to read as follows:

35 (10) The ~~Municipal District~~ Court Judge and ~~Municipal District~~
36 Court Clerk Education Fund;

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SECTION 55. Arkansas Code § 16-10-501 is amended to read as follows:

16-10-501. Development of criteria for new judgeships or redistricting.

(a) The Arkansas Judicial Council, hereinafter referred to as the "council", is authorized and directed to develop criteria for new judgeships or redistricting of the circuit ~~and chancery~~ court districts of this state and to make recommendations to the regular or special session of the General Assembly regarding the number and boundaries of the circuit ~~and chancery~~ court districts in the state, the number ~~and types~~ of judges in each of such districts, and such other matters regarding circuit ~~and chancery~~ courts in the state as it determines to be appropriate.

(b) In establishing circuit ~~and chancery~~ court districts of this state, the council shall take into consideration caseload, geographic area to be served by the respective circuit courts ~~and chancery courts~~, and such other matters as the council determines to be appropriate.

(c) The council shall meet on or before November 1 of each even-numbered year to finalize criteria for establishing additional judgeships or redistricting during the next regular session of the General Assembly.

SECTION 56. Arkansas Code § 16-10-602(b), concerning court costs and filing fees, is amended to read as follows:

(b) On or before the first day of October of each year, the Department of Finance and Administration shall certify in writing to each county and to each city which operates a ~~municipal~~ district court, city court, or police court the amount of money which may be retained during each month of the following calendar year by the city or county.

SECTION 57. Effective January 1, 2005, Arkansas Code § 16-10-602(b) is amended to read as follows:

(b) On or before the first day of October of each year, the Department of Finance and Administration shall certify in writing to each county and to each city which operates a ~~municipal~~ district court, or city court, ~~or police court~~ the amount of money which may be retained during each month of the following calendar year by the city or county.

1 SECTION 58. Arkansas Code § 16-10-603 is amended to read as follows:
2 16-10-603. Procedure -- County administration of justice funds.

3 (a)(1) Pursuant to § 16-10-307, each county is to create a county
4 administration of justice fund.

5 (2) Each county treasurer should deposit into the fund:

6 (A) All receipts from the collection of uniform filing fees
7 established by § 21-6-403 and ~~§ 16-14-105~~ which are collected by the circuit
8 clerk, county clerk, or other official and remitted to the county treasurer;

9 (B) All receipts from the collection of uniform court costs
10 established by § 16-10-305 which are collected by the circuit clerk, county
11 clerk, county sheriff, or other official and remitted to the county
12 treasurer;

13 (C) All receipts of the county's share of uniform filing
14 fees established by §§ 16-17-705 and 16-10-303 which are collected by the
15 ~~municipal~~ district, city, and police courts within the county and remitted to
16 the county treasurer; and

17 (D) All receipts of the county's share of uniform court
18 costs established by § 16-10-305 which are collected by the ~~municipal~~
19 district, city, and police courts within the county and remitted to the
20 county treasurer.

21 (b) From the county administration of justice fund, the county
22 treasurer is to make, on a monthly basis, the following fund transfers or
23 disbursements:

24 (1)(A) Pursuant to §§ 16-10-307(c) and ~~16-14-105(a)~~ 21-6-403, the
25 Department of Finance and Administration will certify for each county the
26 county's monthly share of uniform court costs and filing fees to be retained
27 by the county.

28 (B) Each year the quorum court shall establish the amount
29 of uniform filing fees and court costs to be appropriated to each of the
30 county programs or agencies enumerated in § 16-10-307(b) from the county's
31 share of uniform court costs and filing fees; provided, that each program or
32 agency shall receive, as a minimum, the amount established by § 16-10-307(b);
33 and

34 (2) The excess of the monthly receipts into the fund from
35 subdivisions (a)(2)(A) and (B) of this section, less the county's certified
36 monthly share and the county treasurer's commission, if any, as authorized by

1 § 21-6-302, shall be remitted to the Department of Finance and
2 Administration, pursuant to § 16-10-307(e).

3
4 SECTION 59. Effective January 1, 2005, Arkansas Code § 16-10-
5 603(a)(2)(C) and (D) are amended to read as follows:

6 (C) All receipts of the county's share of uniform filing fees
7 established by §§ 16-17-705 and 16-10-303 which are collected by the
8 ~~municipal district, and city, and police~~ courts within the county and
9 remitted to the county treasurer; and

10 (D) All receipts of the county's share of uniform court
11 costs established by § 16-10-305 which are collected by the ~~municipal~~
12 ~~district, and city, and police~~ courts within the county and remitted to the
13 county treasurer.

14
15 SECTION 60. Arkansas Code § 16-10-604(a) through (c), concerning
16 procedure for city administration of justice funds, are amended to read as
17 follows:

18 (a)(1) Pursuant to § 16-10-308, each municipality which operates a
19 police, city, or ~~municipal district~~ court is to create a city administration
20 of justice fund.

21 (2) There shall be deposited into the fund:

22 (A) All receipts from the collection of uniform filing fees
23 established by §§ 16-17-705 and 16-10-303 which are collected by the police,
24 city, or ~~municipal district~~ court operated by the municipality; and

25 (B) All receipts from the collection of uniform court
26 costs, established by § 16-10-305 which are collected by the police, city, or
27 ~~municipal district~~ court operated by the municipality.

28 (b) From the city administration of justice fund, the following fund
29 transfers or disbursements shall be made on a monthly basis:

30 (1)(A) Pursuant to §§ 16-10-308(c) and ~~16-14-105(a)~~ 21-6-403, the
31 Department of Finance and Administration will certify for each city the
32 city's monthly share of uniform court costs and filing fees to be retained by
33 the city.

34 (B) Each year the city council shall establish the amount
35 of uniform filing fees and court costs to be appropriated to each of the city
36 programs or agencies enumerated in § 16-10-308(b) from the city's share of

1 uniform court costs and filing fees, provided that each program or agency
2 shall receive, as a minimum, the amount established by § 16-10-308(b).

3 (C) Each program or agency shall be paid, by warrant or
4 fund transfer, a monthly installment of at least one-twelfth (1/12) of the
5 annual appropriation provided for each by the city council;

6 (2)(A) Pursuant to § 16-10-308(b)(5), the city shall remit to the
7 county treasurer for deposit into the county administration of justice fund a
8 portion of the city's share of uniform court costs and filing fees.

9 (B) The amount of the remittance shall be based upon the
10 amount, if any, of uniform court costs and filing fees which had been
11 remitted by the city to the county to fund county-level programs and agencies
12 during the base year defined in § 16-10-308(b).

13 (C) By common agreement, cities and counties may establish
14 a different fixed dollar amount or percentage of the city's monthly share of
15 filing fees and court costs which shall be remitted to the county treasurer;

16 (3) For the calendar year beginning January 1, 1998, the amount
17 of the remittance shall be based upon the amount, if any, of uniform court
18 costs and filing fees which had been remitted by the city to fund county-
19 level programs and agencies during the base year defined in § 16-10-308(b),
20 less eighty-five percent (85%) of the total dollar amount which was certified
21 by the city as having been collected during calendar year 1994 for the
22 purpose of funding the office and operation of the public defender and public
23 defender investigator; and

24 (4) The excess of the monthly receipts into the fund, less the
25 city's certified monthly share, shall be remitted to the Department of
26 Finance and Administration, pursuant to § 16-10-308(e).

27 (c) If a ~~municipal~~ district court is operated solely by a county rather
28 than a city and all of the uniform court costs and filing fees collected by
29 the court are remitted to the county, the city shall not be required to
30 create a city administration of justice fund; rather, the city's share of
31 uniform court costs and filing fees shall be remitted directly to the county
32 treasurer for deposit into the county administration of justice fund.

33
34 SECTION 61. Effective January 1, 2005, Arkansas Code § 16-10-604(a) is
35 amended to read as follows:

36 (a)(1) Pursuant to § 16-10-308, each municipality which operates a

1 ~~police, city, or municipal~~ district court is to create a city administration
2 of justice fund.

3 (2) There shall be deposited into the fund:

4 (A) All receipts from the collection of uniform filing fees
5 established by §§ 16-17-705 and 16-10-303 which are collected by the ~~police,~~
6 ~~city, or municipal~~ district court operated by the municipality; and

7 (B) All receipts from the collection of uniform court
8 costs, established by § 16-10-305 which are collected by the ~~police, city, or~~
9 ~~municipal~~ district court operated by the municipality.

10
11 SECTION 62. Arkansas Code § 16-10-701(a), concerning adoption of
12 additional court costs and filing fees, is amended to read as follows:

13 (a) All bills introduced in either house of the General Assembly to add
14 any additional court costs or filing fees to be assessed by circuit,
15 ~~chancery, probate, municipal,~~ district, city, or police courts shall be
16 referred to the Senate Judiciary Committee, if the bill is from the Senate,
17 or the House Judiciary Committee, if the bill is from the House of
18 Representatives.

19
20 SECTION 63. Effective January 1, 2005, Arkansas Code § 16-10-701(a), is
21 amended to read as follows:

22 (a) All bills introduced in either house of the General Assembly to add
23 any additional court costs or filing fees to be assessed by circuit,
24 ~~chancery, probate, municipal,~~ district, or ~~city, or police~~ courts shall be
25 referred to the Senate Judiciary Committee, if the bill is from the Senate,
26 or the House Judiciary Committee, if the bill is from the House of
27 Representatives.

28
29 SECTION 64. Arkansas Code § 16-10-902 is amended to read as follows:

30 16-10-902. Amount of compensation.

31 Any retired judge appointed to temporary service under Arkansas
32 Constitution, Amendment ~~78~~ 80, shall receive compensation, in addition to his
33 or her retirement benefits, at one-half (1/2) the rate as fixed by law for
34 regularly elected circuit ~~and chancery~~ judges.

35
36 SECTION 65. Arkansas Code § 16-11-107 is repealed.

1
2 SECTION 66. Arkansas Code § 16-11-108 is amended to read as follows:

3 16-11-108. Disqualification of justice.

4 No justice of the Supreme Court ~~who~~ shall sit on the determination of
5 any case in which he or she is interested in any suit the outcome, or is
6 related to either any party within the fourth third degree of consanguinity
7 or affinity, or has been counsel in any suit or action, the case or presided
8 over it in any inferior court, or is otherwise disqualified under the
9 Arkansas Code of Judicial Conduct, shall sit on the determination of the suit
10 or action without the consent of unless the parties waive the
11 disqualification as provided therein.
12

13 SECTION 67. Arkansas Code § 16-11-115 is amended to read as follows:

14 16-11-115. Compensation of special justice.

15 Each special justice of the Supreme Court who is not a retired judge or
16 justice or an active circuit or district judge, appointed under the
17 provisions of Amendment 80, § 13 of the Arkansas Constitution, Article 7, § 9
18 ~~repealed~~, shall receive, as full compensation for services rendered, the
19 sum of one hundred dollars (\$100) for each case in the special justice's or
20 special judge's commission. When the case or cases shall be decided, this
21 amount shall be certified by the Clerk of the Supreme Court after having been
22 approved by the Chief Justice of the Supreme Court.
23

24 SECTION 68. Arkansas Code § 16-11-301 is amended to read as follows:

25 16-11-301. ~~Criminal procedure in inferior courts — Exception, Rules~~
26 of pleading, practice and procedure -- Supersession.

27 ~~(a) The Supreme Court of Arkansas shall have the power to prescribe,~~
28 ~~from time to time, rules of pleading, practice, and procedure with respect to~~
29 ~~any and all proceedings in criminal cases and proceedings to punish for~~
30 ~~criminal contempt of court in all the inferior courts of law in this state.~~
31 ~~However, the court shall not have the power to prescribe rules which conflict~~
32 ~~with any law of this state relating to stays or continuances of proceedings~~
33 ~~in suits where a member of the General Assembly, officer of the General~~
34 ~~Assembly, or designated employees of the General Assembly are either~~
35 ~~attorneys or parties to the proceedings.~~

36 ~~(b) The right of appeal shall continue in those cases in which appeals~~

1 ~~are authorized by law, but the rules made as authorized in this section may~~
2 ~~prescribe the times for, and manner of, taking appeals.~~

3 ~~(c) The Supreme Court may fix the dates when the rules shall take~~
4 ~~effect and the extent to which they shall apply to proceedings then pending.~~

5 All statutes concerning pleading, practice, and procedure in all courts
6 shall be deemed superseded by rules adopted by the Supreme Court pursuant to
7 Amendment 80, § 3 of the Arkansas Constitution or pursuant to the Court's
8 constitutional, inherent, or statutory authority prior to the effective date
9 of Amendment 80.

10
11 SECTION 69. Arkansas Code § 16-11-302 is repealed.

12
13 SECTION 70. Arkansas Code § 16-12-106 is amended to read as follows:
14 16-12-106. Special judges.

15 ~~(a) When a judge of the Court of Appeals certifies to the Chief Judge~~
16 ~~his temporary disability or his disqualification in a particular case, the~~
17 ~~Chief Judge shall forthwith notify the Chief Justice of the Supreme Court,~~
18 ~~who shall appoint a special judge to serve, and for such purpose, may appoint~~
19 ~~a retired justice or judge, or designate a trial judge. The Chief Justice of~~
20 the Supreme Court may commission special judges pursuant to Amendment 80, §
21 13 of the Arkansas Constitution.

22 (b) Each special judge of the Court of Appeals who is not a retired
23 judge or justice, or ~~sitting~~ an active circuit or district judge, appointed
24 under the provisions of subsection (a) of this section, shall receive as full
25 compensation for services rendered the sum of one hundred dollars (\$100) for
26 each case in the special justice's or special judge's commission. When the
27 cases are decided, this amount shall be certified by the Clerk of the Supreme
28 Court, after having been approved by the Chief Justice.

29 ~~(c) Whenever the caseload of the Court of Appeals becomes so demanding~~
30 ~~that the Chief Judge certifies to the Chief Justice that there is a need for~~
31 ~~additional judges in order to promptly decide pending cases or to reduce a~~
32 ~~backlog, the Chief Justice is authorized to act as follows:~~

33 ~~(1) The Chief Justice shall declare that, except for en banc~~
34 ~~eases, the Court of Appeals shall sit in divisions consisting of no fewer~~
35 ~~than three (3) judges; further, these divisions shall be comprised of at~~
36 ~~least two (2) elected members of the Court of Appeals and one (1) active or~~

1 ~~retired member of the state trial or appellate judiciary who shall be~~
 2 ~~designated as an emergency Court of Appeals judge.~~

3 ~~(2) The Administrative Office of the Courts shall maintain a list~~
 4 ~~of persons eligible and willing to serve as emergency Court of Appeals judges~~
 5 ~~and deliver it to the Chief Justice of the Supreme Court. The Chief Justice~~
 6 ~~shall be responsible for selection of the persons to serve as emergency Court~~
 7 ~~of Appeals judges and shall certify those so appointed to the Chief Judge,~~
 8 ~~who shall assign them to the various divisions created pursuant to this~~
 9 ~~section.~~

10 ~~(3) These divisions shall be authorized to take all action~~
 11 ~~necessary for consideration and resolution of matters before the Court of~~
 12 ~~Appeals, except that petitions for rehearing en banc and cases heard en banc~~
 13 ~~shall only be considered by the elected members of the Court of Appeals.~~

14 ~~(4) An emergency Court of Appeals judge may be assigned the~~
 15 ~~responsibility to write any majority written opinion that the division deems~~
 16 ~~necessary to issue.~~

17 ~~(5) All rules and procedures applicable to the Arkansas Supreme~~
 18 ~~Court and the Arkansas Court of Appeals will apply to any case submitted to a~~
 19 ~~division sitting pursuant to this section.~~

20 ~~(6) Emergency Court of Appeals judges serving pursuant to this~~
 21 ~~subsection shall receive reimbursement for any expenses incurred as a result~~
 22 ~~of such service and shall receive no other compensation for their service~~
 23 ~~except that retired judges or justices recalled pursuant to this section~~
 24 ~~shall be compensated as provided in § 24-8-221 [repealed].~~

25
 26 SECTION 71. Arkansas Code §§ 16-12-109 through 16-12-114 are repealed.

27
 28 SECTION 72. Arkansas Code § 16-13-101 is amended to read as follows:

29 16-13-101. ~~Transfer of suit~~ Reassignment of case upon disqualification
 30 of judge.

31 ~~Whenever any suit or action is brought or pending in any division of~~
 32 ~~any circuit or chancery court of this state, where the court has more than~~
 33 ~~one (1) division and where When it appears that the presiding circuit judge~~
 34 ~~of the division in which before whom the action a case is pending is~~
 35 ~~interested in the suit, has been of counsel, is related by blood or marriage~~
 36 ~~within the fourth degree to either of the parties or their attorneys, or~~

1 ~~shall for any other reason be disqualified to hear the cause under § 16-13-~~
2 ~~214, the suit case shall be reassigned transferred to another division of the~~
3 ~~court upon the motion of any party judge.~~

4
5 SECTION 73. Arkansas Code § 16-13-102 is repealed.

6
7 SECTION 74. Arkansas Code § 16-13-201 is amended to read as follows:
8 16-13-201. Jurisdiction.

9 (a) ~~Circuit~~ The circuit courts shall have original jurisdiction of all
10 ~~actions and proceedings for the enforcement of civil rights or redress of~~
11 ~~civil wrongs, except when exclusive jurisdiction is given to other courts~~
12 ~~justiciable matters not otherwise assigned pursuant to the Arkansas~~
13 ~~Constitution. Where those actions and proceedings are not expressly provided~~
14 ~~for by statute, the actions and proceedings may be had and conducted by the~~
15 ~~circuit courts and judges, in accordance with the course, rules, and~~
16 ~~jurisdiction of the common law.~~

17 (b)(1) The circuit courts shall have appellate jurisdiction of the
18 judgments and final orders of county courts, district courts, city courts,
19 and police courts ~~and of the judgments and final orders of justices of the~~
20 ~~peace~~, in all civil actions.

21 (2) On appeal from such judgments and final orders, the case
22 shall be tried de novo, and the ~~The~~ appellate jurisdiction of the circuit
23 court shall extend to errors of fact as well as errors of law ~~in the orders~~
24 ~~and judgments.~~

25 (c) The circuit courts shall have appellate jurisdiction from the
26 decision of any inferior board, council or tribunal in the contest of any
27 county, township or municipal office, and on such appeals the case shall be
28 tried de novo.

29
30 SECTION 75. Arkansas Code § 16-13-213 is repealed.

31
32 SECTION 76. Arkansas Code § 16-13-214 is amended to read as follows:
33 16-13-214. Disqualification of judges.

34 No judge of the circuit court shall sit on the determination of any
35 ~~cause or proceeding~~ case in which he or she is interested in the outcome, is
36 related to ~~either~~ any party within the ~~fourth~~ third degree of consanguinity

1 or affinity, ~~or~~ has been of counsel, ~~without the consent of the parties in~~
2 the case or presided over it in any inferior court, or is otherwise
3 disqualified under the Arkansas Code of Judicial Conduct, unless the parties
4 waive the disqualification as provided therein.

5
6 SECTION 77. Arkansas Code § 16-13-218 is repealed.

7
8 SECTION 78. Arkansas Code § 16-13-220 is amended to read as follows:
9 16-13-220. Counsel for incompetents.

10 In addition to all other authority granted by law, every circuit court
11 ~~and every chancery court~~ is authorized to appoint legal counsel to represent
12 persons the court deems incompetent due to minority or mental incapacity in
13 civil and criminal actions.

14
15 SECTION 79. Arkansas Code Title 16, Chapter 13, Subchapter 2 is
16 amended by adding additional sections to read as follows:

17 16-13-222. Private hearings by circuit courts.

18 (a)(1) The circuit courts of the various judicial districts of the
19 state shall, upon application of all litigants to a divorce action,
20 proceeding for alimony or separate maintenance, proceeding touching the
21 maintenance or custody of children, proceeding for annulment of marriage,
22 adoption proceeding, or any other proceeding pertaining to domestic
23 relations, hear the case or matter in privacy.

24 (2) To this end, circuit judges are empowered to exclude from
25 any such hearing and from the courtroom all individuals other than the
26 litigants, their counsel, and the officers of the court.

27 (b) Circuit judges may, upon their own initiative, hear such cases and
28 matters in chambers or in privacy where they deem it in the best interests of
29 the parties and the best interests of society.

30
31 16-13-223. Sale and confirmation of property.

32 A circuit court may make orders for the sale of property in the custody
33 of the court and may confirm the sale, but the sale shall not be confirmed
34 until all parties have reasonable notice and an opportunity to be present and
35 resist the confirmation.

36

1 16-13-224. Temporary exchange of districts -- Assignment.

2 (a) Circuit judges may temporarily exchange judicial districts by
3 joint order, and any circuit judge who consents may be assigned to another
4 district for temporary service under rules adopted by the Supreme Court.

5 (b) When a circuit judge is serving temporarily in a judicial district
6 other than his or her own, he or she shall not thereby be disqualified from
7 conducting court or performing the usual and customary functions of his
8 office in his or her own judicial district.

9 (c) A circuit judge on temporary duty by exchange or assignment:

10 (1) Shall have the same power and authority as the regularly
11 elected or appointed judges for the judicial district; and

12 (2) May sign any judgment, order, document, or other paper
13 relating to any case heard by the judge, either in the judicial district
14 where the cause or matter is pending or in his or her own district, and the
15 judgment, order, document, or other paper shall to all intents have the same
16 effect, irrespective of the district in which it was signed.

17 (d) The sheriff and the circuit clerk in the county where a circuit
18 judge is on temporary duty by exchange or assignment shall perform the same
19 duties and functions in carrying out the operation of the court as they
20 perform in cases assigned to the regularly elected or appointed judges.

21 (e) If a circuit judge who is on temporary duty by exchange or
22 assignment needs a jury for the disposition of any case, he or she may use
23 the regular or special panel of the circuit court of that county. If the
24 regular and special panels are exhausted, he or she may summon the jury
25 commissioners previously appointed and have them select the required number
26 of qualified jurors.

27
28 16-13-225. Juvenile cases -- Information system.

29 (a) The Director of the Administrative Office of the Courts shall
30 develop for the circuit courts a case-based management information system,
31 capable of capturing information at each stage of the process of juvenile
32 cases, with the capacity to serve basic administration, operations, planning,
33 evaluation, and monitoring needs.

34 (b) The judge or judges of the circuit court designated to hear
35 juvenile cases in the district plan adopted pursuant to Supreme Court Order
36 14 shall designate an employee of the court to be responsible for the timely

1 completion and submission of information to the Administrative Office of the
2 Courts.

3
4 SECTION 80. Arkansas Code §§ 16-13-301 through 16-13-317 are repealed.

5
6 SECTION 81. Arkansas Code § 16-13-318 is repealed.

7
8 SECTION 82. Arkansas Code § 16-13-319 is repealed.

9
10 SECTION 83. Arkansas Code § 16-13-320 is repealed.

11
12 SECTION 84. Arkansas Code §§ 16-13-321 through 16-13-325 are repealed.

13
14 SECTION 85. Arkansas Code § 16-13-401 is repealed.

15
16 SECTION 86. Arkansas Code § 16-13-402 is repealed.

17
18 SECTION 87. Arkansas Code §§ 16-13-403 through 16-13-405 are repealed.

19
20 SECTION 88. Arkansas Code § 16-13-502 is repealed.

21
22 SECTION 89. Arkansas Code §§ 16-13-504 and 16-13-505 are amended to
23 read as follows:

24 16-13-504. Initial annual salary of court reporters -- Salary
25 implementation procedures.

26 (a) All court reporters appointed ~~by any circuit judge, chancery judge,~~
27 ~~or circuit chancery judge in this state~~ after March 28, 1983, shall receive
28 an initial annual salary not to exceed that salary provided for in Step 1 of
29 Grade 19 of the Uniform Classification and Compensation Plan unless the
30 Legislative Council approves entrance at a greater salary, but in no instance
31 shall court reporters enter at an annual salary greater than that provided in
32 Step 5 of Grade 19.

33 (b) The following salary implementation procedures shall apply to all
34 court reporters who were official ~~circuit or chancery~~ court reporters in the
35 state on June 30, 1981:

36 (1) The beginning compensation of persons first appointed to a

1 position of court reporter after June 30, 1981, shall not be made at greater
2 than the first, or entrance, step unless a special entrance rate is requested
3 through and approved by the Office of Personnel Management with the advice of
4 the Legislative Council;

5 (2) All subsequent step increases granted to court reporters
6 shall be in conformance with the schedule provided in the compensation plan;

7 (3) Increase eligibility dates shall be determined from the dates
8 of initial employment by the state:

9 (A) For those court reporters who are official court
10 reporters in the state on June 30, 1981, the increase eligibility date shall
11 be July 1, 1982.

12 (B) For those court reporters who are appointed after June
13 30, 1981, the increase eligibility date shall be determined by the date of
14 appointment ~~as court reporter by the circuit or chancery judge.~~

15
16 16-13-505. Court reporters -- Reimbursement for expenses.

17 (a) The official court reporters of the respective circuit ~~and chancery~~
18 courts shall be entitled to reimbursement for actual expenses incurred for
19 meals, lodging, and transportation costs for attending court away from the
20 reporter's official station. If the reporter uses a personal vehicle for
21 transportation, he shall be entitled to reimbursement for mileage at the rate
22 prescribed for state employees in the state travel regulations. However, no
23 court reporter shall be entitled to receive reimbursement for such meals,
24 lodging, and transportation in excess of four thousand five hundred dollars
25 (\$4,500) per year.

26 (b) Reimbursements for such expenses shall be made monthly by the
27 Auditor of State upon claims therefor by the respective court reporters
28 certified by the circuit ~~or chancery~~ judge.

29
30 SECTION 90. Arkansas Code § 16-13-506(a)(1), concerning transcript
31 fees, is amended to read as follows:

32 (a)(1) When required to make a transcript of court proceedings, each
33 court reporter of the circuit ~~and chancery~~ courts shall be entitled to
34 compensation at the rate of three dollars and ten cents (\$3.10) per page for
35 the original and two (2) copies and at the rate of fifty cents (50¢) per page
36 for each additional copy;

1
2 SECTION 91. Arkansas Code §§ 16-13-601 and 16-13-602 are repealed.

3
4 SECTION 92. Arkansas Code § 16-13-603 is repealed.

5
6 SECTION 93. Arkansas Code §§ 16-13-604 through 16-13-607 are repealed.

7
8 SECTION 94. Effective January 1, 2005, Arkansas Code § 16-13-
9 704(b)(3)(A) is amended to read as follows:

10 (3)(A) One-half (1/2) of the installment fee collected in
11 ~~municipal court, district court, or~~ city court, ~~or police court~~ shall be
12 remitted monthly to the Department of Finance and Administration for deposit
13 in the Judicial Fine Collection Enhancement Fund as established by § 16-13-
14 712.

15
16 SECTION 95. Arkansas Code § 16-13-709(a)(2), concerning responsibility
17 for collection of fines, is amended to read as follows:

18 (2)(A) The quorum court of each county of the state or the
19 governing body of the city in which the court is located, or both, on or
20 before January 1 of each year, shall designate a county or city official,
21 agency, department, or private contractor who shall be primarily responsible
22 for the collection of fines assessed in the ~~municipal courts, district~~
23 courts, city courts, or police courts of this state.

24 (B)(i) In the event the quorum court or the governing body
25 of the city in which the court is located, or both, delegates such
26 responsibility to a private contractor, such contractor may receive, pursuant
27 to state accounting laws, a portion agreed upon in advance by the quorum
28 court or the governing body of the city in which the court is located, or
29 both, as commission for the collection of any and all delinquent fines
30 assessed in the ~~municipal courts, district courts, city courts, or police~~
31 courts of this state.

32 (ii) "Delinquent" means any fines assessed in the
33 circuit courts, ~~municipal courts, district courts, city courts, or police~~
34 courts of this state which have not been paid as ordered for a period of
35 ninety (90) days or three (3) payments, either consecutive or concurrent,
36 since payment was ordered or since last partial payment was received.

1
2 SECTION 96. Effective January 1, 2005, Arkansas Code § 16-13-709(a)(2)
3 is amended to read as follows:

4 (2)(A) The quorum court of each county of the state or the governing
5 body of the city in which the court is located, or both, on or before January
6 1 of each year, shall designate a county or city official, agency,
7 department, or private contractor who shall be primarily responsible for the
8 collection of fines assessed in the ~~municipal courts, district courts, or~~
9 ~~city courts, or police courts~~ of this state.

10 (B)(i) In the event the quorum court or the governing body of the city
11 in which the court is located, or both, delegates such responsibility to a
12 private contractor, such contractor may receive, pursuant to state accounting
13 laws, a portion agreed upon in advance by the quorum court or the governing
14 body of the city in which the court is located, or both, as commission for
15 the collection of any and all delinquent fines assessed in the ~~municipal~~
16 ~~courts, district courts, or city courts, or police courts~~ of this state.

17 (ii) "Delinquent" means any fines assessed in the circuit courts,
18 ~~municipal courts, district courts, or city courts, or police courts~~ of this
19 state which have not been paid as ordered for a period of ninety (90) days or
20 three (3) payments, either consecutive or concurrent, since payment was
21 ordered or since last partial payment was received.

22
23 SECTION 97. Effective January 1, 2005, Arkansas Code § 16-13-710 is
24 amended to read as follows:

25 16-13-710. Automated collection procedures.

26 The Administrative Office of the Courts shall have the responsibility
27 to assist circuit courts, ~~municipal courts, district courts, and~~ city courts,
28 ~~and police courts~~ in the assessment and collection of fines and the
29 management and reporting of fine revenue.

30
31 SECTION 98. Arkansas Code § 16-13-1415(b), concerning appeals to
32 circuit court in Pulaski County, is amended to read as follows:

33 (b)~~(1)~~ All appeals to circuit court in civil and criminal cases,
34 ~~whether from justice of the peace, city, municipal, or police courts as~~
35 ~~provided in §§ 16-96-505, [superseded] 16-96-506, and 16-96-508, must be~~
36 ~~filed in the Office of the Circuit Clerk of Pulaski County within thirty (30)~~

1 ~~days after the judgment is rendered and not thereafter shall be taken in the~~
2 ~~time and manner provided by Rule 9 of the Inferior Court Rules.~~

3 ~~(2) All appeals in civil cases shall follow the procedure set out~~
4 ~~in Acts 1873, No. 135, § 97 [superseded]. However, the transcript of the~~
5 ~~appeal must be lodged in the office of the clerk of the circuit court within~~
6 ~~thirty (30) days after judgment is rendered and not thereafter.~~

7
8 SECTION 99. Arkansas Code Title 16, Chapter 14 is repealed.

9
10 SECTION 100. Arkansas Code § 16-15-111 is amended to read as follows:
11 16-15-111. Disqualification of judges.

12 No judge of the county court shall sit on the determination of any
13 ~~cause or proceeding~~ case in which he or she is interested in the outcome, ~~or~~
14 is related to ~~either~~ any party within the ~~fourth~~ third degree of
15 consanguinity or affinity, ~~or shall have~~ has been of counsel, ~~without consent~~
16 ~~of parties~~ or is otherwise disqualified under the Arkansas Code of Judicial
17 Conduct, unless the parties waive the disqualification as provided therein.

18
19 SECTION 101. The heading of Arkansas Code Title 16, Chapter 17 is
20 amended to read as follows:

21 ~~Municipal~~ District Courts.

22
23 SECTION 102. Effective January 1, 2005, Arkansas Code § 16-17-101 is
24 repealed.

25
26 SECTION 103. Effective January 1, 2005, Arkansas Code § 16-17-102 is
27 amended to read as follows:

28 16-17-102. Exchange of jurisdictions by ~~municipal~~ district court
29 judges.

30 (a) ~~Municipal District~~ judges of their respective city and county
31 ~~districts of this state may, by agreement, may~~ temporarily exchange ~~district~~
32 ~~jurisdiction with each other in their respective city and county districts by~~
33 joint order entered of record in their respective courts. They may hold court
34 for each other for such length of time as may seem practicable and for the
35 best interest of their respective ~~jurisdictional districts and courts. It is~~
36 ~~the expressed intent and purpose of this section to permit any municipal~~

1 ~~district judge of any city or county to exchange jurisdictional authority or~~
2 ~~geographical districts, or both, with any other municipal judge within this~~
3 ~~state and for those judges to hold court for each other. The agreement shall~~
4 ~~be signed by the judges so agreeing, and the agreement shall be entered on~~
5 ~~the record of the court or courts so to be held.~~

6 (b) ~~Municipal District~~ judges exchanging jurisdictional authority or
7 districts shall have the same power or authority, holding courts for each
8 other, as the ~~municipal district~~ judge for the ~~city, county, or geographical~~
9 ~~district in which the court or courts shall be held.~~

10 (c) No city or county shall be held liable for nor shall incur any
11 expense whatsoever for any special pay or travel costs arising out of any
12 exchange of judicial districts between ~~municipal district~~ judges.

13
14 SECTION 104. Effective January 1, 2005, Arkansas Code § 16-17-103, as
15 amended by section 193 of this act, is further amended to read as follows:

16 16-17-103. Residency requirement of judges ~~elected by countywide vote.~~
17 The judge of a ~~municipal district~~ court ~~elected to that office by~~
18 ~~countywide vote need not be a resident of the city, but he must be a resident~~
19 ~~of the county in which the court sits shall be a qualified elector within the~~
20 geographical area from which he or she is chosen.

21
22 SECTION 105. Effective January 1, 2005, Arkansas Code § 16-17-104, is
23 amended to read as follows:

24 16-17-104. Law ~~practice~~ license requirement for district judges.
25 ~~No person otherwise qualified to hold the office of judge of any~~
26 ~~municipal court shall be qualified for that office unless he shall have~~
27 ~~practiced law within the state for at least three (3) years. However, in any~~
28 ~~city having an aldermanic form of government and having a population of~~
29 ~~fifteen thousand (15,000) persons or less, according to the most recent~~
30 ~~federal census, any attorney regularly licensed to practice law in this state~~
31 ~~shall, if otherwise qualified, be eligible to hold the office of municipal~~
32 ~~judge. District judges shall have been licensed attorneys of this state for~~
33 at least four (4) years immediately preceding the date of assuming office.

34
35 SECTION 106. Effective January 1, 2005, Arkansas Code § 16-17-105 is
36 repealed.

1
2 SECTION 107. Arkansas Code § 16-17-107 is repealed.

3
4 SECTION 108. Effective January 1, 2005, Arkansas Code § 16-17-114(a)
5 is amended to read as follows:

6 (a) This section shall apply to all cities in which ~~municipal courts~~
7 ~~have been established, or in which municipal courts may be established, under~~
8 ~~the provisions of § 16-17-204, and the townships in which those cities are~~
9 ~~situated, and in which such cities there are located, or may be located,~~
10 state-supported educational institutions with campus enrollments of no fewer
11 than one thousand five hundred (1,500) students and to the townships in which
12 those cities are situated.

13
14 SECTION 109. Arkansas Code § 16-17-115 is amended to read as follows:

15 16-17-115. County's portion of ~~municipal~~ district court expenses --
16 Appropriation.

17 Except as authorized otherwise, the county wherein a ~~municipal~~ district
18 court is held shall pay one-half (1/2) of the salaries of the judge and the
19 clerks of the ~~municipal~~ district courts organized in that county under the
20 provisions of § 16-17-201 et seq. and § 16-17-301 et seq., and the quorum
21 court in counties subject to the provisions of either subchapters 2 and 3, or
22 both, of this chapter shall, at its annual meeting, make an appropriation of
23 a sum sufficient to pay the county's proportion of the expenses of all such
24 ~~municipal~~ district courts. These payments shall be made out of the ~~municipal~~
25 district court cost fund and general revenues of the county and this duty may
26 be enforced by mandamus proceedings.

27
28 SECTION 110. Arkansas Code § 16-17-116 is repealed.

29
30 SECTION 111. Effective January 1, 2005, Arkansas Code § 16-17-119 is
31 amended to read as follows:

32 16-17-119. Counties with populations over 250,000 -- Collection of
33 Fees — ~~Divisions.~~

34 (a) All funds, penalties, forfeitures, fees, and costs collected in
35 ~~municipal~~ district courts ~~established under Acts 1915, No. 87, Acts 1927, No.~~
36 ~~60, or § 16-18-111~~ in any county having a population of two hundred fifty

1 thousand (250,000) or more inhabitants according to the most recent federal
 2 census shall be collected by the clerk of the ~~municipal~~ municipal district court and
 3 deposited in the city treasury of the city or municipality in which the court
 4 is located, to be used for maintaining and operating the ~~municipal~~ municipal district
 5 courts in the county and for other general municipal purposes. ~~However, fees~~
 6 ~~and costs established by law for other specific purposes~~, but not limited to,
 7 state police retirement funds, library and building funds, legal education
 8 funds, prosecuting attorney funds, public defender funds, and funds
 9 established for the expenses of the judiciary in general other than in
 10 ~~municipal~~ municipal district courts shall be disposed of according to law.

11 (b) The salaries and operational expenses of ~~municipal~~ municipal district courts
 12 described in this section shall be paid by the city or town in which the
 13 court is located. No portion of these expenses shall be paid by the county in
 14 which the court is located.

15 ~~(c) The governing body of any city or county having a municipal court~~
 16 ~~as described in this section may by ordinance increase the number of~~
 17 ~~municipal court divisions, each of which shall have jurisdiction coextensive~~
 18 ~~with the county equal to the other municipal courts established within~~
 19 ~~counties having a population of two hundred fifty thousand (250,000) or more~~
 20 ~~inhabitants according to the most recent federal census; provided, no city or~~
 21 ~~county shall, under any circumstances, have a greater number of municipal~~
 22 ~~courts than provided for in § 16-17-108.~~

23
 24 SECTION 112. Arkansas Code § 16-17-120 is repealed.

25
 26 SECTION 113. Arkansas Code § 16-17-121 is amended to read as follows:

27 16-17-121. Salary increases -- Factors to consider.

28 (a) In the event the Arkansas General Assembly ~~establishes a uniform~~
 29 ~~procedure for civil practice in the municipal courts of Arkansas and therein~~
 30 establishes a municipal district court cost fund to be used exclusively for
 31 the operation and expenses of the municipal district court, any ~~municipal~~
 32 district court judge's, clerk's, or other employee's salary authorized by §
 33 16-17-108 may be increased from the minimum salary upward to any amount not
 34 exceeding the maximum salary authorized in § 16-17-108 and may be paid from
 35 the fund as set forth hereafter.

36 (b) The city council or the county quorum court, or both, if

1 authorized, of the local governmental jurisdictions responsible for paying
2 the salaries of the ~~municipal~~ district court judge, clerks, and other
3 employees may authorize salary increases for the various court personnel as
4 authorized above after considering the following factors:

- 5 (1) The amount and availability of funds in the ~~municipal~~
6 district court cost fund;
- 7 (2) The volume of caseload;
- 8 (3) The backlog of cases, if any, on the court docket;
- 9 (4) The time required in dealing with cases;
- 10 (5) The skill required in dealing with cases; and
- 11 (6) The amount of time taken away from the judge's private
12 practice, if applicable.

13
14 SECTION 114. Arkansas Code § 16-17-122 is repealed.

15
16 SECTION 115. Arkansas Code § 16-17-126 is amended to read as follows:

17 16-17-126. Fee for filing and issuing writs of garnishment --
18 Disposition.

19 ~~(a)(1) The General Assembly finds that due to a recent constitutional~~
20 ~~amendment and subsequent legislative enactments increasing the jurisdictional~~
21 ~~limit of municipal courts, case filings have increased substantially.~~

22 ~~(2) The General Assembly further finds that municipal courts are~~
23 ~~issuing and filing writs of garnishment, for which no fee is currently~~
24 ~~authorized, in such numbers that a strain is being placed on the~~
25 ~~administration of these courts.~~

26 ~~(3) The General Assembly also finds that circuit courts are~~
27 ~~authorized to collect ten dollars (\$10.00) for filing similar actions.~~

28 ~~(b) It is therefore the intent of the General Assembly to authorize~~
29 ~~municipal courts to collect a fee for filing and issuing writs of~~
30 ~~garnishment.~~

31 ~~(c)~~ (a) The ~~municipal~~ district court clerk shall collect a fee of ten
32 dollars (\$10.00) for filing or issuing writs of garnishment. This fee is in
33 addition to those fees and costs established by law for specific purposes, or
34 where authorized by the county quorum court or municipality.

35 ~~(d)~~ (b) All funds derived from such fee shall be used for any
36 permissible use in the administration of the ~~municipal~~ district court.

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SECTION 116. Arkansas Code § 16-17-127(a), concerning contractors providing certain services to courts, is amended to read as follows:

(a) To ensure the integrity of the court and to protect city and county officials before services regulated by this section are rendered, a person shall register with the Secretary of State and shall file with the Secretary of State a surety bond or certificate of deposit if a ~~municipal court,~~ district court, city court, or police court, upon approval of the governing body or governing bodies exercising control over the court, contracts with a person for the person to provide any of the following services:

- (1) Probation services;*
- (2) Pretrial supervised release programs;*
- (3) Alternate sentencing programs; or*
- (4) The collection and enforcement of fines and costs.*

SECTION 117. Effective January 1, 2005, Arkansas Code § 16-17-127(a) is amended to read as follows:

(a) To ensure the integrity of the court and to protect city and county officials before services regulated by this section are rendered, a person shall register with the Secretary of State and shall file with the Secretary of State a surety bond or certificate of deposit if a ~~municipal court,~~ district court, or city court, ~~or police court,~~ upon approval of the governing body or governing bodies exercising control over the court, contracts with a person for the person to provide any of the following services:

- (1) Probation services;*
- (2) Pretrial supervised release programs;*
- (3) Alternate sentencing programs; or*
- (4) The collection and enforcement of fines and costs.*

SECTION 118. Arkansas Code § 16-17-129(a), concerning levy to defray cost of incarcerating city prisoners, is amended to read as follows:

~~(a)(1)~~ (a) In addition to all fines now or as may hereafter be provided by law, the governing body of each city of the first class, city of the second class, and incorporated town in this state may by ordinance levy and collect an additional fine not to exceed five dollars (\$5.00) from each

1 defendant who pleads guilty or nolo contendere to, is found guilty of, or
 2 forfeits bond for any misdemeanor or traffic violation in the ~~municipal court~~
 3 ~~or city court of the city or town~~ or in the district court for the district
 4 in which the city or town is located.

5 ~~(2) The additional court fine authorized by this section shall be~~
 6 ~~levied by ordinance of the governing body of the municipality wherein the~~
 7 ~~municipal court or city court is located.~~

8
 9 SECTION 119. Arkansas Code § 16-17-131(a), concerning suspension of
 10 driver's license for failure to appear, is amended to read as follows:

11 (a) A person required to appear before a ~~municipal~~ district court in
 12 this state, having been served with any form of notice to appear for any
 13 criminal offense, traffic violation, or misdemeanor charge, shall appear at
 14 the time and place designated in the notice.

15
 16 SECTION 120. Effective January 1, 2005, Arkansas Code § 16-17-132 is
 17 amended to read as follows:

18 16-17-132. District ~~court~~ courts generally.

19 ~~(a)(1)(A) All municipal courts now in existence shall be known as~~
 20 ~~district courts.~~

21 ~~(B) All judges of the former courts will be known as~~
 22 ~~district judges.~~

23 ~~(2) District courts shall have the jurisdiction vested in the~~
 24 ~~presently established municipal courts.~~

25 ~~(3) (a) All fines, penalties, and costs received by the district~~
 26 ~~courts shall continue to be collected and distributed in the manner provided~~
 27 ~~by current laws affecting the former municipal courts, unless and until the~~
 28 ~~General Assembly establishes a new method of distribution.~~

29 ~~(4) (b) All salaries, retirement benefits, programs, and moneys of~~
 30 ~~judges, clerks, and court employees of the former municipal courts will~~
 31 ~~continue to be vested and paid to the judges, clerks, and court employees of~~
 32 ~~the district courts, pending further acts of the General Assembly.~~

33 ~~(b) (c) A vacancy in a district court judgeship shall be filled in the~~
 34 ~~same manner and subject to the same restrictions as for vacancies under~~
 35 ~~Arkansas Constitution, Amendment 29.~~

36

1 SECTION 121. Effective January 1, 2005, Arkansas Code § 16-17-201 is
2 repealed.

3
4 SECTION 122. Arkansas Code §§ 16-17-203 through 16-17-207 are amended
5 to read as follows:

6 16-17-203. Construction with other laws.

7 This subchapter shall not be so construed as to repeal, amend, or
8 affect the provisions of any previous act creating or affecting ~~municipal~~
9 district courts in this state.

10
11 16-17-204. Creation.

12 Any city having a population of two thousand four hundred (2,400) or
13 more or any county seat town with less than two thousand four hundred (2,400)
14 population not now having a ~~municipal~~ district court may establish a
15 ~~municipal~~ district court by passing an ordinance of the city council or other
16 governing body of the city creating and establishing a ~~municipal~~ district
17 court under the provision of this subchapter.

18
19 16-17-205. Name and seal of ~~municipal~~ district court -- Abolishment of
20 police courts.

21 (a) In each of the cities subject to this subchapter there shall be a
22 corporation court to be styled the "~~Municipal District~~ Court of ..." (naming
23 the city within which the court sits) which shall be a court of record,
24 having a seal with the name of the state in the center and the words,
25 "~~Municipal District~~ Court of ..." (naming the city within which the court
26 sits) around the margin. This shall be regarded in law as a continuation of
27 the police courts as existing by law therein on February 28, 1927.

28 (b) The police courts in the cities subject to this subchapter are
29 abolished, and all the jurisdiction exercised by them shall be vested in the
30 municipal courts and shall be transferred accordingly. No suit, prosecution,
31 or proceeding of any police court shall abate because of any change made by
32 this subchapter.

33
34 16-17-206. Jurisdiction of ~~municipal~~ district courts.

35 (a) ~~Municipal District~~ courts and justices of the peace shall not have
36 jurisdiction in civil cases where a lien on land or title or possession

1 thereto is involved.

2 (b) The jurisdiction of a ~~municipal~~ district court shall be coextensive
3 with the county in which it is situated, except in counties having two (2)
4 judicial districts, the jurisdiction shall be limited to the district in
5 which the court is situated.

6

7 16-17-207. Number of judges -- ~~Term~~ ~~Time of selection of first~~
8 ~~regular judge.~~

9 The ~~municipal~~ district courts in and for cities subject to this
10 subchapter shall be held by one (1) ~~municipal~~ district judge for each city,
11 whose term of office shall be four (4) years and until his successor is
12 elected and qualified as such. ~~However, in cities which are or which become~~
13 ~~subject to the provisions of this subchapter, which have police courts, and~~
14 ~~which establish municipal courts hereunder, the police judge shall act and~~
15 ~~serve as municipal judge until the next regular general election at which~~
16 ~~city officials are elected, at which time a regular municipal judge shall be~~
17 ~~elected. Further, in cities subject to this subchapter or which become~~
18 ~~subject hereto and which have neither a police court, nor a city council or~~
19 ~~other governing body of such city shall select a municipal judge to serve~~
20 ~~until the next regular general election.~~

21

22 SECTION 123. Effective January 1, 2005, Arkansas Code §§ 16-17-203
23 through 16-17-207 are repealed.

24

25 SECTION 124. Arkansas Code § 16-17-208 is repealed.

26

27 SECTION 125. Arkansas Code §§ 16-17-209 through 16-17-212 are amended
28 to read as follows:

29 16-17-209. Qualifications of ~~municipal~~ district judge -- Minimum
30 salary -- Manner of payment.

31 (a) The judge of the ~~municipal~~ district court shall be at least twenty-
32 five (25) years of age, of good moral character, learned in the law, two (2)
33 years a resident of this state, and an elector of the judicial subdivision
34 wherein the court sits. He shall be an attorney at law in good standing and
35 shall have practiced law at least six (6) years.

36 (b) Except as provided in § 16-17-108, the judge shall received as

1 compensation for his services any sum not less than two thousand four hundred
2 dollars (\$2,400) per year, payable in equal monthly installments, one-half
3 (1/2) to be paid by the city and the other one-half (1/2) to be paid by the
4 county in which the city is situated.

5 (c) Except as provided in § 16-17-108, in counties having more than one
6 (1) county seat, one (1) of which has a population of not more than sixteen
7 thousand three hundred (16,300) and not less than sixteen thousand two
8 hundred fifty (16,250) according to the 1950 Federal Decennial Census, the
9 city council of the city may fix the salary of the judge of the county at a
10 greater or lesser sum than that provided in subsection (b) of this section.
11 In those counties, the judge shall be elected by the qualified electors of
12 the entire judicial subdivision of the county wherein the court is situated.

13 (d) Except as provided in § 16-17-108, in county seat towns with less
14 than two thousand four hundred (2,400) population, the city council of the
15 city may fix the judge's salary at any sum not to exceed two thousand four
16 hundred dollars (\$2,400) per year.

17
18 16-17-210. Vacancy or inability of judge to serve -- Election of
19 special judge or appointment of substitute by regular judge.

20 (a) Whenever the office of the judge of a ~~municipal~~ district court is
21 vacant and before his successor has been selected and qualified, or when the
22 judge of a ~~municipal~~ district court shall be disqualified from presiding at
23 any trial pending in the court, the regular practicing attorneys in
24 attendance on the court may, on notice from the clerk of the court, elect a
25 special judge to preside over the court.

26 (b) Whenever the judge of a ~~municipal~~ district court is to be
27 temporarily absent from the court because of illness or for any other reason,
28 the judge of the court, by order of the court entered prior to the temporary
29 absence of the judge, may appoint a special judge to preside over the court
30 in his absence.

31 (c) A special judge selected by the practicing attorneys or appointed
32 by the regular judge of a ~~municipal~~ district court shall have the same power
33 and authority in the court as the regular judge would have if present and
34 presiding and shall have the same qualifications as are required by law for
35 the regular ~~municipal~~ district judge.

36 (d) The authority of a special ~~municipal~~ district judge selected

1 pursuant to the provisions of this subchapter shall cease upon the
2 qualification of a successor to the regular ~~municipal~~ district judge in the
3 case of a vacancy in the office, upon termination of the case for which the
4 regular judge was disqualified from presiding, or upon the return to the
5 court of the regular judge of the court.

6 (e) A special judge appointed or selected under the provisions of this
7 subchapter shall receive compensation for his service at the rate of ten
8 dollars (\$10.00) per day for each day he holds the ~~municipal~~ district court
9 or any other sum not exceeding ten dollars (\$10.00) per day which the city
10 council of any city subject to this subchapter may prescribe by ordinance.

11
12 16-17-211. Court clerks generally.

13 (a) The judge of any ~~municipal~~ district court may appoint a clerk for
14 the court, who shall be designated and known as the ~~municipal~~ district court
15 clerk.

16 (b) The city council of the city in which the court is located shall
17 fix the salary of the ~~municipal~~ district court clerk at a reasonable sum, the
18 salary to be computed on an annual basis and payable in equal monthly
19 installments. However, where the county in which the court is located is to
20 pay any portion of the clerk's salary, the salary must also be approved by
21 the quorum court of that county. Further, if the expenses and salaries of any
22 ~~municipal~~ district court are paid entirely by the county in which the court
23 is located, the salary of the clerk shall be fixed by the quorum court of the
24 county and not by the city council.

25 (c) The ~~municipal~~ district court clerk shall keep a fair record of all
26 the acts done and proceedings had in the court and shall enter all judgments
27 of the court, under the direction of the judge.

28 (d) The ~~municipal~~ district court clerk shall:

- 29 (1) Administer oaths;
- 30 (2) Take affidavits required or permitted in the progress of the
31 action;
- 32 (3) Approve bond in criminal cases in the absence of the judge;
- 33 (4) Keep a complete docket of all proceedings to the extent and
34 in the manner directed by the judge;
- 35 (5) Seasonably record the judgments, rules, orders, and other
36 civil or criminal proceedings of the court and keep an alphabetical index

1 thereof;

2 (6) Keep such other dockets, books, and indices as may be
3 required by law or by the judge;

4 (7) Issue and attest all process;

5 (8) Tax and collect ~~the same~~ fees and costs allowed by law ~~to~~
6 ~~justices of the peace for similar clerical services.~~

7 (e) The ~~municipal~~ district court clerk shall render for each month, not
8 later than the fifth day of the succeeding month, reports in triplicate of
9 all civil and criminal cases tried. These reports shall show all fines,
10 penalties, forfeitures, fees, and costs taxed, assessed, and collected during
11 the month and also show the nature of each case. One (1) copy of such report
12 to be forwarded or delivered to the mayor of the city and one (1) copy to the
13 clerk of the county court.

14 (f) Where the duties of the office of ~~municipal~~ district court clerk do
15 not require a full-time employee, the city council may require that the
16 duties of the clerk be performed by any other officer of the city.

17

18 16-17-212. Fees and costs generally.

19 (a) ~~Except as otherwise provided in this section, the same~~ The only
20 fees and costs that shall be allowed in civil and criminal suits,
21 prosecutions, and proceedings in ~~municipal~~ district court ~~as are~~ are those
22 specifically authorized by statute provided by law in similar cases before
23 ~~justices of the peace, excluding those items that would be allowed justices~~
24 ~~of the peace when sitting as examination courts.~~

25 (b) Nothing in this section or subchapter shall be construed as
26 authorizing the collection by the prosecuting attorney or his deputies, the
27 clerks of the ~~municipal~~ district court, or the sheriff and constable or their
28 deputies, of any costs or fees from the county in the trial of misdemeanors.

29 (c) Constables and deputies shall be allowed ~~the same~~ only those fees
30 and costs as are ~~allowed sheriffs and their deputies in civil and criminal~~
31 ~~suits, prosecutions, and proceedings by law in similar cases before justices~~
32 ~~of the peace specifically authorized by statute.~~

33

34 SECTION 126. Effective January 1, 2005, Arkansas Code §§ 16-17-209 and
35 16-17-210 are amended to read as follows:

36 16-17-209. Qualifications of ~~municipal~~ district judge -- ~~Minimum~~

1 ~~salary — Manner of payment~~ Term.

2 ~~(a) The judge of the municipal court shall be at least twenty five (25)~~
 3 ~~years of age, of good moral character, learned in the law, two (2) years a~~
 4 ~~resident of this state, and an elector of the judicial subdivision wherein~~
 5 ~~the court sits. He shall be an attorney at law in good standing and shall~~
 6 ~~have practiced law at least six (6) years. District judges shall be qualified~~
 7 ~~electors within the geographical area from which they are chosen and shall~~
 8 ~~have been licensed attorneys of this state for at least four (4) years~~
 9 ~~immediately preceding the date of assuming office.~~

10 ~~(b) Except as provided in § 16-17-108, the judge shall received as~~
 11 ~~compensation for his services any sum not less than two thousand four hundred~~
 12 ~~dollars (\$2,400) per year, payable in equal monthly installments, one half~~
 13 ~~(1/2) to be paid by the city and the other one half (1/2) to be paid by the~~
 14 ~~county in which the city is situated. District judges shall serve four-year~~
 15 ~~terms.~~

16 ~~(c) Except as provided in § 16-17-108, in counties having more than one~~
 17 ~~(1) county seat, one (1) of which has a population of not more than sixteen~~
 18 ~~thousand three hundred (16,300) and not less than sixteen thousand two~~
 19 ~~hundred fifty (16,250) according to the 1950 Federal Decennial Census, the~~
 20 ~~city council of the city may fix the salary of the judge of the county at a~~
 21 ~~greater or lesser sum than that provided in subsection (b) of this section.~~
 22 ~~In those counties, the judge shall be elected by the qualified electors of~~
 23 ~~the entire judicial subdivision of the county wherein the court is situated.~~

24 ~~(d) Except as provided in § 16-17-108, in county seat towns with less~~
 25 ~~than two thousand four hundred (2,400) population, the city council of the~~
 26 ~~city may fix the judge's salary at any sum not to exceed two thousand four~~
 27 ~~hundred dollars (\$2,400) per year.~~

28
 29 ~~16-17-210. Vacaney or inability of judge to serve — Election of~~
 30 ~~special judge or appointment of substitute by regular judge Special judges.~~

31 ~~(a) Whenever the office of the judge of a municipal court is vacant and~~
 32 ~~before his successor has been selected and qualified, or when the judge of a~~
 33 ~~municipal court shall be disqualified from presiding at any trial pending in~~
 34 ~~the court, the regular practicing attorneys in attendance on the court may,~~
 35 ~~on notice from the clerk of the court, elect a special judge to preside over~~
 36 ~~the court. If a district judge is disqualified or temporarily unable to~~

1 serve, or if the Chief Justice of the Supreme Court shall determine that
 2 there is other need for a special judge to be temporarily appointed, a
 3 special judge may be assigned by the Chief Justice or elected by the bar of
 4 the district court, under rules prescribed by the Supreme Court, to serve
 5 during the period of temporary disqualification, absence, or need.

6 ~~(b) Whenever the judge of a municipal court is to be temporarily absent~~
 7 ~~from the court because of illness or for any other reason, the judge of the~~
 8 ~~court, by order of the court entered prior to the temporary absence of the~~
 9 ~~judge, may appoint a special judge to preside over the court his absence.~~

10 ~~(e)(b) A special judge selected by the practicing attorneys or~~
 11 ~~appointed by the regular judge of a municipal court shall have the same power~~
 12 ~~and authority in the court as the regular district judge would have if~~
 13 ~~present and presiding and shall have the same qualifications as are required~~
 14 ~~by law for the regular municipal district judge.~~

15 ~~(d) The authority of a special municipal judge selected pursuant to the~~
 16 ~~provisions of this subchapter shall cease upon the qualification of a~~
 17 ~~successor to the regular municipal judge in the case of a vacancy in the~~
 18 ~~office, upon termination of the case for which the regular judge was~~
 19 ~~disqualified from presiding, or upon the return to the court of the regular~~
 20 ~~judge of the court.~~

21 ~~(e)(c) A special judge appointed or selected under the provisions of~~
 22 ~~this subchapter assigned or elected under this section shall receive~~
 23 ~~compensation for his or her service at the rate of ten dollars (\$10.00) per~~
 24 ~~day for each day he holds the municipal court or any other sum not exceeding~~
 25 ~~ten dollars (\$10.00) per day which the city council of any city subject to~~
 26 ~~this subchapter may prescribe by ordinance as provided by law.~~

27
 28 SECTION 127. Arkansas Code § 16-17-213 is repealed.

29
 30 SECTION 128. Arkansas Code § 16-17-214 is amended to read as follows:

31 16-17-214. Collection of fines and costs by police chief -- Reports to
 32 mayor.

33 (a) The chief of police shall collect all fines, penalties,
 34 forfeitures, fees, and costs assessed in ~~municipal~~ district court arising out
 35 of the violation of city ordinances and of state laws committed within the
 36 corporate limits of the city in which the court sits where the arresting

1 officer was a policeman and shall pay over to the ~~municipal~~ district court
2 clerk daily all sums collected by him.

3 (b) The chief of police shall render to the mayor for each month, not
4 later than the fifth day of the ensuing month, a report, under oath, of all
5 fines, penalties, forfeitures, fees, and costs collected by him during the
6 month, giving the title of the cause and the arresting officer, and attaching
7 to the report receipts of the ~~municipal~~ district court clerk for all sums
8 collected during the period.

9
10 SECTION 129. Arkansas Code §§ 16-17-217 through 16-17-220 are repealed.

11
12 SECTION 130. Arkansas Code § 16-17-221 is amended to read as follows:

13 16-17-221. Improper use of process -- Granting privileges -- Failure
14 to report or pay over fines -- Penalty.

15 Any ~~municipal district judge, or any justice of the peace in townships~~
16 ~~subject to this subchapter,~~ who makes use, directly or indirectly, of the
17 process of his or her own court, either as a party litigant or in interest or
18 as an attorney or agent for any party litigant or in interest, or who offers
19 or gives by way of remission of fees or otherwise any pecuniary inducements
20 to the instituting or maintaining of any suits, prosecutions, or proceedings
21 in his or her court, and any ~~justice of the peace, or a constable in any~~
22 ~~township subject to this subchapter, or a sheriff in any county subject to~~
23 ~~this subchapter, or any clerk of the municipal court, or a chief of police in~~
24 ~~any city subject to this subchapter,~~ sheriff, constable, police chief, or
25 district court clerk who fails to report or pay over fines, penalties,
26 forfeitures, fees, or costs collected by him or her, shall be deemed guilty
27 of a misdemeanor and, upon conviction for each of such offenses, shall be
28 punished by a fine of not less than fifty dollars (\$50.00) nor more than five
29 hundred dollars (\$500). A conviction under this section shall work a
30 forfeiture of office. Notwithstanding any other provision of this section,
31 sheriffs and constables may retain the fees and costs due them out of each
32 cause.

33
34 SECTION 131. Arkansas Code § 16-17-222 is amended to read as follows:

35 16-17-222. Fees of prosecuting attorney.

36 The prosecuting attorney or his or her deputies, ~~in counties and~~

1 ~~judicial districts subject to this subchapter,~~ shall receive the same fees
2 for prosecuting cases in the municipal district court as they are allowed by
3 law for the prosecution of misdemeanors in ~~justice of the peace courts and in~~
4 the circuit courts.

5
6 SECTION 132. Arkansas Code § 16-17-224 is amended to read as follows:

7 16-17-224. Manner of service of summons and other process.

8 (a) All summons and other process in any civil cause pending in any
9 ~~municipal district~~ court ~~in any city subject to this subchapter, where any~~
10 ~~defendant in the cause resides in the township in which the court is~~
11 ~~situated, shall be directed to the constable of the township or the sheriff~~
12 ~~of the county wherein the court sits. All other summons and process in civil~~
13 ~~causes pending in the court shall be directed to the sheriff of the county~~
14 ~~wherein the court sits shall be served in accordance with rules promulgated~~
15 by the Supreme Court.

16 (b) Where an arrest for a violation of state law committed within the
17 township wherein the court sits is made upon a warrant filed by the
18 prosecuting attorney or his deputy, such warrant to arrest shall be directed
19 to the constable of the township or the sheriff of the county wherein the
20 court sits. Where a warrant for arrest is issued for a violation of state law
21 committed outside the township wherein the court sits but in a county subject
22 to this subchapter, upon an information filed by the prosecuting attorney or
23 his deputy, the warrant of arrest shall be directed to the sheriff of the
24 county, and all other process in the proceeding shall be directed to the
25 sheriff. However, any sheriff or constable of any township in a county
26 subject to this subchapter may arrest an offender for a violation of any
27 state law committed anywhere in the county and may bring the offender before
28 the municipal district court for trial, and that officer shall serve all
29 process in the cause.

30 (c) The chief of police and his assistants shall serve all process for
31 violations of city ordinances of the city wherein the ~~municipal district~~
32 court sits and shall serve all criminal process for violations of state laws
33 inside the city limits of a city subject to this subchapter, where the arrest
34 is made by a police officer of the city or the information is filed by the
35 city attorney of the city.

36 ~~(d) Notwithstanding any other provision of this section or any other~~

1 ~~law pertaining to service of process in municipal courts, all summonses and~~
2 ~~other process in civil causes filed in municipal courts may be served by~~
3 ~~certified mail addressed to the defendant with return receipt requested, to~~
4 ~~be signed by addressee only.~~

5
6 SECTION 133. Arkansas Code § 16-17-301 is amended to read as follows:

7 16-17-301. Title.

8 This subchapter shall be referred to and known as the "County Seat
9 ~~Municipal~~ District Court Act," provided for the use and benefit of cities of
10 the second class made such under the provisions of § 14-37-112.

11
12 SECTION 134. Effective January 1, 2005, Arkansas Code § 16-17-301 is
13 repealed.

14
15 SECTION 135. Effective January 1, 2005, Arkansas Code § 16-17-302 is
16 repealed.

17
18 SECTION 136. Arkansas Code § 16-17-303 is amended to read as follows:
19 16-17-303. Establishment of ~~municipal~~ district courts in county-seat
20 towns becoming cities of second class.

21 (a) All county-seat municipalities that have become cities of the
22 second class or may hereafter become cities of the second class under the
23 provisions of § 14-37-112, and all counties and townships within which are
24 situated any of such cities of the second class as so provided for under the
25 provisions of § 14-37-112, may, if no ~~municipal~~ district court exists
26 therein, establish a ~~municipal~~ district court by the passing of an ordinance
27 by the city council of such city creating and establishing a ~~municipal~~
28 district court under the provisions of this subchapter.

29 (b) The city council creating and establishing the ~~municipal~~ district
30 court shall also be authorized, empowered, and directed by proper ordinances
31 to fix with respect to the judge of the court the qualifications, the fees,
32 emoluments, or salary, the terms or tenures of office, the method and manner
33 of the election or appointment, and the filling of vacancies.

34
35 SECTION 137. Effective January 1, 2005, Arkansas Code § 16-17-303 is
36 repealed.

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SECTION 138. Arkansas Code § 16-17-304 is amended to read as follows:
16-17-304. City recorder as clerk of court -- Compensation.

The city recorder of a municipality creating and establishing a ~~municipal~~ district court pursuant to this subchapter shall be the clerk of the ~~municipal~~ district court and ex officio treasurer, and his fees, emoluments, or salary shall be fixed by the city council.

SECTION 139. Effective January 1, 2005, Arkansas Code § 16-17-304 is repealed.

SECTION 140. Arkansas Code § 16-17-305 is amended to read as follows:
16-17-305. Jury trials.

There shall be no jury trials had in ~~municipal~~ district courts to be created and established by this subchapter.

SECTION 141. Effective January 1, 2005, Arkansas Code § 16-17-305 is repealed.

SECTION 142. Arkansas Code Title 16, Chapter 17, Subchapter 4 is amended to read as follows:

16-17-401. Generally -- Qualifications and election of judges --
Compensation.

(a) Any city of the first class or city of the second class or incorporated town which is located in a county that does not have an established ~~municipal~~ district court on March 7, 1973 may, upon adoption of an ordinance therefor by a majority vote of the membership of the governing body, establish a ~~municipal~~ district court within the city or town.

(b) The judge of a ~~municipal~~ district court established pursuant to this section shall possess the same qualifications, shall be elected in the same manner, and shall have the same powers, jurisdiction, functions, and duties as is provided by law for other ~~municipal~~ district judges. The judge of any court established pursuant to this subchapter shall be entitled to receive such compensation as may be prescribed by the governing body of the city in which the court is established.

1 16-17-402. Establishment of ~~municipal~~ district court by two or more
2 cities or incorporated towns within the same county.

3 (a) Any two (2) or more cities or incorporated towns within the same
4 county may, if the county does not have an established municipal court on
5 March 7, 1973, enter into agreements whereby the judge of the ~~municipal~~
6 district court elected to serve the ~~municipal~~ district court of one (1) of
7 the cities or towns may serve as the judge of the ~~municipal~~ district court
8 established in other agreeing cities or towns.

9 (b) A ~~municipal~~ district judge serving as the judge of two (2) or more
10 ~~municipal~~ district courts pursuant to an agreement entered into as authorized
11 in this section shall be entitled to receive such compensation as may be
12 determined and agreed upon by the governing bodies of the municipalities in
13 which the judge serves as judge of the ~~municipal~~ district courts. The salary
14 of the judge and other costs of the ~~municipal~~ district courts in the various
15 municipalities shall be apportioned among the agreeing municipalities in such
16 manner as shall be determined by the governing bodies of the agreeing
17 municipalities.

18
19 16-17-403. Election of presiding judge where two or more cities
20 establish a ~~municipal~~ district court.

21 (a)(1) Any two (2) or more cities or incorporated towns within the same
22 county, whether or not the county has an established municipal court on March
23 7, 1973, may enter into agreements after the enactment of ordinances therefor
24 by the governing bodies of the respective cities or towns whereby the cities
25 or towns shall each establish a ~~municipal~~ district court.

26 (2)(A) The court shall be presided over by a ~~municipal~~ district
27 judge to be elected by the combined electors of the respective cities or
28 towns entering into the agreement.

29 (B) However, if the respective cities or towns each provide by
30 ordinance that the judge of the court shall be elected by the voters of the
31 entire county or judicial district pursuant to § 16-17-120 or any other law
32 so provides, then the ~~municipal~~ district judge shall be elected by the voters
33 of the entire county.

34 (b) The judge of the ~~municipal~~ district courts shall be a resident of
35 the county but need not be a resident of either of the cities entering into
36 the agreement.

1 (c) The judge shall run for office by filing for election as ~~municipal~~
2 district judge in each of the respective cities entering into agreements
3 under this section. The results of the election shall be certified by the
4 county board of election commissioners. The judge receiving the highest
5 number of combined votes cast for the office of ~~municipal~~ district judge to
6 serve the cities or towns shall be declared the winner of the election.

7 (d) A person elected as ~~municipal~~ district judge by the qualified
8 electors of two (2) or more municipalities as authorized in this section
9 shall be entitled to receive such compensation as may be determined by the
10 governing bodies of the various municipalities involved. Such compensation
11 and the cost of operation of the ~~municipal~~ district courts established as
12 authorized by this section shall be apportioned among the various
13 participating municipalities in such manner as shall be determined by the
14 governing bodies of those municipalities.

15
16 SECTION 143. Effective January 1, 2005, Arkansas Code Title 16, Chapter
17 17, Subchapter 4, is repealed.

18
19 SECTION 144. Arkansas Code Title 16, Chapter 17, Subchapter 5 is
20 amended to read as follows:

21 16-17-501. Generally.

22 Any city with a population of less than three thousand (3,000) persons,
23 according to any federal census, which had a municipal court in existence on
24 March 4, 1985, may create a ~~municipal~~ district court under this subchapter.

25
26 16-17-502. Jurisdiction and powers.

27 ~~Municipal~~ District courts created under this subchapter shall have
28 county-wide jurisdiction and shall otherwise have the same powers and
29 jurisdiction as other ~~municipal~~ district courts in this state.

30
31 16-17-503. Manner of selection of judge -- Qualifications -- Expenses
32 of court.

33 (a) The judge of any ~~municipal~~ district court created under this
34 subchapter shall, at the option of the governing body of the city, be
35 appointed by the mayor of the city with the approval of the governing body of
36 the city or elected by the electors of the city.

1 (b) The judges of ~~municipal~~ district courts created under this
2 subchapter shall, at the time of appointment or election, be licensed to
3 practice law in this state, shall have been engaged in the private practice
4 of law for at least four (4) years, and shall have resided within this state
5 for at least the two (2) consecutive years prior to appointment.

6 (c) The expenses of any ~~municipal~~ district court created under this
7 subchapter shall be paid by the city creating the court, except that the
8 county wherein the city is located may help defray the cost of operating the
9 court.

10
11 SECTION 145. Effective January 1, 2005, Arkansas Code Title 16, Chapter
12 17, Subchapter 5 is repealed.

13
14 SECTION 146. Effective January 1, 2005, Arkansas Code § 16-17-601 is
15 repealed.

16
17 SECTION 147. Arkansas Code § 16-17-602 is amended to read as follows:
18 16-17-602. Small claims division to be established in ~~municipal~~
19 district courts.

20 (a)(1) Each ~~municipal~~ district court in this state shall establish a
21 division within the court to be known as the small claims division.

22 (2) The small claims division shall have the same jurisdiction
23 over amounts in controversy as provided under § 16-17-704.

24 (3) However, in counties having more than one (1) ~~municipal~~
25 district court, the judges of the respective courts, by written agreement,
26 may designate one (1) or more ~~municipal~~ district courts to be responsible for
27 all small claims litigation arising within that county.

28 (b) The small claims division may maintain its own docket of the
29 ~~municipal~~ district court, and the docket shall be heard at times and places
30 as may be determined by the judge or judges of the ~~municipal~~ district court.

31
32 SECTION 148. Effective January 1, 2005, Arkansas Code § 16-17-602 is
33 repealed.

34
35 SECTION 149. Arkansas Code § 16-17-603 is repealed.

36

1 SECTION 150. Effective January 1, 2005, Arkansas Code §§ 16-17-604 and
2 16-17-605 are repealed.

3
4 SECTION 151. Effective January 1, 2005, Arkansas Code § 16-17-606 is
5 repealed.

6
7 SECTION 152. Arkansas Code § 16-17-607 is amended to read as follows:
8 16-17-607. Commencement of action -- Form of claim and notice to
9 defendant.

10 Actions under this subchapter shall be commenced whenever the claimant
11 or the personal representative of a deceased claimant shall file with the
12 clerk of the court a claim in substantially the following form:

13 In the ~~Municipal~~ District Court of, State of Arkansas.

14

15 Plaintiff

Small Claims Division

16 vs.

No.

17

18 Defendant

19 Defendant's Address:

20

21 Nature of Claim:

22 Nature and Amount

23 of Relief Claimed:

24 Date Claim Arose:

25 Factual Basis of Claim:

26

27

28

29 Signature of Plaintiff

30

31 Plaintiff's Address

32 NOTICE TO DEFENDANT

33 You are hereby warned to file a written answer with the clerk of this
34 court within twenty (20) days after you receive this claim and forward a copy
35 to the plaintiff at the address above or a default judgment may be entered
36 against you.

1
 2 (Signature of Clerk or Judge)
 3
 4 ~~Municipal~~ District Court Clerk
 5 Address:
 6

7 RETURN

8 STATE OF ARKANSAS

9 COUNTY OF

10 I,, certify that I served the within
 11 Claim Form on the defendant,, at o'clock ... m.
 12 on, ~~19~~ 20..., by
 13

14 (Show manner of service)

15
 16 Name and Office, if any

17 Subscribed and sworn to before me this day of, ~~19~~ 20...,
 18 (To be completed if service by other than a Sheriff, Constable, or Clerk)

19
 20 Notary Public

21 My commission expires:

22

24 SECTION 153. Effective January 1, 2005, Arkansas Code § 16-17-607 is
 25 repealed.

27 SECTION 154. Effective January 1, 2005, Arkansas Code §§ 16-17-608
 28 through 16-17-610 are repealed.

30 SECTION 155. Arkansas Code § 16-17-611 is amended to read as follows:
 31 16-17-611. Form of answer -- Affirmative relief.

32 The defendant shall file with the clerk of the court his answer and
 33 assert any affirmative relief he may claim in substantially the following
 34 form:

35 In the ~~Municipal~~ District Court of, State of Arkansas.

36

1 provisions of this subchapter shall be construed, to abridge in any way the
2 rights of persons to be represented by legal counsel.

3
4 SECTION 158. Effective January 1, 2005, Arkansas Code § 16-17-612 is
5 repealed.

6
7 SECTION 159. Arkansas Code § 16-17-613 is amended to read as follows:
8 16-17-613. Judgments and orders -- Awarding of costs -- Appeals.

9 (a) The judge may give judgment and make such orders as to time of
10 payment or otherwise as may be deemed by him to be right and just. However,
11 judgments and orders shall be in writing and entered upon the official record
12 in the same manner as other judgments and orders of the ~~municipal~~ district
13 court.

14 (b) No prejudgment attachment or prejudgment garnishment shall issue in
15 any suit under this subchapter.

16 (c) Proceedings to enforce or collect a judgment shall be in all
17 respects as in other cases, except that security interests may be proved at
18 the same time as the proof of the claim. The order of judgment may include an
19 order of delivery directing the sheriff to deliver the property subject to
20 the security interests to the plaintiff. If the court issues an order of
21 delivery, no further action shall be necessary on the part of the plaintiff
22 to obtain possession of the property.

23 (d) Except as otherwise ordered by the court, no execution or
24 enforcement proceedings shall issue on any judgment until after the
25 expiration of ten (10) days from the entry thereof.

26 (e) The prevailing party in an action under this subchapter is entitled
27 to costs of the action, including the costs of service and notice directing
28 the appearance of the defendant and the costs of enforcing any judgment
29 rendered in the action.

30 (f) Appeals may be taken from the judgment rendered under this
31 subchapter in the same manner as other civil appeals are taken from ~~municipal~~
32 district courts.

33
34 SECTION 160. Effective January 1, 2005, Arkansas Code § 16-17-613 is
35 repealed.

36

1 SECTION 161. Arkansas Code §§ 16-17-701 and 16-17-702 are amended to
2 read as follows:

3 16-17-701. Title.

4 This subchapter shall be known as the "~~Municipal~~ District Court Civil
5 Jurisdiction Act".

6
7 16-17-702. Proceedings subject to rules.

8 All civil cases filed in the ~~municipal~~ district court which are not
9 brought pursuant to the Small Claims Procedure Act, § 16-17-601 et seq.,
10 shall be subject to the Inferior Court Rules, the Rules of Civil Procedure,
11 and the Uniform Rules of Evidence as adopted by the Arkansas Supreme Court
12 and as may be amended.

13
14 SECTION 162. Effective January 1, 2005, Arkansas Code § 16-17-702 is
15 amended to read as follows:

16 16-17-702. Proceedings subject to rules.

17 All civil cases filed in the ~~municipal~~ district court ~~which are not~~
18 ~~brought pursuant to the Small Claims Procedure Act, § 16-17-601 et seq.,~~
19 ~~shall be subject to the Inferior Court Rules, the Rules of Civil Procedure,~~
20 ~~and the Uniform Rules of Evidence as~~ procedural rules adopted by the Arkansas
21 Supreme Court ~~and as may be amended~~ for such cases.

22
23 SECTION 163. Arkansas Code §§ 16-17-703 and 16-17-704 are amended to
24 read as follows:

25 16-17-703. Right to jury trial.

26 There shall be no jury trials in ~~municipal~~ district court. In order
27 that the right of trial by jury remains inviolate, all appeals from judgment
28 in ~~municipal~~ district court shall be de novo to circuit court.

29
30 16-17-704. Original civil jurisdiction coextensive with county.

31 (a) The ~~municipal~~ district court shall have original jurisdiction,
32 coextensive with the county wherein the court is situated, over the following
33 civil matters:

34 ~~(1) Exclusive of justices of the peace and of the circuit court,~~
35 ~~over violations of all ordinances passed by the city council of the city or~~
36 ~~quorum court of the county wherein the municipal court is situated;~~

1 ~~(2) Exclusive of justices of the peace in townships subject to~~
 2 ~~this subchapter and concurrent with the circuit court, over misdemeanors~~
 3 ~~committed within the county and the issuance of search warrants within the~~
 4 ~~county;~~

5 ~~(3) (1) Concurrent with justices of the peace, and exclusive~~
 6 ~~Exclusive of the circuit court, in all matters of contract where the amount~~
 7 ~~in controversy does not exceed the sum of one hundred dollars (\$100),~~
 8 ~~excluding interest;~~

9 ~~(4) (2) Concurrent with the circuit court in matters of contract~~
 10 ~~where the amount in controversy does not exceed the sum of five thousand~~
 11 ~~dollars (\$5,000), excluding interest;~~

12 ~~(5) (3) Concurrent with the circuit court in actions for the~~
 13 ~~recovery of personal property where the value of the property does not exceed~~
 14 ~~the sum of five thousand dollars (\$5,000); and~~

15 ~~(6) (4) Concurrent with the circuit court in matters of damage to~~
 16 ~~personal property where the amount in controversy does not exceed the sum of~~
 17 ~~five thousand dollars (\$5,000), excluding interest.~~

18 ~~(b) Municipal courts shall have jurisdiction to sit as examining~~
 19 ~~courts, and to commit, discharge, or recognize offenders to the court having~~
 20 ~~jurisdiction of the trial, and to bind persons to keep the peace or behavior.~~

21 ~~(e) (b) The jurisdiction of the courts as provided in this subchapter~~
 22 ~~shall be coextensive with the county. In counties having two (2) judicial~~
 23 ~~districts, the jurisdiction shall be limited to the district in which the~~
 24 ~~court is situated.~~

25
 26 SECTION 164. Effective January 1, 2005, Arkansas Code § 16-17-704 is
 27 amended to read as follows:

28 16-17-704. ~~Original jurisdiction coextensive with county~~ Jurisdiction
 29 -- Civil Cases.

30 ~~(a) The municipal court~~ district courts shall have ~~original~~ subject
 31 matter jurisdiction, ~~coextensive with the county wherein the court is~~
 32 ~~situated, over the following matters:~~ as established by Supreme Court rule.

33 ~~(1) Exclusive of justices of the peace and of the circuit court,~~
 34 ~~over violations of all ordinances passed by the city council of the city or~~
 35 ~~quorum court of the county wherein the municipal court is situated;~~

36 ~~(2) Exclusive of justices of the peace in townships subject to~~

~~this subchapter and concurrent with the circuit court, over misdemeanors committed within the county and the issuance of search warrants within the county;~~

~~(3) Concurrent with justices of the peace, and exclusive Exclusive of the circuit court, in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars (\$100), excluding interest;~~

~~(4) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of five thousand dollars (\$5,000), excluding interest;~~

~~(5) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of five thousand dollars (\$5,000); and~~

~~(6) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of five thousand dollars (\$5,000), excluding interest.~~

~~(b) Municipal courts shall have jurisdiction to sit as examining courts, and to commit, discharge, or recognize offenders to the court having jurisdiction of the trial, and to bind persons to keep the peace or behavior.~~

~~(c) The jurisdiction of the courts as provided in this subchapter shall be coextensive with the county. In counties having two (2) judicial districts, the jurisdiction shall be limited to the district in which the court is situated.~~

SECTION 165. Arkansas Code § 16-17-705 is amended to read as follows:

16-17-705. Filing fees and costs.

(a)(1) The uniform filing fee to be charged by the clerks of the ~~municipal~~ district courts for initiating a cause of action in ~~municipal~~ district court in this state shall be as prescribed in this section.

(2) No portion of the filing fee shall be refunded.

(b)(1) For initiating a cause of action in the civil division of ~~municipal~~ district court \$35.00

(2) For initiating a cause of action in the small claims division of ~~municipal~~ district court \$25.00

(c) No municipality shall authorize, and no ~~municipal~~ district court clerk shall assess or collect, any other filing fees than those authorized by

1 this act, unless specifically provided by state law.

2
3 SECTION 166. Effective January 1, 2005, Arkansas Code § 16-17-705(b) is
4 amended to read as follows:

5 (b)(1) For initiating a cause of action in the civil division of
6 ~~municipal~~ district court \$35.00

7 (2) For initiating a cause of action in the small claims division
8 of ~~municipal~~ district court if such division is established pursuant to
9 Amendment 80, § 7(D) of the Arkansas Constitution,..... \$25.00

10
11 SECTION 167. Effective January 1, 2005, Arkansas Code § 16-17-706 is
12 amended to read as follows:

13 16-17-706. ~~{Repealed.}~~ Venue.

14 (a) Except as provided in this subsection (b) of this section, the
15 venue of civil actions instituted under this subchapter shall be as in like
16 actions instituted in the circuit courts.

17 (b) If a small claims division of the district court is established
18 pursuant to Amendment 80, § 7(D) of the Arkansas Constitution, venue in civil
19 actions instituted in the small claims division shall be as follows:

20 (1) When a defendant has contracted to perform an obligation in a
21 particular county, an action based on that obligation may be commenced and
22 maintained either in the county where the obligation is to be performed or in
23 the county in which the defendant resides at the commencement of the action;

24 (2) When the action is for injury to person or to personal
25 property, either the county where the injury occurred or the county where the
26 defendant resides at the commencement of the action shall be the proper
27 venue; and

28 (3) In all other cases, actions shall be commenced and maintained
29 in the county in which the defendant resides.

30
31 SECTION 168. Arkansas Code § 16-17-707 is amended to read as follows:
32 16-17-707. Separate accounts of fines, etc. -- Disbursements.

33 (a) The ~~municipal~~ district court clerk shall keep three (3) separate
34 accounts of all fines, penalties, forfeitures, fees, and costs received by
35 him for any of the officers of the city, township, or county, as provided in
36 this subchapter.

1 (1) The first class of accounts shall embrace all sums collected
2 in the ~~municipal~~ district court in all criminal cases arising out of
3 violations of the city ordinances and cases arising out of violation of state
4 laws committed within the corporate limits of the city where the court sits,
5 where the arresting officer was a police officer or other officer of the city
6 or where the arresting officer was a state police officer.

7 (2) The second class of accounts shall embrace all cases arising
8 out of violation of any of the laws of the state where the arresting officer
9 was not a police officer or other officer of the municipality, or where the
10 offense was committed outside the corporate limits of the city and the arrest
11 was made by a state police officer, and in all other criminal proceedings not
12 specifically enumerated in this section; and

13 (3) The third class shall embrace all sums collected in the
14 ~~municipal~~ district court in all civil cases.

15 (b) After deduction and remittance of those fees permitted and
16 authorized in this subchapter, the balance shall be disbursed to the
17 treasurers of the political subdivisions which contribute to the expenses of
18 the ~~municipal~~ district court in proportionate amounts as each pays to the
19 court.

20 (c) After deducting the fees and costs due the sheriff and constables,
21 the ~~municipal~~ district court shall pay into the city treasury all sums
22 arising from the first class of accounts, and shall pay all sums arising out
23 of the second class of accounts into the county treasury.

24 (d) All disbursements from all three (3) classes shall be pursuant to
25 the provisions set forth in §§ 16-10-201 -- 16-10-210.

26
27 SECTION 169. Effective January 1, 2005, Arkansas Code §§ 16-18-101
28 through 16-18-104 are repealed.

29
30 SECTION 170. Arkansas Code § 16-18-105 is amended to read as follows:
31 16-18-105. Fees of witnesses.

32 Witnesses in the police court shall be allowed the same fees in cases
33 arising from a violation of an ordinance as are allowed in similar cases
34 before a ~~justice of the peace~~ city court, and the fees shall be paid in the
35 same manner.

36

1 SECTION 171. Effective January 1, 2005, Arkansas Code § 16-18-105 is
2 repealed.

3
4 SECTION 172. Effective January 1, 2005, Arkansas Code §§ 16-18-107
5 through 16-18-109 are repealed.

6
7 SECTION 173. Arkansas Code § 16-18-111 is repealed.

8
9 SECTION 174. Effective January 1, 2005, Arkansas Code § 16-18-112 is
10 amended to read as follows:

11 16-18-112. Schedule of fees or monthly allowance for judge of ~~police~~
12 ~~court, city court, or mayor's court~~ -- Jurisdiction -- Designation of
13 substitute judge ~~of city court~~.

14 (a)(1)(A) The governing body of any city or town having a ~~police court,~~
15 ~~city court, or a mayor's court~~ may establish a schedule of fees to be paid by
16 the city or town from the general fund to the judge of the court for the
17 trial of cases in the court.

18 (B) However, the fee schedule or monthly allowance shall
19 not be based upon the conviction of any person tried in the court.

20 (2)(A) Alternatively, the governing body of the city or town may
21 provide for the payment of a monthly allowance from the general fund of the
22 city or town as compensation to the judge for sitting as judge in that court.

23 (B) However, the fee schedule or monthly allowance shall
24 not be based upon the conviction of any person tried in the court.

25 (b)(1) The ~~mayor~~ city court of any city or town ~~having a city court or~~
26 ~~mayor's court~~ shall have, within the limits of the city, ~~all the jurisdiction~~
27 ~~and power of a justice of the peace in all civil or criminal matters arising~~
28 ~~under the laws of this state, to all intents and purposes~~ jurisdiction as
29 provided by § 16-88-101.

30 ~~(2) For crimes and offenses committed within the limits of the~~
31 ~~city, the mayor's jurisdiction shall be coextensive with the county.~~

32 (c) The mayor shall give bond and security in any amount to be
33 determined and approved by the city council.

34 ~~(d)(1) The mayor shall have exclusive jurisdiction of all prosecutions~~
35 ~~for violation of any ordinances of the city;~~

36 ~~(2) He~~ (d)(1) The court may award and issue any process or writs that

1 may be necessary to enforce the administration of justice throughout the
 2 city, and for the lawful exercise of ~~his~~ its jurisdiction, according to the
 3 usages and principles of law.

4 (2) For crimes and offenses committed within the limits of the
 5 city, the court's power with respect to process or writs extends throughout
 6 the county in which the city is located.

7 (e)(1) Any mayor of a city of the first class meeting the limitations
 8 of this section, any city of the second class, or any town may designate, at
 9 such times as he shall choose to do so, any attorney licensed in the State of
 10 Arkansas who resides in the county in which the city or town is situated, to
 11 sit in the mayor's stead as judge of the city court.

12 (2) Any person so designated by the mayor to sit as judge shall
 13 receive such remuneration as is provided by the governing body of the city or
 14 town as provided in this section.

15 (f) Any conviction or sentence of the city court may be appealed to
 16 circuit court for a trial de novo.

17
 18 SECTION 175. Arkansas Code Title 16, Chapter 19, Subchapters 1 and 2
 19 are repealed.

20
 21 SECTION 176. Arkansas Code § 16-20-109, having been deemed superseded
 22 by the Supreme Court, is repealed.

23
 24 SECTION 177. Arkansas Code § 16-20-306 is repealed.

25
 26 SECTION 178. Arkansas Code § 16-20-404 is amended to read as follows:

27 16-20-404. Fee for making settlement with collector.

28 The clerks of the county ~~and probate courts of the various counties in~~
 29 ~~the state~~ and of the probate division of the circuit courts are authorized to
 30 charge a fee of not more than ten dollars (\$10.00) per day for making
 31 settlement with the collector for each day employed, including quarterly
 32 apportionments, but not exceeding thirty (30) days during any calendar year.

33
 34 SECTION 179. Arkansas Code § 16-21-115 is amended to read as follows:

35 16-21-115. City attorneys.

36 A prosecuting attorney may designate the duly elected or appointed city

1 attorney of any municipality within the prosecutor's district to prosecute in
2 the name of the state in ~~municipal or other corporation~~ district, city, and
3 police courts violations of state misdemeanor laws, which violations occurred
4 within the limits of the municipality, if the city attorney agrees to the
5 appointment.

6
7 SECTION 180. Effective January 1, 2005, Arkansas Code § 16-21-115 is
8 amended to read as follows:

9 16-21-115. City attorneys.

10 A prosecuting attorney may designate the duly elected or appointed city
11 attorney of any municipality within the prosecutor's district to prosecute in
12 the name of the state in ~~municipal or other corporation~~ district and city
13 courts violations of state misdemeanor laws, which violations occurred within
14 the limits of the municipality, if the city attorney agrees to the
15 appointment.

16
17 SECTION 181. Arkansas Code § 16-22-212(a), concerning the effect of
18 disbarment in another state, is amended to read as follows:

19 (a) It shall be unlawful for any person to practice law or attempt to
20 practice law, in any ~~of the courts of record, municipal courts, justice~~
21 ~~courts, or any other~~ court in this state, or to solicit business as, or in
22 any manner represent himself to be, an attorney at law when such person so
23 practicing or attempting to practice law, or soliciting business as, or
24 representing himself to be, an attorney at law has previously been disbarred
25 from the practice of law in any other state of the United States of America,
26 while a resident of that state.

27
28 SECTION 182. Arkansas Code § 16-43-205 is amended to read as follows:

29 16-43-205. Authorization for officials taking depositions to compel
30 attendance of witnesses.

31 Every person, ~~judge, justice of the peace, or master in chancery~~ in
32 this state who is required to take depositions or examinations of witnesses
33 ~~in pursuance of this act, or~~ by virtue of any commission issued out of any
34 court of record of this or any other government, shall have power to issue
35 subpoenas for witnesses to appear and testify and to compel their attendance
36 in the same manner and under the same penalties as any court of record of

1 this state.

2

3 SECTION 183. Arkansas Code § 16-43-804(b), concerning proof of
4 attendance by a witness, is amended to read as follows:

5 (b) Every witness shall prove his attendance ~~at each term he may attend~~
6 before any court, ~~or each time he may attend before any justice of the peace,~~
7 whether the case is determined or not, before the clerk of the court ~~or the~~
8 justice before which he may be summoned to appear.

9

10 SECTION 184. Arkansas Code § 16-44-202(f), concerning deposition of a
11 witness unable to attend trial, is amended to read as follows:

12 (f) This section shall be applicable to ~~municipal~~ city, district,
13 police, and circuit courts of this state.

14

15 SECTION 185. Effective January 1, 2005, Arkansas Code § 16-44-202(f) is
16 amended to read as follows:

17 (f) This section shall be applicable to ~~municipal, police, city,~~
18 district, and circuit courts of this state.

19

20 SECTION 186. Arkansas Code § 16-55-102 is repealed.

21

22 SECTION 187. Arkansas Code §§ 16-55-106 and 16-55-107 are repealed.

23

24 SECTION 188. Arkansas Code § 16-55-109 is repealed.

25

26 SECTION 189. Arkansas Code Title 16, Chapter 57 is repealed.

27

28 SECTION 190. Arkansas Code § 16-60-103(4), concerning actions which
29 must be brought in Pulaski County, is amended to read as follows:

30

31 (4) All other actions ~~now authorized~~ required by law to be brought in
32 ~~the separate Court of Chancery of Pulaski County.~~

33

34 SECTION 191. Arkansas Code § 16-60-207 is amended to read as follows:
35 16-60-207. Domestic relations.

36 The venue of domestic relations cases in this state may be transferred

1 between ~~chancery circuits~~ judicial districts in which either of the parties
2 reside, when agreed to by the parties to the action and the ~~chancellors of~~
3 ~~the circuits~~ judges involved.

4
5 SECTION 192. Arkansas Code § 16-63-203 is repealed.

6
7 SECTION 193. Arkansas Code §§ 16-64-106 through 16-64-108 are repealed.

8
9 SECTION 194. Arkansas Code §§ 16-64-127 through 16-64-129 are repealed.

10
11 SECTION 195. Arkansas Code § 16-65-119 is repealed.

12
13 SECTION 196. Arkansas Code § 16-65-120(c), concerning sale or transfer
14 of judgments or causes of action, is amended to read as follows:

15 (c) This section shall apply to any and all judgments, suits, claims,
16 and causes of action, whether assignable ~~in law and equity~~ or not.

17
18 SECTION 197. Arkansas Code § 16-65-201 is repealed.

19
20 SECTION 198. Arkansas Code § 16-65-504(a), concerning revival of a
21 judgment against the personal representatives, heirs, and devisees of a
22 deceased defendant, is amended to read as follows:

23 (a) A judgment may be revived against the personal representatives,
24 heirs, and devisees, or either of them, of a deceased defendant by an action
25 ~~prosecuted by proceedings at law~~ in circuit court without verification of the
26 complaint.

27
28 SECTION 199. Arkansas Code § 16-65-603(b), concerning judgments set off
29 against each other, is amended to read as follows:

30 (b) The setoff may be ordered upon motion after reasonable notice to
31 the adverse party, where both judgments are in the same court, or in an
32 ~~action by equitable proceedings~~ for equitable relief in the court in which
33 the judgment sought to be annulled by the setoff was rendered.

34
35 SECTION 200. Arkansas Code § 16-66-201(6), concerning property subject
36 to execution, is amended to read as follows:

1 (6) All real estate, whether patented or not, of which the defendant or
2 any person for his use, was seized ~~in law or equity~~ on the day of rendition
3 of the judgment, order, or decree, upon which the execution is issued, or at
4 any time thereafter.

5
6 SECTION 201. Arkansas Code § 16-66-403 is amended to read as follows:

7 16-66-403. Levy on joint or partnership property -- Assertion of
8 ~~equitable or other~~ claim.

9 (a) Whenever a sheriff or other officer levies an execution upon
10 property or effects held jointly or in partnership by the debtor in the
11 execution with others, to satisfy the separate debt of the debtor, the
12 sheriff or other officer shall not proceed to make sale thereof, except as
13 provided in this section if the person or persons, or any of them, holding a
14 joint or partnership interest with the debtor, asserts ~~an equitable or other~~
15 a claim thereto, and, in writing, notifies the officer of the existence of
16 the claim.

17 (b) Where any such levy is made, the officer shall give notice thereof,
18 in writing, to the other joint owners or partners, if they are residing in
19 his county, or to the agent, if any, of any joint owners or partners who are
20 absent or nonresidents. If the joint owners or partners thereafter, for the
21 space of fifteen (15) days, fail to give the officers notice of their claim,
22 the officer shall then proceed to advertise and sell the property so levied
23 upon.

24 (c) When a claim is asserted by the joint owners or partners to the
25 property levied upon, the officer shall not, by virtue of his levy, deprive
26 the joint owners or partners of the possession of the property levied upon,
27 except for the purpose of making an inventory thereof and having the property
28 appraised.

29 (d) The officer shall proceed to have the property levied upon
30 appraised as provided in § 16-66-304(b). He shall return the inventory and
31 appraisal, with the execution to the officer from which it issued. In his
32 return, he shall state all the facts connected with the levy by him and the
33 claims, if any, set up by the joint owner or owners.

34 (e) The execution creditor shall have a lien upon the property levied
35 upon, such as is given by law to executions in the hands of the officer, and
36 which shall continue until the levy is disposed of.

1 (f) Upon the execution being filed by the officer that he had levied
2 the execution upon the property, in which the debtor was joint owner, or
3 partner, and that the property was claimed by the other joint owners or
4 partners, the execution creditor may proceed ~~by equitable proceedings,~~ to
5 subject to the satisfaction of his execution the interest of his debtor so
6 levied upon.

7
8 (g)(1) If the creditor, at the commencement of his or her action, or
9 afterward, files an affidavit that he or she verily believes that the
10 property levied upon will be removed from the county, sold, or otherwise
11 disposed of, with intent fraudulently to defeat his or her lien, the court,
12 or judge thereof in vacation, or, if within the jurisdiction of a magistrate,
13 then a justice of the peace, may make an order directing the officer to
14 possess himself or herself of the property so levied upon, unless a bond with
15 approved security is executed to the plaintiff in the execution, binding the
16 obligors in the bond to have the same forthcoming, in obedience to any order
17 or judgment of the court in the action.

18 (2) The bond shall be taken by the officer and returned by him
19 or her to the court in which the action is pending.

20
21 SECTION 202. Arkansas Code § 16-66-418(a)(1) is amended to read as
22 follows:

23 (a)(1) After an execution of fieri facias directed to the county in
24 which the judgment was rendered, or to the county of the defendant's
25 residence, is returned by the proper officer, either as to the whole or part
26 thereof, in substance, no property found to satisfy the execution, the
27 plaintiff in the execution may institute an action, ~~by equitable proceedings,~~
28 in the court from which the execution issued, or in the court of any county
29 in which the defendant resides or is summoned, for the discovery of any
30 money, chose in action, equitable or legal interest, and all other property
31 to which the defendant is entitled, and for subjecting the money, chose in
32 action, equitable or legal interest, and all other property to which the
33 defendant is entitled to the satisfaction of the judgment.

34
35 SECTION 203. Arkansas Code § 16-67-301 is repealed.

36

1 SECTION 204. Arkansas Code § 16-67-325(e), concerning reversal,
2 affirmation, or modification of a judgment or order, is repealed.

3
4 SECTION 205. Arkansas Code § 16-68-203(b), concerning sureties, is
5 amended to read as follows:

6 (b) No attorney, ~~solicitor, or counsellor at law or in equity~~, clerk,
7 sheriff or other person concerned in the execution of any process, shall
8 become bail in any civil case.

9
10 SECTION 206. Arkansas Code § 16-68-408 is repealed.

11
12 SECTION 207. Arkansas Code § 16-88-101 is amended to read as follows:

13 16-88-101. Jurisdiction of courts for ~~certain~~ criminal offenses
14 generally.

15 (a) The jurisdiction of the various courts of this state, for the trial
16 of offenses, shall be as follows:

17 (1) The Senate of Arkansas shall have exclusive jurisdiction of
18 impeachment;

19 (2) The Supreme Court shall have general supervision and control
20 over all inferior courts in criminal cases;

21 ~~(3) The circuit courts shall have general jurisdiction for the~~
22 ~~trial of all offenses which may be prosecuted by indictment, and all~~
23 ~~prosecutions and penal actions, except as follows:~~

24 ~~(A) City and police courts shall have exclusive~~
25 ~~jurisdiction of all prosecutions and actions for infractions of the bylaws or~~
26 ~~ordinances of the city or town in which they are located, concurrent~~
27 ~~jurisdiction with the circuit courts and justices' courts of prosecutions for~~
28 ~~misdemeanors committed in the town or city, and also concurrent jurisdiction~~
29 ~~in the cases provided by the special statutes creating or regulating such~~
30 ~~courts.~~

31 ~~(B) In criminal causes, the jurisdiction of courts of~~
32 ~~justices of the peace shall extend to all matters less than felony for final~~
33 ~~determination and judgment. However, circuit courts shall have jurisdiction~~
34 ~~concurrent with justices' courts in all criminal cases and in all criminal~~
35 ~~and penal causes except where exclusive jurisdiction is given to city and~~
36 ~~police courts.~~

1 (3) The circuit court shall have original jurisdiction, exclusive
2 of the district court, city court, and police court, for the trial of
3 offenses defined as felonies by state law and shall have original
4 jurisdiction, concurrent with the district court, city court, and police
5 court for the trial of offenses defined as misdemeanors by state law.

6 (4) The district court shall have original jurisdiction,
7 exclusive of the circuit court, for the trial of violations of ordinances of
8 the city or county in which the district court is located, and shall have
9 original jurisdiction, concurrent with the circuit court, for the trial of
10 offenses defined as misdemeanors by state law and committed within the county
11 in which the district court is located.

12 (5) The city court and police court shall have original
13 jurisdiction, exclusive of the circuit court, for the trial of violations of
14 ordinances of the city in which the city court or police court is located,
15 and shall have original jurisdiction, concurrent with the circuit court, for
16 the trial of offenses defined as misdemeanors by state law and committed
17 within the city in which the circuit court is located.

18 ~~(b) Where an indictment is found~~ If a defendant is charged in the
19 circuit court for an offense within its jurisdiction, the circuit court shall
20 have jurisdiction of all the degrees of the offense, and of all the offenses
21 included in the one (1) charge, although some of those degrees or included
22 offenses are within the exclusive jurisdiction of an inferior or local court.

23 (c) A district court may issue arrest warrants and search warrants and
24 may perform other pretrial functions, as authorized by the Arkansas Rules of
25 Criminal Procedure, in the prosecution of a person for an offense within the
26 exclusive jurisdiction of the circuit court.

27
28 SECTION 208. Effective January 1, 2005, Arkansas Code § 16-88-101(a) is
29 amended to read as follows:

30 (a) The jurisdiction of the various courts of this state, for the trial
31 of offenses, shall be as follows:

32 (1) The Senate of Arkansas shall have exclusive jurisdiction of
33 impeachment;

34 (2) The Supreme Court shall have general supervision and control
35 over all inferior courts in criminal cases;

36 ~~(3) The circuit courts shall have general jurisdiction for the~~

1 ~~trial of all offenses which may be prosecuted by indictment, and all~~
2 ~~prosecutions and penal actions, except as follows:~~

3 ~~(A) City and police courts shall have exclusive~~
4 ~~jurisdiction of all prosecutions and actions for infractions of the bylaws or~~
5 ~~ordinances of the city or town in which they are located, concurrent~~
6 ~~jurisdiction with the circuit courts and justices' courts of prosecutions for~~
7 ~~misdemeanors committed in the town or city, and also concurrent jurisdiction~~
8 ~~in the cases provided by the special statutes creating or regulating such~~
9 ~~courts.~~

10 ~~(B) In criminal causes, the jurisdiction of courts of~~
11 ~~justices of the peace shall extend to all matters less than felony for final~~
12 ~~determination and judgment. However, circuit courts shall have jurisdiction~~
13 ~~concurrent with justices' courts in all criminal cases and in all criminal~~
14 ~~and penal causes except where exclusive jurisdiction is given to city and~~
15 ~~police courts.~~

16 (3) The circuit court shall have original jurisdiction, exclusive
17 of the district court and city court, for the trial of offenses defined as
18 felonies by state law and shall have original jurisdiction, concurrent with
19 the district court and city court, for the trial of offenses defined as
20 misdemeanors by state law.

21 (4) The district court shall have original jurisdiction,
22 exclusive of the circuit court, for the trial of violations of ordinances of
23 the city or county in which the district court is located, and shall have
24 original jurisdiction, concurrent with the circuit court, for the trial of
25 offenses defined as misdemeanors by state law and committed within the
26 territorial jurisdiction of the district court.

27 (5) The city court shall have original jurisdiction, exclusive of
28 the circuit court, for the trial of violations of ordinances of the city in
29 which the city court is located, and shall have original jurisdiction,
30 concurrent with the circuit court, for the trial of offenses defined as
31 misdemeanors by state law and committed within the city in which the circuit
32 court is located.

33
34 SECTION 209. Arkansas Code § 16-88-103 is repealed.

35
36 SECTION 210. Arkansas Code § 16-88-104 is amended to read as follows:

1 16-88-104. Presumption of ~~proper venue~~ jurisdiction.

2 It shall be presumed upon trial that the offense charged ~~in the~~
3 ~~indictment~~ was committed within the jurisdiction of the court, and the court
4 may pronounce the proper judgment accordingly unless the evidence
5 affirmatively shows otherwise.

6
7 SECTION 211. Arkansas Code § 16-89-115(f), concerning the state's
8 production of production of witness statements in criminal prosecutions, is
9 amended to read as follows:

10 (f) The provisions of this section shall be applicable to ~~municipal~~ the
11 district, city, police, and circuit courts of this state.

12
13 SECTION 212. Effective January 1, 2005, Arkansas Code § 16-89-115(f) is
14 amended to read as follows:

15 (f) The provisions of this section shall be applicable to ~~municipal~~ the
16 district, city, police, and circuit courts of this state.

17
18 SECTION 213. Arkansas Code § 16-89-116(h), concerning discovery in
19 criminal cases, is amended to read as follows:

20 (h) The provisions of this section shall be applicable to ~~municipal~~ the
21 district, city, police, and circuit courts of this state.

22
23 SECTION 214. Effective January 1, 2005, Arkansas Code § 16-89-116(h) is
24 amended to read as follows:

25 (h) The provisions of this section shall be applicable to ~~municipal~~ the
26 district, city, police, and circuit courts of this state.

27
28 SECTION 215. Arkansas Code § 16-90-115(a), concerning suspended
29 sentences, is amended to read as follows:

30 (a) All courts of record, ~~municipal~~ district courts, city courts,
31 ~~corporation courts, mayor's courts, and~~ police courts, ~~justice of the peace~~
32 ~~courts, and courts of common pleas~~ in this state shall have the authority to
33 suspend the imposition of sentences or the imposition of fines, or both, in
34 all criminal cases pending before the courts unless specifically prohibited
35 by law.

36

1 SECTION 216. Effective January 1, 2005, Arkansas Code § 16-90-115(a) is
2 amended to read as follows:

3 (a) All courts of record, ~~municipal courts,~~ district courts and city
4 ~~courts, corporation courts, mayor's courts, police courts, justice of the~~
5 ~~peace courts, and courts of common pleas~~ in this state shall have the
6 authority to suspend the imposition of sentences or the imposition of fines,
7 or both, in all criminal cases pending before the courts unless specifically
8 prohibited by law.

9
10 SECTION 217. Arkansas Code § 16-92-107 is repealed.

11
12 SECTION 218. Arkansas Code § 16-93-103(a), concerning authority of
13 officers to make arrests, is amended to read as follows:

14 (a) All probation officers appointed by a court, excluding juvenile
15 probation officers, whether circuit or ~~municipal~~ district, and all parole and
16 probation officers employed by the ~~Department of Community Punishment~~
17 Department of Community Correction who are currently certified law
18 enforcement officers may execute, serve, and return all lawful warrants of
19 arrest issued by the State of Arkansas or any political subdivision thereof
20 and are otherwise authorized to make lawful arrests as any law enforcement
21 officer of the State of Arkansas.

22
23 SECTION 219. Arkansas Code § 16-93-303(a)(1)(A), concerning procedure
24 for deferred adjudication and expungement of records of first offenders, is
25 amended to read as follows:

26 (a)(1)(A) Whenever an accused enters a plea of guilty or nolo
27 contendere prior to an adjudication of guilt, the judge of the circuit or
28 ~~municipal~~ district court, ~~criminal or traffic division,~~ in the case of a
29 defendant who has not been previously convicted of a felony, without entering
30 a judgment of guilt and with the consent of the defendant, may defer further
31 proceedings and place the defendant on probation for a period of not less
32 than one (1) year, under such terms and conditions as may be set by the
33 court.

34
35 SECTION 220. Arkansas Code § 16-96-403 is amended to read as follows:
36 16-96-403. Imposition by circuit court on appeal -- Costs.

1 The fines, penalties, forfeitures, and costs imposed by the circuit
2 court for offenses which are misdemeanors or violations under state law or
3 local ordinance or for traffic offenses which are misdemeanors or violations
4 under state law or local ordinance, in cases appealed from ~~the municipal,
5 city or police courts of this state~~ any court of limited jurisdiction, shall
6 be collected and disbursed in the following manner:

7 (1) If the appeal proceeds to a de novo bench trial or jury trial, the
8 fines, penalties, forfeitures and costs imposed by the circuit court shall be
9 collected pursuant to § 16-13-709 and paid to the county treasurer;

10 (2) If the defendant pleads guilty or nolo contendere or the circuit
11 court dismisses the appeal, the judgment of the ~~municipal, city or police
12 court~~ from which the appeal originated shall be affirmed;

13 (i) The circuit court clerk shall, within thirty (30) days, of
14 the affirmance or dismissal, notify in writing the ~~municipal, city or police
15 court~~ from which the appeal originated, of the affirmance or dismissal;

16 (ii) Upon receipt of the notice of affirmance or dismissal, the
17 ~~municipal, city or police court~~ from which the appeal originated shall
18 collect and disburse the fines, penalties, forfeitures and costs pursuant to
19 § 16-17-707.

20 (3) Nothing in this section shall affect the right of ~~municipal, city
21 or police courts~~ a court of limited jurisdiction to require a supersedeas
22 bond for an appeal to circuit court nor the ability of these courts to
23 collect any fine, penalty, forfeiture or costs imposed in the absence of a
24 supersedeas bond.

25
26 SECTION 221. Arkansas Code §§ 16-105-205 through 16-105-208 are amended
27 to read as follows:

28 16-105-205. Jurisdiction -- Parties who may bring action.

29 Jurisdiction is conferred upon the ~~chancery and~~ circuit courts of this
30 state to abate the public nuisances defined in §16-105-204, upon petition in
31 the name of the state, upon relation of the Attorney General or any
32 prosecuting attorney of the state, or without the concurrence of the
33 officers, upon the relation of five (5) or more citizens and freeholders of
34 the county wherein the nuisances may exist, in the manner provided in this
35 subchapter.

36

1 16-105-206. *Petition for abatement.*

2 (a) *Whenever a public nuisance, as defined in this subchapter, is kept,*
3 *maintained, carried on, or exists in any county in this state, a bill or*
4 *petition may be filed in any ~~chancery or~~ circuit court of the county, in the*
5 *name of the state, by and upon the relation of any persons named in*
6 *16-105-205, against the person or persons keeping, maintaining, or carrying*
7 *on the nuisance, and all aiders and abettors therein, and the owners,*
8 *proprietors, or agents or persons or corporations, in charge or control of*
9 *the building or place wherein the nuisance exists, for the purpose of having*
10 *the nuisance abated and permanently discontinued.*

11 (b)(1) *However, where a bill or petition is filed by citizens and*
12 *freeholders, they shall make bond in such sums as the ~~judges or chancellors~~*
13 *court shall prescribe, conditioned to pay all costs and damages, in the event*
14 *the court trying the case shall find and adjudge that the proceeding was*
15 *instituted without probable cause.*

16 (2) *No bond for costs or damages shall be required where the*
17 *proceeding is instituted by and upon the relation of the Attorney General or*
18 *a prosecuting attorney for the state.*

19
20 16-105-207. *Hearings for temporary and permanent injunction -- Bond --*
21 *Notice.*

22 (a) *In the proceedings the court ~~or a judge or chancellor in vacation~~*
23 *shall, upon the presentation of a bill therefor alleging that the nuisance*
24 *complained of exists, award a temporary injunction, with such bond as*
25 *required by law in cases where the bill is filed by citizens and freeholders.*
26 *However, no bond shall be required where the bill or petition is filed by the*
27 *officers mentioned in this subchapter if it shall be made to appear to the*
28 *satisfaction of the court, ~~judge, or chancellor,~~ by evidence in the form of a*
29 *due and proper verification of the bill or petition under oath, or of*
30 *affidavits, depositions, oral testimony, or otherwise, as the complainants or*
31 *petitioners may elect, that the allegations of the bill or petition are true,*
32 *enjoining and restraining the further continuance of the nuisance, and the*
33 *closing of the building or place wherein the nuisance is conducted until the*
34 *further order of the court, ~~judge, or chancellor.~~*

35 (b)(1) *Five (5) days' notice in writing shall be given the defendant of*
36 *the hearing of an application for a permanent injunction, but no notice shall*

1 be required of the hearing of a temporary injunction. If a hearing is
 2 continued at the instance of defendant, the writ as prayed for shall be
 3 granted as a matter of course.

4 (2) When the injunction has been granted, it shall be binding
 5 upon the defendant throughout the county until modified or set aside by the
 6 court, ~~judge, or chancellor~~ having cognizance of the case.

7 (3) Any violation thereof, by the defendant, or upon his
 8 procurement, shall be a contempt of court and punished as provided in § 16-
 9 105-203.

10
 11 16-105-208. Hearings for temporary and permanent injunction --
 12 Procedures.

13 ~~(a) Proceedings under this subchapter, whether in the chancery or~~
 14 ~~circuit courts, shall be conducted in accordance with the procedure of the~~
 15 ~~courts of chancery where not otherwise expressly provided in this subchapter.~~
 16 ~~All of the courts having cognizance of the proceedings are given the full~~
 17 ~~jurisdiction and powers of courts of equity with respect to the proceedings.~~

18 ~~(b)~~ (a) Upon the trial of all causes pursuant to this subchapter,
 19 evidence of the general reputation of the building or place where the
 20 nuisance is alleged to exist shall be admissible for the purpose of proving
 21 or tending to prove the existence of the nuisance.

22 ~~(c)(1)~~ (b)(1) The fact that the defendant has paid the internal revenue
 23 special tax as a retail liquor dealer or is in possession of an internal
 24 revenue tax stamp as a retail liquor dealer shall be prima facie evidence of
 25 sales of intoxicating liquors by the defendant during the time for which he
 26 has paid the internal revenue special tax.

27 (2) Copies of the records of the office of the Internal Revenue
 28 Service showing that the defendant has paid the internal revenue special tax,
 29 shall be admissible in evidence in the proceeding when the copies are
 30 certified to be full, true, and complete by the district internal revenue
 31 collector.

32
 33 SECTION 222. Arkansas Code §§ 16-105-304 through 16-105-307 are amended
 34 to read as follows:

35 16-105-304. Jurisdiction -- Persons who may bring abatement
 36 proceedings.

1 (a) Jurisdiction is conferred upon the ~~chancery and circuit court~~
2 courts of this state to abate the public nuisance defined in § 16-105-303,
3 upon petition in the name of the state on relation of the Attorney General or
4 any prosecuting attorney of the state or without the concurrence of the
5 officers upon the relation of ten (10) or more qualified electors and
6 freeholders of the county living within a radius of two (2) miles wherein the
7 nuisance may exist, in the manner set forth in this subchapter.

8 (b) On petition, addressed to the prosecuting attorney, of ten (10)
9 qualified electors and freeholders of the county wherein the nuisance may
10 exist, it shall become the mandatory duty of the prosecuting attorney for the
11 county and district wherein the nuisance may exist to institute action in the
12 ~~chancery and circuit courts~~ of this state to abate the public nuisance
13 defined in § 16-105-303 in the manner provided in this subchapter.

14
15 16-105-305. Petition for abatement.

16 (a) Whenever a public nuisance, as defined in this subchapter, is kept,
17 maintained, carried on, or exists in any county in this state, a bill or
18 petition may be filed in any ~~chancery or circuit court~~ of the county, in the
19 name of the state, by and upon the relation of any person named in §
20 16-105-304 against the person or persons keeping, maintaining, or carrying on
21 the nuisance, and all aiders and abettors therein, and the owners,
22 proprietors, or agents or persons or corporations, in charge or control of
23 the building or place wherein the nuisance exists, for the purpose of having
24 the nuisance abated and permanently discontinued.

25 (b) However, where the bill or petition is filed by electors and
26 freeholders, they shall make bond in such sums as the ~~judges or chancellors~~
27 court shall prescribe, conditioned to pay all costs and damages, in the event
28 the court trying the case shall find and adjudge that the proceeding was
29 instituted without probable cause. No bond for costs or damages shall be
30 required where the proceeding is instituted by and upon the relation of the
31 Attorney General or a prosecuting attorney for the state.

32
33 16-105-306. Hearings for temporary and permanent injunction -- Bond --
34 Notice.

35 (a) In the proceedings the court ~~or a judge or chancellor in vacation~~
36 shall, upon the presentation of a bill therefor alleging that the nuisance

1 complained of exists, award a temporary injunction, with such bond as
 2 required by law in cases where the bill is filed by citizens and electors and
 3 freeholders. However, no bond shall be required where bill or petition is
 4 filed by the officers mentioned in this subchapter if it shall be made to
 5 appear to the satisfaction of the court, ~~judge, or chancellor~~, by evidence in
 6 the form of a due and proper verification of the bill or petition under oath,
 7 or if affidavits, depositions, oral testimony, or otherwise, as the
 8 complainants or petitioners may elect, that the allegations of the bill or
 9 petition are true, enjoining and restraining the further continuance of the
 10 nuisance and the closing of the building or place wherein the nuisance is
 11 conducted until the further order of the court, ~~judge, or chancellor~~.

12 (b)(1) Five (5) days' notice in writing shall be given the defendant of
 13 the hearing of an application for a permanent injunction, but no notice shall
 14 be required of the hearing of a temporary injunction.

15 (2) If a hearing is continued at the instance of the defendant,
 16 the writ as prayed for shall be granted as a matter of course.

17 (3) When the injunction shall have been granted, it shall be
 18 binding upon the defendant throughout the county until modified or set aside
 19 by the court, ~~judge, or chancellor~~ having cognizance of the case.

20 (4) Any violation thereof by the defendant, or upon his
 21 procurement, shall be a contempt of court and punished as provided in §
 22 16-105-302.

23
 24 16-105-307. Hearings for temporary and permanent injunction --
 25 Procedures Evidence.

26 ~~(a) Proceedings under this subchapter, whether in the chancery or~~
 27 ~~circuit court, shall be conducted in accordance with the procedure of the~~
 28 ~~court of chancery where not otherwise expressly provided in this subchapter.~~
 29 ~~All of the courts having cognizance of the proceedings are given the full~~
 30 ~~jurisdiction and powers of courts of equity with respect to the proceedings.~~

31 ~~(b)~~ Upon the trial of all causes pursuant to this subchapter, evidence
 32 of the general reputation of the building or place where the nuisance is
 33 alleged to exist shall be admissible for the purpose of proving or tending to
 34 prove the existence of the nuisance.

35
 36 SECTION 223. Arkansas Code § 16-108-106 is repealed.

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SECTION 224. Arkansas Code § 16-108-201 is amended to read as follows:
16-108-201. Agreement to arbitrate -- Application.

(a) A written agreement to submit any existing controversy to arbitration arising between the parties bound by the terms of the writing is valid, enforceable, and irrevocable, save upon such grounds as exist ~~at law or in equity~~ for the revocation of any contract.

(b) A written provision to submit to arbitration any controversy thereafter arising between the parties bound by the terms of the writing is valid, enforceable, and irrevocable, save upon such grounds as exist ~~at law or in equity~~ for the revocation of any contract; provided, that this subsection shall have no application to personal injury or tort matters, employer-employee disputes, nor to any insured or beneficiary under any insurance policy or annuity contract.

SECTION 225. Arkansas Code § 16-108-212(a), concerning judicial vacation of an arbitration award, is amended to read as follows:

(a) Upon application of a party, the court shall vacate an award where:

- (1) The award was procured by corruption, fraud, or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;
- (3) The arbitrators exceeded their powers;
- (4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of § 16-108-205, as to prejudice substantially the rights of a party; or
- (5) There was no arbitration agreement and the issue was not adversely determined in proceedings under §16-108-202 and the party did not participate in the arbitration hearing without raising the objection;

But the fact that the relief was such that it could not or would not be granted by a court ~~of law or equity~~ is not ground for vacating or refusing to confirm the award.

1 SECTION 226. Arkansas Code §§ 16-108-217 and 16-108-218 are amended to
2 read as follows:

3 16-108-217. Court -- Jurisdiction.

4 The term "court" means any circuit ~~or chancery~~ court of this state. The
5 making of an agreement described in §16-108-201 providing for arbitration in
6 this state confers jurisdiction on the court to enforce the agreement under
7 this subchapter and to enter judgment on an award thereunder.

8
9 16-108-218. Venue.

10 An initial application shall be made to the circuit ~~or chancery~~ court
11 of the county in which the agreement provides the arbitration hearing shall
12 be held or, if the hearing has been held, in the county in which it was held.
13 Otherwise the application shall be made in the county where the adverse party
14 resides or has a place of business or, if he has no residence or place of
15 business in this state, to the court of any county. All subsequent
16 applications shall be made to the court hearing the initial application
17 unless the court otherwise directs.

18
19 SECTION 227. Arkansas Code Title 16, Chapter 109 is repealed.

20
21 SECTION 228. Arkansas Code § 16-110-303 is amended to read as follows:
22 16-110-303. Affidavit for attachment.

23 Any person having a demand, contracted as mentioned in § 16-110-301,
24 against any boat or vessel, upon affidavit being made and filed with the
25 clerk of the circuit court ~~or with any justice of the peace~~, setting forth
26 the nature and the amount of the demand, and upon bond being given by the
27 plaintiff as in other cases of attachment may have an attachment, to be
28 issued by the clerk of the circuit court ~~or by any justice of the peace~~
29 ~~having jurisdiction of the amount claimed~~, in any county in the state in
30 which the boat or vessel may be found.

31
32 SECTION 229. Arkansas Code § 16-110-309 is amended to read as follows:
33 16-110-309. Discharging bond.

34 If the owner, master, supercargo, or consignee of any such boat or
35 vessel seized by attachment shall, at any time before judgment, give bond to
36 the plaintiff with security to be approved by the clerk of the circuit court

1 or by the judge ~~in term time, or justice of the peace~~, as the case may be, in
2 double the amount of the demand sued for, conditioned to pay and satisfy such
3 judgment as the court ~~or justice~~ may render against the boat or vessel, or
4 against the owner, as the case may be, together with cost of suit, then the
5 boat or vessel shall forthwith be discharged from the attachment, seizure,
6 and detention. The boat shall nevertheless be liable to be taken and sold on
7 any execution to be issued on any such judgment or upon the judgment that may
8 be rendered at any time on the bond required to be given by the defendant
9 party.

10
11 SECTION 230. Arkansas Code § 16-110-408 is amended to read as follows:

12 16-110-408. Discharge of garnishment issued before judgment upon
13 filing of bond by defendant.

14 (a)(1) Whenever a garnishment is issued in any action before judgment,
15 the defendant may have the garnishment discharged and all funds or property
16 of his in the hands of the garnishee released therefrom by filing with the
17 clerk of the court ~~or the justice of the peace before whom the action may be~~
18 ~~pending~~ a bond in double the amount for which the garnishment was issued that
19 he will pay any judgment which may finally be rendered against him in the
20 action.

21 (2) Upon judgment being rendered against the defendant, summary
22 judgment may be rendered against the sureties in the bond.

23 (b) The bond provided for in this section shall be executed as surety
24 by some surety company authorized to transact business in the State of
25 Arkansas or by at least two (2) individuals who are residents and citizens of
26 the county in which the suit is pending. In addition, each of them shall be
27 the owner of real estate located in the county, worth over and above all
28 encumbrances against the property and all exemptions allowed by law to the
29 surety, a sum equal to or in excess of the amount of the bond so executed.

30 (c) Before any clerk ~~or justice of the peace~~ shall approve any bond so
31 presented, he shall require that the sureties on the bond, if they are
32 individuals, to qualify on the bond by making oath to the facts required in
33 the preceding paragraph. If any person shall knowingly swear falsely in the
34 affidavit, he shall be deemed guilty of perjury and be punished accordingly.

35 (d) The clerk ~~or justice of the peace~~ shall satisfy himself of the
36 sufficiency of the bond before he shall approve it. If he shall approve the

1 bond, he shall file it and shall issue a notice directed to the garnishee
 2 notifying him of the filing and approval of the bond and the release of the
 3 garnishment. The notice shall be signed by the clerk, ~~or justice of the peace~~
 4 ~~issuing it and if issued by the clerk it shall also~~ bear the seal of the
 5 court, and shall be served on the garnishee by the sheriff or constable, and
 6 return shall be made thereon as in cases of other writs of process.

7
 8 SECTION 231. Arkansas Code § 16-110-412 is amended to read as follows:

9 16-110-412. Issuance of writ and judgment to another county.

10 ~~(a)~~ Writs of garnishment may be issued from the circuit court of one
 11 (1) county to any other county in the state.

12 ~~(b) In case judgment is recovered in one (1) county before a justice of~~
 13 ~~the peace and any person having the right to collect the judgment may desire~~
 14 ~~to garnish a debtor of the defendant in the judgment, residing in another~~
 15 ~~county, it shall be lawful for the person to file in the office of a justice~~
 16 ~~of the peace in the township in which the debtor resides, in the other~~
 17 ~~county, a certified transcript of the judgment. When the certified transcript~~
 18 ~~is so filed, the justice shall enter it upon his docket. The certified~~
 19 ~~transcript shall have the force and effect of a judgment, upon which he shall~~
 20 ~~issue a writ of garnishment, or execution as is provided by law in other~~
 21 ~~eases.~~

22
 23 SECTION 232. Arkansas Code § 16-112-102(a)(1), concerning writs of
 24 habeas corpus, is amended to read as follows:

25 (a)(1) The writ of habeas corpus shall be issued upon proper
 26 application by a Justice of the Supreme Court, or a judge of the circuit
 27 court, ~~or a judge of any chancery court during the sitting of their~~
 28 ~~respective courts or in vacation. The power of the Supreme Court and,~~
 29 ~~circuit, or chancery courts~~ court to issue writs of habeas corpus shall be
 30 coextensive with the state.

31
 32 SECTION 233. Arkansas Code § 16-113-207 is amended to read as follows:

33 16-113-207. Not granted when motion overruled -- Certificate of
 34 refusal.

35 (a) No injunction shall be granted by a circuit ~~or probate~~ judge after
 36 a motion therefor has been overruled by the court. ~~Nor shall any injunction~~

1 ~~be granted by a judge of a probate court where it has been refused by the~~
2 ~~judge of the court in which the action is brought or by any circuit judge.~~

3 (b) A judge refusing an application for an injunction shall, if
4 requested by the defendant, give him a certificate thereof.

5
6 SECTION 234. Arkansas Code § 16-113-301 is amended to read as follows:

7 16-113-301. Authority to grant -- Time of grant.

8 (a) The injunction may be granted at the commencement of the action or
9 at any time before judgment by the circuit court, ~~the judge thereof, or any~~
10 ~~chancellor,~~ where it appears by the complaint that the plaintiff is entitled
11 thereto. During a litigation, it may be granted by the court, ~~by the judge~~
12 ~~thereof, or by any chancellor,~~ where it satisfactorily appears by affidavits
13 that sufficient grounds exist therefor.

14 (b) In the absence of the circuit judge from the county, the county
15 judge of any county shall have power to issue orders for injunctions and
16 other provisional writs in their counties, returnable to the court having
17 jurisdiction. However, each party may have such order reviewed by ~~any~~
18 ~~superior judge in vacation, when notice of the application shall be given at~~
19 ~~least ten (10) days before the application is made~~ the circuit judge.

20
21 SECTION 235. Arkansas Code § 16-113-303 is repealed.

22
23 SECTION 236. Arkansas Code §§ 16-115-101 and 16-115-102 are amended to
24 read as follows:

25 16-115-101. Definitions.

26 As used in this chapter, unless the context otherwise requires:

27 (1) "Writ of mandamus" means an order of the circuit ~~or chancery~~ court
28 granted upon the petition of an aggrieved party or the state when the public
29 interest is affected, commanding an executive, judicial, or ministerial
30 officer to perform an act or omit to do an act, the performance or omission
31 of which is enjoined by law;

32 (2) "Writ of prohibition" means an order of the circuit ~~or chancery~~
33 court to an inferior court or tribunal, prohibiting it from proceeding in a
34 cause or matter over which it has no jurisdiction.

35
36 16-115-102. Jurisdiction.

1 The circuit ~~and chancery~~ court shall have power to hear and determine
2 petitions for the writ of mandamus and prohibition and to issue such writs to
3 all inferior courts, tribunals, and officers in their respective
4 jurisdictions.

5
6 SECTION 237. Arkansas Code §§ 16-117-209 and 16-117-210 are amended to
7 read as follows:

8 16-117-209. Reports and accounts.

9 (a)(1) Receivers shall make report of their proceedings every six (6)
10 months, or more often if required by the court, ~~judge, or chancellor~~.

11 (2) The performance of this duty may be enforced by attachment,
12 sequestration, or other proper and effectual means.

13 (b) Receivers shall have credit for all taxes, expenses, attorney's
14 fees and necessary disbursements, in the execution of their trusts, and such
15 reasonable and proper compensation for their own services as the court,
16 ~~judge, or chancellor~~ may allow, to be paid out of the trust fund as part of
17 the costs and expenses.

18 (c)(1) The court, ~~judge, or chancellor~~ shall pass on their accounts.

19 (2) A confirmation of the accounts shall be conclusive against
20 all persons whatsoever and not subject to be reinvestigated, except for
21 actual fraud.

22
23 16-117-210. Removal.

24 Receivers and others appointed who are subject to the provisions of §§
25 16-117-201 -- 16-117-206, 16-117-209 and 16-117-210 may be removed at any
26 time by the court, ~~judge, or chancellor~~ when it satisfactorily appears that
27 they have failed to discharge any duty incumbent on them or for other
28 sufficient cause. This may be done upon the motion of any person interested
29 either as party, creditor, or otherwise.

30
31 SECTION 238. Arkansas Code § 16-117-301 is amended to read as follows:

32 16-117-301. Complaint to be declared insolvent -- Appointment of
33 receiver.

34 Any insolvent debtor may file in the ~~chancery~~ circuit court of the
35 county in which he resides a complaint in which one (1) or more of his
36 creditors shall be made defendants, asking to be declared an insolvent, and

1 asking for the appointment of a receiver to take charge of his property and
2 distribute the property among his creditors. Upon the filing of the petition,
3 the ~~chancery court, or judge thereof in vacation,~~ shall appoint a receiver.
4

5 SECTION 239. Arkansas Code § 16-117-401(b), concerning assignment of
6 property for the benefit of creditors, is amended to read as follows:

7 (b) Within ten (10) days after taking possession of the property, the
8 assignee shall file with the clerk of the circuit court ~~having equity~~
9 ~~jurisdiction~~ a full, true, and complete inventory and description of the
10 property together with his bond in double the amount of the supposed value of
11 the property with good security, to be approved by the clerk, which bond
12 shall be conditioned that the assignee shall faithfully execute the trust
13 confided to him under the provisions of the deed of assignment, and the order
14 of the ~~chancery court, or the judge thereof in vacation.~~
15

16 SECTION 240. Arkansas Code § 16-117-404(a), concerning sale or disposal
17 of property for the benefit of creditors, is amended to read as follows:

18 (a) Upon the petition of any person interested in the execution of the
19 assignment presented to the ~~chancellor in vacation~~ circuit court, setting
20 forth the necessity for the sale or disposition of the property or any
21 portion thereof not provided for in the deed of assignment, the ~~chancellor~~
22 court shall make such order in relation thereto as may seem just and for the
23 best interest of the estate, setting forth the time and terms of the sale.
24 The order shall be endorsed upon the petition, and filed with the clerk of
25 the court.
26

27 SECTION 241. Arkansas Code § 16-117-405 is amended to read as follows:

28 16-117-405. Employment of counsel by assignee.

29 In case any portion of the property involved in the assignment becomes
30 involved in litigation, that fact, when made known to the circuit court, ~~or~~
31 ~~the chancellor in vacation,~~ by the assignee, shall authorize the ~~chancellor~~
32 court to direct the assignee to employ counsel either to prosecute or defend
33 in the litigation. The court ~~or chancellor~~ shall stipulate in the order the
34 percentage to be allowed the attorney as the fee for his services, which is
35 to be paid out of the estate.
36

1 SECTION 242. Arkansas Code § 16-117-406(a) and (b), concerning accounts
2 of an assignee with respect to property assigned for benefit of creditors,
3 are amended to read as follows:

4 (a) The assignee shall, ~~at the first term of the chancery in the~~
5 circuit court of the county in which the assignment is made, after one (1)
6 year from the date of the assignment, and ~~at the corresponding term of the~~
7 ~~court~~ every year thereafter until the proceeds of the property assigned are
8 disposed of for the benefit of creditors, present to the ~~chancery~~ court a
9 fair written statement or current account in which he shall charge himself
10 with the whole amount of the property assigned including all debts due or to
11 become due and credit himself with all sums of money expended, either by
12 payment of debts or otherwise, exhibiting with the account the receipts and
13 vouchers for all moneys paid out to the creditors of the assignment.

14 (b) The account so made out shall be filed in the office of the clerk
15 of the ~~chancery~~ circuit court of the county and become a part of the record
16 thereof. Certified copies of the account shall be competent evidence of the
17 facts contained therein, in any of the courts of this state, in the same
18 manner and to the same extent as the records of any other court.

19
20 SECTION 243. Arkansas Code § 16-118-103(d)(1), concerning gambling
21 debts and losses, is amended to read as follows:

22 (d)(1) In all suits under this section, ~~in the circuit court or before~~
23 ~~a justice of the peace~~, the plaintiff may call on the defendant to answer on
24 oath any interrogatory touching the case, and if the defendant refuses to
25 answer, the same shall be taken as confessed.

26
27 SECTION 244. Arkansas Code § 16-118-105(a), (b)(1), and (b)(2),
28 concerning actions for usurpation of office or franchise, are amended to read
29 as follows:

30 (a) In lieu of the writs of scire facias and quo warranto, or of
31 information in the nature of a quo warranto, actions ~~by proceedings at law~~
32 may be brought to vacate or repeal charters and prevent the usurpation of an
33 office or franchise.

34 (b)(1) Whenever a person usurps an office or franchise to which he is
35 not entitled by law, an action ~~by proceedings at law~~ may be instituted
36 against him, either by the state or the party entitled to the office or

1 franchise, to prevent the usurper from exercising the office or franchise.

2 (2) A person who continues to exercise an office after having
3 committed an act, or omitted to do an act, of which the commission or
4 omission, by law, created a forfeiture of his office, shall be subject to be
5 proceeded against for a usurpation thereof.

6
7 SECTION 245. Arkansas Code § 16-119-103(a), concerning restoration of
8 destroyed judgments, is amended to read as follows:

9 (a) If any person or persons, either in their own right or as guardian
10 or guardians, executor or executors, or administrator or administrators, have
11 obtained any allowance, judgment, or decree, either for money or any kind of
12 property, or for the performance of any act, in ~~either the a~~ a probate, county,
13 ~~circuit,~~ or chancery ~~courts~~ court existing in ~~of~~ any county in the State of
14 Arkansas prior to July 1, 2001, or in any circuit court against any person or
15 persons, either in his, her, or their own right or as guardian or guardians,
16 executor or executors, or administrator or administrators, he, she, or they
17 may file in the office of the clerk of the circuit court his, her, or their
18 petition, addressed to the ~~judge or chancellor of the court, as the case may~~
19 ~~be,~~ setting forth therein the amount, nature, and substance of the allowance,
20 judgment, or decree and that the allowance, judgment, or decree has been
21 lost, destroyed, or burned.

22
23 SECTION 246. Arkansas Code § 16-119-105(a), concerning restoration of
24 records in pending cases, is amended to read as follows:

25 (a) In case any matter or proceeding pending in the ~~probate, county, or~~
26 ~~circuit, or chancery~~ courts of any county is still undisposed of, and the
27 records or original papers on file in either of the courts are lost,
28 destroyed, or burned, any person or persons legally interested in any manner
29 whatever in any such matters or proceedings may file, in the office of the
30 clerk of the court in which the matter or proceeding is pending, his, her, or
31 their petition, addressed to the ~~judge or chancellor of the court, as the~~
32 ~~case may be,~~ setting forth the nature and substance of the matter or
33 proceedings, or of the original papers filed and lost, destroyed, or burned,
34 and praying that the original papers may be reinstated upon the record.

35
36 SECTION 247. Arkansas Code § 16-119-106(b)(1), concerning papers

1 evidencing title to real or personal property recorded anew, is amended to
2 read as follows:

3 (b)(1) In case no original or duly certified copy has been preserved,
4 then any person or persons, or party or parties, interested in the instrument
5 of conveyance, or his, her, or their heirs, executor or executors,
6 administrator or administrators, or guardian or guardians, may file his, her,
7 or their petition in the office of the clerk of the circuit court of any such
8 county, addressed to the ~~chancellor~~ circuit court thereof, ~~at least thirty~~
9 ~~(30) days before the first day of the term of the court at which the~~
10 ~~application is intended to be made,~~ setting forth the names and relations of
11 the different parties to the instrument of conveyance, and the subject matter
12 thereof, and praying that the instrument of conveyance may be ordered to be
13 admitted of record in the office of the recorder of the county.

14

15 SECTION 248. Arkansas Code § 16-119-108(a), concerning restoration of
16 record of a married person's schedule of property, is amended to read as
17 follows:

18 (a) In all cases where any married woman availed herself of the
19 provisions of §§ 9-11-501 and 9-11-509 -- 9-11-514 and has filed in the
20 office of the recorder of the county a schedule of the property to which she
21 is entitled under the provisions of §§ 9-11-501 and 9-11-509 -- 9-11-514, and
22 the schedule has been lost, destroyed, or burned, the married woman, ~~by her~~
23 ~~next friend,~~ may file in the office of the clerk of the circuit court of the
24 county, ~~in chancery,~~ her petition addressed to the ~~judge of the~~ circuit court
25 ~~sitting in chancery,~~ setting forth a full description of the nature of the
26 property and the manner in which she derived title to the property, and
27 setting forth that a schedule of the property, under the provisions of §§ 9-
28 11-501 and 9-11-509 -- 9-11-514, has been filed in the office of the recorder
29 for the county. The petition shall state, as nearly as possible, the time
30 when the schedule was filed, and pray that the schedule may be reinstated and
31 admitted of record in the recorder's office of the county. The petition shall
32 be verified by the affidavit of the petitioner or some other disinterested
33 reputable person for her.

34

35 SECTION 249. Arkansas Code § 16-119-109(a) and (b), concerning
36 restoration of bonds of executors, administrators, or guardians, are amended

1 to read as follows:

2 (a) In all cases relating to executorships, administrations, and
 3 guardianships where the bonds of the executors, administrators, or guardians
 4 were lost, destroyed, or burned, it shall be the duty of the ~~judge of the~~
 5 circuit court of probate of the county to require all the executors,
 6 administrators, or guardians, who have not already done so, to file in the
 7 court a report in which they shall set forth, as far as possible, their
 8 proceedings in their executorships, administrations, or guardianships, the
 9 amount and conditions of their bonds originally given, and the names of their
 10 securities.

11 (b) After the filing of the report, the court shall immediately order
 12 the clerk to issue citations against all the securities named in the report
 13 as having been signers of the executor's, administrator's, or guardian's
 14 bond, which citations shall command the securities to appear before the court
 15 ~~of probate on or before the second day of the next succeeding term of the~~
 16 ~~court after the issuance of the citations~~ date specified therein and show
 17 cause, if any they can, why the bonds so reported should not be established
 18 and reinstated upon the records of the court with like effect as the original
 19 bond.

20

21 SECTION 250. Arkansas Code § 16-122-102(c)(1), concerning civil
 22 liability of shoplifters, is amended to read as follows:

23 (c)(1) If the individual to whom the written demand is sent does not
 24 comply within thirty (30) days of the receipt of a demand letter, then the
 25 owner or seller may bring an action against the individual for the recovery
 26 of civil damages and penalties in any court of competent jurisdiction,
 27 ~~including the small claims division of municipal court,~~ if the total damages
 28 do not exceed the jurisdictional limit of that court.

29

30 SECTION 251. Arkansas Code § 16-123-105(a), concerning civil rights
 31 offenses, is amended to read as follows:

32 (a) Every person who, under color of any statute, ordinance,
 33 regulation, custom, or usage of this state or any of its political
 34 subdivisions subjects, or causes to be subjected, any person within the
 35 jurisdiction thereof to the deprivation of any rights, privileges, or
 36 immunities secured by the Arkansas Constitution shall be liable to the party

1 ~~injured in an action at law, a suit in equity, in circuit court for legal and~~
 2 ~~equitable relief~~ or other proper ~~proceeding for~~ redress.

3
 4 SECTION 252. Arkansas Code § 18-12-203(a)(1), concerning officers
 5 authorized to take proof or acknowledgment of real estate conveyances, is
 6 amended to read as follows:

7 (1) When acknowledged or proved within this state, before the
 8 Supreme Court, the circuit court, ~~the chancery court,~~ or any justices or
 9 judges thereof, the clerk of any court of record, any county ~~or probate~~
 10 judge, or before any ~~justice of the peace or~~ notary public;

11
 12 SECTION 253. Arkansas Code § 18-45-207(a), concerning suits to enforce
 13 mechanic's liens, is amended to read as follows:

14 (a) Liens accruing under this subchapter may be enforced at any time
 15 within eighteen (18) months after the accounts are filed, by suits in the
 16 ~~chancery circuit or district court, courts of the county, or in the municipal~~
 17 ~~courts of the counties having such courts, or by justices of the peace of the~~
 18 ~~township in which the action would accrue in counties having no municipal~~
 19 ~~courts. The cause shall proceed to judgment and final disposition as other~~
 20 ~~matters of equitable cognizance and jurisdiction.~~

21
 22 SECTION 254. Arkansas Code § 19-5-1081 is amended to read as follows:

23 19-5-1081. ~~Municipal~~ District Court Judge and ~~Municipal~~ District Court
 24 Clerk Education Fund.

25 (a) There is hereby established on the books of the Treasurer of State,
 26 Auditor of State, and Chief Fiscal Officer of the State a fund to be known as
 27 the ~~Municipal~~ District Court Judge and ~~Municipal~~ District Court Clerk
 28 Education Fund.

29 (b) This fund shall consist of those moneys transferred or deposited
 30 from the State Administration of Justice Fund, there to be used for providing
 31 continuing education opportunities, within the State of Arkansas, to
 32 ~~municipal~~ district judges and ~~municipal~~ district court clerks.

33
 34 SECTION 255. Arkansas Code § 20-15-708(b), concerning persons isolated
 35 because of tuberculosis, is amended to read as follows:

36 (b) The superintendent of the institution may file a complaint in the

1 ~~municipal district or justice of peace~~ court against a person committed to
 2 the institution under the provisions of this subchapter who willfully
 3 violates the rules and regulations of the institution or who conducts himself
 4 in a disorderly manner. A person so charged shall have the legal procedural
 5 rights of a person charged with disorderly conduct.

6
 7 SECTION 256. Arkansas Code § 20-47-102 is amended to read as follows:

8 20-47-102. Officer's duty to make application to ~~probate~~ probate circuit
 9 court.

10 Whenever any ~~justice of the county court~~, sheriff, coroner, or
 11 constable shall discover any person to be of unsound mind ~~as in Rev. Stat.,~~
 12 ~~ch. 78, § 1 [repealed]~~ who resides in the county, it shall be his duty to make
 13 application to the ~~probate~~ probate circuit court for the exercise of its
 14 jurisdiction, and thereupon the like proceedings shall be had as directed in
 15 § 20-47-103.

16
 17 SECTION 257. Arkansas Code § 20-47-205 is amended to read as follows:

18 20-47-205. Jurisdiction of ~~probate~~ probate circuit court

19 (a) The circuit courts of this state shall have exclusive jurisdiction
 20 of the involuntary admission procedures initiated pursuant to this
 21 subchapter, ~~except that the juvenile division as may hereafter be vested with~~
 22 ~~jurisdiction shall have concurrent jurisdiction to involuntarily commit~~
 23 ~~persons under eighteen (18) years of age to the extent provided by this~~
 24 ~~section.~~

25 (b)(1) Within seven (7) days of the person's detention, excluding
 26 weekends and holidays, the ~~probate~~ court shall conduct the hearing as defined
 27 in § 20-47-214.

28 (2) Except as otherwise provided in subsection (d) of this
 29 section, the hearing, as defined by § 20-47-214 and § 20-47-215, shall be
 30 conducted by the same court, or by a judge designated on exchange, who heard
 31 the original petition and issued the appropriate order.

32 (3) The court shall ensure that the person sought to be
 33 involuntarily admitted is afforded all his or her rights as prescribed by
 34 this subchapter.

35 (4) The ~~probate~~ probate circuit judge, when conducting any hearing set
 36 out in this subchapter, may conduct the hearing within any county of the

1 judge's judicial district.

2 (c) The hearings conducted pursuant to §§ 20-47-209, 20-47-214, and
3 20-47-215 may be held at inpatient programs of the state mental health system
4 or a receiving facility or program where the person is detained.

5 (d) A ~~probate~~ circuit judge of the Sixth Judicial District sitting
6 within the Sixth Judicial District may conduct involuntary commitment
7 hearings prescribed by §§ 20-47-214 and 20-47-215 and initiated in other
8 judicial districts of this state pursuant to §§ 20-47-207 and 20-47-209
9 provided that the person sought to be committed is detained within the
10 boundaries of the Sixth Judicial District at the time of the hearing held
11 pursuant to §§ 20-47-214 or 20-47-215. The Sixth Judicial District shall thus
12 assume the mantle of other judicial districts and shall have the authority to
13 enter treatment orders for other judicial districts in the hearings
14 prescribed by §§ 20-47-214 and 20-47-215. In those cases, no initial petition
15 pursuant to § 20-47-207 shall be filed in the Sixth Judicial District but
16 only in the court of original jurisdiction. Provided, however, if the person
17 was transported to a location within the Sixth Judicial District by order of
18 a court outside the Sixth Judicial District, the court of original
19 jurisdiction may conduct the hearings prescribed by §§ 20-47-214 and
20 20-47-215.

21
22 SECTION 258. Arkansas Code § 21-4-305 is repealed.

23
24 SECTION 259. Arkansas Code § 21-6-403 is amended to read as follows:

25 21-6-403. Circuit ~~and chancery~~ court clerks -- Uniform filing fees.

26 (a)(1) The uniform filing fees to be charged by the clerks of the
27 circuit ~~and chancery~~ courts for initiating or reopening a cause of action in
28 the circuit ~~and chancery~~ courts in the state shall be as prescribed in this
29 section.

30 (2) No portion of the filing fees shall be refunded.

31 (b)(1) For initiating a cause of action in the circuit court, including
32 appeals \$100.00

33 ~~(2) For initiating a cause of action in the chancery court~~
34 ~~..... 100.00~~

35 ~~(3)~~ (2) For reopening a cause of action in the ~~chancery~~ circuit
36 court 30.00

1 ~~(4)(A)~~ (3) For any cause of action which by court order is
2 transferred from any ~~municipal, district or circuit, or chancery~~ court to a
3 circuit ~~or chancery~~ court 50.00.

4 ~~(B) This subdivision (b)(4) does not apply to transfers~~
5 ~~between circuit and chancery courts within the same county for which there~~
6 ~~shall be no additional filing fee.~~

7 (c) No fee shall be charged or collected by the clerks of the circuit
8 ~~and chancery~~ courts when the court, by order, pursuant to Arkansas Rules of
9 Civil Procedure, Rule 72, allows an indigent person to prosecute a cause of
10 action in forma pauperis.

11 (d) No initial filing fee shall be charged for domestic violence
12 petitions filed pursuant to § 9-15-201 et seq. Established filing fees may be
13 assessed pursuant to Act 401 of 1995.

14 (e) No fee shall be charged or collected by the clerks of the circuit
15 ~~and chancery~~ courts for reopening a cause of action in the ~~chancery~~ circuit
16 court under the following circumstances:

17 (1) Application is made for revocation of conditional release of
18 insanity acquittees pursuant to § 5-2-316; or

19 ~~(1)(A)~~ (2)(A) An agreed order or an order of income withholding
20 is presented to be filed; ~~or~~ and

21 ~~(B) An order of income withholding is to be filed; and~~

22 ~~(2)~~ (B) No service of process is required.

23 (f) No county shall authorize, and no circuit ~~or chancery~~ court clerk
24 shall assess or collect, any other filing fees than those authorized by this
25 section, unless specifically provided by state law.

26 (g) The circuit court may waive the filing fee in cases of involuntary
27 admission upon a finding that the petition is being brought for the benefit
28 of the respondent and it would be inequitable to require the petitioner to
29 pay the fee.

30 (h) For purposes of this section, the term "circuit court clerk" means
31 the circuit clerk and, with respect to probate matters, any county clerk who
32 serves as ex officio clerk of the probate division of the circuit court.

33
34 SECTION 260. Arkansas Code § Title 21, Chapter 6 is amended by adding
35 additional sections to read as follows:

36 21-6-404. Probate and county matters -- Uniform court costs.

1 (a) Uniform court costs are established as follows:

2 (1) Dissolutions of incorporation \$25.00;

3 (2) Articles of incorporation \$25.00;

4 (3) Amendments to articles of incorporation \$25.00;

5 (4) Filing last will and testament for safekeeping
6 \$5.00;

7 (5) Authentication certificate \$5.00;

8 (6) Certify and seal document \$5.00;

9 (7) Marriage license \$30.00;

10 (8) Certified copy of marriage license \$5.00;

11 (9) Underage marriages -- Petition and order \$10.00;

12 (10) Small estates \$25.00;

13 (11) Assumed names \$25.00;

14 (12) Limited partnerships \$25.00;

15 (13) Alcoholics and insane persons \$25.00;

16 (14) Clerk's tax deed \$5.00;

17 (15) Recording doctors' and nurses' credentials \$5.00;

18 (16) Recording ministers' credentials \$5.00;

19 (17) Filing affidavit of claim against an estate
20 \$5.00;

21 (18) Filing power of attorney \$10.00;

22 (19) Filing and recording all accounts and settlements
23 \$50.00;

24 (20) Certified copies of all letters \$5.00;

25 (21) Issuing subpoena or summons \$5.00;

26 (22) Putting up advertisement of settlement of executors,
27 administrators, and guardians \$5.00;

28 (23) Preparing notices of settlements to be published in paper
29 each month \$5.00; and

30 (24) Filing exceptions \$5.00.

31 (b) With respect to probate matters, this section applies to circuit
32 clerks and any county clerk who serves as ex officio clerk of the probate
33 division of the circuit court.

34 (c) Any fee not specifically provided for in subsection (a) of this
35 section shall be set by the circuit court if it is a probate matter or by the
36 county judge if it is a county court matter.

1 (d) The fee provisions provided for in this section shall be in lieu of
2 any and all fees now established by law.

3 (e)(1)(A) Fees collected under this section shall be paid into the
4 county treasury to the credit of the fund to be known as the "county clerk's
5 cost fund".

6 (B) With the exception of those funds referred to in
7 subdivision (e)(2) of this section, all funds deposited into the county
8 clerk's cost fund are general revenues of the county and may be used for any
9 legitimate county purpose.

10 (2)(A) At least thirty-five percent (35%) of the moneys collected
11 annually shall be used to purchase, maintain, and operate an automated
12 records system.

13 (B) The acquisition and update of software for the
14 automated records system shall be a permitted use of these funds.

15 (C) Funds set aside for automation may be allowed to
16 accumulate from year to year, or at the discretion of the clerk, may be
17 transferred to the county general fund by a budgeted appropriated transfer.

18 (3)(A) In those counties having combined offices of circuit clerk
19 and county clerk, the clerk shall elect to use the automation fund authorized
20 by this section or the automation fund allowed by § 21-6-306, the county
21 recorder's cost fund.

22 (B) The clerk's election shall be made in writing and filed
23 in the office of the circuit clerk.

24 (C) Under no circumstances shall the clerk be allowed to
25 utilize both the automation fund as authorized by § 21-6-306 and the county
26 clerk's cost fund as authorized in this subchapter.

27
28 21-6-405. County court clerks -- Uniform filing fees.

29 (a) The uniform filing fees to be charged by the clerks of the county
30 court for initiating a cause of action in the county court shall be thirty
31 dollars (\$30.00), and no portion of the filing fee shall be refunded.

32 (b) No county shall authorize, and no county court clerk shall assess
33 or collect, any other filing fees than those authorized, unless specifically
34 provided by state law.

35 (c) The provisions of § 21-6-404(e) shall apply to filing fees
36 collected under this section.

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SECTION 261. Arkansas Code § 21-6-406(65), concerning miscellaneous fees charged by clerks of county courts, is amended to read as follows:

(65) For waiting on county courts, ~~probate courts, and juvenile courts~~ and the probate and juvenile divisions of circuit court, per day
10.00

SECTION 262. Arkansas Code § 21-6-408 is repealed.

SECTION 263. Arkansas Code § 21-6-409 is repealed.

SECTION 264. Arkansas Code § 23-36-116(b)(6), concerning authority of the Bank Commissioner to take possession of the business and property of an industrial loan institution, is amended to read as follows:

(6)(A) Upon the taking charge of any industrial loan institution, the commissioner shall proceed to liquidate its affairs; to institute, maintain, and defend suit and other proceedings in the courts of this state or elsewhere; to enforce in this state or elsewhere, if necessary, the liabilities of the stockholders; and, upon the order empowered to be made by the ~~chancery~~ circuit court of the county wherein the industrial loan institution had its place of business, ~~or the chancellor thereof in vacation,~~ to sell, compound, or exchange any or all bad or doubtful debts of the estate; and, on like order, to sell or exchange any or all of the real, personal, or mixed property of the estate in such manner and upon such terms and considerations as to any sale, composition, or exchange as specified in the order.

(B) Any sale shall be public or private as specified in the order for the sale, and the sale or exchange of real property shall be subject to confirmation respectively by the court ~~or chancellor~~.

SECTION 265. Arkansas Code § 23-112-509(c), concerning summons, citation, and subpoena by the Arkansas Motor Vehicle Commission, is amended to read as follows:

(c)(1) In case of failure or refusal on the part of any person to comply with any summons, citation, or subpoena issued and served as authorized, or in the case of the refusal of any person to testify or answer

1 to any matter regarding that which he or she may be lawfully interrogated, or
 2 the refusal of any person to produce his or her record books and accounts
 3 relating to any matter regarding that which he or she may be lawfully
 4 interrogated, then the ~~chancery~~ circuit court of any county of the State of
 5 Arkansas ~~or any chancellor of the court in vacation~~, on application of the
 6 commission or of the executive director, may:

7 (A) Issue an attachment for the person; and

8 (B) Compel the person to:

9 (i) Comply with the summons, citation, or subpoena;

10 (ii) Attend before the commission or its designated
 11 employee;

12 (iii) Produce the documents specified in any subpoena
 13 duces tecum; and

14 (iv) Give his or her testimony upon such matters as
 15 he or she may be lawfully required.

16 (2) Any ~~chancery~~ circuit court, ~~or any chancellor of the court in~~
 17 ~~vacation~~, shall have the power to punish for contempt as in case of
 18 disobedience of like process issued from or by any ~~chancery~~ circuit court, or
 19 by refusal to testify therein in response to the process, and the person
 20 shall be taxed with the costs of the proceedings.

21
 22 SECTION 266. Arkansas Code § 25-18-206 is amended to read as follows:

23 25-18-206. Digests, acts, and journals -- Distribution.

24 (a) It shall be the Secretary of State's duty to distribute the acts
 25 and journals and all laws as are by law required to be distributed among the
 26 different counties of this state.

27 (b) The Secretary of State shall issue his or her requisition for the
 28 acts in whatever quantities are necessary to make the distribution required
 29 by law.

30 (c)(1) The Secretary of State shall reserve from sale copies of the
 31 acts of the General Assembly for free distribution of one (1) copy of each,
 32 as they are published and bound, to the following officers, only upon written
 33 request therefor within thirty (30) days following the date of adjournment
 34 sine die of any legislative session:

35 (A) County judges;

36 (B) County clerks;

- 1 (C) Prosecuting attorneys;
- 2 (D) ~~Municipal~~ District judges;
- 3 (E) Circuit judges;
- 4 (F) The Supreme Court Reporter;
- 5 (G) Supreme Court Justices;
- 6 (H) Court of Appeals Judges;
- 7 (I) The Supreme Court Librarian;
- 8 (J) The Attorney General;
- 9 (K) Each state department;
- 10 ~~(L) Justices of the peace;~~
- 11 ~~(M)~~(L) Circuit clerks;
- 12 ~~(N)~~(M) Sheriffs;
- 13 ~~(O)~~(N) Tax collectors;
- 14 ~~(P)~~(O) County treasurers;
- 15 ~~(Q)~~(P) Assessors; and
- 16 ~~(R)~~(Q) Members of the General Assembly.

17 (2) However, the Attorney General upon written request within the
 18 same time period shall be supplied with two (2) copies of each.

19 (d) Members of the General Assembly shall be entitled to one (1) copy
 20 of the journal of the preceding session and of the session of which they are
 21 members.

22 ~~(e) A justice of the peace must state in his or her request that as~~
 23 ~~justice of the peace he or she is actively engaged in the hearing and trial~~
 24 ~~of civil or criminal cases and matters.~~

25
 26 SECTION 267. Effective January 1, 2005, Arkansas Code § 26-57-253 is
 27 amended to read as follows:

28 26-57-253. Criminal actions -- Appeals.

29 (a) In all prosecutions in the ~~municipal, district, police, and justice~~
 30 city courts or other courts of this state, the State of Arkansas shall have
 31 the same right of appeal to the circuit courts of this state and upon the
 32 same terms as the defendant now has under the law in misdemeanor cases.

33 (b) When appealed, the cases shall be tried de novo by the circuit
 34 court.

35
 36 SECTION 268. Arkansas Code § 28-1-104 is amended to read as follows:

1 28-1-104. Probate ~~courts~~ proceedings.

2 ~~(a) The probate circuit court shall have jurisdiction over:~~

3 (1) The administration, settlement, and distribution of estates
4 of decedents;

5 (2) The probate of wills;

6 (3) The persons and estates of minors;

7 (4) Persons of unsound mind and their estates;

8 (5) The determination of heirship or of adoption;

9 (6) ~~Concurrent with the jurisdiction of other courts, the~~ The
10 restoration of lost wills and for the construction of wills when incident to
11 the administration of an estate; and

12 (7) All such other matters as are by law provided.

13 ~~(b) The court shall have the same powers to execute its jurisdiction~~
14 ~~and to carry out its orders and judgments, including the award of costs, as~~
15 ~~now exist in courts of general jurisdiction. The same presumptions shall~~
16 ~~exist as to the validity of its orders and judgments as of the orders and~~
17 ~~judgments of courts of general jurisdiction.~~

18 ~~(c)(1) The terms of the probate court of each county shall be the same~~
19 ~~as provided by law for the terms of the chancery court of the county. If~~
20 ~~there is more than one (1) division of the chancery court of a county the~~
21 ~~terms shall be the same as the terms of the first division.~~

22 ~~(2) Each probate court shall open by operation of law at the~~
23 ~~beginning of each term and shall remain open continuously to the end of the~~
24 ~~term, and the terms shall not lapse on account of failure to formally open~~
25 ~~the court on the first day of the term or failure to adjourn from time to~~
26 ~~time.~~

27 ~~(3) The probate court may be in session at any time there is~~
28 ~~business to be transacted in the court, notwithstanding concurrent sessions~~
29 ~~of chancery court in the same county.~~

30 ~~(4) The probate court of two (2) or more counties of the same~~
31 ~~chancery circuit may be in session on the same day, notwithstanding~~
32 ~~concurrent sessions of one (1) or more chancery courts of the same circuit.~~

33 ~~(d) In each county in which there are two (2) or more judges of the~~
34 ~~probate court, the court shall provide by its rule for the distribution of~~
35 ~~the business of the court and for the order of business.~~

36

1 SECTION 269. Arkansas Code § 28-1-105 is repealed.

2
3 SECTION 270. Arkansas Code § 28-1-106 is amended to read as follows:
4 28-1-106. Referees and probate clerks.

5 (a) ~~Probate~~ Circuit courts shall have the authority to appoint referees
6 in probate in the respective counties in the manner and with the powers and
7 duties as provided by ~~law~~ Supreme Court rule.

8 (b) ~~However, in~~ In the absence of the ~~probate~~ circuit judge or a
9 referee within a county, the probate clerk of the ~~county~~ circuit court may
10 appoint administrators, executors, guardians, and curators and shall approve
11 the bond of the appointees, but the appointment of administrators, executors,
12 guardians, and curators and the approval of their bond shall be subject to
13 review by the ~~probate~~ court.

14 (c) The probate clerk of the circuit court shall be the custodian of
15 all probate records and documents and shall have the power either in person
16 or by deputy to take acknowledgments, administer oaths, issue notices and
17 process, certify copies of instruments, documents, and records of the court,
18 and perform the usual functions of his office and other functions as may be
19 authorized by law. All original papers, when filed, shall be retained in the
20 custody of the clerk except when otherwise ordered by a court of competent
21 jurisdiction.

22 (d) The probate clerk of the circuit court shall be the custodian of
23 all adoption records and documents ~~whether the adoption is filed in probate~~
24 ~~court or in the juvenile division of chancery court pursuant to § 9-27-~~
25 ~~306(b)(1).~~

26
27 SECTION 271. Arkansas Code § 28-1-107 is repealed.

28
29 SECTION 272. Arkansas Code § 28-1-114 is repealed.

30
31 SECTION 273. Arkansas Code § 28-1-116 is amended to read as follows:
32 28-1-116. Appeals.

33 (a) ~~Appeal to Supreme Court~~ Permitted. Except as provided in subsection
34 (b), a person aggrieved by an order of the ~~probate~~ circuit court in probate
35 proceedings under the provisions of this code may obtain a review of the same
36 by the Supreme Court or the Court of Appeals.

1 (b) *Orders Which Are Not Appealable.* There shall be no appeal from an
2 order removing a fiduciary for failure to give a new bond or to render an
3 account as required by the court, nor from an order appointing a special
4 administrator.

5 (c) *Stay of Appeal.* When an appeal is taken with respect to any
6 appealable order in the administration of a decedent's estate made prior to
7 the order of final distribution, other than an order admitting or denying the
8 probate of a will or appointing or refusing to appoint a personal
9 representative, the ~~probate~~ circuit court or ~~Supreme Court~~ appellate court,
10 in its discretion, may order that the appeal be stayed until the order of
11 final distribution is made and that the appeal be heard only as a part of any
12 appeal which may be taken from the order of final distribution. This
13 subsection shall not apply to guardianships.

14 (d) *When Appeal from Order of Final Distribution Includes Appeal from*
15 *Prior Orders.* When an appeal is taken from the order of final distribution in
16 the administration of a decedent's estate, all prior appealable orders and
17 judgments to which the appellant has filed objections in writing within sixty
18 (60) days after the order or judgment was rendered and from which an appeal
19 has not been taken, except orders admitting or denying the probate of a will
20 or appointing a personal representative, shall be reviewed at the election of
21 the appellant. The appellant shall indicate the election by clearly stating
22 in the appeal the orders which he desires to have reviewed.

23 (e) *Stay.* An appeal shall stay other proceedings in the ~~probate~~ circuit
24 court except when, and to the extent that the court finds that no interested
25 person will be prejudiced and by order permits other proceedings to be had.
26 An order granting an allowance to the widow of minor children of a decedent
27 pending settlement of the estate or setting apart exempt personal property to
28 them shall not be stayed by an appeal.

29
30 SECTION 274. Arkansas Code § 28-39-202(a), concerning a petition to
31 reserve a homestead, is amended to read as follows:

32 (a) *Whenever any resident of this state shall die, leaving a surviving*
33 *spouse or children who may desire to claim the benefit of Arkansas*
34 *Constitution, Article 9, 6 and 10 or § 28-39-201, he or she shall file with*
35 *the probate clerk of the ~~probate~~ circuit court of the county in which the*
36 *homestead is situated an accurate description of the land so claimed; or, if*

1 the land is a lot in any city, town, or village, a description of the lot
2 shall be filed, and the surviving spouse and children shall apply to have the
3 land or lot reserved from sale.

4
5 SECTION 275. Arkansas Code § 28-39-303 is amended to read as follows:

6 28-39-303. Proceedings for allotment.

7 (a) If dower or curtesy is not assigned to the surviving spouse within
8 one (1) year after the death of his or her spouse, or within three (3) months
9 after demand made therefor, the surviving spouse may file a written petition
10 in the circuit court ~~of probate or in the clerk's office thereof, in~~
11 ~~vacation~~. This petition shall include a description of the lands in which he
12 or she claims dower or curtesy, the names of those having interest in the
13 lands, and the amount of the interest briefly stated in ordinary language
14 with a prayer for the allotment of dower or curtesy. All persons interested
15 in the property shall be summoned to appear and answer the petition ~~on the~~
16 ~~first day of the next term of the court.~~

17 (b) Upon such petition by all interested in the property being filed,
18 or upon a summons being served upon all who have an interest in the property,
19 ~~and who have not united in the petition ten (10) days before the commencement~~
20 ~~of the term,~~ the probate circuit court may make an order for the allotment of
21 dower or curtesy according to the rights of the parties by commissioners
22 appointed according to law.

23 (c) Parties interested may be constructively summoned, as provided in §
24 16-58-130, ~~either in the probate or circuit court.~~

25 (d)(1) No verification shall be required to the petition or answer.

26 (2) Petitions for dower or curtesy shall be heard and determined
27 by the court without the necessity of formal pleading upon the petition,
28 answer, exhibits, and other testimony.

29 (e) If the petition is filed against infants or persons of unsound
30 mind, the guardian or committee may appear and defend for them and protect
31 their interests; and, if the guardian or committee do not appear and defend,
32 the court shall appoint some discreet person for that purpose.

33 (f) If any person summoned, as provided in this section, desires to
34 contest the rights of the petitioner or the statements in the petition, he
35 shall do so by a written answer, and the questions of the law and fact
36 thereupon arising shall be tried and determined by the ~~probate~~ circuit court.

1 (g) The costs of the division and allotment shall be apportioned among
2 the parties in the ratio of their interests, and the costs arising from any
3 contest of fact or law shall be paid by the party adjudged to be in the
4 wrong.

5
6 SECTION 276. Arkansas Code § 28-39-404(a)(1), concerning the form and
7 filing of a spouse’s election to take against the will, is amended to read as
8 follows:

9 (a)(1) The election to take against the will shall be in writing,
10 signed and acknowledged by the surviving spouse or by the guardian of his or
11 her estate and shall be filed in the office of the probate clerk of the
12 ~~probate~~ circuit court.

13
14 SECTION 277. Arkansas Code § 28-40-110(d), concerning the form of
15 notice for hearings on petitions, is amended to read as follows:

16 (d) The notice required by this section shall be in substantially the
17 following form:

18 In the ~~Probate~~ Circuit Court of County, Arkansas. Estate of
19, deceased.

20 To all persons interested in the Estate of (and to
21 the said, if he be not deceased):

22 You are hereby notified that a petition has been filed in this court
23 (to admit to probate the will of, and) for the
24 appointment of a personal representative for said estate; that said petition
25 will be heard ato’clock at on the day of
26, ~~19~~ 20..., or at such subsequent time or other place to which
27 said hearing may be adjourned or transferred.

28 Date

29
30 Probate Clerk of the ~~Probate~~
31 Circuit Court of
32 County, Arkansas

33
34 SECTION 278. Arkansas Code § 28-41-101(a)(4), concerning collection of
35 small estates by a distributee, is amended to read as follows:

36 (4) There shall be filed with the probate clerk of the ~~probate~~ circuit

1 court of the county of proper venue for administration an affidavit of one
2 (1) or more of the distributees setting forth:

3 (A) That there are no unpaid claims or demands against the
4 decedent or his or her estate, that the Department of Human Services
5 furnished no federal or state benefits to the decedent, or, that if such
6 benefits have been furnished, the Department of Human Services has been
7 reimbursed in accordance with state and federal laws and regulations;

8 (B) An itemized description and valuation of the personal
9 property and a legal description and valuation of any real property of the
10 decedent, including the homestead;

11 (C) The names and addresses of persons having possession of the
12 personal property and the names and addresses of any persons possessing or
13 residing on any real property of the decedent; and

14 (D) The names, addresses, and relationship to the decedent of the
15 persons entitled to and who will receive the property; and

16
17 SECTION 279. Arkansas Code § 28-65-107 is amended to read as follows:
18 28-65-107. Jurisdiction of courts.

19 (a) The jurisdiction of the ~~probate~~ circuit court over all matters of
20 guardianship, other than guardianships ad litem in other courts, shall be
21 exclusive, subject to the right of appeal.

22 (b) The provisions of this chapter shall not affect the jurisdiction of
23 any court authorized to remove disabilities of minority.

24 ~~(c) The provisions of this chapter shall not be construed to affect the~~
25 ~~jurisdiction or authority now vested in juvenile courts except in the matter~~
26 ~~of appointment of guardians.~~

27 ~~(d)~~ (c) If ~~the~~ a juvenile is the subject matter of an open case filed
28 under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., the
29 guardianship petition shall be filed in that case.

30
31 SECTION 280. Arkansas Code § 28-65-203(g), concerning qualifications of
32 guardians, is amended to read as follows:

33 (g) No sheriff, probate clerk of a ~~probate~~ circuit court, or deputy of
34 either, nor a ~~probate~~ circuit judge, shall be appointed guardian of the
35 person or estate of an incapacitated person unless the incapacitated person
36 shall be related to him within the third degree of consanguinity.

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SECTION 281. Arkansas Code § 28-65-215(e), concerning a guardian's bond, is amended to read as follows:

(e) Further, when the ward's estate is all in cash, the court may dispense with the bond if the guardian deposits the entire estate on interest in a bank in Arkansas insured by the Federal Deposit Insurance Corporation or in a savings and loan association in Arkansas insured by the Federal Savings and Loan Insurance Corporation or in a credit union in Arkansas insured by the National Credit Union Administration and the value of the estate is not greater than the amount of the maximum insurance provided by law for a single depositor, and the bank or savings and loan association shall file with the probate clerk of the circuit court an agreement not to permit any withdrawal from the deposit except on authority of a ~~probate~~ circuit court order.

SECTION 282. Arkansas Code § 28-65-217 is amended to read as follows:
28-65-217. Form of letters.

(a) Letters of guardianship shall be in substantially the following form:
In the ~~Probate~~ Circuit Court of County, Arkansas.
In the Matter of CD, an Incapacitated Person (a Minor)
No.

LETTERS OF GUARDIANSHIP

Be it known that AB, whose address is, having been duly appointed guardian of the person and estate (person/estate) of CD, an incapacitated person (a minor) and having qualified as such guardian, is hereby authorized to have the care and custody of and to exercise control over the person and to take possession of and administer the property (have the care and custody of and to exercise control over the person) (to take possession of and administer the property) of said incapacitated person (minor), as authorized by law.

Dated this day of, ~~19~~ 20....
.....
Probate Clerk of the ~~Probate~~
Circuit Court of
County, Arkansas.

(SEAL)

1 (b) If the powers, authorities, or duties of the guardian are limited,
2 the letters shall, clearly and in bold print, state that fact by including
3 the word "limited" in the title and by inserting the word "limited" between
4 the words "duly" and "appointed" in the body of the letters.

5
6 SECTION 283. Arkansas Code § 28-68-304(a), concerning execution and
7 approval of a power of attorney, is amended to read as follows:

8 (a) If a resident of this state desires to execute a power of attorney
9 in anticipation of or because of infirmity resulting from injury, old age,
10 senility, blindness, disease, or other related or similar cause as a means of
11 providing for the care of his or her person or property, or both, the
12 resident shall execute the instrument in one of the following three (3)
13 methods:

14 (1) In the presence of and with the approval of ~~the~~ a judge of
15 the ~~probate~~ circuit court of the county of the principal's domicile;

16 (2) In the presence of at least two (2) witnesses who shall
17 attest and prove the execution by affidavit to be filed with the instrument,
18 to be approved by ~~the probate~~ a judge of the circuit court of the county of
19 the principal's domicile; or

20 (3) In the presence of a notary public who shall acknowledge the
21 instrument, which instrument, with the certificate of a notary public, shall
22 be filed with and approved by the ~~probate~~ circuit court of the county of the
23 principal's domicile.

24
25 SECTION 284. Arkansas Code § 28-68-307(a), concerning the filing of a
26 power of attorney, is amended to read as follows:

27 (a) The original power of attorney shall be filed in the office of the
28 probate clerk of the ~~probate~~ circuit court of the county of the domicile of
29 the principal.

30
31 /s/ Luker

32
33
34 APPROVED: 4/9/2003