

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.
Act 2239 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 2801

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5 By: Representative Lamoureux
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For An Act To Be Entitled

8
9 AN ACT TO AMEND PROVISIONS CONCERNING PROBATION
10 FEES IN DISTRICT COURTS AND CITY COURTS; TO AMEND
11 PROVISIONS CONCERNING CONTRACTORS PROVIDING
12 SERVICES TO DISTRICT COURTS AND CITY COURTS; AND
13 FOR OTHER PURPOSES.
14

Subtitle

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16 AN ACT TO AMEND PROVISIONS CONCERNING
17 PROBATION FEES IN DISTRICT COURTS AND
18 CITY COURTS AND TO AMEND PROVISIONS
19 CONCERNING CONTRACTORS PROVIDING
20 SERVICES TO DISTRICT COURTS AND CITY
21 COURTS.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 5-4-322 is amended to read as follows:

27 5-4-322. Fine and probation fee or public service work fee authorized.

28 (a) (1) A district court, or city court, ~~or police court~~ may place a
29 person on probation or sentence him or her to public service work, and, as a
30 condition of its order, may require the defendant to pay a fine in one (1) or
31 several sums, and in addition may require the person to pay a probation fee
32 or pay a public service work supervisory fee in an amount to be established
33 by the court.

34 (2) The broad objective of probation shall be to educate and
35 rehabilitate persons placed on probation. The conditions for probation shall



1 bear a reasonable relationship to the crime committed or to future
 2 criminality and be reasonably necessary to assist the defendant in leading a
 3 law-abiding life.

4 (3) The conditions of probation shall be closely monitored and
 5 supervised by the court or by a probation officer. The court shall determine
 6 if the conditions of probation are in compliance with the provisions of
 7 subdivision (a)(2) of this section.

8 (b)(1) This section regarding probation and probation fees shall not
 9 apply in instances where the defendant is charged with violating the Omnibus
 10 DWI Act, § 5-65-101 et seq., or the Underage DUI Law, § 5-65-301 et seq.

11 (2) In instances where the defendant is charged with violating
 12 the Omnibus DWI Act, § 5-65-101 et seq., the court may require the defendant
 13 to pay a public service work supervisory fee in an amount to be established
 14 by the court if the court orders public service in lieu of jail pursuant to §
 15 5-65-111.

16 (3) In instances in which the defendant is charged with
 17 violating the Underage DUI Law, § 5-65-301 et seq., the court may require the
 18 defendant to pay a public service work supervisory fee in an amount to be
 19 established by the court for any public service work ordered by the court.

20 (c) This section is supplemental to all other laws allowing a district
 21 court, or city court, or police court to attach conditions on an order of
 22 probation.

23 (d)(1) Except as provided in subsection (e) of this section, no court
 24 may impose probation fees in any case in which the only sentence available is
 25 a monetary fine, court costs, or, if applicable, restitution.

26 (2) In those cases, a defendant may be given time to make those
 27 payments and the installment payment fee in § 16-13-704 shall be the only fee
 28 authorized for administering those accounts.

29 (3) If the sentence available includes incarceration, probation
 30 and probation fees may be ordered in lieu of incarceration.

31 (e) If a fine is an authorized sentence, the fine may be suspended and
 32 probation and probation fees may be ordered in lieu of the fine.

33 (f) Probation fees shall be collected in full for each month in which
 34 a defendant is on probation. The fees shall accrue for each month that a
 35 defendant does not make a payment and the defendant remains on probation as
 36 ordered by the court.

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SECTION 2. Arkansas Code § 16-17-127 is amended to read as follows:

16-17-127. Contractors providing certain services. [Effective January 1, 2005.]

~~(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 district court or city 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~~ Upon request of the district court judge or city court judge, the governing body in which a district court or city court is located or, if applicable, each governing body of a political subdivision which contributes to the expenses of a district court may contract with a person who has registered with the Secretary of State and filed a surety bond or certificate of deposit with the Secretary of State 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 delinquent fines and

costs.

(b)(1) The amount of the surety bond or certificate of deposit shall be fifty thousand dollars (\$50,000).

(2) The city or county or any person suffering damage by reason of the acts or omissions of the person or an employee of the person in the performance of services subject to this section may bring action on the bond for damages.

(c) A person shall be ineligible to provide services subject to this section if the person or an owner, operator, or any stockholder has been convicted of a felony.

(d) For the purposes of this section, "person" means any individual, corporation, partnership, firm, association, or other business entity.

(e) A district court or city court may require a defendant to pay reasonable fees, in an amount to be established by the court, relating to private contractors providing probation services, pretrial supervised release

1 programs, or alternate sentencing programs authorized by law.

2 (f)(1) Notwithstanding §§ 16-13-701 – 16-13-701, a private contractor
3 may only collect and retain the fees established by the court for services
4 provided pursuant to subsection (a) of this section.

5 (2) When the order of the district court or city court requires
6 a defendant to use the services or programs of a private contractor, the
7 designated contractor shall report on or before the fifth day of each month
8 all fees collected. This report shall be provided to the mayor and county
9 judge of the political subdivision or subdivisions which contribute to the
10 expenses of the district court or city court and to the district court clerk
11 or city court clerk for inclusion in the court’s monthly report as required
12 by law.

13 (3) The report of the private contractor, as required in this
14 section, shall contain columns with the following information by defendant:

- 15 (A) Uniform traffic ticket number;
- 16 (B) Defendant’s name;
- 17 (C) Court docket number;
- 18 (D) Receipt number;
- 19 (E) Amount collected; and
- 20 (F) Total of all fees collected.

21 (g) A private contractor providing the collection of delinquent fines
22 and court costs shall follow the procedures in §§ 16-13-701 – 16-13-712.

23 (h) This section shall not apply to the alcohol treatment or education
24 programs authorized by § 5-65-115 and § 5-65-307.

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27 **APPROVED: 4/13/2005**
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