

1 State of Arkansas *As Engrossed: H1/19/17 H2/3/17 H2/15/17*

2 91st General Assembly

A Bill

3 Regular Session, 2017

HOUSE BILL 1007

4

5 By: Representatives Tucker, V. Flowers, D. Ferguson, Leding, Sabin, D. Whitaker, *Della Rosa*

6 By: Senators K. Ingram, Elliott, L. Chesterfield, U. Lindsey, Maloch, E. Cheatham, S. Flowers

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For An Act To Be Entitled

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AN ACT TO PROTECT CITIZENS WHO ARE VICTIMS OF

10

JUDICIAL ETHICS VIOLATIONS; TO CREATE A CAUSE OF

11

ACTION AGAINST JUDGES AND JUSTICES WHO HAVE BEEN

12

CONVICTED OF CERTAIN OFFENSES; TO CREATE AN EXCEPTION

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TO JUDICIAL IMMUNITY; AND FOR OTHER PURPOSES.

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Subtitle

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TO PROTECT CITIZENS WHO ARE VICTIMS OF

18

JUDICIAL ETHICS VIOLATIONS; TO CREATE A

19

CAUSE OF ACTION AGAINST JUDGES AND

20

JUSTICES WHO HAVE BEEN CONVICTED OF

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CERTAIN OFFENSES; AND TO CREATE AN

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EXCEPTION TO JUDICIAL IMMUNITY.

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

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27 SECTION 1. Arkansas Code Title 16, Chapter 106, Subchapter 1, is

28 amended to add an additional section to read as follows:

29 16-106-111. Exception to judicial immunity.

30 (a) The General Assembly finds that:

31 (1) The common law doctrine of judicial immunity from civil suit

32 has been accepted by the courts under Peterson v. Judges of Jefferson County

33 Circuit Court, 2014 Ark. 228 (per curiam) and Pierson v. Ray, 386 U.S. 547

34 (1967), and is state law; and

35 (2) An exception to this blanket grant of judicial immunity is

36 necessary to protect the public from certain criminal and unethical acts



1 committed by judges and justices.

2 (b) A person who has had an adverse decision against him or her in a
3 court in this state may file a claim in the circuit court with jurisdiction
4 against a judge or justice who made the adverse decision in the judge or
5 justice's individual capacity if the judge or justice:

6 (1) Made or influenced the adverse decision as a result of
7 bribery;

8 (2) Has been found guilty of, or pleaded guilty to, nolo
9 contendere to, or the equivalent of nolo contendere to, a criminal offense
10 for conduct constituting bribery in any state or federal court; and

11 (3) The bribery conviction described in subdivision (b)(2) of
12 this section resulted from the conduct described in subdivision (b)(1) of
13 this section.

14 (c) A person is entitled to the following remedies if he or she
15 prevails on a claim under subsection (b) of this section:

16 (1) Costs;

17 (2) Damages, including without limitation punitive damages; and

18 (3) Attorney's fees.

19 (d) A prosecuting attorney may bring a cause of action under this
20 section, and may, in his or her discretion, use any proceeds recovered in the
21 proceeding to:

22 (1) Cover the prosecuting attorney's costs of the proceeding in
23 which the adverse decision described in subsection (b) of this section
24 occurred;

25 (2) Give to the victim or the estate of the victim of the crime
26 that the prosecuting attorney was prosecuting in the proceeding in which the
27 adverse decision described in subsection (b) under this section occurred;

28 (3) Donate to a nonprofit victims' rights advocacy group; or

29 (4) Donate to the State Treasury.

30 (e) The statute of limitations for a cause of action under this
31 section:

32 (1) Is three (3) years; and

33 (2) Begins to run the day the judge or justice is found guilty
34 of, or pleads guilty to, nolo contendere to, or the equivalent of nolo
35 contendere to, a criminal offense for conduct constituting bribery in any
36 state or federal court.

1 (f)(1) If a cause of action is timely filed under this section and the
2 judge or justice is deceased at the time of the filing or dies during the
3 pendency of the cause of action, the person or the estate of the person
4 filing the cause of action may proceed against the estate of the judge or
5 justice.

6 (2) The estate of a person may proceed with a cause of action
7 under this section against a judge, justice, or the estate of the judge or
8 justice, if the person dies before the cause of action accrues or during the
9 pendency of the action.

10 (g) As used in this section:

11 (1) "Adverse decision" means a ruling in which a judge's or
12 justice's order differs from the relief or request sought by a litigant on a
13 motion or objection in a civil or criminal matter;

14 (2) "Bribery" means giving, offering, accepting, or agreeing to
15 accept money or any other benefit, pecuniary or otherwise, for the purpose of
16 affecting the outcome of a court proceeding or decision; and

17 (3) "Person" means any individual, corporation, business trust,
18 estate, trust, partnership, limited liability company, association, joint
19 venture, government, governmental subdivision, agency, or instrumentality,
20 public corporation, or any other legal or commercial entity.

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22 /s/Tucker

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25 **APPROVED: 03/09/2017**