

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 633 of the Regular Session

As Engrossed: H3/5/09 H3/13/09

A Bill

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

HOUSE BILL 1853

4
5 By: Representative Williams
6
7

For An Act To Be Entitled

8
9 AN ACT CONCERNING THE PAYMENT AND COLLECTION OF
10 FINES, COSTS AND RESTITUTION; TO REPEAL ARKANSAS
11 CODE § 21-6-401(d) AS MAY BE ENACTED BY HOUSE
12 BILL 1353 OF 2009; AND FOR OTHER PURPOSES.
13

Subtitle

14
15 CONCERNING THE PAYMENT AND COLLECTION OF
16 FINES, COSTS AND RESTITUTION.
17
18

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

21 SECTION 1. Arkansas Code § 5-4-203 is repealed.

22 ~~5-4-203. Consequences of nonpayment.~~

23 ~~(a)(1) When a defendant sentenced to pay a fine or costs defaults in~~
24 ~~the payment of the fine or costs or of any installment, upon the court's own~~
25 ~~motion or that of the prosecuting attorney, the court may require the person~~
26 ~~to show cause why he or she should not be imprisoned for nonpayment.~~

27 ~~(2) The court may issue a warrant of arrest or a summons for the~~
28 ~~defendant's appearance.~~

29 ~~(3)(A) The court may order the defendant imprisoned in the~~
30 ~~county jail or other authorized institution designated by the court until the~~
31 ~~fine or costs or a specified part of the fine or costs is paid unless the~~
32 ~~defendant shows that his or her default was not attributable to a~~

33 ~~(i) Purposeful refusal to obey the sentence of the~~
34 ~~court; or~~

35 ~~(ii) Failure on the defendant's part to make a good~~



1 ~~faith effort to obtain the funds required for payment.~~

2 ~~(B) The period of imprisonment shall not exceed the~~
3 ~~shorter period of:~~

4 ~~(i) One (1) day for each forty dollars (\$40.00) of~~
5 ~~the fine or costs;~~

6 ~~(ii) Thirty (30) days if the fine or costs were~~
7 ~~imposed upon conviction of a misdemeanor; or~~

8 ~~(iii) One (1) year if the fine or costs were imposed~~
9 ~~upon conviction of a felony.~~

10 ~~(4) If the court determines that the default in payment of fine~~
11 ~~or costs is not attributable to a cause specified in subdivision (a)(3)(A) of~~
12 ~~this section, the court may enter an order:~~

13 ~~(A) Allowing the defendant additional time for payment;~~

14 ~~(B) Reducing the amount of each installment; or~~

15 ~~(C) Revoking the fine or costs or the unpaid portion of~~
16 ~~the fine or costs in whole or in part.~~

17 ~~(b)(1) When a defendant sentenced to pay a fine or costs defaults in~~
18 ~~the payment of the fine or costs or of any installment, the clerk of the~~
19 ~~court in which payment is due shall:~~

20 ~~(A) Submit the last known address provided to the court by~~
21 ~~the defendant to the Department of Finance and Administration; and~~

22 ~~(B) Notify the department to suspend any driver's license~~
23 ~~held by the defendant.~~

24 ~~(2) Upon receipt of notification under subdivision (b)(1) of~~
25 ~~this section, the department shall notify the defendant that his or her~~
26 ~~driver's license will be suspended thirty (30) days from the date of the~~
27 ~~notice.~~

28 ~~(3) Notice from the department is sufficient if mailed to the~~
29 ~~defendant at either the:~~

30 ~~(A) Last known address provided to the court by the~~
31 ~~defendant; or~~

32 ~~(B) Address used by the defendant on any driver's license.~~

33 ~~(4) Except as notified otherwise by the clerk of the court, the~~
34 ~~department shall suspend any driver's license held by the defendant as~~
35 ~~provided in this subsection.~~

36 ~~(5) The defendant is entitled to retain or regain any driver's~~

1 ~~license if:~~

2 ~~(A) The default is cured and the clerk of the court~~
3 ~~notifies the department to cancel or release the suspension; or~~

4 ~~(B) The court orders reinstatement.~~

5 ~~(c)(1)(A) When a corporation is sentenced to pay a fine or costs, it~~
6 ~~is the duty of the person authorized to make disbursements from the assets of~~
7 ~~the corporation to pay the fine or costs.~~

8 ~~(B) If a disbursement under subdivision (c)(1)(A) of this~~
9 ~~section requires approval of the board of directors, it is the duty of the~~
10 ~~board of directors to authorize a disbursement to pay the fine or costs.~~

11 ~~(2) Failure to comply with a duty imposed by this subsection~~
12 ~~renders a person or a director subject to imprisonment under subdivisions~~
13 ~~(a)(1)-(3) of this section.~~

14
15 SECTION 2. Arkansas Code § 5-4-205(e), concerning restitution, is
16 amended to read as follows:

17 (e)(1) Restitution shall be made immediately unless prior to the
18 imposition of sentence the court determines that the defendant should be:

19 (A) Given a specified time to pay; or

20 (B)(i) Allowed to pay in specified installments.

21 (ii) A district court may order installment payments
22 of restitution to be collected first in lieu of the procedure under § 16-10-
23 209(5)(F).

24 (2) In determining the method of payment, the court shall take
25 into account:

26 (A) The financial resources of the defendant and the
27 burden that payment of restitution will impose with regard to another
28 obligation of the defendant;

29 (B) The ability of the defendant to pay restitution on an
30 installment basis or on another condition to be fixed by the court; and

31 (C) The rehabilitative effect on the defendant of the
32 payment of restitution and the method of payment

33
34 SECTION 3. Arkansas Code § 5-4-309 is amended to read as follows:

35 5-4-309. Violation of conditions – Arrest, revocation, and sentencing.

36 (a)(1) At any time before the expiration of a period of suspension or

1 probation, a court may summon a defendant to appear before it or may issue a
2 warrant for the defendant's arrest.

3 (2) The warrant may be executed by any law enforcement officer.

4 (b) At any time before the expiration of a period of suspension or
5 probation, any law enforcement officer may arrest a defendant without a
6 warrant if the law enforcement officer has reasonable cause to believe that
7 the defendant has failed to comply with a condition of his or her suspension
8 or probation.

9 (c) A defendant arrested for violation of suspension or probation
10 shall be taken immediately before the court that suspended imposition of
11 sentence, or if the defendant was placed on probation, before the court
12 supervising the probation.

13 (d) If a court finds by a preponderance of the evidence that the
14 defendant has inexcusably failed to comply with a condition of his or her
15 suspension or probation, the court may revoke the suspension or probation at
16 any time prior to the expiration of the period of suspension or probation.

17 (e) A finding of failure to comply with a condition of suspension or
18 probation as provided in subsection (d) of this section, may be punished as
19 contempt under § 16-10-108.

20 ~~(e)~~(f) A court may revoke a suspension or probation subsequent to the
21 expiration of the period of suspension or probation if before expiration of
22 the period:

23 (1) The defendant is arrested for violation of suspension or
24 probation;

25 (2) A warrant is issued for the defendant's arrest for violation
26 of suspension or probation;

27 (3) A petition to revoke the defendant's suspension or probation
28 has been filed if a warrant is issued for the defendant's arrest within
29 thirty (30) days of the date of filing the petition; or

30 (4) The defendant has been:

31 (A) Issued a citation in lieu of arrest under Rule 5 of
32 the Arkansas Rules of Criminal Procedure for violation of suspension or
33 probation; or

34 (B) Served a summons under Rule 6 of the Arkansas Rules of
35 Criminal Procedure for violation of suspension or probation.

36 ~~(f)~~(g)(1)(A) If a court revokes a suspension or probation, the court

1 may enter a judgment of conviction and may impose any sentence on the
2 defendant that might have been imposed originally for the offense of which he
3 or she was found guilty.

4 (B) However, any sentence to pay a fine or of
5 imprisonment, when combined with any previous fine or imprisonment imposed
6 for the same offense, shall not exceed the limits of § 5-4-201 or § 5-4-401,
7 or if applicable, § 5-4-501.

8 (2)(A) As used in this subsection, "any sentence" includes the
9 extension of a period of suspension or probation.

10 (B) If an extension of suspension or probation is made
11 upon revocation, the court is not deprived of the ability to revoke the
12 suspension or probation again should the defendant's conduct warrant
13 revocation again.

14
15 SECTION 4. Arkansas Code § 5-65-205(a), concerning a refusal to submit
16 to a chemical test, is amended to read as follows:

17 (a)(1) If a person under arrest refuses upon the request of a law
18 enforcement officer to submit to a chemical test designated by the law
19 enforcement agency, as provided in § 5-65-202, no chemical test shall be
20 given, and the person's motor vehicle operator's license shall be seized by
21 the law enforcement officer, and the law enforcement officer shall
22 immediately deliver to the person from whom the motor vehicle operator's
23 license was seized a temporary driving permit, as provided by § 5-65-402.

24 (2) Refusal to submit to a chemical test under this subsection
25 is a strict liability offense and is a violation pursuant to § 5-1-108.

26
27 SECTION 5. Arkansas Code § 5-65-310(a), concerning the offense of
28 underage refusal to submit, is amended to read as follows:

29 (a)(1) If an underage person under arrest refuses upon the request of
30 a law enforcement officer to submit to a chemical test designated by the law
31 enforcement agency, as provided in § 5-65-309, no chemical test shall be
32 given, and the underage person's driver's license shall be seized by the law
33 enforcement officer, and the law enforcement officer shall immediately
34 deliver to the underage person from whom the driver's license was seized a
35 temporary driving permit as provided by § 5-65-402.

36 (2) Refusal to submit to a chemical test under this subsection

1 is a strict liability offense and is a violation pursuant to § 5-1-108.

2
3 SECTION 6. Arkansas Code § 16-10-211(a), concerning record retention
4 in district courts, is amended to read as follows:

5 (a) All towns, cities, and counties of the State of Arkansas shall
6 maintain records for the district courts and city courts and are to:

7 (1) Permanently maintain:

8 (A) Case indices for all courts;

9 (B) Case dockets for all courts;

10 (C) ~~Warrants~~ Unservd warrants;

11 (D) Waivers;

12 (E) Expungement and sealed records;

13 (F) Circuit court judgments;

14 (G) Files concerning convictions under the Omnibus DWI
15 Act, § 5-65-101 et seq.;

16 (H) Files concerning cases resulting in a suspended
17 imposition of sentence; and

18 (I) Domestic battering files;

19 (2) Maintain for a period of at least seven (7) years and in no
20 event dispose of prior to being audited:

21 (A) Records and reports of court costs;

22 (B) Fines and fees assessed and collected;

23 (C) Complete case files and written exhibits for all
24 courts;

25 (D) Month-end settlements;

26 (E) Monthly distribution reports;

27 (F) Show cause orders;

28 (G) Case information, including arrest reports and
29 affidavits; and

30 (H) Alternative service or community service time sheets;

31 and

32 (3) Maintain for a period of at least three (3) years and in no
33 event dispose of prior to being audited:

34 (A) Bank reconciliations;

35 (B) Check book registers;

36 (C) Cancelled checks;

- 1 (D) Bank statements;
- 2 (E) Receipts;
- 3 (F) Deposit collection records;
- 4 (G) Budget packets or books;
- 5 (H) Accounts payable;
- 6 (I) Payroll time sheets;
- 7 (J) Information concerning vacation and sick leave;
- 8 (K) Month-end payroll; ~~and~~
- 9 (L) Uniform traffic ticket books from each police
- 10 department and sheriff's office; and
- 11 (M) Served warrants.

12
 13 SECTION 7. Arkansas Code § 16-10-305(a)[Effective until January 1,
 14 2012], concerning court costs, is amended to read as follows:

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

18 (1) In circuit court, one hundred fifty dollars (\$150) for ~~For~~
 19 *misdemeanor or felony violations of state law, excluding violations of ~~the~~*
 20 ~~Omnibus DWI Act, § 5-65-101 et seq., in circuit court, one hundred fifty~~
 21 ~~dollars (\$150);;~~

- 22 (A) The Omnibus DWI Act, § 5-65-101 et seq.;
- 23 (B) The Underage DUI Law, § 5-65-301 et seq.;
- 24 (C) Section 5-75-101 et seq.;
- 25 (D) Section 5-76-101 et seq.;
- 26 (E) Section 27-23-114; or
- 27 (F) Section 15-42-127;

28 (2) In district court, one hundred dollars (\$100) for ~~For~~
 29 offenses which are misdemeanors or violations of state law, excluding
 30 violations of ~~the Omnibus DWI Act, § 5-65-101 et seq., in district court, one~~
 31 ~~hundred dollars (\$100);;~~

- 32 (A) The Omnibus DWI Act, § 5-65-101 et seq.;
- 33 (B) The Underage DUI Law, § 5-65-301 et seq.;
- 34 (C) Section 5-75-101 et seq.;
- 35 (D) Section 5-76-101 et seq.;
- 36 (E) Section 27-23-114; or

1 (F) Section 15-42-127;
 2 (3) In circuit court or district court, seventy-five dollars
 3 (\$75) for ~~For~~ traffic offenses which are misdemeanors or violations under
 4 state law or local ordinance, excluding violations of the Omnibus DWI Act, §
 5 ~~5-65-101 et seq., in district court, seventy five dollars (\$75);~~

6 (A) The Omnibus DWI Act, § 5-65-101 et seq.;

7 (B) The Underage DUI Law, § 5-65-301 et seq.;

8 (C) Section 5-75-101 et seq.;

9 (D) Section 5-76-101 et seq.;

10 (E) Section 27-23-114; or

11 (F) Section 15-42-127;

12 (4) For nontraffic offenses which are misdemeanors or violations
 13 under local ordinance in circuit, district or city court, twenty-five dollars
 14 (\$25.00);

15 (5) In circuit court, district court, or city court, three
 16 hundred dollars (\$300) for ~~For~~ violations of the Omnibus DWI Act, § 5-65-101
 17 et seq., in circuit court, district court or city court three hundred dollars
 18 ~~(\$300);~~

19 (A) The Omnibus DWI Act, § 5-65-101 et seq.;

20 (B) The Underage DUI Law, § 5-65-301 et seq.;

21 (C) Section 5-75-101 et seq.;

22 (D) Section 5-76-101 et seq.;

23 (E) Section 27-23-114; or

24 (F) Section 15-42-127;

25

26 (6) In city court, seventy-five dollars (\$75) for ~~For~~ offenses
 27 which are misdemeanors or violations under state law, excluding violations of
 28 the Omnibus DWI Act, § 5-65-101 et seq., seventy five dollars (\$75.00) in
 29 city court;

30 (A) The Omnibus DWI Act, § 5-65-101 et seq.;

31 (B) The Underage DUI Law, § 5-65-301 et seq.;

32 (C) Section 5-75-101 et seq.;

33 (D) Section 5-76-101 et seq.;

34 (E) Section 27-23-114; or

35 (F) Section 15-42-127;

36 (7) In city court, fifty dollars (\$50) for ~~For~~ traffic offenses

1 which are misdemeanors or violations under state law or local ordinance,
 2 excluding ~~violations of the Omnibus DWI Act, § 5-65-101 et seq., fifty~~
 3 ~~dollars (\$50.00) in city court;~~

4 (A) The Omnibus DWI Act, § 5-65-101 et seq.;

5 (B) The Underage DUI Law, § 5-65-301 et seq.;

6 (C) Section 5-75-101 et seq.;

7 (D) Section 5-76-101 et seq.;

8 (E) Section 27-23-114; or

9 (F) Section 15-42-127;

10
 11 SECTION 8. Arkansas Code § 16-13-704 is amended to read as follows:

12 16-13-704. Installment payments. [Effective until January 1, 2012.]

13 (a)(1) If the court concludes that the defendant has the ability to
 14 pay the fine, but that requiring the defendant to make immediate payment in
 15 full would cause a severe and undue hardship for the defendant and the
 16 defendant's dependents, the court may authorize payment of the fine by means
 17 of installment payments in accordance with this subchapter.

18 (2)(A) When a court authorizes payment of a fine by means of
 19 installment payments, it shall issue, without a separate disclosure hearing,
 20 an order that the fine be paid in full by a date certain and that in default
 21 of payment, the defendant must appear in court to explain the failure to pay.

22 (B) In fixing the date of payment, the court shall issue an
 23 order which will complete payment of the fine as promptly as possible without
 24 creating a severe and undue hardship for the defendant and the defendant's
 25 dependents.

26 (b)(1)(A) In addition to the fine and any other assessments authorized
 27 by this subchapter, an installment fee of five dollars (\$5.00) per month
 28 shall be assessed on the first day of each month on each person who is
 29 authorized to pay a fine on an installment basis.

30 (B) This fee shall be collected in full each month in
 31 which a defendant makes an installment payment.

32 (C) This fee shall accrue each month that a defendant does
 33 not make an installment payment and the fine has not been paid in full.

34 (2)(A)(i) One-half ($\frac{1}{2}$) of the installment fee collected in
 35 circuit court shall be remitted by the tenth day of each month to the
 36 ~~Administration of Justice Funds Section of the Office of Administrative~~

1 ~~Services of the Department of Finance and Administration~~ Administration of
2 Justice Funds Section, on a form provided by that office, for deposit in the
3 Judicial Fine Collection Enhancement Fund established by § 16-13-712.

4 (ii) The other half of the installment fee shall be
5 remitted by the tenth day of each month to the county treasurer to be
6 deposited in a fund entitled the circuit court automation fund to be used
7 solely for circuit court-related technology.

8 (B)(i) Expenditures from the circuit court automation fund
9 shall be approved by the administrative circuit judge of each judicial
10 circuit and shall be authorized and paid under the state laws governing the
11 appropriation and payment of county expenditures. Expenditures may be made
12 for indirect expenses related to implementation of new court-related
13 technology, including overtime pay, personnel or travel expenses, and
14 technology related supplies.

15 (ii) Funds in each county in a judicial circuit may
16 be pooled for expenditure pursuant to a circuitwide technology plan approved
17 by the administrative circuit judge.

18 ~~(iii) All expenditures from the circuit court~~
19 ~~automation fund shall be authorized, pursuant to the county accounting law,~~
20 ~~by the quorum court.~~

21 (3)(A) One-half ($\frac{1}{2}$) of the installment fee collected in district
22 court or city court, shall be remitted by the tenth day of each month to the
23 Administration of Justice Funds Section ~~of the Office of Administrative~~
24 ~~Services of the Department of Finance and Administration~~ on a form provided
25 by that office, for deposit in the Judicial Fine Collection Enhancement Fund
26 established by § 16-13-712.

27 (B)(i) The other half of the installment fee collected in
28 district court shall be remitted by the tenth day of each month to the city
29 treasurer of the city in which the district court is located to be deposited
30 in a fund entitled the district court automation fund to be used solely for
31 district court-related technology.

32 (ii) The other half of the installment fee collected
33 in city court shall be remitted by the tenth day of each month to the
34 treasurer of the city or town in which the city court is located to be
35 deposited in a fund entitled the city court automation fund to be used solely
36 for city court-related technology.

1 (C) In ~~any~~ a district court which is funded solely by the
2 county, the other half of this fee shall be remitted by the tenth day of each
3 month to the county treasurer of the county in which the district court is
4 located to be deposited in the district court automation fund to be used
5 solely for district court-related technology.

6 (D)(i) Expenditures from the district court automation
7 fund shall be approved by a district judge and shall be authorized and paid,
8 ~~pursuant to state accounting law~~ under state laws governing the appropriation
9 and payment of county or municipal expenditures, by the governing body or, if
10 applicable, governing bodies which contribute to the expenses of a district
11 court.

12 (ii) Expenditures may be made for indirect expenses
13 related to implementation of new court-related technology, including overtime
14 pay, personnel or travel expenses, and technology related supplies.

15 (E)(i) Expenditures from the city court automation fund
16 shall be approved by the city court judge and shall be authorized and paid,
17 ~~pursuant to state accounting law~~ under state laws governing the appropriation
18 and payment of municipal expenditures, by the governing body of the city or
19 town in which the city court is located.

20 (ii) Expenditures may be made for indirect expenses
21 related to implementation of new court-related technology, including,
22 overtime pay, personnel or travel expenses, and technology related supplies.

23 (c) ~~Any~~ A defendant who has been authorized by the court to pay a fine
24 by installments shall be considered to have irrevocably appointed the clerk
25 of the court as his or her agent upon whom all papers affecting his or her
26 liability may be served, and the clerk shall forthwith notify the defendant
27 thereof by ordinary mail at his or her last known address.

28 (d) "Ability to pay" means that the resources of the defendant,
29 including all available income and resources, are sufficient to pay the fine
30 and provide the defendant and his or her dependents with a reasonable
31 subsistence compatible with health and decency.

32
33 SECTION 9. Arkansas Code § 16-13-709(a)(2)[Effective until January 1,
34 2012], concerning the responsibility for collection of fines, is amended to
35 read as follows:

36 (2)(A)(i) The governing body or, if applicable and by mutual

1 agreement, each governing body of a political subdivision which contributes
2 to the expenses of a district court, or the governing body of the city in
3 which a city court is located, shall designate a county or city official,
4 agency, or department ~~who~~ that shall be primarily responsible for the
5 collection of fines assessed in the district courts, city courts, or police
6 courts of this state.

7 (ii) All fines collected each month in district
8 court or a department of district court by the designated county or city
9 official, agency, or department shall be disbursed by the tenth working day
10 of the following month ~~pursuant to~~ under § 16-17-707.

11 (B) All fines collected each month in city courts by the
12 designated city official, agency, or department shall be disbursed by the
13 tenth working day of the following month to the general fund or other city
14 fund, state agency, or state entity as provided by law; the city
15 administration of justice fund; the county administration of justice fund;
16 and the State Administration of Justice Fund.

17 (C) The chief of police of the town or city in which a
18 district court or city court is located or the sheriff shall remain
19 responsible for collecting bail or money deposited in lieu of bail on behalf
20 of defendants discharged from incarceration ~~pursuant to~~ under law in district
21 court or city court.

22 (D)(i) The governing body or, if applicable and by mutual
23 agreement, each governing body of a political subdivision which contributes
24 to the expenses of a district court, or the governing body of the city in
25 which a city court is located, may delegate the responsibility for the
26 collection of delinquent fines assessed in district court or city court to a
27 private contractor.

28 (ii) The contractor may receive under a written
29 contract a commission on delinquent fines collected for district court or
30 city court.

31 (iii) The commission agreed to be received by the
32 private contractor shall be a portion of the total fine owed by a defendant.

33 (iv) The court shall credit the defendant with the
34 gross amount remitted to the private contractor.

35 (v) The private contractor shall remit the gross
36 amounts collected to the county or city official, agency, or department

1 designated under ~~subsection~~ subdivision (a)(2)(A) of this section on a
2 monthly basis.

3 (vi) The commission expense shall be apportioned
4 among each governing body of a political subdivision which contributes to the
5 expenses of a district court in proportion to the gross amount of fines
6 collected for that political subdivision.

7 (vii) Payment of the commission shall be according
8 to accounting procedures prescribed by law.

9 (viii) Payment of the commission for city courts
10 shall be made by the governing body of the city in which the court is
11 located.

12 (ix) The remainder of fines received shall be
13 disbursed pro rata under this section and §§ 14-44-108, 14-45-106, 16-10-209,
14 16-10-308, and 16-17-707, ~~and 16-18-104.~~

15
16 SECTION 10. Arkansas Code § 16-17-117 is repealed.

17 ~~16-17-117. Issuance of arrest warrants by clerk of court.~~

18 ~~(a) A clerk of the municipal court may, when empowered by the judge of~~
19 ~~the municipal court, issue a warrant of arrest upon the filing with the clerk~~
20 ~~of an information by the prosecuting attorney or an information or complaint~~
21 ~~by the city attorney.~~

22 ~~(b) A clerk of the municipal court shall issue a warrant of arrest~~
23 ~~upon the filing with the clerk of an affidavit for warrant of arrest signed~~
24 ~~by any individual, if such affidavit has been processed by the prosecuting~~
25 ~~attorney or city attorney or the prosecuting attorney or city attorney has~~
26 ~~marked thereon approval of issuance of the warrant.~~

27 ~~(c) The methods provided in this section for issuance of warrants of~~
28 ~~arrest shall be in addition to those provided by law but shall not authorize~~
29 ~~a clerk to issue a search warrant.~~

30
31 SECTION 11. Arkansas Code § 16-17-128 is repealed.

32 ~~16-17-128. Payment of fines by credit card.~~

33 ~~(a) All municipal courts may accept payment of fines and associated~~
34 ~~costs by an approved credit card.~~

35 ~~(b)(1) All municipal courts are authorized to enter into contracts~~
36 ~~with credit card companies and to pay those companies fees normally charged~~

1 ~~by those companies for allowing the court to accept their credit cards in~~
2 ~~payment as authorized by subsection (a) of this section.~~

3 ~~(2)(A) Where the offender pays fines by an approved credit card,~~
4 ~~the court shall assess a service fee equal to the amount charged to the court~~
5 ~~by the credit card issuer.~~

6 ~~(B) This charge may be added to, and become a part of, any~~
7 ~~underlying obligation.~~

8
9 SECTION 12. Arkansas Code § 16-17-136 is amended to read as follows:
10 16-17-136. Waiver of appearance and entry of plea to traffic
11 violations in district court and city court.

12 Notwithstanding any rule of criminal procedure to the contrary:

13 (1) A person who is charged in district court or city court with
14 committing a traffic an offense ~~that is a violation under state law or local~~
15 ~~ordinance~~, excluding a violation of the Omnibus DWI Act, § 5-65-101 et seq.,
16 or the Underage DUI Law, § 5-65-301 et seq., ~~and in which the only sentence~~
17 ~~available is a monetary fine and court costs~~, or any other offense for which
18 a court appearance is mandatory, may waive appearance and trial and plead
19 guilty or nolo contendere by a signed statement;

20 (2)(A) With the signed statement, the person shall pay the fine
21 and court costs in an amount as established by the district court or city
22 court within the limits prescribed by law.

23 (B) Fines and court costs shall be paid to the county or
24 city official, agency, or department designated ~~pursuant to~~ under § 16-13-709
25 as primarily responsible for the collection of fines assessed in the district
26 courts and city courts of this state; and

27 (3) The court shall accept the signed statement accompanied by
28 the fine and court costs assessed as a plea of guilty or nolo contendere and
29 shall proceed accordingly.

30
31 SECTION 13. Arkansas Code § 16-17-211(d), concerning district court
32 clerks, is amended to read as follows:

33 (d) The district court clerk shall:

34 (1) Administer oaths, including special judges of district court
35 under § 16-17-210;

36 (2) Take affidavits required or permitted in the progress of the

1 action;

2 ~~(3) Approve bond in criminal cases in the absence of the judge;~~

3 ~~(4)(3)~~ Keep a complete docket of all proceedings to the extent
4 and in the manner directed by the judge;

5 ~~(5)(4)~~ Seasonably record the judgments, rules, orders, and other
6 civil or criminal proceedings of the court and keep an alphabetical index
7 thereof;

8 ~~(6)(5)~~ Keep such other dockets, books, and indices as may be
9 required by law or by the judge; and

10 ~~(7)(6)~~ Issue and attest all process.

11

12 SECTION 14. Arkansas Code § 16-17-707(a)(3)(D), concerning separate
13 accounting records in district court, is amended to read as follows:

14 (a)(3)(D) All other fees and interest earned on the court account
15 shall be disbursed to the treasurers of the political subdivisions which
16 contribute to the expense of the district court in accordance with a written
17 agreement among the political subdivisions.

18

19 SECTION 15. Arkansas Code § 16-65-114 is amended to read as follows:
20 16-65-114. Interest on judgments.

21 (a) Interest on ~~any~~ a judgment entered by ~~any~~ a circuit court ~~or~~
22 ~~magistrate~~ on ~~any~~ a contract shall bear interest at the rate provided by the
23 contract or ten percent (10%) per annum, whichever is greater, and on any
24 other judgment at ten percent (10%) per annum, but not more than the maximum
25 rate permitted by the Arkansas Constitution, Article 19, § 13, as amended.

26 (b) Interest on a judgment entered by a district court on a contract
27 shall bear interest at the rate provided by the contract or ten percent (10%)
28 per annum, whichever is greater, and on any other judgment at ten percent
29 (10%).

30 ~~(b)(c)~~ No A judgment rendered or to be rendered against ~~any~~ a county
31 in the state on county warrants or other evidence of county indebtedness
32 shall not bear any interest after the passage of this act.

33

34 SECTION 16. Arkansas Code § 16-84-201 is amended to read as follows:
35 16-84-201. Action on bond in district courts.

36 (a)(1)(A) If the defendant fails to appear for trial or judgment, or

1 at any other time when his or her presence in district court may be lawfully
2 required, or to surrender himself or herself in execution of the judgment,
3 the district court may direct the fact to be entered on the minutes and shall
4 promptly issue an order requiring the surety to appear, on a date set by the
5 district court not more than one hundred twenty (120) days ~~after the issuance~~
6 ~~of the order~~ from the date notice is sent by certified mail to the surety
7 company at the address shown on the bond, whether or not it is received by
8 the surety, to show cause why the sum specified in the bail bond or the money
9 deposited in lieu of bail should not be forfeited.

10 (B) The one hundred twenty-day period in which the
11 defendant must be surrendered or apprehended ~~pursuant to~~ under subdivision
12 (c)(2) of this section begins to run from the date notice is sent by
13 certified mail to the surety company at the address shown on the bond,
14 whether or not it is received by the surety.

15 (2) The order shall also require the officer who was responsible
16 for taking of bail to appear unless:

17 (A) The surety is a bail bondsman; or

18 (B) The officer accepted cash in the amount of bail.

19 (b) The appropriate law enforcement agencies shall make every
20 reasonable effort to apprehend the defendant.

21 (c)(1) If the defendant is surrendered or arrested, or good cause is
22 shown for his or her failure to appear before judgment is entered against the
23 surety, the district court shall exonerate a reasonable amount of the
24 surety's liability under the bail bond.

25 (2) However, if the surety causes the apprehension of the
26 defendant or the defendant is apprehended within one hundred twenty (120)
27 days from the date ~~of receipt of written notification to the surety of the~~
28 ~~defendant's failure to appear~~ notice is sent by certified mail to the surety
29 company at the address shown on the bond, whether or not it is received by
30 the surety, ~~no~~ a judgment or forfeiture of bond may not be entered against
31 the surety, except as provided in subsection (e) of this section.

32 (d) If after one hundred twenty (120) days from the date notice is
33 sent by certified mail to the surety company at the address shown on the
34 bond, whether or not it is received by the surety, the defendant has not
35 surrendered or been arrested, the bail bond or money deposited in lieu of
36 bail may be forfeited without further notice or hearing.

1 (e) If the defendant is located in another state and the location is
2 known within one hundred twenty (120) days ~~after the date of receipt of~~
3 ~~written notification to the surety of the defendant's failure to appear from~~
4 the date notice is sent by certified mail to the surety company at the
5 address shown on the bond, whether or not it is received by the surety, the
6 appropriate law enforcement officers shall cause the arrest of the defendant
7 and the surety shall be liable for the cost of returning the defendant to the
8 district court in an amount not to exceed the face value of the bail bond.

9 (f)(1) In determining the extent of liability of the surety on a bond
10 forfeiture, the court, without further notice or hearing, may take into
11 consideration the expenses incurred by the surety in attempting to locate the
12 defendant and may allow the surety credit for the expenses incurred.

13 (2) To be considered by the court, information concerning
14 expenses incurred in attempting to locate the defendant should be submitted
15 to the court by the surety no later than the one-hundred-twentieth day ~~after~~
16 ~~the date of receipt of written notification to the surety of the defendant's~~
17 ~~failure to appear~~ from the date notice is sent by certified mail to the
18 surety company at the address shown on the bond, whether or not it is
19 received by the surety.

20 (g) Notwithstanding any law to the contrary, a district court may
21 suspend a bail bond company's or agent's ability to issue bail bonds in its
22 court if the bail bond company or agent fails to comply with an order of the
23 district court or fails to pay forfeited bonds in accordance with a district
24 court's order.

25
26 SECTION 17. Arkansas Code § 16-96-403 is amended to read as follows:

27 16-96-403. Imposition by circuit court on appeal – Costs.

28 The fines, penalties, forfeitures, and costs imposed by a circuit court
29 for offenses which are misdemeanors or violations under state law or local
30 ordinance or for traffic offenses which are misdemeanors or violations under
31 state law or local ordinance in cases appealed from ~~any~~ a court of limited
32 jurisdiction shall be collected and disbursed in the following manner:

33 (1) If the appeal proceeds to a de novo bench trial or jury
34 trial, the fines, penalties, forfeitures, and costs imposed by the circuit
35 court shall be collected ~~pursuant to~~ under § 16-13-709 and paid to the county
36 treasurer;

1 (2)(A) If the defendant pleads guilty or nolo contendere or the
2 circuit court dismisses the appeal, including dismissals under Arkansas Rules
3 of Criminal Procedure 36(h), the judgment of the court from which the appeal
4 originated shall be affirmed~~+~~.

5 (B)(i) The circuit court clerk shall notify in
6 writing, within thirty (30) days of the affirmance or dismissal, the court
7 from which the appeal originated of the affirmance or dismissal and shall
8 return any bond or other security which has been transmitted to the circuit
9 court+.

10 (ii) Upon receipt of the notice of affirmance or
11 dismissal and the bond or other security, the court from which the appeal
12 originated shall collect and disburse the fines, penalties, forfeitures, and
13 costs ~~pursuant to~~ under §§ 16-10-209, 16-10-308, 16-17-707, 14-44-108, and
14 14-45-106~~+~~; and

15 (3) Nothing in this section shall affect the right of a court of
16 limited jurisdiction to require ~~a supersedeas bond~~ the defendant to post a
17 bond or other security for an appeal to guarantee the appearance of the
18 defendant before the circuit court nor the ability of these courts to collect
19 any fine, penalty, forfeiture, or costs imposed in the absence of a
20 ~~supersedeas~~ the bond or other security.

21
22 SECTION 18. Arkansas Code § 17-19-208(b)(1), concerning administrative
23 actions of the Bail Bond Company Licensing Board is amended to read as
24 follows:

25 (b)(1) When a final civil judgment for court-ordered bond forfeitures
26 is entered as to a bail bond issued by the licensee by a court of competent
27 jurisdiction in this state and the judgment is not paid within ninety (90)
28 days thereafter, the court may send a copy of the judgment, duly certified by
29 the clerk of the court, ~~to the board and after having given proof to the~~
30 ~~board of service of process~~ the judgment on the licensee in accordance with
31 ~~present laws governing service of process on defendants in other civil~~
32 ~~actions.~~ The Rule 5 of the Arkansas Rules of Civil Procedure, to the board,
33 then the board may promptly make a claim on the surety for payment of the
34 allowable amount of the licensee's letters of credit on behalf of the court
35 or shall withdraw the allowable amount of the licensee's certificates of
36 deposit and shall transmit to the clerk of the court so much of the

1 securities as are allowable. The board shall honor the judgments from the
2 respective courts up to the limits set out in subdivision (a)(1) of this
3 section.

4
5 SECTION 19. Arkansas Code § 21-2-105(a), concerning administration of
6 oaths of office, is amended to read as follows:

7 (a)(1) The Governor shall take the oath of office before one (1) of
8 the justices of the Supreme Court or one (1) of the judges of the circuit
9 courts, the county clerk, or the clerk of the circuit court.

10 (2) The justices of the Supreme Court ~~and~~, judges of the Court
11 of Appeals, judges of the circuit courts, judges of the district courts,
12 Secretary of State, Treasurer of State, and Auditor of State shall take their
13 oaths before the Governor or any of the justices of the Supreme Court or one
14 of the judges of the circuit courts, the clerk of the county court, or the
15 clerk of the circuit court.

16 (3) All other officers, both civil and military, shall take
17 their oaths before the Secretary of State or his or her official designee,
18 ~~any~~ a justice or judge, clerk of the county court, clerk of the circuit
19 court, or justice of the peace.

20
21 SECTION 20. Arkansas Code § 21-6-401 is amended to read as follows:

22 21-6-401. Clerk of Supreme Court.

23 (a)(1) The Clerk of the Supreme Court shall be allowed and paid by the
24 appellant or petitioner, in advance, in all civil actions and misdemeanors
25 filed in either the Supreme Court or the Court of Appeals a fee of one
26 hundred fifty dollars (\$150), ~~which shall be full payment of all the costs in~~
27 ~~the proceedings.~~

28 (2)(A) The Clerk of the Supreme Court shall be allowed a fee of
29 one hundred fifty dollars (\$150) for a certified question from a federal
30 court;

31 (B) The fee shall be prorated among the parties filing
32 briefs and paid by each party at the time the brief is filed except that if
33 the Arkansas Attorney General is requested to file a brief, he or she shall
34 not be required to pay any portion of the fee.

35 (3) The Clerk of the Supreme Court shall be allowed and paid by
36 the petitioner in advance, for each petition for rehearing of a decision of

1 the Court of Appeals or Supreme Court a fee of twenty-five dollars (\$25.00).

2 ~~(2)(4)~~ If the judgment of the Supreme Court or the Court of
3 Appeals is in favor of the appellant or petitioner, the Clerk of the Supreme
4 Court shall tax the fee provided in this subsection in favor of the appellant
5 or petitioner.

6 (b)(1) The Clerk of the Supreme Court shall be allowed and paid by the
7 petitioner, in advance, for each petition for review of a decision of the
8 Court of Appeals filed in the Supreme Court a fee of twenty-five dollars
9 (\$25.00), ~~which shall be full payment of all the costs in the proceedings.~~

10 (2) If the decision of the Court of Appeals is reversed by the
11 Supreme Court, the Clerk of the Supreme Court shall tax the fee provided in
12 this subsection in favor of the petitioner.

13 (c) The Clerk of the Supreme Court shall also be allowed:

14 (1) For each certificate and seal \$ 1.00

15 (2) For acknowledging each deed50

16 (3) For copies of papers and records per page .50

17 (4) For other services, the same fees allowed clerks of the
18 circuit court.

19 ~~(d) The Clerk of the Supreme Court shall be allowed and paid in~~
20 ~~advance in all civil actions and misdemeanors filed in either the Supreme~~
21 ~~Court or the Court of Appeals a fee of twenty dollars (\$20.00) for every~~
22 ~~motion, response, and similar paper.~~

23 ~~(e)(d)~~ The Supreme Court may implement a case management system for
24 the courts of the state in which members of the public may be afforded that
25 may include electronic access filing and public online access to court
26 decisions and other court records, and the Supreme Court by court rule may
27 establish a reasonable fee for ~~the~~ access and related use.

28 ~~(f)(e)~~ All of the collected fees provided ~~for~~ in subsections (a)(1),
29 (a)(4), (b), and (c) of this section shall be deposited in a bank to the
30 account of the Supreme Court Library Fund, to be used by the Supreme Court
31 for the maintenance and improvement of the Supreme Court Library.

32 ~~(g)(f)~~ All of the collected fees provided ~~for~~ in ~~subsection~~
33 subsections (a)(2), (a)(3), and (d) of this section shall be ~~deposited~~
34 remitted by the Clerk of the Supreme Court on or before the fifteenth day of
35 each month to the Administration of Justice Funds Section of the Office of
36 Administrative Services of the Department of Finance and Administration on a

1 ~~form provided by that office for deposit into~~ in the Judicial Fine Collection
2 Enhancement Fund as established by § 16-13-712.

3
4 SECTION 21. Arkansas Code § 27-14-314 is repealed.

5 ~~27-14-314. Additional penalties—Disposition of fines.~~

6 ~~(a) Any person who, while driving a motor vehicle more than sixty (60)~~
7 ~~days after the period for registering the motor vehicle, is arrested for~~
8 ~~failure to register the motor vehicle shall upon conviction be subject to a~~
9 ~~penalty in addition to any other penalty provided for by law. The additional~~
10 ~~penalty shall be:~~

11 ~~(1) Not less than fifty dollars (\$50.00) nor more than one~~
12 ~~hundred dollars (\$100) for the first offense, and the minimum fine shall be~~
13 ~~mandatory;~~

14 ~~(2) Not less than one hundred dollars (\$100) nor more than two~~
15 ~~hundred fifty dollars (\$250) for the second and subsequent offenses, and the~~
16 ~~minimum fine shall be mandatory.~~

17 ~~(b)(1) If a person is convicted of two (2) offenses under subsection~~
18 ~~(a) of this section within one (1) year, the court may order that the~~
19 ~~unregistered vehicle be impounded until proof of motor vehicle registration~~
20 ~~is made to the court.~~

21 ~~(2) The owner of the vehicle impounded shall be responsible for~~
22 ~~all costs of impoundment.~~

23 ~~(c)(1) If the arresting officer is an officer of the Department of~~
24 ~~Arkansas State Police, the fine collected shall be remitted by the tenth day~~
25 ~~of each month to the Administration of Justice Fund Section of the Office of~~
26 ~~Administrative Services of the Department of Finance and Administration, on a~~
27 ~~form provided by that office, for deposit in the Department of Arkansas State~~
28 ~~Police Fund to be used for the purchase and maintenance of state police~~
29 ~~vehicles.~~

30 ~~(2) If the arresting officer is a county law enforcement~~
31 ~~officer, the fine collected shall be deposited in that county fund used for~~
32 ~~the purchase and maintenance of rescue, emergency medical, and law~~
33 ~~enforcement vehicles, communications equipment, animals owned or used by law~~
34 ~~enforcement agencies, life saving medical apparatus, and law enforcement~~
35 ~~apparatus to be used for those purposes.~~

36 ~~(3) If the arresting officer is a municipal law enforcement~~

1 ~~officer, the fine collected shall be deposited in that municipal fund used~~
2 ~~for the purchase and maintenance of rescue, emergency medical, and law~~
3 ~~enforcement vehicles, communications equipment, animals owned or used by law~~
4 ~~enforcement agencies, life saving medical apparatus, and law enforcement~~
5 ~~apparatus to be used for those purposes.~~

6
7 SECTION 22. Arkansas Code § 27-37-705 is amended to read as follows:
8 27-37-705. Reduction of fine.

9 (a) When ~~any~~ a motor vehicle operator is stopped by a law enforcement
10 officer and the law enforcement officer notes that the provisions of this
11 subchapter have not been violated, any fine levied for a moving traffic
12 violation against the motor vehicle operator as a result of being stopped
13 shall be reduced by ten dollars (\$10.00) as an incentive to comply with this
14 subchapter.

15 (b) Subsection (a) of this section shall not apply to fines levied for
16 traffic offenses classified as misdemeanors.

17
18 SECTION 23. Arkansas Code § 27-50-604 is repealed.
19 ~~27-50-604. Violation of promise to appear.~~

20 ~~Any person willfully violating his written promise to appear in court, given~~
21 ~~as provided in this subchapter, is guilty of a misdemeanor regardless of the~~
22 ~~disposition of the charge upon which he was originally arrested.~~

23
24 /s/ Williams

25
26 **APPROVED: 3/27/2009**