

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

SENATE BILL 433

5 By: Senator B. Ballinger  
6 By: Representative Gazaway  
7

## For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 16 OF  
10 THE ARKANSAS CODE CONCERNING PRACTICE, PROCEDURES,  
11 AND THE COURTS; AND FOR OTHER PURPOSES  
12  
13

## Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 16  
16 OF THE ARKANSAS CODE CONCERNING PRACTICE,  
17 PROCEDURES, AND THE COURTS.  
18  
19

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

22 SECTION 1. Arkansas Code § 16-10-103 is amended to read as follows to  
23 delete obsolete references:

24 16-10-103. Training and education of court personnel.

25 (a) The state's responsibility for training and providing additional  
26 judicial education to circuit judges, district judges, ~~city judges,~~ circuit  
27 clerks, ~~municipal~~ district court clerks, case coordinators, court reporters,  
28 and all other personnel directly associated with the state's courts shall be  
29 administered by the Administrative Office of the Courts.

30 (b) The Administrative Office of the Courts shall have the authority  
31 to assess and collect fees for tuition and registration for educational  
32 programs it offers.  
33

34 SECTION 2. Arkansas Code § 16-10-130 is repealed because the section  
35 is also codified at § 16-80-102.

36 ~~16-10-130. Precedence given to criminal trials when victim under age of~~



1 ~~fourteen.~~

2 ~~Notwithstanding any rule of court to the contrary and in furtherance of~~  
3 ~~the purposes of Arkansas Rule of Criminal Procedure 27.1, all courts of this~~  
4 ~~state having jurisdiction of criminal offenses, except for extraordinary~~  
5 ~~circumstances, shall give precedence to the trials of criminal offenses over~~  
6 ~~other matters before the court, civil or criminal, when the alleged victim is~~  
7 ~~a person under the age of fourteen (14).~~

8

9 SECTION 3. Arkansas Code § 16-10-136 is amended to read as follows to  
10 delete an obsolete reference:

11 16-10-136. Extrajudicial activities of justices and judges.

12 Restrictions on extrajudicial activities found in Arkansas  
13 Constitution, Amendment 80, shall not preclude a justice or judge from:

14 (1) Being a member of a reserve unit of any branch of the United  
15 States ~~armed forces~~ Armed Forces;

16 (2) Being a member of the National Guard;

17 (3) Teaching;

18 (4) Serving on any state or United States boards or commissions  
19 which relate to the law for the administration of justice; or

20 (5) Serving in an extrajudicial capacity that is not prohibited  
21 by the Arkansas Code of Judicial Conduct; ~~or~~

22 ~~(6) Serving as judge of a city court.~~

23

24 SECTION 4. Arkansas Code § 16-10-212 is repealed because the section  
25 is obsolete.

26 ~~16-10-212. City courts—Loss of authority—Enforcement by legislative~~  
27 ~~audit. [Effective until January 1, 2012.]~~

28 ~~(a) If the Division of Legislative Audit determines that a city court~~  
29 ~~is not in substantial compliance with this subchapter, the division shall~~  
30 ~~report the findings to the Legislative Joint Auditing Committee.~~

31 ~~(b)(1) If a public official or a private accountant determines that a~~  
32 ~~city court is not in substantial compliance with this subchapter, the~~  
33 ~~official or accountant shall notify the committee of his or her findings.~~

34 ~~(2) Upon notification, the committee shall direct the division~~  
35 ~~to review the city court's compliance with this subchapter.~~

36 ~~(3) Upon confirmation of a substantial lack of compliance, the~~

1 ~~division shall report the findings to the committee.~~

2 ~~(c)(1) Upon notification of noncompliance by the division, the~~  
3 ~~committee shall notify in writing the mayor, the city or town council, the~~  
4 ~~city court judge, and the city court clerk that the city court's accounting~~  
5 ~~records are not in substantial compliance with this subchapter.~~

6 ~~(2) The city court shall have ninety (90) days after the date of~~  
7 ~~notification to bring the city court's accounting records into substantial~~  
8 ~~compliance with this subchapter.~~

9 ~~(3)(A) After the ninety (90) days allowed for compliance or upon~~  
10 ~~request by the appropriate city court officials, the division shall review~~  
11 ~~the city court's accounting records to determine if the city court is in~~  
12 ~~substantial compliance with this subchapter.~~

13 ~~(B) The division shall report its findings to the~~  
14 ~~committee.~~

15 ~~(d) If the city court has not achieved substantial compliance within~~  
16 ~~the ninety-day period, the committee shall notify both the Administrative~~  
17 ~~Office of the Courts and the city court of the noncompliance and inform the~~  
18 ~~city court that it no longer has authority to operate.~~

19  
20 SECTION 5. Arkansas Code § 16-10-305(e) and (f), concerning certain  
21 court costs, are repealed because the subsections are obsolete.

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

25 ~~(f)(1) There shall be levied and collected from each defendant who~~  
26 ~~pleads guilty or nolo contendere to an offense, is found guilty of an~~  
27 ~~offense, or forfeits bond in city court on or before December 31, 2011, the~~  
28 ~~court costs applicable in city court at that time.~~

29 ~~(2) The court costs applicable in district court shall be levied~~  
30 ~~and collected in all cases filed in city court in which a defendant pleads~~  
31 ~~guilty or nolo contendere to an offense, is found guilty of an offense, or~~  
32 ~~forfeits bond in district court on or after January 1, 2012.~~

33  
34 SECTION 6. Arkansas Code § 16-10-315 is repealed because the section  
35 is obsolete.

36 ~~16-10-315. City courts—Loss of authority—Enforcement by Department~~

1 of Finance and Administration. [Effective until January 1, 2012.]

2 (a) ~~If the Department of Finance and Administration determines that a~~  
3 ~~city court is not in substantial compliance with § 16-10-306 or § 16-10-308,~~  
4 ~~the department shall report the findings to the Legislative Joint Auditing~~  
5 ~~Committee.~~

6 (b)(1) ~~Upon notification of noncompliance by the department, the~~  
7 ~~committee shall notify in writing the mayor, the city or town council, the~~  
8 ~~city court judge, and the city court clerk that the city court is not in~~  
9 ~~substantial compliance with this subchapter.~~

10 (2) ~~The city court shall have ninety (90) days after the date of~~  
11 ~~notification to substantially comply with this subchapter.~~

12 (3)(A) ~~After the ninety (90) days allowed for compliance or upon~~  
13 ~~request by the appropriate city court officials, the department shall review~~  
14 ~~the city court's records to determine if the city court is in substantial~~  
15 ~~compliance with this subchapter.~~

16 (B) ~~The department shall report its findings to the~~  
17 ~~committee.~~

18 (d) ~~If the city court has not achieved substantial compliance within~~  
19 ~~the ninety-day period, the committee shall notify both the Administrative~~  
20 ~~Office of the Courts and the city court of the noncompliance and inform the~~  
21 ~~city court that it no longer has authority to operate.~~

22  
23 SECTION 7. Arkansas Code § 16-10-1006(b), concerning the court  
24 security grant program, is amended to read as follows to remove obsolete  
25 language:

26 (b)(1) Guidelines for the court security grant program shall be  
27 developed by the Administrative Office of the Courts by December 31, 2007,  
28 and shall be approved by the Legislative Council prior to the disbursement of  
29 any grant funds.

30 (2) ~~Beginning July 31, 2008, and on~~ On July 31 of every year,  
31 the Administrative Office of the Courts shall provide an annual report to the  
32 Legislative Council that shall include the number of grant requests received  
33 from cities and counties and the number and amount of grants approved.  
34

35 SECTION 8. Arkansas Code §§ 16-11-101 and 16-11-102 are repealed  
36 because the sections are obsolete under Arkansas Constitution, Amendment 80.

~~16-11-101. Terms of court—Recess—Adjournment.~~

~~The Supreme Court of Arkansas shall begin its annual term on the second Monday of September in each year and may recess and adjourn from time to time as the court orders.~~

~~16-11-102. Adjournment of court in absence of quorum.~~

~~If a quorum of the court is not present at the time and place fixed by law for holding court, the court shall stand adjourned until the first Monday next following. If a quorum is not present on that day, the court shall stand adjourned by operation of law, from day to day, until a quorum appears, and then proceed to business and continue in session until all business ready for trial is adjudicated.~~

SECTION 9. Arkansas Code § 16-11-114 is repealed because the section is obsolete under Arkansas Constitution, Article 19, § 31.

~~16-11-114. Salaries of Chief Justice and associate justices.~~

~~The salary of the Chief Justice of the Supreme Court shall be seventy-one thousand eight hundred seventy dollars (\$71,870) per annum, and the salary of each associate justice of the Supreme Court shall be sixty-six thousand ten dollars (\$66,010) per annum.~~

SECTION 10. Arkansas Code § 16-12-107 is repealed because the section is obsolete under Arkansas Constitution, Article 19, § 31.

~~16-12-107. Salaries.~~

~~(a) The judges of the Court of Appeals shall receive such compensation as provided by law.~~

~~(b) The salary of the Chief Judge of the Court of Appeals shall be sixty-four thousand eight hundred eighty-seven dollars (\$64,887) per annum, and the salary of each of the judges of the Court of Appeals shall be sixty-three thousand seven hundred sixty-three dollars (\$63,763) per annum.~~

SECTION 11. Arkansas Code § 16-13-201(b)(1), concerning circuit court appellate jurisdiction, is amended to read as follows to delete obsolete references:

(b)(1) Circuit courts shall have appellate jurisdiction of the judgments and final orders of county courts, and district courts, ~~city~~

1 ~~courts, and police courts~~ in all civil actions.

2

3 SECTION 12. Arkansas Code § 16-13-331(b) and (c), concerning state  
4 reimbursement for juvenile officers, are amended to read as follows to  
5 clarify a reference and make stylistic changes:

6 (b) In order for a county to receive the state reimbursement for  
7 juvenile officers, the county must submit the following documentation to the  
8 office, including, ~~but not limited to~~ without limitation:

9 (1) Proof of each juvenile officer’s certification and  
10 continuing education hours;

11 (2) A copy of each juvenile officer’s W-2 form for the salary  
12 year that is being reimbursed; and

13 (3) A completed form concerning the employment status of the  
14 juvenile officer which shall be designed and distributed by the office.

15 (c) If a county contracts with a service provider to provide juvenile  
16 services pursuant to § 16-13-330, the county must submit documentation to the  
17 office, including, ~~but not limited to~~ without limitation:

18 (1) A copy of the contract for the salary year that is being  
19 reimbursed;

20 (2) A copy of each juvenile officer’s certification and  
21 continuing education hours;

22 (3) A copy of each juvenile officer’s W-2 form for the salary  
23 year that is being reimbursed; and

24 (4) A completed form concerning the employment status of each  
25 juvenile officer which shall be designed and distributed by the office.

26

27 SECTION 13. Arkansas Code § 16-17-127 is amended to read as follows to  
28 delete obsolete references, clarify references, and make stylistic changes:

29 16-17-127. Contractors providing certain services.

30 (a) Upon request of the district court judge ~~or city court judge~~, the  
31 governing body in which a district court ~~or city court~~ is located or, if  
32 applicable, each governing body of a political subdivision that contributes  
33 to the expenses of a district court may contract with a person that has  
34 registered with the Secretary of State and filed a surety bond or certificate  
35 of deposit with the Secretary of State to provide any of the following  
36 services:

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

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

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

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

15 (d) ~~For the purposes of~~ As used in this section, "person" means any  
 16 individual, corporation, partnership, firm, association, or other business  
 17 entity.

18 (e) A district court ~~or city court~~ may require a defendant to pay  
 19 reasonable fees, in an amount to be established by the district court,  
 20 relating to private contractors providing probation services, pretrial  
 21 supervised release programs, or alternate sentencing programs authorized by  
 22 law.

23 (f)(1) Notwithstanding § 16-13-701 et seq., a private contractor may  
 24 collect and retain only the fees established by the district court for  
 25 services provided pursuant to subsection (a) of this section.

26 (2)(A) When the order of the district court ~~or city court~~  
 27 requires a defendant to use the services or programs of a private contractor,  
 28 the designated contractor shall report on or before the fifth day of each  
 29 month all fees collected.

30 (B) The report shall be provided to the mayor and county  
 31 judge of the political subdivision or subdivisions that contribute to the  
 32 expenses of the district court ~~or city court~~ and to the district court clerk  
 33 ~~or city court clerk~~ for inclusion in the district court's monthly report as  
 34 required by law.

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

- 1 (A) Uniform traffic ticket number;
- 2 (B) Defendant's name;
- 3 (C) Court docket number;
- 4 (D) Receipt number;
- 5 (E) Amount collected; and
- 6 (F) Total of all fees collected.

7 (g) A private contractor providing the collection of delinquent fines  
 8 and court costs shall follow the procedures in § 16-13-701 et seq.

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

11 (i) This section shall not apply to a company whose service is limited  
 12 to the acceptance of credit card payments for fines, fees, and costs and does  
 13 not engage in affirmative acts of collection and enforcement of delinquent  
 14 fines and costs.

15  
 16 SECTION 14. Arkansas Code § 16-17-134 is repealed because the section  
 17 is obsolete under Arkansas Constitution, Amendment 80.

18 ~~16-17-134. Change of venue from lower courts in certain counties to~~  
 19 ~~municipal court.~~

20 ~~Notwithstanding § 16-19-409 or any other law to the contrary:~~

21 ~~(1)(A) In any criminal case brought before any city court in a~~  
 22 ~~county with a population between eighty nine thousand (89,000) persons and~~  
 23 ~~one hundred fifty three thousand (153,000) persons according to the 2000~~  
 24 ~~Federal Decennial Census and in which a district court exists, the judge~~  
 25 ~~shall grant a change of venue to the district court, upon the defendant's~~  
 26 ~~motion, without the prepayment or tender of any fees.~~

27 ~~(B) Upon filing the motion, the court shall have no~~  
 28 ~~further jurisdiction in the case, except for the purpose of preparing a~~  
 29 ~~transcript for the district court;~~

30 ~~(2) In the event of any change of venue from a city court to a~~  
 31 ~~district court in a county with a population between eighty nine thousand~~  
 32 ~~(89,000) persons and one hundred fifty three thousand (153,000) persons~~  
 33 ~~according to the 2000 Federal Decennial Census and in which more than one (1)~~  
 34 ~~district court exists, the case shall be transferred to the district court~~  
 35 ~~geographically nearest in the county; and~~

36 ~~(3) In no event shall any change of venue lie from any district~~



1 ~~court in a county with a population between eighty nine thousand (89,000)~~  
2 ~~persons and one hundred fifty three thousand (153,000) persons according to~~  
3 ~~the 2000 Federal Decennial Census to any city court in criminal cases.~~

4  
5 SECTION 15. Arkansas Code Title 16, Chapter 19, Subchapters 4 - 11 are  
6 repealed because the subchapters are obsolete under Arkansas Constitution,  
7 Amendment 80.

8  
9 ~~Subchapter 4 — Jurisdiction and Venue~~

10  
11 ~~16-19-401. Jurisdiction in townships having a municipal court.~~

12 ~~(a) Justices of the peace in the townships subject to this act shall~~  
13 ~~have original jurisdiction coextensive with the county.~~

14 ~~(b) The jurisdiction of justices of the peace shall be:~~

15 ~~(1) Concurrent with the municipal courts and exclusive of the~~  
16 ~~circuit court in all matters of contract where the amount in controversy does~~  
17 ~~not exceed the sum of one hundred dollars (\$100), excluding interest;~~

18 ~~(2) Concurrent with the municipal courts and with the circuit~~  
19 ~~court in matters of contract where the amount in controversy does not exceed~~  
20 ~~the sum of three hundred dollars (\$300), exclusive of interest;~~

21 ~~(3) Concurrent with the municipal courts and with the circuit~~  
22 ~~court in suits for the recovery of personal property where the value of the~~  
23 ~~property does not exceed the sum of three hundred dollars (\$300);~~

24 ~~(4) Concurrent with the municipal courts and with the circuit~~  
25 ~~court in all matters of damage to personal property where the amount in~~  
26 ~~controversy does not exceed the sum of one hundred dollars (\$100).~~

27 ~~(c) Justices of the peace in townships subject to this act shall also~~  
28 ~~have jurisdiction to sit as examining courts and commit, discharge, or~~  
29 ~~recognize offenders to the court having jurisdiction for further trial, and~~  
30 ~~to bind persons to keep the peace or for good behavior, and for purposes set~~  
31 ~~out in this section they shall have power to issue all necessary process.~~

32  
33 ~~16-19-402. Venue generally.~~

34 ~~(a) Actions cognizable before a justice of the peace, instituted by~~  
35 ~~summons or warrant, shall be brought before a justice of the peace in the~~  
36 ~~township wherein the defendant resides or is found. If there are defendants~~

1 in different townships, then the action shall be brought in the township  
2 where any one of the defendants resides or is found.

3 (b) ~~Notwithstanding any other provision of this section, in a township  
4 having a population of less than three thousand (3,000) as shown by the most  
5 recent federal census, actions by attachment, actions for the recovery of  
6 personal property, actions for provisional remedy, and all criminal actions  
7 and proceedings may be brought before any justice of the peace in the county,  
8 although in counties where there is a municipal court having countywide or  
9 districtwide jurisdiction, actions by attachment, actions for the recovery of  
10 personal property, actions for provisional remedy, and all criminal actions,  
11 unless brought in, or transferred to, the municipal court, shall be tried  
12 before a justice of the peace in the township where any defendant to the  
13 action resides, or in the township where the property or money involved is  
14 found.~~

15  
16 ~~16-19-403. Joinder of defendants in different townships—Service of  
17 process by constable.~~

18 ~~If there are several defendants who reside in different townships and  
19 who are jointly liable to a suit, the suit may be brought in any of the  
20 townships against all of the defendants. The constable of the township in  
21 which the suit may be brought shall serve the process in the several  
22 townships wherein the defendants may reside.~~

23  
24 ~~16-19-404. Venue where no justice of the peace in township or all  
25 justices disqualified.~~

26 ~~Whenever there is no justice of the peace within the township where any  
27 suit cognizable before a justice ought to be brought, or when all the  
28 justices of the township are interested in any such suit or otherwise  
29 disqualified by law from trying the suit, every such suit may be brought  
30 before a justice in the same county.~~

31  
32 ~~16-19-405. Venue where defendants residing in different counties.~~

33 ~~In any civil action cognizable before any justice of the peace in a  
34 township of the county in which any of the defendants resides, suit may be  
35 brought before any justice of the peace in the township of the county in  
36 which any one of the defendants resides. The summons or other process against~~

1 ~~the other defendants shall issue to any constable in the counties in which~~  
2 ~~the other defendants may reside, which summons or other process, when served,~~  
3 ~~shall give the justice before whom the suit is brought the same jurisdiction~~  
4 ~~he would have if all of the defendants resided in his county.~~

5

6 ~~16-19-406. Change of venue to another justice upon showing of interest~~  
7 ~~or prejudice.~~

8 ~~(a) Either party in a suit before a justice of the peace may take a~~  
9 ~~change of venue from one justice of the peace to another in the same~~  
10 ~~township, but it shall be the duty of the party so applying, before the~~  
11 ~~commencement of the trial, to file an affidavit among the papers in the~~  
12 ~~action alleging that the justice is a material witness for the affiant, or of~~  
13 ~~near relation to the other party, or so prejudiced against the affiant that~~  
14 ~~he cannot obtain a fair and impartial trial before that justice. The justice~~  
15 ~~shall thereupon transmit all the original papers in the case and a certified~~  
16 ~~transcript of the proceedings to the nearest justice of the peace in the same~~  
17 ~~township, who shall proceed in the case in the same manner as if the suit had~~  
18 ~~originally been commenced before him.~~

19 ~~(b) If there is no other justice of the peace in the township~~  
20 ~~competent to try the case, it shall be certified to the nearest justice in~~  
21 ~~any adjoining township, who shall try and determine the case in the same~~  
22 ~~manner as if the parties were residents of his township and the suit had been~~  
23 ~~originally commenced before him.~~

24 ~~(c) Notwithstanding any other provision of this section, the same~~  
25 ~~party shall not be allowed to file an affidavit pursuant to this section~~  
26 ~~against two (2) justices in the same case.~~

27

28 ~~16-19-407. Change of venue from township.~~

29 ~~(a) Either party, at the calling of a cause before a justice of the~~  
30 ~~peace, may make an affidavit to the effect that he verily believes he cannot~~  
31 ~~obtain a fair and impartial trial in the township in which the action is~~  
32 ~~pending and may include in his affidavit one (1) township in addition to the~~  
33 ~~one in which the action is pending, and the opposite party may, without~~  
34 ~~affidavit, object to the same number of townships to which the party making~~  
35 ~~the application has objected. Thereupon, it shall be the duty of the justice~~  
36 ~~to make an order for the change of venue to a justice in a township to which~~

1 ~~there is no valid objection and which is in his judgment most convenient to~~  
2 ~~the parties and their witnesses. The justice shall then transmit, without~~  
3 ~~delay, the original papers in the case and a transcript of the proceedings to~~  
4 ~~the justice to whose court the venue is changed, for which the transmitting~~  
5 ~~justice shall receive five cents (5¢) per mile to and from the office of the~~  
6 ~~justice to whom the cause is transmitted, which shall be taxed and collected~~  
7 ~~as other costs in the case, together with his costs for making out the~~  
8 ~~transcript.~~

9 ~~(b) If the justice of the peace to whom the papers are so transferred~~  
10 ~~cannot immediately, upon the reception and filing of the papers, proceed to~~  
11 ~~try the case, it shall be his duty at once to fix a time therefor, of which~~  
12 ~~all parties shall take notice.~~

13  
14 ~~16-19-408. Improper venue of action.~~

15 ~~(a) Whenever an objection is made by a defendant in any action~~  
16 ~~eognizable before a justice of the peace or a municipal court, instituted by~~  
17 ~~summons or warrant, or in an action by an attachment, an action for the~~  
18 ~~recovery of personal property, an action by provisional remedy, or in any~~  
19 ~~eriminal action or proceeding, that the action was brought before a justice~~  
20 ~~of the peace or a municipal court wherein the venue is improper under the~~  
21 ~~laws of the State of Arkansas, the court shall immediately hear proof on the~~  
22 ~~question. If it is established by proof that the venue is improper, then all~~  
23 ~~further proceedings shall be discontinued and the justice of the peace or~~  
24 ~~clerk of the municipal court shall transmit to a justice of the peace or~~  
25 ~~municipal court wherein the venue is proper all the original papers in the~~  
26 ~~case, including the bail bond, if there is any.~~

27 ~~(b) If the defendant is in custody, he shall be taken and delivered~~  
28 ~~before the justice of the peace or the municipal court, and the bail, if any,~~  
29 ~~shall be liable for the appearance of the defendant in the court to which the~~  
30 ~~papers are transmitted.~~

31 ~~(c) The court to which the papers are transmitted shall proceed to try~~  
32 ~~the action in all respects as if the action had been originally brought to~~  
33 ~~the court.~~

34  
35 ~~16-19-409. Change of venue from justice of peace to municipal court.~~

36 ~~(a) In any case, either civil or criminal, brought before a justice of~~

1 the peace in any township in the county wherein a municipal court exists, the  
2 judge may grant a change of venue to the municipal court, upon defendant's  
3 motion and a showing of good cause, without the prepayment or tender of any  
4 fees. Upon granting of the motion, the justice of the peace shall have no  
5 further jurisdiction in the case, except for the purpose of preparing a  
6 transcript for the municipal court.

7 (b) In the event of any change of venue from a justice of the peace to  
8 a municipal court in the counties where more than one (1) municipal court  
9 exists, the case shall be transferred to the nearest municipal court  
10 geographically in the county.

11 (c) In no event shall any change of venue lie from any municipal court  
12 to any justice of the peace in either civil or criminal cases.

13  
14 ~~16-19-410. Additional compensation of justices of the peace in~~  
15 ~~townships having a municipal court.~~

16 A justice of the peace in a township subject to this act shall receive  
17 as compensation for his services the sum of twenty-five dollars (\$25.00) per  
18 year, in equal quarterly installments, payable by the county, in addition to  
19 the compensation provided for by Acts 1875, No. 55, § 76 [repealed], and such  
20 fees as are allowed to justices of the peace by law for solemnizing  
21 marriages, taking and certifying acknowledgments of instruments, and  
22 attending to the duties of coroner, and for service in relation to estrays.

23  
24 ~~16-19-411. Filing of reports of fees and costs.~~

25 Justices of the peace in townships subject to this act shall, on or  
26 before the first day of county court, at each term thereof, file in the  
27 office of the county clerk a report, under oath, of all fees and costs taxed  
28 and collected in civil actions during the preceding quarter, giving the title  
29 of the cause and attaching to the report receipts of the county treasurer of  
30 all fees and costs collected during the period.

31  
32 ~~16-19-412. Improper use of process—Granting privileges—Failure to~~  
33 ~~report or pay over fines.~~

34 Any municipal judge, or any justice of the peace in townships subject  
35 to this act, who makes use, directly or indirectly, of the process of his own  
36 court, either as a party litigant or in interest or as an attorney or agent

1 ~~for any party litigant or in interest, or who offers or gives by way of~~  
 2 ~~remission of fees or otherwise any pecuniary inducements to the instituting~~  
 3 ~~or maintaining of any suits, prosecutions, or proceedings in his court, and~~  
 4 ~~any justice of the peace, or constable in townships subject to this act, or~~  
 5 ~~sheriffs in counties subject to this act, or clerks of the municipal court,~~  
 6 ~~or chief of police in any city subject to this act, who fails to report or~~  
 7 ~~pay over fines, penalties, forfeitures, fees, or costs collected by him,~~  
 8 ~~shall be deemed guilty of a misdemeanor and, on conviction for each of these~~  
 9 ~~offenses, shall be punished by a fine of not less than fifty dollars (\$50.00)~~  
 10 ~~nor more than five hundred dollars (\$500). A conviction under this section~~  
 11 ~~shall work a forfeiture of office. Notwithstanding any other provision of~~  
 12 ~~this section, sheriffs and constables may retain the fees and costs due them~~  
 13 ~~out of each cause.~~

14  
 15 ~~Subchapter 5—Process~~

16  
 17 ~~16-19-501. Authority to issue subpoenas.~~

18 ~~Justices of the peace shall have the same power to issue subpoenas for~~  
 19 ~~witnesses in civil and criminal actions pending before them and in~~  
 20 ~~preliminary examinations being heard by them, where such witnesses reside~~  
 21 ~~outside of their counties, as is given by law in similar cases to the circuit~~  
 22 ~~court.~~

23  
 24 ~~16-19-502. Payment in advance for issuance of process.~~

25 ~~In all civil cases before a justice of the peace, the same advance~~  
 26 ~~payments shall be made, or bond and security given, as are provided for~~  
 27 ~~clerks for the issuance of any writ or process.~~

28  
 29 ~~16-19-503. Service of process by constable—Fees.~~

30 ~~(a)(1) The summons and other process mentioned in § 16-19-405 and the~~  
 31 ~~subpoenas mentioned in § 16-19-501 shall be directed to and shall be served~~  
 32 ~~by any constable in the county in which the party or parties to be served~~  
 33 ~~reside. The constables are given as full powers to serve such process as they~~  
 34 ~~are given by law to serve the process of justices of the peace of their own~~  
 35 ~~county.~~

36 ~~(2) Each constable may execute civil process throughout the~~

1 county.

2 (b) ~~In no case shall the constable be allowed mileage for the service~~  
3 ~~of any process he may serve outside of his township, other than from the~~  
4 ~~residence of the defendant in such process to the nearest justice of the~~  
5 ~~peace in the township in which that defendant resides.~~

6

7 ~~16-19-504. Vacancy in constable's office—Service by constable of~~  
8 ~~adjoining township—Mileage fees.~~

9 (a) ~~When the office of constable in any township becomes vacant by~~  
10 ~~death, resignation, refusal or neglect to qualify, or failure to elect, any~~  
11 ~~constable of any adjoining township, during the vacancy, shall execute and~~  
12 ~~return all process which are issued by any justice of the peace in the~~  
13 ~~township where the constable's office is vacant and which are directed to~~  
14 ~~him, against any person in the township where the vacancy exists.~~

15 (b) ~~In addition to the fees now allowed by law, the constable shall~~  
16 ~~receive for the service of each and every summons or subpoena, or other~~  
17 ~~process, except executions, so directed to him, two and one-half cents (2½¢)~~  
18 ~~per mile, going and returning from his own residence to that of the person~~  
19 ~~named in the process residing farthest from him.~~

20

21 ~~16-19-505. Appointment of special agents to execute process—~~  
22 ~~Endorsement on writ.~~

23 ~~Justices of the peace shall have power to appoint special agents to~~  
24 ~~execute orders of arrest, attachments, and other provisional remedies and the~~  
25 ~~summons which accompanies them, whenever an affidavit is filed with the~~  
26 ~~justice by the plaintiff or his agent to the effect that he believes that,~~  
27 ~~owing to the absence or difficulty of procuring a proper officer, the process~~  
28 ~~or other order cannot be executed without injurious delay. In cases where~~  
29 ~~there is no constable in the township, and the appointment provided for in~~  
30 ~~this section shall be made, an endorsement shall be made on the writ or order~~  
31 ~~and signed by the justice.~~

32

33 ~~16-19-506. Manner of service and return.~~

34 (a) ~~The service and return thereto of the process provided for in this~~  
35 ~~chapter shall be made in the same manner as in the circuit court, except that~~  
36 ~~no service other than is provided for in this chapter shall be made by~~

1 publication, nor shall any return made by anyone other than the sheriff,  
2 coroner, or constable of the county be valid unless sworn to.

3 (b) ~~The service of process shall be by:~~

4 (1) ~~Delivering to the defendant a copy of the summons, and, if~~  
5 ~~he refuses to receive it, the offer of it to him shall be a sufficient~~  
6 ~~service; or~~

7 (2) ~~Leaving a copy of such summons at the usual place of abode~~  
8 ~~of the defendant with some person who is a member of his family over the age~~  
9 ~~of fifteen (15) years; or~~

10 (3) ~~Reading it to and in the presence of the defendant.~~

11  
12 Subchapter 6 — Trial

13  
14 16-19-601. Trial by court or jury.

15 After the parties appear and the issues have been made up, the matters  
16 in controversy may be submitted by them to the justice. If a jury is demanded  
17 by either party, the justice shall order a jury to be forthwith summoned and  
18 impaneled to try the action.

19  
20 16-19-602. Adjournment.

21 If from any cause, the justice of the peace is unable to attend the  
22 trial at the time fixed, or if a jury is demanded, the justice may adjourn  
23 the case for a period not exceeding three (3) days, but shall not make more  
24 than two (2) adjournments for that cause.

25  
26 16-19-603. Continuances — Testimony of adverse party's witness.

27 (a) ~~Either party may obtain a postponement of the cause not exceeding~~  
28 ~~thirty (30) days, on account of the absence of evidence by filing an~~  
29 ~~affidavit like that required in § 16-63-402, subject to such terms as the~~  
30 ~~court may impose.~~

31 (b) ~~Either party who shall apply for the postponement of a cause~~  
32 ~~shall, if required by the adverse party, consent that the testimony of any~~  
33 ~~witness of the adverse party who is in attendance be then taken to be used on~~  
34 ~~the trial of the cause.~~

35  
36 16-19-604. Jurors — Number and qualifications.



1       ~~The jury shall be composed of six (6) jurors who shall be qualified as~~  
2 ~~required in the circuit courts. However, a lesser number of jurors may be~~  
3 ~~agreed upon by the parties.~~

4  
5       ~~16-19-605. Challenges to jurors.~~

6       ~~(a) In the formation of a jury, each party shall be entitled to three~~  
7 ~~(3) peremptory challenges, and any deficiencies in the number of jurors~~  
8 ~~summoned, arising from any cause, may be supplied by summoning others in~~  
9 ~~their stead.~~

10       ~~(b) In all cases before justices of the peace in this state, it shall~~  
11 ~~be a legal cause for challenge that anyone selected as a juror has served as~~  
12 ~~a juror in a justice's court in the same county within three (3) months prior~~  
13 ~~to the institution of the suit in which the juror is selected.~~

14  
15       ~~16-19-606. Jurors — Oath.~~

16       ~~The justice of the peace shall administer to each juror an oath well~~  
17 ~~and truly to try the matter in controversy between .....,~~  
18 ~~plaintiff, and ....., defendant, and a true verdict give according~~  
19 ~~to the evidence, unless discharged by the justice of the peace.~~

20  
21       ~~16-19-607. Jury to hear evidence in a body.~~

22       ~~After the jury are sworn, they shall sit together and hear the~~  
23 ~~allegations and proofs of the parties, which shall be delivered publicly in~~  
24 ~~their presence.~~

25  
26       ~~16-19-608. Witnesses generally.~~

27       ~~(a) Every person offered as a witness, before any testimony shall be~~  
28 ~~given by him, shall be duly sworn that the evidence he shall give relating to~~  
29 ~~the matter between ....., plaintiff, and ....., defendant,~~  
30 ~~shall be the truth, the whole truth, and nothing but the truth.~~

31       ~~(b) If a witness, on being produced, shall be objected to as~~  
32 ~~incompetent, or his testimony, when offered, shall be objected to as~~  
33 ~~irrelevant, the objections shall be heard and determined by the justice.~~

34  
35       ~~16-19-609. Examination of adversary — Effect of refusal to submit to~~  
36 ~~examination — Application on appeal.~~

1           ~~(a) Either party may examine the other on oath and for that purpose~~  
2 ~~may cause him to be summoned to attend the trial if he resides in the county~~  
3 ~~or, if he resides out of the county, may file written interrogatories with~~  
4 ~~the court or magistrate before whom the trial is to be had, together with an~~  
5 ~~affidavit that he believes the answers to them are necessary to his obtaining~~  
6 ~~justice, and cause a copy of the interrogatories to be delivered to the party~~  
7 ~~required to answer them, who shall make out, swear to, and file with the~~  
8 ~~court or magistrate, on or before the day of trial, a plain, direct response~~  
9 ~~to the interrogatories, which may be read by either party.~~

10           ~~(b) The court shall render judgment against the party who refuses to~~  
11 ~~attend and be examined, when summoned two (2) days before trial, or to make~~  
12 ~~proper responses to interrogatories when a copy has been delivered to him~~  
13 ~~three (3) days before the trial, when he resides within fifty (50) miles of~~  
14 ~~the place of trial, and one (1) additional day for every thirty (30) miles he~~  
15 ~~may reside therefrom. However, the court may grant further time for attending~~  
16 ~~or answering.~~

17           ~~(c) Subsections (a) and (b) of this section shall apply to circuit~~  
18 ~~courts upon the trial of appeals from judgments of justices of the peace.~~

19  
20           ~~16-19-610. Witness and juror attendance and mileage fees.~~

21           ~~(a) The quorum court of any county may, by a majority vote of the~~  
22 ~~members thereof, fix the fees payable to witnesses and jurors for attendance~~  
23 ~~or service in the justice of the peace court at any sum not to exceed five~~  
24 ~~dollars (\$5.00) per day.~~

25           ~~(b)(1) Witnesses subpoenaed to attend a justice's court outside of~~  
26 ~~their own county as provided in § 16-19-501 shall have the same mileage and~~  
27 ~~per diem for attending such courts as is provided by law in like cases in the~~  
28 ~~circuit court.~~

29           ~~(2) They shall have the same right to demand and receive their~~  
30 ~~mileage and per diem in advance as is provided by law for witnesses~~  
31 ~~subpoenaed to attend the circuit court.~~

32  
33           ~~16-19-611. Verdict—Entry on docket.~~

34           ~~(a) The jurors must all agree to the verdict.~~

35           ~~(b) When the jurors shall have agreed upon their verdict, they shall~~  
36 ~~deliver the verdict to the justice publicly, who shall enter it on his~~

1 docket.

2  
3 ~~16-19-612. Failure of jury to agree—Retrial.~~

4 ~~Whenever a justice is satisfied that a jury sworn in a cause before~~  
5 ~~him, after having been out a reasonable time, cannot agree on their verdict,~~  
6 ~~he may discharge them and shall immediately issue a new summons for another~~  
7 ~~to appear, at a time therein fixed, not more than three (3) days distant,~~  
8 ~~unless the parties consent that the justice may render judgment upon the~~  
9 ~~evidence already before him, which he may do in that case, or unless they~~  
10 ~~consent that the new trial, upon a new hearing of the evidence to be adduced~~  
11 ~~by the parties, shall be by the justice.~~

12  
13 ~~16-19-613. New trial granted on motion—Exception.~~

14 ~~A new trial or rehearing may be granted by a justice of the peace,~~  
15 ~~except on trial by jury, upon motion made within ten (10) days after a~~  
16 ~~judgment or final order has been made or rendered. Notice of the motion shall~~  
17 ~~be given to the opposite party. However, no motion for a new trial or a~~  
18 ~~rehearing in a cause tried by a jury shall be entertained by a justice of the~~  
19 ~~peace.~~

20  
21 ~~Subchapter 7—Dismissal, Default, Etc.~~

22  
23 ~~16-19-701. Dismissal for want of prosecution generally.~~

24 ~~If the plaintiff fails to appear in person, or by his agent or~~  
25 ~~attorney, on the return day of the summons, or at any other time fixed for~~  
26 ~~the trial, the justice may dismiss the action for want of prosecution, except~~  
27 ~~in the case provided for in § 16-19-703(a).~~

28  
29 ~~16-19-702. Judgment on proof on defendant's nonappearance generally.~~

30 ~~When the plaintiff's claim is not founded on a written instrument as~~  
31 ~~described in § 16-19-703(a) and the defendant does not appear, the justice~~  
32 ~~shall proceed to hear the allegations and proofs of the plaintiff, and shall~~  
33 ~~render judgment thereon for the amount to which he shows himself entitled,~~  
34 ~~not exceeding the amount claimed in the action.~~

35  
36 ~~16-19-703. Actions founded on written instruments liquidating the claim~~

1 ~~of the plaintiff—Effect of failure of parties to appear.~~

2 ~~(a) When the suit is founded on an instrument of writing purporting to~~  
3 ~~have been executed by the defendant, in which the demand of the plaintiff is~~  
4 ~~liquidated, and if the signature of the defendant is not denied under oath,~~  
5 ~~and if the instrument has been filed with the justice of the peace previous~~  
6 ~~to the day for appearance, he may proceed with the cause, whether the~~  
7 ~~plaintiff appears or not. The instrument of writing shall be competent proof~~  
8 ~~in the case.~~

9 ~~(b) In the case provided for in subsection (a) of this section, if the~~  
10 ~~defendant does not appear in obedience to the summons, judgment shall be~~  
11 ~~rendered against him for the amount of the plaintiff's claim.~~

12  
13 ~~16-19-704. Setoff on written instrument.~~

14 ~~In the cases contemplated in §§ 16-19-702 and 16-19-703(b), if the~~  
15 ~~defendant has previously filed a setoff, founded on a written instrument~~  
16 ~~purporting to have been signed by the plaintiff, calling for a certain sum,~~  
17 ~~and if the signature of such plaintiff is not denied under oath, the justice~~  
18 ~~shall allow the setoff in the same manner as if the defendant had appeared~~  
19 ~~and shall render judgment accordingly.~~

20  
21 ~~16-19-705. Setting aside judgment by default or dismissal for want of~~  
22 ~~prosecution.~~

23 ~~A judgment of dismissal for want of prosecution, or judgment by~~  
24 ~~default, may be set aside by the justice at any time within ten (10) days~~  
25 ~~after being rendered if the party applying therefor can show a satisfactory~~  
26 ~~excuse for his default, and a meritorious cause of action or meritorious~~  
27 ~~defense. Upon such a showing of a satisfactory excuse for default and a~~  
28 ~~meritorious cause of action or defense, a new day shall be fixed for trial,~~  
29 ~~and notice shall be given to the opposite party, and any execution which may~~  
30 ~~in the meantime have been issued shall be recalled in the same manner as in~~  
31 ~~cases of appeal. The cause shall proceed to trial as though no such judgment~~  
32 ~~had been taken.~~

33  
34 ~~16-19-706. Compromises—Confession of judgment.~~

35 ~~(a) After an action for the recovery of money is brought in a justice~~  
36 ~~of the peace court, the defendant may offer to compromise or to confess~~

1 judgment in the manner prescribed for, and with the same effect as he could  
2 or might do, in the circuit court, and shall be entitled to all the benefits  
3 to be derived therefrom to the same extent as on similar proceedings in the  
4 circuit court.

5 (b) ~~The rules and proceedings governing confessions of judgment, as~~  
6 ~~they may apply to the circuit courts, are made to apply to justice of the~~  
7 ~~peace courts.~~

8  
9 Subchapter 8 — Judgment

10  
11 ~~16-19-801. Mutual judgments.~~

12 (a) ~~Mutual judgments between the same parties rendered by the same or~~  
13 ~~different justices of the peace may be set off against each other.~~

14 (b) ~~When judgments are rendered by the same court, the justice shall~~  
15 ~~strike the balance as it appears from the judgments on his docket and shall~~  
16 ~~issue executions therefor in favor of the party to whom the balance appears~~  
17 ~~to be due.~~

18 (c)(1) ~~If the judgment proposed to be set off was rendered by another~~  
19 ~~justice of the peace, the party offering it must obtain a transcript thereof,~~  
20 ~~with a certificate of the justice of the peace who rendered it endorsed~~  
21 ~~thereon, stating that no appeal has been taken and that the transcript was~~  
22 ~~obtained for the purpose of being used as a setoff in that case. However, the~~  
23 ~~transcript shall not be given until the time for taking an appeal has~~  
24 ~~elapsed.~~

25 (2) ~~The justice so giving a transcript shall make an entry in~~  
26 ~~his docket, and all other proceedings in his court shall be stayed.~~

27 (3)(A) ~~When the transcript is presented to the justice who has~~  
28 ~~rendered a judgment between the same parties, as aforesaid, if execution has~~  
29 ~~not been issued on the judgment rendered by him, he shall strike a balance~~  
30 ~~between the judgments and issue execution for such balance.~~

31 (B) ~~If, at the time of filing the transcript, execution~~  
32 ~~has already been issued, the justice of the peace shall also issue execution~~  
33 ~~on the transcript filed with him, and deliver it to the same officer who has~~  
34 ~~the other execution. Such officer shall treat the lesser execution as so much~~  
35 ~~cash collected on the larger and proceed to collect the balance then found~~  
36 ~~due.~~

1           ~~(4)(A) When the judgment is allowed to be set off, as provided~~  
2 ~~in this section, the transcript thereof shall be filed among the papers of~~  
3 ~~the case in which it is so used and the proper entry made in the docket of~~  
4 ~~the justice of the peace.~~

5           ~~(B) However, if the justice of the peace refuses the~~  
6 ~~judgment as a setoff, he shall so certify on the transcript and return it to~~  
7 ~~the party who offered it. When the transcript is filed in the office of the~~  
8 ~~justice of the peace who gave it, proceedings may be held by him in the same~~  
9 ~~manner as if no such transcript had been certified by him.~~

10          ~~(d) The costs in suits where mutual judgments have been obtained shall~~  
11 ~~not be set off unless the balance of cash actually collected on the larger~~  
12 ~~judgment be sufficient to pay the costs of both judgments, and such cost~~  
13 ~~shall be paid therefrom accordingly.~~

14  
15          ~~16-19-802. Remittitur.~~

16          ~~If any sum is found in favor of a party, either by verdict of a jury or~~  
17 ~~upon a hearing of the cause before a justice, exceeding the sum for which the~~  
18 ~~justice is authorized to give judgment, the party may remit and release the~~  
19 ~~excess and take judgment for the residue, but shall never thereafter be~~  
20 ~~allowed to institute any suit for the recovery of the excess so remitted and~~  
21 ~~released.~~

22  
23                                   ~~Subchapter 9 — Stay of Execution~~

24  
25          ~~16-19-901. Stay of execution generally.~~

26          ~~The execution from a judgment rendered by a justice of the peace may be~~  
27 ~~stayed in the manner and form as provided in this subchapter.~~

28  
29          ~~16-19-902. Cases in which no stay to be allowed.~~

30          ~~No stay shall be allowed against any collecting officer, or attorney at~~  
31 ~~law or agent, for a delinquency or default in executing or discharging the~~  
32 ~~duties of his office or place or for failing to pay over money collected by~~  
33 ~~him in such capacity, or against a principal by his surety on a stay bond or~~  
34 ~~otherwise, or on a judgment for specific property, or for the property or its~~  
35 ~~value. In the cases mentioned in this section in which a stay is not allowed,~~  
36 ~~the justice of the peace shall note the same on his docket on the day of the~~

1 ~~rendition thereof.~~

2

3 ~~16-19-903. Bond.~~

4 ~~(a) To entitle any person to a stay of execution, some responsible~~  
5 ~~person, to be approved by the justice of the peace, who is not a party to the~~  
6 ~~judgment, must enter into an obligation before the justice of the peace to~~  
7 ~~the adverse party, in a sum sufficient to secure the payment of the judgment,~~  
8 ~~conditioned that the obligation shall be void on payment of the judgment at~~  
9 ~~the expiration of the stay.~~

10 ~~(b) The obligation must be signed by the party entering into it, must~~  
11 ~~be attested by the justice of the peace before whom it may be taken, and~~  
12 ~~shall have the same force and effect as a judgment rendered by a justice of~~  
13 ~~the peace.~~

14 ~~(c) The bond may be in the following form:~~

15

16 ~~"I ....., acknowledge myself indebted to ..... in the sum~~  
17 ~~of ..... dollars, to be void upon this condition:~~

18 ~~Whereas, ..... obtained a judgment before ....., a justice~~  
19 ~~of the peace of ..... township, in the County of ....., on the .....~~  
20 ~~day of ....., 19....., against ..... Now, if such judgment shall~~  
21 ~~be paid at the expiration of ..... months from the time it was rendered,~~  
22 ~~this obligation shall be void.~~

23 ~~Approved:~~

24 ~~....., J.P."~~

25

26 ~~(d) The justice shall file the obligation among the papers in the case~~  
27 ~~and make a note in his docket of the day and date thereof.~~

28 ~~(e) The stay of execution in all sums under the jurisdiction of the~~  
29 ~~court shall be for six (6) months from the rendition of the judgment.~~

30

31 ~~16-19-904. Agreed period of stay.~~

32 ~~If all the parties agree upon any other period, the stay shall be for~~  
33 ~~the time so agreed upon.~~

34

35 ~~16-19-905. Stayed judgment lien on personal property.~~

36 ~~In all cases where execution is stayed on any judgment rendered by a~~

1 ~~justice of the peace under the provisions of this subchapter, the judgment~~  
2 ~~shall be a lien upon all the personal property subject to execution belonging~~  
3 ~~to the defendant at the time of the rendition of the judgment.~~

4  
5 ~~16-19-906. Revocation of execution.~~

6 ~~If a judgment is stayed in the manner prescribed in this subchapter~~  
7 ~~after an execution shall have been issued thereon, the justice of the peace~~  
8 ~~shall revoke the execution in the same manner and with like effect as he is~~  
9 ~~directed to revoke an execution after an appeal has been allowed.~~

10  
11 ~~16-19-907. Immediate issuance of execution to prevent fraud.~~

12 ~~If the plaintiff or his agent makes an oath before the justice of the~~  
13 ~~peace rendering the judgment that he has reason to believe that the defendant~~  
14 ~~is secreting his property or is putting it out of his hands for the purpose~~  
15 ~~of defrauding his just creditors and that he verily believes the debt will be~~  
16 ~~lost if execution is not immediately issued, the justice of the peace shall~~  
17 ~~immediately issue execution on such judgment.~~

18  
19 ~~16-19-908. Execution issued where bond insufficient.~~

20 ~~If any plaintiff, in any judgment rendered before a justice of the~~  
21 ~~peace upon which execution has been stayed, satisfies the justice of the~~  
22 ~~peace before whom an obligation for the stay may have been entered into, by~~  
23 ~~affidavit or by evidence, that the obligation or the security therein is~~  
24 ~~insufficient and that unless execution be immediately issued on such judgment~~  
25 ~~he will be in danger of losing his debt, the justice of the peace shall~~  
26 ~~immediately issue execution regardless of the stay.~~

27  
28 ~~16-19-909. Failure to satisfy judgment—Levy against principal and~~  
29 ~~security—Judgment for bail.~~

30 ~~(a) If at the expiration of the stay, any judgment is not paid, the~~  
31 ~~execution shall be issued against both principal and security.~~

32 ~~(b)(1) If the principal does not satisfy the execution, and the~~  
33 ~~officer cannot find sufficient property belonging to him upon which to levy,~~  
34 ~~he shall levy upon the property of the bail, and in his return shall state~~  
35 ~~what amount of the money collected by him on the execution was collected from~~  
36 ~~the bail and the time the money was received.~~



1           ~~(2)(A) After the return of the execution, the bail shall be~~  
2 ~~entitled, upon motion, to a judgment before the justice of the peace for the~~  
3 ~~amount collected from him in satisfaction of the execution, with interest~~  
4 ~~thereon at the rate of ten percent (10%) per annum. The return of the officer~~  
5 ~~shall be evidence of the amount of money paid by the bail.~~

6           ~~(B) No such motion shall be made after the expiration of~~  
7 ~~four (4) months from the return day of the execution.~~

8  
9                           ~~Subchapter 10 — Execution, Levy, and Sale~~

10  
11           ~~16-19-1001. Issuance generally.~~

12           ~~(a) Upon every judgment rendered by a justice of the peace, execution~~  
13 ~~shall be issued by the justice of the peace in the manner prescribed in this~~  
14 ~~subchapter, at any time on demand, unless the execution has been stayed.~~

15           ~~(b) The execution shall be directed to any constable of the county.~~

16           ~~(c) The execution must be dated, as on the day on which it is issued~~  
17 ~~and made returnable within thirty (30) days thereafter, and may be~~  
18 ~~substantially in the form used in the circuit court.~~

19           ~~(d) Before any execution shall be delivered, the justice of the peace~~  
20 ~~shall state in his docket and also on the back of the execution an account of~~  
21 ~~debt, damages, and costs and of the fees due to each person separately, and~~  
22 ~~the officer receiving the execution shall endorse thereon the time of~~  
23 ~~receiving the execution.~~

24  
25           ~~16-19-1002. Issuance of execution — Time limitations.~~

26           ~~Executions for the enforcement of judgments in a justice of the peace~~  
27 ~~court, except when filed in the clerk's office of the circuit court of the~~  
28 ~~county in which the judgment was rendered, may be issued by the justice of~~  
29 ~~the peace before whom judgment was rendered on the application of the party~~  
30 ~~entitled thereto at any time within five (5) years from the entry of the~~  
31 ~~judgment, but not afterwards.~~

32  
33           ~~16-19-1003. Execution by other than regular justice.~~

34           ~~(a) Whenever a justice of the peace in any township in any county in~~  
35 ~~this state, before whom a judgment has been obtained and upon whose docket~~  
36 ~~the judgment appears against any person or persons, is absent from his office~~

1 so that he cannot be found or has resigned or died and no successor been  
2 appointed, or when there is a judgment on the docket against the justice of  
3 the peace, it shall be the duty of any other qualified and acting justice of  
4 the peace in the township, or in the county, at the request of the plaintiff  
5 and the judgment, or at the request of the plaintiff's attorney or agent, or  
6 of the constable or other officer having the collection of the judgment, to  
7 issue an execution upon the judgment against the party against whom the  
8 judgment was obtained, and the same proceedings shall be had thereon as are  
9 prescribed by law.

10 (b)(1) In order to carry out the provisions of subsection (a) of this  
11 section, it shall be the duty of every justice of the peace before whom a  
12 judgment has been obtained, whenever he is about to be absent from the  
13 township or county for more than ten (10) days, or has resigned and his  
14 successor has not been appointed, to deposit his docket or to cause his  
15 docket to be deposited with the nearest justice of the peace in his township  
16 or county.

17 (2) When the docket has been so deposited, it shall be lawful  
18 for the justice of the peace with whom the docket is deposited, upon  
19 application as provided in subsection (a) of this section, to issue an  
20 execution upon any judgment which appears unsatisfied upon the docket against  
21 any person or persons.

22 (c) It may be lawful for any justice of the peace in the same  
23 township, in the absence of the justice of the peace before whom the judgment  
24 has been obtained against any person or persons, when so requested by the  
25 persons provided for in subsection (a) of this section, after he has examined  
26 the judgment on the docket of the absent justice of the peace, to issue an  
27 execution on the judgment, as provided for in this section.

28 (d) When such other justice of the peace as contemplated in this  
29 section shall issue an execution upon a judgment rendered upon the docket of  
30 another justice of the peace, the execution shall be in the following form:

31  
32 "County of .....

33 The State of Arkansas to any constable of the township of .....  
34 greetings:

35 Whereas, it appears from an examination of the docket of ....., a  
36 justice of the peace in and for the township of ....., in the County of

1 ..... , in the State of Arkansas, that ..... , on the ..... day of  
 2 ..... , 19..... , obtained judgment before said justice against  
 3 ..... for ..... dollars for his debt (or damages) and .....  
 4 dollars for his damages, and also ..... dollars for his costs; and,  
 5 whereas, an execution has been ordered out on said judgment by said  
 6 ..... (or his attorney, agent, or constable, charged with the collection  
 7 of the same, as the case may be), which judgment bears interest at the rate  
 8 of ..... percent on debt and damages from its date. You are therefore  
 9 comanded to levy the same on the goods and chattels of the said .....  
 10 according to law. You are further comanded to return this writ to the  
 11 undersigned justice, on the ..... day of ..... , 19.....  
 12 Given under my hand this ..... day of ..... , 19.....

13 ..... , J.P.”

14  
 15 (c) ~~The execution shall be directed to the constable of the township~~  
 16 ~~where the justice of the peace resides, unless when it is otherwise specially~~  
 17 ~~provided, shall be dated on the day it is issued, and shall be made~~  
 18 ~~returnable in thirty (30) days after its issuance.~~

19  
 20 ~~16-19-1004. Issuance against goods and chattels—Real estate exempt.~~

21 (a) ~~The execution shall be against the goods and chattels of the~~  
 22 ~~person against whom the execution is issued.~~

23 (b) ~~No real estate shall be levied upon or sold by virtue of any~~  
 24 ~~execution issued from a justice of the peace court.~~

25  
 26 ~~16-19-1005. Levy outside of township.~~

27 ~~In case the defendant resides outside of the township where the~~  
 28 ~~judgment was rendered, or does not have sufficient goods and chattels therein~~  
 29 ~~to satisfy the judgment, the constable to whom the execution is directed may~~  
 30 ~~levy the execution upon the goods and chattels of the defendant in any~~  
 31 ~~township in the county where the defendant resides and where his goods and~~  
 32 ~~chattels may be found.~~

33  
 34 ~~16-19-1006. Renewal of execution upon return unsatisfied.~~

35 (a) ~~On executions issued and returned not satisfied, it shall be the~~  
 36 ~~duty of the justice of the peace to renew all such executions by endorsing~~

1 the renewal on such executions to that effect, signed by him and dated when  
2 the renewal is made.

3 (b) Every such endorsement shall renew the execution in full force, in  
4 all respects for twelve (12) months and no longer.

5 (c) An entry of the renewal shall be made in the docket of the  
6 justice. However, execution so docketed shall be subject to be acted upon at  
7 any time at the instance of the plaintiff in all such cases as provided for.

8 (d) If part of the execution has been satisfied, the endorsement of  
9 renewal shall express the sum due on the execution.

10  
11 ~~16-19-1007. Remedy of claimant of property levied upon.~~

12 No trial of the right to any property levied upon by a constable or  
13 justice of the peace shall be had before the constable. However, this section  
14 shall not bar the claimant of the property of his right to bring replevin  
15 therefor in the court having jurisdiction to try the action.

16  
17 ~~16-19-1008. Sale of goods and chattels levied upon—Notice.~~

18 (a) The constable, after taking goods and chattels into his custody,  
19 by virtue of an execution, shall without delay give public notice by at least  
20 three (3) advertisements posted in three (3) public places in the township,  
21 of the time when and place where they will be exposed to sale. The notice  
22 shall describe the goods and chattels taken and shall be posted at least ten  
23 (10) days before the day of sale.

24 (b) At the time and place so appointed, if the goods and chattels are  
25 present for the inspection of bidders, the officer shall expose the goods and  
26 chattels for sale at public vendue, for cash in hand.

27 (c) No constable or other officer shall directly or indirectly  
28 purchase any goods or chattels at any sale made by him upon execution. Every  
29 such sale shall be absolutely void.

30  
31 ~~16-19-1009. Return of execution.~~

32 The constable shall return the execution and have the money before the  
33 justice of the peace at the time of making the return, ready to be paid over  
34 to the persons respectively entitled to the money.

35  
36 ~~16-19-1010. Payment of judgment to constable or justice of the peace—~~

1 ~~Recovery by party entitled.~~

2 ~~(a)(1) The constable of the township shall receive all money that may~~  
3 ~~be tendered to him in payment of any judgment obtained before a justice of~~  
4 ~~the peace of the township and shall give the person paying the money a~~  
5 ~~receipt therefor. The receipt shall specify on what account the money was~~  
6 ~~paid.~~

7 ~~(2) The payment shall be valid against the judgment and, upon~~  
8 ~~the production to the justice of the peace of the receipt therefor, shall be~~  
9 ~~credited thereon.~~

10 ~~(b) No payment of money upon a judgment made to a justice of the~~  
11 ~~peace, either before or after execution thereon, shall be valid against the~~  
12 ~~judgment, nor shall the justice of the peace be authorized or empowered to~~  
13 ~~collect and receipt for the money.~~

14 ~~(c) The person entitled to the money paid shall have the same remedies~~  
15 ~~against the constable and his securities for the recovery thereof as if the~~  
16 ~~money had been collected by the constable on execution.~~

17  
18 ~~16-19-1011. Suing out execution in circuit court — Procedure — Effect.~~

19 ~~(a)(1) Every justice of the peace, on the demand of any person in~~  
20 ~~whose favor he has rendered judgment for more than ten dollars (\$10.00),~~  
21 ~~exclusive of costs, shall, upon payment of costs thereon, give to that person~~  
22 ~~a certified copy of the judgment.~~

23 ~~(2) The clerk of the circuit court of the same county in which~~  
24 ~~the judgment was rendered, upon the production of any such transcript, shall~~  
25 ~~file the transcript in his office and forthwith enter the judgment in the~~  
26 ~~docket of the circuit court for judgments and decrees, and shall note therein~~  
27 ~~the time of filing the transcript.~~

28 ~~(b) The transcript may be filed, and execution may be sued out of the~~  
29 ~~circuit court on the judgment, without an execution having been issued by the~~  
30 ~~justice of the peace.~~

31 ~~(c) Every such judgment, from the time of filing the transcript~~  
32 ~~thereof, shall be a lien on the real estate of the defendant in the county,~~  
33 ~~to the same extent as a judgment of the circuit court of the same county, and~~  
34 ~~shall be carried into execution in the same manner and with like effect as~~  
35 ~~the judgments of the circuit courts.~~

36

## Subchapter 11—Appeal

~~16-19-1101. Rule and attachment—Compelling justice of the peace to allow appeal.~~

~~If a justice of the peace fails to allow an appeal in a cause where the appeal ought to be allowed, the circuit court or the judge thereof in vacation, on such facts appearing satisfactorily, may by rule and attachment compel the justice of the peace to allow the appeal, and return the record of his proceedings in the suit, together with the papers required to be returned by him.~~

~~16-19-1102. Rule and attachment—Compelling return of proceedings by justice of the peace.~~

~~Upon the appeal being made and allowed, the circuit court may by rule and attachment compel a return by the justice of the peace of the record of his proceedings in the suit and of the papers required to be returned by him.~~

~~16-19-1103. Amendment of return.~~

~~Whenever the court is satisfied that the return of the record of the proceedings of the justice of the peace is substantially defective, the court may by rule and attachment compel him to amend the return.~~

~~16-19-1104. Securing or correcting bond after allowance of appeal—No dismissal for want of bond.~~

~~No appeal allowed by a justice of the peace shall be dismissed because there is no bond or obligation or because the bond or obligation given is defective if the appellant, before the motion to dismiss is determined, enters before the circuit court into such obligation as he ought to have entered into before the allowance of the appeal and pays all costs that shall be incurred by reason of such defect or omission. However, any person appealing without bond and a suspension of the proceedings in the justice of the peace courts shall not be required to enter into bond before the circuit court, as required in this section.~~

~~16-19-1105. Trial on appeal.~~

~~(a) Upon the return of the justice of the peace being filed in the~~

1 ~~clerk's office, the court shall be in possession of the cause and shall~~  
2 ~~proceed to hear, try, and determine the cause anew on its merits, without any~~  
3 ~~regard to any error, defect, or other imperfection in the proceedings of the~~  
4 ~~justice of the peace.~~

5 ~~(b) The same cause of action, and no other, that was tried before the~~  
6 ~~justice of the peace shall be tried in the circuit court upon the appeal.~~

7 ~~(c) No setoff shall be pleaded that was not pleaded before the justice~~  
8 ~~of the peace if the summons was served on the person of the defendant.~~

9  
10 ~~16-19-1106. Dismissal or failure to prosecute appeal—Effect.~~

11 ~~If the party appealing moves to dismiss in the circuit court or fails~~  
12 ~~to prosecute his appeal, it shall be at the option of the appellee either to~~  
13 ~~proceed to trial on the appeal or have judgment rendered for the amount of~~  
14 ~~the original judgment and costs where it was in his favor or in bar of the~~  
15 ~~original judgment where it was against him.~~

16  
17 ~~16-19-1107. Judgment on appeal and proceedings thereon.~~

18 ~~In all cases of appeal from a justice of the peace, if the judgment of~~  
19 ~~the justice of the peace is affirmed or if on the new trial in the circuit~~  
20 ~~court the judgment is against the appellant, the judgment shall be rendered~~  
21 ~~against the appellant and his securities in the bond or obligation for the~~  
22 ~~appeal.~~

23  
24 ~~16-19-1108. Satisfaction of judgment by security—Judgment for amount~~  
25 ~~paid—Interest.~~

26 ~~(a) After the return of an execution, satisfied in whole or in part~~  
27 ~~out of the property of a security, the security shall be entitled to a~~  
28 ~~judgment, upon motion, against the principal for the amount so paid by the~~  
29 ~~security, together with interest thereon at the rate of ten percent (10%) per~~  
30 ~~annum from the time of payment.~~

31 ~~(b) The motion must be made within one (1) year after the return day~~  
32 ~~of execution, and the return of the officer shall be evidence upon the~~  
33 ~~hearing of the motion of the facts stated therein.~~

34  
35 SECTION 16. Arkansas Code § 16-20-108 is amended to read as follows to  
36 delete obsolete references, clarify references, and make stylistic changes:

1 16-20-108. Investment of moneys held in trust – Disposition of funds.

2 (a) Moneys received by a clerk of the circuit, ~~chancery,~~ court or  
3 probate division of circuit court to be held by the clerk in trust shall  
4 ~~hereafter~~ be invested by the clerk in an interest-bearing account, unless a  
5 court with proper jurisdiction over the ~~fund~~ moneys orders otherwise.

6 (b) The interest earned by such account shall be paid over to the  
7 general fund of the county, in the absence of an order to the contrary from a  
8 court of competent jurisdiction.

9

10 SECTION 17. Arkansas Code § 16-21-105 is repealed because the section  
11 is obsolete under Arkansas Constitution, Amendment 80.

12 ~~16-21-105. Justice of the peace to notify prosecutor of pendency of~~  
13 ~~certain criminal proceedings — Duty of prosecutor.~~

14 ~~(a) In any criminal action pending before any justice of the peace~~  
15 ~~court, where the defendant is charged with any offense of carrying weapons~~  
16 ~~unlawfully, unlawful sale of or being interested in the sale of intoxicating~~  
17 ~~liquors, or gambling, by affidavit or otherwise, and pleads not guilty and~~  
18 ~~secures the services of an attorney to represent him at the trial, it shall~~  
19 ~~be the duty of the justice to cause the prosecuting attorney or deputy for~~  
20 ~~the county to be notified of the nature of the charge and of the time and~~  
21 ~~place of the trial.~~

22 ~~(b)(1) The prosecuting attorney shall attend and prosecute in behalf~~  
23 ~~of the state.~~

24 ~~(2) In case of a conviction, the prosecuting attorney shall be~~  
25 ~~allowed the same fee as is allowed for similar cases in the circuit court.~~  
26 ~~However, no prosecuting attorney or his deputy shall receive any fee unless~~  
27 ~~he personally appears and prosecutes in the case, nor shall any court tax any~~  
28 ~~fee where such officer does not appear and personally prosecute.~~

29

30 SECTION 18. Arkansas Code § 16-21-157 is amended to read as follows to  
31 delete obsolete language.

32 16-21-157. State employment and assignment of positions.

33 (a) ~~On January 1, 2000, all deputy~~ Deputy prosecuting attorneys shall  
34 ~~become~~ are state employees.

35 (b) ~~The number of positions authorized by this section equal the total~~  
36 ~~number of county and grant-funded deputy prosecuting attorney positions in~~



1 ~~place as of January 1, 1999, less one (1) position.~~

2 ~~(c)(1) The initial allocation of the state funded deputy prosecuting~~  
3 ~~attorney positions for the 1999-2001 biennium shall be determined by the~~  
4 ~~Prosecution Coordination Commission and shall be consistent with the number~~  
5 ~~of county and grant funded positions in place for each judicial district as~~  
6 ~~of January 1, 1999, less one (1) position.~~

7 ~~(2) The final allocations shall be reported to the Legislative~~  
8 ~~Council for its review prior to July 1, 1999.~~

9 (d) The Prosecution Coordination Commission shall assist in the  
10 maintenance of a system which equitably serves all areas of the state by  
11 providing quality deputy prosecuting attorneys.

12  
13 SECTION 19. Arkansas Code § 16-90-104, concerning commitment of women  
14 for felonies, is amended to read as follows to correct a reference:

15 16-90-104. Commitment of women for felony.

16 Women who are convicted of or who plead guilty to the commission of  
17 felonies may be committed to the ~~Department of Corrections~~ Division of  
18 Correction by any court of criminal jurisdiction.

19  
20 SECTION 20. Arkansas Code § 16-90-1002(a), concerning duties of the  
21 Crime Victims Reparations Board, is amended to read as follows to correct a  
22 grammatical error:

23 (a) The Crime Victims Reparations Board shall:

24 (1) Advise and assist in the creation of local crime stoppers  
25 programs;

26 (2) Foster the detection of crime and encourage persons to  
27 report information about criminal acts;

28 (3) Encourage news and other media to promote local crime  
29 stoppers programs and to inform the public of the functions of the board;

30 (4) Assist local crime stoppers programs in forwarding  
31 information about criminal acts to the appropriate law enforcement agencies;

32 (5) Help law enforcement agencies detect and combat crime by  
33 increasing the flow of information to and between law enforcement agencies;  
34 and

35 (6) Adopt ~~necessary~~ rules necessary to carry out its functions  
36 under this subchapter.

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SECTION 21. Arkansas Code § 16-93-610(a), concerning computation of a sentence, is amended to read as follows to correct references:

(a) Time served is deemed to begin on the day sentence is imposed, not on the day a prisoner is received by the ~~Department of Corrections~~ Division of Correction. It shall continue only during the time in which a prisoner is actually confined in a county jail or other local place of lawful confinement or while under the custody and supervision of the ~~department~~ division.

SECTION 22. Arkansas Code § 16-120-1002(4), concerning definitions under the Arkansas Cycling Activities Act, is amended to read as follows to correct a grammatical error:

(4) "Inherent risk of a cycling activity" means the dangers or conditions that are an integral part of cycling activities on the roads, trails, paths, or other surfaces of the state, including without limitation:

(A) Injury or death caused by:

(i) A change or variation in the surface which may cause a participant to lose control, lose his or her balance, or crash the bicycle;

(ii) A collision with a natural or man-made object on or adjacent to the cycling surface, including without limitation a:

- (a) Tree;
- (b) Rock; or
- (c) Tree stump; or

(iii) A collision with a pedestrian, a vehicle, or another cyclist ~~which may result in injury or death~~;

(B) Weather-related illnesses or conditions, including without limitation:

- (i) Hypothermia;
- (ii) Frostbite;
- (iii) Heat exhaustion;
- (iv) Heat stroke; or
- (v) Dehydration;

(C) An act of nature, including without limitation:

- (i) Falling rocks;
- (ii) Inclement weather;

- 1 (iii) Thunder and lightning;
- 2 (iv) Severe or varied temperatures;
- 3 (v) Winds; or
- 4 (vi) Tornadoes;
- 5 (D) Operator error, including equipment failure due to
- 6 operator error;
- 7 (E) Attack or injury by an animal; or
- 8 (F) The aggravation of an injury, illness, or condition
- 9 because the injury, illness, or condition occurred in a remote place where
- 10 medical facilities are not available; and
- 11

12 SECTION 23. Arkansas Code § 16-120-1004 is amended to read as follows  
 13 to correct a grammatical error:

14 16-120-1004. Exclusions.

15 This subchapter does not:

- 16 (1) Apply to a relationship between an employer and an employee
- 17 under the Workers' Compensation Law, § 11-9-101 et seq.; ~~and~~ or
- 18 (2) Prevent or limit the liability of a bicycle outfitter or the
- 19 bicycle outfitter's agent that:
  - 20 (A) Intentionally injures a participant;
  - 21 (B) Commits an act or omission of gross negligence
  - 22 concerning the safety of a participant that proximately causes injury to or
  - 23 the death of the participant;
  - 24 (C) Provides an unsafe bicycle to a participant and knew
  - 25 or should have known that the bicycle was unsafe to the extent that it could
  - 26 cause an injury;
  - 27 (D) Fails to provide a participant with a bicycle that
  - 28 meets the equipment and manufacturing requirements for bicycles adopted by
  - 29 the United States Consumer Product Safety Commission under 16 C.F.R. Part
  - 30 1512, as it existed on January 1, 2017;
  - 31 (E) Fails to use the degree of care that an ordinarily
  - 32 careful and prudent person would use under the same or similar circumstances;
  - 33 or
  - 34 (F) Commits other acts, errors, or omissions that
  - 35 constitute willful or wanton misconduct, gross negligence, or criminal
  - 36 conduct that proximately causes injury, damage, or death.

1  
2 SECTION 24. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

3 It is the intent of the General Assembly that:

4 (1) The enactment and adoption of this act shall not expressly  
5 or impliedly repeal an act passed during the regular session of the Ninety-  
6 Third General Assembly;

7 (2) To the extent that a conflict exists between an act of the  
8 regular session of the Ninety-Third General Assembly and this act:

9 (A) The act of the regular session of the Ninety-Third  
10 General Assembly shall be treated as a subsequent act passed by the General  
11 Assembly for the purpose of:

12 (i) Giving the act of the regular session of the  
13 Ninety-Third General Assembly its full force and effect; and

14 (ii) Amending or repealing the appropriate parts of  
15 the Arkansas Code of 1987; and

16 (B) Section 1-2-107 shall not apply; and

17 (3) This act shall make only technical, not substantive, changes  
18 to the Arkansas Code of 1987.

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