

1 INTERIM STUDY PROPOSAL 2021-035

2 State of Arkansas

As Engrossed: S3/23/21

3 93rd General Assembly

A Bill

4 Regular Session, 2021

SENATE BILL 455

5
6 By: Senator A. Clark

7 Filed with: Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO AMEND THE LAW CONCERNING CERTAIN FEES,
11 EXPENSES, AND OTHER COSTS IMPOSED ON A JUVENILE OR
12 THE PARENT, GUARDIAN, OR CUSTODIAN OF A JUVENILE; AND
13 FOR OTHER PURPOSES.
14
15

Subtitle

16
17 TO AMEND THE LAW CONCERNING CERTAIN FEES,
18 EXPENSES, AND OTHER COSTS IMPOSED ON A
19 JUVENILE OR THE PARENT, GUARDIAN, OR
20 CUSTODIAN OF A JUVENILE.
21
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 *SECTION 1. Arkansas Code § 6-18-222(a)(5), concerning the penalty for*
26 *unexcused absences and the revocation of driving privileges, is repealed.*

27 ~~*(5)(A) When a student exceeds the number of unexcused absences*~~
28 ~~*provided for in the district's or the Career Education and Workforce*~~
29 ~~*Development Board's student attendance policy, or when a student has violated*~~
30 ~~*the conditions of an agreement granting special arrangements under*~~
31 ~~*subdivision (a)(4)(D) of this section, the school district or the adult*~~
32 ~~*education program shall notify the prosecuting authority and the community*~~
33 ~~*truancy board, if a community truancy board has been created, and the*~~
34 ~~*student's parent, guardian, or person in loco parentis shall be subject to a*~~
35 ~~*civil penalty through a family in need of services action in circuit court,*~~
36 ~~*as authorized under subdivision (a)(6)(A) of this section, but not to exceed*~~

1 ~~five hundred dollars (\$500) plus costs of court and any reasonable fees~~
2 ~~assessed by the court.~~

3 ~~(B) The penalty shall be forwarded by the court to the~~
4 ~~school or the adult education program attended by the student.~~

5
6 SECTION 2. Arkansas Code § 9-27-303(33), concerning the definition of
7 is amended to read as follows: "juvenile" as applicable to the Arkansas
8 Juvenile Code of 1989, is amended to read as follows:

9 (33) "Juvenile" means an individual who is:

10 (A) From birth to eighteen (18) years of age, whether
11 married or single; ~~or~~

12 (B) Adjudicated delinquent, a juvenile member of a family
13 in need of services, or dependent or dependent-neglected by the juvenile
14 division of circuit court ~~prior to~~ before reaching eighteen (18) years of age
15 and for whom the juvenile division of circuit court retains jurisdiction; or

16 (C) Both of the following:

17 (i) Under eighteen (18) years of age; and

18 (ii) Under the jurisdiction of the criminal division
19 of circuit court or the juvenile division of circuit court jurisdiction under
20 this subchapter;

21
22 SECTION 3. Arkansas Code § 9-27-316(b), concerning the right to
23 counsel under the Arkansas Juvenile Code of 1989, is amended to read as
24 follows:

25 (b)(1)(A) ~~The inquiry concerning the ability of the juvenile to retain~~
26 ~~counsel shall include a consideration of the juvenile's financial resources~~
27 ~~and the financial resources of his or her family~~ A juvenile shall be presumed
28 indigent regardless of the resources of the parent, guardian, or custodian of
29 the juvenile.

30 (B) ~~However, the~~ The failure of the juvenile's family to
31 retain counsel for the juvenile shall not deprive the juvenile of the right
32 to ~~appointed~~ court-appointed counsel if required under this section.

33 (2) ~~After review by the court of an affidavit of financial means~~
34 ~~completed and verified by the parent of the juvenile and a determination by~~
35 ~~the court that the parent or juvenile has the ability to pay, the~~ The court
36 may shall not order financially able juveniles, parents, guardians, or

1 ~~eustodians~~ a juvenile or the parent, guardian, or custodian of the juvenile
 2 to pay all or part of ~~reasonable~~ attorney's fees and expenses for
 3 representation of a the juvenile.

4 (3) ~~All moneys collected by the circuit clerk under this~~
 5 ~~subsection shall be retained by the clerk and deposited into a special fund~~
 6 ~~to be known as the "juvenile representation fund"~~ The court shall not order a
 7 juvenile or the parent, guardian, or custodian of the juvenile to pay a fee
 8 related to the cost of providing the juvenile with counsel.

9 (4) ~~The court may direct that money from this fund be used in~~
 10 ~~providing counsel for juveniles under this section in delinquency or family-~~
 11 ~~in need of services cases and indigent parents or guardians in dependency-~~
 12 ~~neglect cases as provided by subsection (h) of this section.~~

13 (5) ~~Any money remaining in the fund at the end of the fiscal~~
 14 ~~year shall not revert to any other fund but shall carry over into the next~~
 15 ~~fiscal year in the juvenile representation fund.~~

16
 17 SECTION 4. Arkansas Code § 9-27-316(f)(1) and (2), concerning the
 18 right to counsel under the Arkansas Juvenile Code of 1989, are amended to
 19 read as follows:

20 (f)(1) The court shall appoint, at no cost to the juvenile or the
 21 parent, guardian, or custodian of the juvenile, an attorney ad litem who
 22 shall meet standards and qualifications established by the Supreme Court to
 23 represent the best interest of the juvenile when a dependency-neglect
 24 petition is filed or when an emergency ex parte order is entered in a
 25 dependency-neglect case, whichever occurs earlier.

26 (2) The court may appoint, at no cost to the juvenile or the
 27 parent, guardian, or custodian of the juvenile, an attorney ad litem to
 28 represent the best interest of a juvenile involved in any case before the
 29 court and shall consider the ~~juvenile's~~ best interest of the juvenile in
 30 determining whether to appoint an attorney ad litem.

31
 32 SECTION 5. Arkansas Code § 9-27-316(g)(1), concerning the right to
 33 counsel under the Arkansas Juvenile Code of 1989, is amended to read as
 34 follows:

35 (g)(1) The court may appoint, at no cost to the juvenile or the
 36 parent, guardian, or custodian of the juvenile, a volunteer court-appointed

1 special advocate from a program that ~~shall meet all~~ meets the state and
2 national court-appointed special advocate standards to advocate for the best
3 interest of juveniles in dependency-neglect proceedings.

4
5 SECTION 6. Arkansas Code § 9-27-323(d)(2), concerning diversion
6 agreements, conditions applicable to diversion agreements, and the completion
7 of diversion agreements under the Arkansas Juvenile Code of 1989, is amended
8 to read as follows:

9 (2) A At no cost to the juvenile or the parent, guardian, or
10 custodian of the juvenile, a copy of the diversion agreement shall be given
11 to the juvenile, the counsel for the juvenile, the parent, guardian, or
12 custodian of the juvenile, and the intake officer, who shall retain the copy
13 of the diversion agreement in the case file.

14
15 SECTION 7. Arkansas Code § 9-27-323(f) and (g), concerning diversion
16 agreements, conditions applicable to diversion agreements, and the completion
17 of diversion agreements under the Arkansas Juvenile Code of 1989, are amended
18 to read as follows:

19 (f)(1) If a diversion of a complaint has been made, a petition based
20 upon the events out of which the original complaint arose may be filed at no
21 cost to the juvenile or the parent, guardian, or custodian of the juvenile
22 and only during the period for which the agreement was entered into.

23 (2) If a petition is filed within this period, the juvenile's
24 compliance with all proper and reasonable terms of the agreement shall be
25 grounds for dismissal of the petition by the court.

26 (g) The diversion agreement may be terminated, and the prosecuting
27 attorney in a delinquency case or the petitioner in a family in need of
28 services case may file a petition, at no cost to the juvenile or the parent,
29 guardian, or custodian of the juvenile, if at any time during the agreement
30 period:

31 (1) The juvenile or his or her parent, guardian, or custodian
32 declines to further participate in the diversion process;

33 (2) The juvenile fails, without reasonable excuse, to attend a
34 scheduled conference;

35 (3) The juvenile appears unable or unwilling to benefit from the
36 diversion process; or

1 (4) The intake officer becomes apprised of new or additional
2 information that indicates that further efforts at diversion would not be in
3 the best interests of the juvenile or society.
4

5 SECTION 8. Arkansas Code § 9-27-323(h)(3), concerning diversion
6 agreements, conditions applicable to diversion agreements, and the completion
7 of diversion agreements under the Arkansas Juvenile Code of 1989, is amended
8 to read as follows:

9 (3) The complaint and the diversion agreement, and all
10 references ~~thereto~~ to the complaint and the diversion agreement, may shall be
11 expunged by the court from the juvenile's file at no cost to the juvenile or
12 the parent, guardian, or custodian of the juvenile.
13

14 SECTION 9. Arkansas Code § 9-27-323(i)-(k), concerning diversion
15 agreements, conditions applicable to diversion agreements, and the completion
16 of diversion agreements under the Arkansas Juvenile Code of 1989, are amended
17 to read as follows:

18 ~~(i)(1)(i) A juvenile intake or probation officer may charge a~~
19 ~~diversion fee only after review of an affidavit of financial means and a~~
20 ~~determination of the juvenile's or the juvenile's parent's, guardian's, or~~
21 ~~eustodian's ability to pay the fee~~ A juvenile or the parent, guardian, or
22 custodian of a juvenile shall not be charged a diversion fee.

23 ~~(2) The diversion fee shall not exceed twenty dollars (\$20.00)~~
24 ~~per month to the juvenile division of circuit court.~~

25 ~~(3) The court may direct that the fees be collected by the~~
26 ~~juvenile officer, sheriff, or court clerk for the county in which the fees~~
27 ~~are charged.~~

28 ~~(4) The officer designated by the court to collect diversion~~
29 ~~fees shall maintain receipts and account for all incoming fees and shall~~
30 ~~deposit the fees at least weekly into the county treasury of the county where~~
31 ~~the fees are collected and in which diversion services are provided.~~

32 ~~(5) The diversion fees shall be deposited into the account with~~
33 ~~the juvenile service fees under § 16-13-326.~~

34 ~~(j)(1) In judicial districts having more than one (1) county, the~~
35 ~~judge may designate the treasurer of one (1) of the counties in the district~~
36 ~~as the depository of all juvenile fees collected in the district.~~

1 ~~(2) The treasurer so designated by the court shall maintain a~~
2 ~~separate account of the juvenile fees collected and expended in each county~~
3 ~~in the district.~~

4 ~~(3) Money remaining at the end of the fiscal year shall not~~
5 ~~revert to any other fund but shall carry over to the next fiscal year.~~

6 ~~(4) The funds derived from the collection of diversion fees~~
7 ~~shall be used by agreement of the judge or judges of the circuit court~~
8 ~~designated to hear juvenile cases in their district plan pursuant to Supreme~~
9 ~~Court Administrative Order No. 14, originally issued April 6, 2001, and the~~
10 ~~quorum court of the county to provide services and supplies to juveniles at~~
11 ~~the discretion of the juvenile division of circuit court.~~

12 ~~(k)(1)(j)(1)~~ The Department of Human Services shall develop a
13 statewide referral protocol for helping to coordinate the delivery of
14 services to sexually exploited children.

15 (2) As used in this section, “sexually exploited child” means a
16 person less than eighteen (18) years of age who has been ~~subject~~ subjected to
17 sexual exploitation because the person:

18 (A) Is a victim of trafficking of persons under § 5-18-
19 103;

20 (B) Is a victim of child sex trafficking under 18 U.S.C. §
21 1591, as it existed on January 1, 2013; or

22 (C) Engages in an act of prostitution under § 5-70-102 or
23 sexual solicitation under § 5-70-103.

24 (k) The diversion of a case under this section shall be implemented
25 and administered at no cost to the juvenile or the parent, guardian, or
26 custodian of the juvenile.

27
28 SECTION 10. Arkansas Code § 9-27-330(a)(1)(B)(vi)(f)(2), concerning
29 juvenile delinquency dispositions and alternatives under the Arkansas
30 Juvenile Code of 1989, is amended to read as follows:

31 (2) A copy of the written treatment plan
32 shall be provided at no cost to the juvenile or the parent, guardian, or
33 custodian of the juvenile and shall be explained to the juvenile.

34
35 SECTION 11. Arkansas Code § 9-27-330(a)(2), concerning juvenile
36 delinquency dispositions and alternatives, is amended to read as follows:

1 (2) Order the juvenile or members of the juvenile's family to
2 submit to physical, psychiatric, or psychological evaluations at no cost to
3 the juvenile or the parent, guardian, or custodian of the juvenile;
4

5 SECTION 12. Arkansas Code § 9-27-330(a)(5)-(15), concerning juvenile
6 delinquency dispositions and alternatives, are amended to read as follows:

7 ~~(5) Order a probation fee, not to exceed twenty dollars (\$20.00)~~
8 ~~per month, as provided in § 16-13-326(a);~~

9 ~~(6) Assess a court cost of no more than thirty five dollars~~
10 ~~(\$35.00) to be paid by the juvenile, his or her parent, both parents, or his~~
11 ~~or her guardian;~~

12 ~~(7)(A)(5)(A) Order restitution to be paid by the juvenile, a~~
13 ~~parent, both parents, the guardian, or his or her custodian~~ or the parent,
14 guardian, or custodian of the juvenile.

15 (B) If the custodian is the State of Arkansas, both
16 liability and the amount that may be assessed shall be determined by the
17 Arkansas State Claims Commission;

18 ~~(8) Order a fine of not more than five hundred dollars (\$500) to~~
19 ~~be paid by the juvenile, a parent, both parents, or the guardian;~~

20 ~~(9)(6)(A) Order that the juvenile and his or her parent, both~~
21 ~~parents, or the guardian~~ the parent, guardian, or custodian of the juvenile
22 to perform court-approved volunteer service in the community designed to
23 contribute to the rehabilitation of the juvenile or to the ability of the
24 ~~parent or guardian~~ parent, guardian, or custodian of the juvenile to provide
25 proper parental care and supervision of the juvenile, not to exceed.

26 (B) The juvenile or the parent, guardian, or custodian of
27 the juvenile shall not be required to:

28 (i) Participate in volunteer service in the
29 community for more than one hundred sixty (160) hours;

30 (ii) Participate in volunteer service in the
31 community if participating in the volunteer service would cause an undue
32 hardship for the juvenile or the parent, guardian, or custodian of the
33 juvenile; or

34 (iii) Pay a cost for participating in the volunteer
35 service in the community;

1 ~~(10)(A)(7)(A)~~ Order that the parent, ~~both parents, or the~~
 2 guardian, or custodian of the juvenile attend a court-approved parental
 3 responsibility training program if available.

4 (B) The court may make reasonable orders requiring proof
 5 of completion of the court-approved parental responsibility training program
 6 within a certain time period ~~and payment of a fee covering the cost of the~~
 7 ~~training program.~~

8 ~~(C) The court may provide that any violation of such~~
 9 ~~orders shall subject the parent, both parents, or the guardian to the~~
 10 ~~contempt sanctions of the court~~ The parent, guardian, or custodian of the
 11 juvenile shall not be required to:

12 (i) Attend the court-approved parental
 13 responsibility training program if attending the court-approved parental
 14 responsibility training program would cause an undue hardship for the parent,
 15 guardian, or custodian of the juvenile; or

16 (ii) Pay the cost for attending the court-approved
 17 parental responsibility training program;

18 ~~(11)(A)(i)(8)(A)(i)~~ Order that the juvenile remain in a juvenile
 19 detention facility for an indeterminate period not to exceed ninety (90) days
 20 at no cost to the juvenile or the parent, guardian, or custodian of the
 21 juvenile.

22 (ii) The court may further order that the juvenile
 23 be eligible for work release or to attend school or other educational or
 24 vocational training at no cost to the juvenile or the parent, guardian, or
 25 custodian of the juvenile.

26 (B) The juvenile detention facility shall afford
 27 opportunities for education, recreation, and other rehabilitative services to
 28 adjudicated delinquents at no cost to the juvenile or the parent, guardian,
 29 or custodian of the juvenile;

30 ~~(12)(9)(A)~~ Place the juvenile on residential detention with
 31 electronic monitoring, either in the juvenile's home or in another facility
 32 as ordered by the court, at no cost to the juvenile or the parent, guardian,
 33 or custodian of the juvenile.†

34 ~~(13)(A)(B)~~ ~~Order the parent, both parents, or the guardian of~~
 35 ~~any~~ A juvenile or the parent, guardian, or custodian of a juvenile
 36 adjudicated delinquent and committed to a youth services center, detained in

1 a juvenile detention facility, or placed on electronic monitoring ~~to be~~ shall
2 not be liable for the cost of the commitment, detention, or electronic
3 monitoring; or

4 ~~(B)(i) The court shall take into account the financial~~
5 ~~ability of the parent, both parents, or the guardian to pay for the~~
6 ~~commitment, detention, or electronic monitoring.~~

7 ~~(ii) The court shall take into account the past~~
8 ~~efforts of the parent, both parents, or the guardian to correct the~~
9 ~~delinquent juvenile's conduct.~~

10 ~~(iii) If the parent is a noncustodial parent, the~~
11 ~~court shall take into account the opportunity the parent has had to correct~~
12 ~~the delinquent juvenile's conduct.~~

13 ~~(iv) The court shall take into account any other~~
14 ~~factors the court deems relevant;~~

15 ~~(14)(10)(A)~~ When a juvenile is committed to a youth services
16 center or detained in a juvenile detention facility and the juvenile is
17 covered by private health insurance, order the ~~parent or guardian~~ parent,
18 guardian, or custodian of the juvenile to provide information on the
19 juvenile's health insurance coverage, including a copy of the health
20 insurance policy and the pharmacy card when available, to the juvenile
21 detention ~~center~~ facility or youth services center that has physical custody
22 of the juvenile; ~~or.~~

23 (B) The juvenile or the parent, guardian, or custodian of
24 the juvenile shall not be required to pay for the cost of medical treatment
25 received by the juvenile that is incurred while the juvenile is in the
26 physical custody of a juvenile detention facility or youth services center.

27 (C) The quality of medical care, including specialty care,
28 provided to the juvenile while the juvenile is in the physical custody of a
29 juvenile detention facility or youth services center shall not be dependent
30 on the juvenile's health insurance coverage.

31 (15)(A) Order the Department of Finance and Administration to
32 suspend the driving privileges of any juvenile adjudicated delinquent.

33 (B) The order shall be prepared and transmitted to the
34 Department of Finance and Administration within twenty-four (24) hours after
35 the juvenile has been found delinquent and is sentenced to have his or her
36 driving privileges suspended.

1 (C) The court may provide in the order for the issuance of
2 a restricted driving permit to allow driving to and from a place of
3 employment or driving to and from school or for other circumstances.
4

5 SECTION 13. Arkansas Code § 9-27-330, concerning juvenile delinquency
6 dispositions and alternatives, is amended to add an additional subsection to
7 read as follows:

8 (k)(1) The court shall not order a juvenile or the parent, guardian,
9 or custodian of a juvenile to pay costs, fees, or other expenses associated
10 with a program or service ordered by the court under this section.

11 (2) This subsection does not prohibit a court from ordering
12 restitution pursuant to subdivision (a)(7) of this section.
13

14 SECTION 14. Arkansas Code § 9-27-331(d)(1)(A), concerning limitations
15 on delinquency dispositions, is amended to read as follows:

16 (d)(1)(A) The court may enter an order for physical, psychiatric, or
17 psychological evaluation or counseling or treatment affecting the family of a
18 juvenile, at no cost to the juvenile or the parent, guardian, or custodian of
19 the juvenile, only after finding that the evaluation, counseling, or
20 treatment of family members is necessary for the treatment or rehabilitation
21 of the juvenile.
22

23 SECTION 15. Arkansas Code § 9-27-332 is amended to read as follows:

24 9-27-332. Disposition – Family in need of services – Generally.

25 ~~(a)~~ If a family is found to be in need of services, the circuit court
26 may enter an order making any of the following dispositions:

27 (1)(A) To order family services to rehabilitate the juvenile and
28 his or her family.

29 (B)(i) If the Department of Human Services is the provider
30 for family services, the family services shall be limited to those services
31 available ~~by~~ from the department's community-based providers or contractors,
32 excluding the contractors with the Division of Children and Family Services
33 and services of the department for which the family applies and is determined
34 eligible.

1 (ii) To prevent removal when the department is the
2 provider for family services, the court shall make written findings outlining
3 how each service is intended to prevent removal;

4 (2)(A) If it is in the best interest of the juvenile, transfer
5 custody of juvenile family members to another licensed agency responsible for
6 the care of juveniles or to a relative or other individual at no cost to the
7 juvenile or the parent, guardian, or custodian of the juvenile.

8 (B) If it is in the best interest of the juvenile and
9 because of acts or omissions by the parent, guardian, or custodian of the
10 juvenile, removal is necessary to protect the juvenile's health and safety,
11 the circuit court may enter an order to transfer custody to the department at
12 no cost to the juvenile or the parent, guardian, or custodian of the
13 juvenile.

14 (C) A juvenile in the custody of the department is
15 "awaiting foster care placement", as that term is used in the definition of
16 "homeless children and youths" in the McKinney-Vento Homeless Assistance Act,
17 42 U.S.C. § 11434a(2), if the juvenile:

18 (i) Is placed in a shelter, facility, or other
19 short-term placement with a plan of moving the juvenile within ninety (90)
20 days;

21 (ii) Is transferred to an emergency placement to
22 protect the juvenile's health or welfare;

23 (iii) Is placed in a provisional foster home as
24 defined by § 9-28-402;

25 (iv) Has experienced three (3) or more placements
26 within a twelve-month period; or

27 (v) Is placed in a regular foster home or other
28 placement that is not directly related to the permanency goal identified in
29 the case plan required under § 9-28-111;

30 (3)(A) ~~Order that the parent, both parents, or the guardian of~~
31 ~~the juvenile~~ Unless participation would cause an undue hardship for the
32 parent, guardian, or custodian of the juvenile, order the parent, guardian,
33 or custodian of the juvenile to attend a court-ordered parental
34 responsibility training program, if available, at no cost to the parent,
35 guardian, or custodian of the juvenile.

1 (B) The court may make reasonable orders requiring proof
2 of completion of ~~such a~~ court-ordered parental responsibility training
3 program within a certain time period ~~and payment of a fee covering the cost~~
4 ~~of the training program;~~

5 (4) Place the juvenile on residential detention with electronic
6 monitoring in the juvenile's home at no cost to the juvenile or the parent,
7 guardian, or custodian of the juvenile;

8 (5)(A) ~~Order~~ Unless participation would cause an undue hardship
9 for the juvenile or the parent, guardian, or custodian of the juvenile, order
10 the juvenile, his or her parent, both parents, or guardian or the parent,
11 guardian, or custodian of the juvenile to perform court-approved volunteer
12 service in the community designed to contribute to the rehabilitation of the
13 juvenile or the ability of the ~~parent or guardian~~ parent, guardian, or
14 custodian of the juvenile to provide proper parental care and supervision of
15 the juvenile, not to exceed one hundred sixty (160) hours.

16 (B) Participation in court-ordered volunteer service in
17 the community shall be at no cost to the juvenile or the parent, guardian, or
18 custodian of the juvenile; and

19 (6)(A)(i) Place the juvenile on supervision terms, including
20 without limitation requiring the juvenile to attend school or make
21 satisfactory progress toward attaining a high school equivalency diploma
22 approved by the Adult Education Section, requiring the juvenile to observe a
23 curfew, and prohibiting the juvenile from possessing or using any alcohol or
24 illegal drugs.

25 ~~(B)(ii)~~ The supervision terms shall be in writing.

26 ~~(C)(iii)~~ The supervision terms shall be given to the
27 juvenile at no cost to the juvenile or the parent, guardian, or custodian of
28 the juvenile and explained to the juvenile and to his or her parent,
29 guardian, or custodian by the juvenile intake or probation officer in a
30 conference immediately following the disposition hearing~~†~~.

31 ~~(7)(A)(B)~~ ~~Order a fine not to exceed five hundred dollars (\$500)~~
32 The court shall not order a fine to be paid by the juvenile, ~~a parent, both~~
33 ~~parents, a guardian, or a custodian~~ or the parent, guardian, or custodian of
34 the juvenile, or order volunteer service in the community in lieu of a fine,
35 when the juvenile exceeds the number of excessive unexcused absences provided

1 in the student attendance policy of the district or the Career Education and
2 Workforce Development Board.

3 ~~(B) The purpose of the penalty set forth in this section~~
4 ~~is to impress upon the parents, guardians, or persons in loco parentis the~~
5 ~~importance of school or adult education attendance, and the penalty is not to~~
6 ~~be used primarily as a source of revenue.~~

7 ~~(C)(i) In all cases in which a fine is ordered, the court~~
8 ~~shall determine the parent's, guardian's, or custodian's ability to pay for~~
9 ~~the fine.~~

10 ~~(ii) In making its determination, the court shall~~
11 ~~consider the following factors:~~

12 ~~(a) The financial ability of the parent, both~~
13 ~~parents, the guardian, or the custodian to pay for such services;~~

14 ~~(b) The past efforts of the parent, both~~
15 ~~parents, the guardian, or the custodian to correct the conditions that~~
16 ~~resulted in the need for family services; and~~

17 ~~(c) Any other factors that the court deems~~
18 ~~relevant.~~

19 ~~(D) When practicable and appropriate, the court may~~
20 ~~utilize mandatory attendance to such programs as well as community service~~
21 ~~requirements in lieu of a fine;~~

22 ~~(8) Assess a court cost of no more than thirty five dollars~~
23 ~~(\$35.00) to be paid by the juvenile, his or her parent, both parents, the~~
24 ~~guardian, or the custodian; and~~

25 ~~(9) Order a juvenile service fee not to exceed twenty dollars~~
26 ~~(\$20.00) a month to be paid by the juvenile, his or her parent, both parents,~~
27 ~~the guardian, or the custodian.~~

28 ~~(b) The court may provide that any violation of its orders shall~~
29 ~~subject the parent, both parents, the juvenile, custodian, or guardian to~~
30 ~~contempt sanctions.~~

31
32 *SECTION 16. Arkansas Code § 9-27-339(f)(1), concerning probation and*
33 *probation revocation under the Arkansas Juvenile Code of 1989, is amended to*
34 *read as follows:*

35 *(f)(1) Nonpayment of restitution, fines, or court costs may constitute*
36 *a violation of probation, unless the juvenile shows that his or her default*

1 was not attributable to a purposeful refusal to obey the sentence of the
 2 court or was not due to a failure on his or her part to make a good faith
 3 effort to obtain the funds required for payment.

4
 5 SECTION 17. Arkansas Code § 9-27-339(f)(3), concerning probation and
 6 probation revocation under the Arkansas Juvenile Code of 1989, is amended to
 7 read as follows:

8 (3) If the court determines that the default in payment of a
 9 ~~fine, costs, or~~ restitution is excusable under subdivision (f)(1) of this
 10 section, the court may enter an order allowing the juvenile additional time
 11 for payment, reducing the amount of each installment, or revoking the ~~fine,~~
 12 ~~costs, or~~ restitution or unpaid portion thereof in whole or in part.

13
 14 SECTION 18. Arkansas Code § 9-27-357(a) and (b), concerning fines and
 15 sanctions under the Arkansas Juvenile Code of 1989, are amended to read as
 16 follows:

17 (a) A ~~person~~ juvenile who is adjudicated delinquent for one (1) of the
 18 following offenses shall may have a deoxyribonucleic acid sample drawn at no
 19 cost to the juvenile or the parent, guardian, or custodian of the juvenile:

- 20 (1) Rape, § 5-14-103;
 21 (2) Sexual assault in the first degree, § 5-14-124;
 22 (3) Sexual assault in the second degree, § 5-14-125;
 23 (4) Incest, § 5-26-202;
 24 (5) Capital murder, § 5-10-101;
 25 (6) Murder in the first degree, § 5-10-102;
 26 (7) Murder in the second degree, § 5-10-103;
 27 (8) Kidnapping, § 5-11-102;
 28 (9) Aggravated robbery, § 5-12-103;
 29 (10) Terroristic act, § 5-13-310; ~~and~~ or
 30 (11) Aggravated assault upon a law enforcement officer or an
 31 employee of a correctional facility, § 5-13-211, if a Class Y felony.

32 ~~(b) The court shall order a fine of two hundred fifty dollars (\$250)~~
 33 ~~unless the court finds that the fine would cause an undue hardship.~~

1 SECTION 19. Arkansas Code § 9-27-602(d), concerning required
 2 assessments for juvenile mental health services, is amended to read as
 3 follows:

4 ~~(d)(1) The court shall make a determination of the ability of the~~
 5 ~~parent, guardian, or custodian of the juvenile to pay in whole or in part for~~
 6 ~~mental health services. A juvenile or the parent, guardian, or custodian of~~
 7 ~~the juvenile shall not be required to pay for mental health services ordered~~
 8 ~~by the court under this section.~~

9 ~~(2) If the court determines an ability to pay, the court shall~~
 10 ~~enter such an order for payment pursuant to § 9-27-333(e).~~

11
 12 SECTION 20. Arkansas Code § 9-27-367 is amended to read as follows:
 13 9-27-367. Court costs, fees, and fines.

14 ~~(a) The juvenile division of the circuit court may order the following~~
 15 ~~court costs, fees, and fines to be paid by adjudicated defendants to the~~
 16 ~~circuit court juvenile division fund as provided for in § 16-13-326:~~

17 ~~(1) The court may assess an adjudicated delinquent court costs~~
 18 ~~not to exceed thirty five dollars (\$35.00) as provided under § 9-27-~~
 19 ~~330(a)(6);~~

20 ~~(2) The court may assess an adjudicated family in need of~~
 21 ~~services court costs not to exceed thirty five dollars (\$35.00) as provided~~
 22 ~~under § 9-27-332(a)(8);~~

23 ~~(3) The court may order a probation fee for juveniles~~
 24 ~~adjudicated delinquent not to exceed twenty dollars (\$20.00) per month as~~
 25 ~~provided under § 9-27-330(a)(5);~~

26 ~~(4) The court may order a juvenile service fee for an~~
 27 ~~adjudicated family in need of services not to exceed twenty dollars (\$20.00)~~
 28 ~~per month as provided under § 9-27-332(a)(9);~~

29 ~~(5) The court may order a fine for adjudicated delinquents of~~
 30 ~~not more than five hundred dollars (\$500) as provided under § 9-27-330(a)(8);~~

31 ~~(6) The court may order a fine for an adjudicated family in need~~
 32 ~~of services of not more than five hundred dollars (\$500) as provided under §~~
 33 ~~9-27-332(a)(7); and~~

34 ~~(7) A juvenile intake or probation officer may charge a~~
 35 ~~diversion fee limited to no more than twenty dollars (\$20.00) per month as~~
 36 ~~provided under § 9-27-323.~~

1 ~~(b) The court shall direct that the juvenile division court costs and~~
 2 ~~fees be collected, maintained, and accounted for in the same manner as~~
 3 ~~juvenile probation and juvenile services fees as provided for in § 16-13-326.~~

4 In relation to a matter involving a juvenile, the juvenile and the
 5 parent, guardian, or custodian of the juvenile shall not be ordered to pay
 6 finest, fees, costs, or a combination of finest, fees, and costs as described
 7 in §§ 5-2-331, 5-4-201, 5-4-204, 5-4-303, 5-4-322, 5-4-703, 5-4-706, 5-4-905,
 8 5-4-907, 5-27-222, § 5-36-103(c)(3)(A)(i), § 5-36-123(d)(2)(A)(i), § 5-65-
 9 119(a)(1), § 5-65-304(d)(1)(A), § 5-65-310(f)(1)(A), § 12-27-125(b)(17)(B),
 10 §§ 12-41-505, 16-13-506, 16-91-108, 16-92-101, 16-92-102, 16-98-304, 21-6-
 11 201, 21-6-202, 21-6-307, 21-6-308, 21-6-402, 21-6-403, 21-6-406, 21-6-413,
 12 21-6-415, 27-16-508, and 27-16-808.

13
 14 SECTION 21. Arkansas Code § 16-10-305, concerning court costs, is
 15 amended to add an additional subsection to read as follows:

16 (i) The authority to assess court costs under this section does not
 17 apply to:

18 (1) A person who is a juvenile at the time of the commission of
 19 the delinquent act;

20 (2) A person who is a juvenile at the time the circuit court,
 21 county court, or district court renders a judgment;

22 (3) A juvenile; or

23 (4) The parent, guardian, or custodian of a juvenile in relation
 24 to the juvenile's delinquent act.

25
 26 SECTION 22. Arkansas Code § 16-13-701 is amended to read as follows:
 27 16-13-701. Scope – Definition.

28 ~~(a) The procedures established by this subchapter shall apply to the~~
 29 ~~assessment and collection of all fines, however designated, imposed by~~
 30 ~~circuit courts and district courts for criminal convictions, traffic~~
 31 ~~convictions, civil violations, and juvenile delinquency adjudications and~~
 32 ~~shall be utilized to obtain prompt and full payment of all fines.~~

33 ~~(b) As used in this subchapter, "fine" means a monetary penalty~~
 34 ~~imposed by a court, including without limitation:~~

35 (1) A monetary fine;

36 (2) Court costs;

- (3) Court-ordered restitution;
- (4) Probation fees;
- (5) Supervision fees;
- (6) Public service supervisory fees; and
- (7) Other court-ordered fees.

(b) The procedures established by this subchapter shall apply to the assessment and collection of all fines, however designated, imposed by circuit courts and district courts for criminal convictions, traffic convictions, civil violations, and juvenile delinquency adjudications and shall be utilized to obtain prompt and full payment of all fines.

(c) Except in the case of court-ordered restitution, the procedures established under this subchapter shall not apply to the assessment and collection of fines, however designated, imposed by a circuit court and district court for a case in which a defendant is:

- (1) A person who is a juvenile at the time of the commission of the delinquent act;
- (2) A person who is a juvenile at the time the circuit court, county court, or district court renders a judgment;
- (3) A juvenile; or
- (4) The parent, guardian, or custodian of a juvenile in relation to the juvenile's delinquent act.

SECTION 23. Arkansas Code § 16-87-201, concerning definitions applicable to the Arkansas Public Defender Commission, is amended to add an additional subdivision to read as follows:

- (4) "Juvenile" means a person who is:
- (A) Under eighteen (18) years of age; and
 - (B) Under the jurisdiction of the criminal division of circuit court or the jurisdiction of the juvenile division of circuit court under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.

SECTION 24. Arkansas Code § 16-87-213(a)(1)(A), concerning certificates of indigency, is amended to read as follows:

(a)(1)(A)(i) ~~Any~~ Except as provided in subdivision (a)(1)(A)(ii) of this section, a person who is charged with an offense punishable by imprisonment ~~who~~ and desires to be represented by an appointed attorney shall

1 file with the court in which the person is charged a written certificate of
2 indigency.

3 (ii) A juvenile who is charged with an offense
4 punishable by imprisonment and desires to be represented by an appointed
5 attorney shall be presumed indigent and shall not be required to complete a
6 certificate of indigency.

7 (iii) A parent, guardian, or custodian of a juvenile
8 who is subject to a delinquency proceeding shall be presumed indigent for the
9 purposes of being appointed an attorney for the delinquency proceeding and
10 shall not be required to complete a certificate of indigency.

11
12 SECTION 25. Arkansas Code § 16-87-213(b)(1), concerning certificates
13 of indigency, is amended to read as follows:

14 (b)(1)(A) At the time of appointment of an attorney, the court
15 immediately shall assess a fee of not less than ten dollars (\$10.00) nor more
16 than four hundred dollars (\$400) to be paid to the commission in order to
17 defray the costs of the public defender system.

18 (B) The court shall not assess a fee under subdivision
19 (b)(1)(A) of this section if the person charged with an offense is a
20 juvenile.

21
22 SECTION 26. Arkansas Code § 16-18-213(d), concerning certificates of
23 indigency, is amended to read as follows:

24 (d)(1) The appointing court may at any time review and redetermine
25 whether or not a person is an indigent person who qualifies for the
26 appointment of an attorney pursuant to this subchapter.

27 (2) Subdivision (d)(1) of this section does not apply to a
28 person who was a juvenile at the time he or she was charged with an offense.

29
30 SECTION 27. Arkansas Code § 16-87-217, concerning the recovery of fees
31 owed by a person determined not to be indigent, is amended to add an
32 additional subsection to read as follows:

33 (e) This section does not apply to:

34 (1) A person who is a juvenile at the time of the commission of
35 the delinquent act;

1 (2) A person who is a juvenile at the time the circuit court,
2 county court, or district court renders a judgment under this section;

3 (3) A juvenile; or

4 (4) The parent, guardian, or custodian of a juvenile.

5
6 SECTION 28. Arkansas Code § 16-87-218(c)(5)-(7), concerning schedules
7 of costs for legal services, are amended to read as follows:

8 (5) Any other misdemeanor:

9 (A) For an early disposition, sixty-five dollars (\$65.00);

10 (B) For a negotiated plea or disposition before trial, one
11 hundred twenty-five dollars (\$125); or

12 (C) For a trial or an extended matter, five hundred
13 dollars (\$500); or

14 ~~(6) Any juvenile matter:~~

15 ~~(A) For an early disposition, sixty five dollars (\$65.00);~~

16 ~~(B) For a negotiated plea or disposition before trial, one~~
17 ~~hundred twenty five dollars (\$125); or~~

18 ~~(C) For a trial or an extended matter, five hundred~~
19 ~~dollars (\$500); or~~

20 ~~(7)~~(6) Any post-conviction relief that is not a direct appeal of
21 the conviction:

22 (A) For an early disposition, two hundred dollars (\$200);

23 (B) For a negotiated plea or disposition before trial or
24 hearing, four hundred dollars (\$400); or

25 (C) For a trial or hearing or an extended matter, six
26 hundred twenty-five dollars (\$625).

27
28 SECTION 29. Arkansas Code § 16-87-218, concerning schedules for costs
29 for legal services, is amended to add an additional subsection to read as
30 follows:

31 (e) The court shall not enter a judgment in favor of the State of
32 Arkansas for legal services rendered by the public defender or for costs
33 listed in subsection (c) of this section:

34 (1) In a juvenile matter;

35 (2) Against a defendant who was a juvenile at the time the
36 offense was committed;

1 (3) Against a juvenile; or

2 (4) Against the parent, guardian, or custodian of a juvenile in
3 a juvenile matter.

4
5 SECTION 30. Arkansas Code § 16-93-104, concerning supervision fees
6 paid by an offender and the failure to pay supervision fees, is amended to
7 add an additional subsection to read as follows:

8 (e) This section does not apply to:

9 (1) A person who is a juvenile at the time of the commission of
10 the delinquent act;

11 (2) A person who is a juvenile at the time the circuit court,
12 county court, or district court renders a judgment;

13 (3) A juvenile; or

14 (4) The parent, guardian, or custodian of a juvenile in relation
15 the juvenile's delinquent act.

16
17 SECTION 31. Arkansas Code § 16-98-304(a), concerning cost and fees
18 under the Arkansas Drug Court Act, is amended to read as follows:

19 (a) The adult ~~or juvenile~~ drug court judge may order the offender to
20 pay:

21 (1) Court costs as provided in § 16-10-305;

22 (2) Treatment costs;

23 (3) Drug testing costs;

24 (4) A local program user fee;

25 (5) Necessary supervision fees, including any applicable
26 residential treatment fees;

27 (6) Any fees determined or authorized under § 12-27-
28 125(b)(17)(B) or § 16-93-104(a)(1) that are to be paid to the Department of
29 Community Correction;

30 (7) Global Positioning System monitoring; and

31 (8) Continuous alcohol monitoring fees.

32
33 SECTION 32. Arkansas Code § 16-100-209(a), concerning costs and fees
34 paid by mental health specialty court program participants, is amended to
35 read as follows:

1 (a)(1) The mental health specialty court may order the mental health
2 specialty court program participant to pay:

3 ~~(1)(A)~~ Court costs as provided in § 16-10-305;

4 ~~(2)(B)~~ Healthcare and treatment costs not otherwise
5 covered by the health insurance of the mental health specialty court program
6 participant;

7 ~~(3)(C)~~ Drug testing costs;

8 ~~(4)(D)~~ A mental health specialty court program user fee;

9 ~~(5)(E)~~ Necessary supervision fees, including any
10 applicable residential treatment fees;

11 ~~(6)(F)~~ Any fees determined or authorized under § 12-27-
12 125(b)(17)(B) or § 16-93-104(a)(1) that are to be paid to the Division of
13 Community Correction;

14 ~~(7)(G)~~ Global Positioning System monitoring costs; and

15 ~~(8)(H)~~ Continual alcohol monitoring fees.

16 (2) A participant and the parent, guardian, or custodian of the
17 participant shall not be ordered to pay costs, fees, or both costs and fees
18 listed under subdivision (a)(1) of this section if the participant is a
19 juvenile as defined in § 9-27-303.

20
21 SECTION 33. DO NOT CODIFY. Costs – Collection and revenue.

22 (a) This act applies to:

23 (1) A person under eighteen (18) years of age who is under the
24 jurisdiction of a criminal division of circuit court or juvenile division of
25 circuit court under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;
26 and

27 (2) The parent, guardian, or custodian of a person under
28 eighteen (18) years of age who is under the jurisdiction of a criminal
29 division of circuit court or juvenile division of circuit court under the
30 Arkansas Juvenile Code of 1989, § 9-27-301 et seq.

31 (b) An unpaid or outstanding balance of a county-assessed cost, court-
32 ordered cost, or other state cost imposed against a juvenile, the parent,
33 guardian, or custodian of a juvenile, or another person liable for the
34 support of a juvenile under §§ 5-2-331, 5-4-201, 5-4-204, 5-4-303, 5-4-322,
35 5-4-703, 5-4-706, 5-4-905, 5-4-907, 5-27-222, § 5-36-103(c)(3)(A)(i), § 5-36-
36 123(d)(2)(A)(i), § 5-65-119(a)(1), § 5-65-304(d)(1)(A), § 5-65-310(f)(1)(A),

1 §§ 6-18-222, 9-27-316, 9-27-323, 9-27-330-9-27-332, 9-27-339, 9-27-357, 9-27-
2 367, 9-27-602, § 12-27-125(b)(17)(B), §§ 12-41-505, 16-10-305, 16-13-506, 16-
3 13-701, 16-87-213, 16-87-217, 16-87-218, 16-91-108, 16-92-101, 16-92-102, 16-
4 93-104, 16-98-304, 16-100-209, 21-6-201, 21-6-202, 21-6-307, 21-6-308, 21-6-
5 402, 21-6-403, 21-6-406, 21-6-413, 21-6-415, 27-16-508, and 27-16-808 and
6 before the effective date of this act is vacated, unenforceable,
7 uncollectable, and void.

8 (c) Any costs saved as a result of this act shall be redirected to
9 community initiatives in accordance with the reinvestment plan developed by
10 the Division of Youth Services as provided in § 9-28-1203.

11
12 SECTION 34. DO NOT CODIFY. Title.

13 (a) The Arkansas Code Revision Commission shall rename Chapter 27 of
14 Title 9 of the Arkansas Code concerning Family Law "Proceedings Involving
15 Juveniles".

16 (b) The Bureau of Legislative Research shall rename Chapter 27 of
17 Title 9 of the Arkansas Code concerning Family Law "Proceedings Involving
18 Juveniles" in the Code of Arkansas Rules.

19
20
21 /s/A. Clark
22
23

24 Referred requested by the Arkansas Senate

25 Prepared by: MBM/KFW
26
27
28
29
30
31
32
33
34
35
36