

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1287

5 By: Representatives Gazaway, M. Shepherd
6 By: Senators C. Tucker, J. Bryant
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 16 OF
10 THE ARKANSAS CODE CONCERNING PRACTICE, PROCEDURE, AND
11 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 PROCEDURE, AND THE COURTS.
18
19

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

22 SECTION 1. Arkansas Code § 16-10-109 is repealed because it is
23 obsolete.

24 ~~16-10-109. Reading of record—Signing.~~
25 ~~Full entries of the orders and proceedings of all courts of record of~~
26 ~~each day shall be read in open court on the morning of the succeeding day.~~
27 ~~However, on the last day of the term, the minutes shall be read and signed at~~
28 ~~the rising of the court.~~
29

30 SECTION 2. Arkansas Code § 16-10-123 is repealed because it is
31 obsolete.

32 ~~16-10-123. Furnishing fuel, blank books, and stationery.~~
33 ~~The several sheriffs are authorized and required to furnish the fuel~~
34 ~~which may be necessary for the use of the several courts in their respective~~
35 ~~counties, and the clerks shall furnish all blank books and stationery for the~~
36 ~~use of the several courts in their respective counties.~~



1
2 SECTION 3. Arkansas Code § 16-10-125 is repealed because it is
3 obsolete.

4 ~~16-10-125. Audit of accounts of sheriff and clerk.~~

5 ~~The several courts shall audit and adjust the accounts of the sheriff~~
6 ~~and clerk for all expenditures made under this act and certify the balance~~
7 ~~accordingly.~~

8
9 SECTION 4. Arkansas Code § 16-10-128 is repealed because it is
10 obsolete.

11 ~~16-10-128. Transcripts—Bills of exceptions.~~

12 ~~In making out transcripts of records, except on writs of error and~~
13 ~~appeals, the bills of exception shall not be inserted unless specially~~
14 ~~required by the applicant therefor.~~

15
16 SECTION 5. Arkansas Code § 16-13-216 is repealed because it is
17 obsolete.

18 ~~16-13-216. Clerk and court reporter—Assistants—Salaries.~~

19 ~~(a) The circuit judge of any judicial district which had a total~~
20 ~~population between forty two thousand (42,000) and forty four thousand~~
21 ~~(44,000) according to the 1960 Federal Decennial Census may appoint for the~~
22 ~~district some person who is either a lawyer, or who has served as an official~~
23 ~~court reporter prior to February 27, 1968, to serve as clerk and court~~
24 ~~reporter for the judicial district.~~

25 ~~(b)(1) The official so provided for in this section for such a~~
26 ~~judicial district shall receive a salary of five thousand four hundred~~
27 ~~dollars (\$5,400) per year for such work.~~

28 ~~(2) The salary is to be paid in monthly or quarterly payments by~~
29 ~~the various counties of the judicial district out of proper and appropriate~~
30 ~~funds and as set out in this section.~~

31 ~~(c)(1) The circuit judge of the judicial circuit is authorized,~~
32 ~~empowered, and directed to employ and appoint a person to assist the clerk or~~
33 ~~court reporter at the request of the clerk or court reporter at wages to be~~
34 ~~designated by the circuit judge.~~

35 ~~(2) The wages of the assistant shall be paid out of the salary~~
36 ~~of the clerk or court reporter appointed under this section to serve the~~

1 ~~judicial district.~~

2 ~~(d)(1) The annual salary of the clerk and court reporter shall be paid~~
 3 ~~by the respective counties comprising the judicial districts which may be~~
 4 ~~affected by this section according to an assessment or assessments to be~~
 5 ~~fixed, made, determined, and proportioned among the counties comprising the~~
 6 ~~judicial district by the presiding judge of the judicial district at such~~
 7 ~~time as he or she may deem proper and necessary.~~

8 ~~(2) The proportioning, fixing, prorating, and determining of the~~
 9 ~~amounts each county shall pay shall be determined on a basis of assessed~~
 10 ~~valuation of the property in the counties or in the district as a whole.~~

11 ~~(3) The salary shall be paid as provided in subsection (b) of~~
 12 ~~this section by the various counties from appropriate county funds.~~

13 ~~(e) Nothing in this section shall affect the fees chargeable by court~~
 14 ~~reporters of the judicial districts with a total population of between forty-~~
 15 ~~two thousand (42,000) and forty-four thousand (44,000) according to the 1960~~
 16 ~~Federal Decennial Census for transcripts and such services as may be now in~~
 17 ~~force and effect.~~

18
 19 SECTION 6. Arkansas Code § 16-13-508 is repealed because the section
 20 is also codified at Arkansas Code § 19-5-1082.

21 ~~16-13-508. Court Reporter's Fund established.~~

22 ~~There is created on the books of the Auditor of State, Treasurer of~~
 23 ~~State, and Chief Fiscal Officer of the State a fund to be known as the Court~~
 24 ~~Reporter's Fund which fund shall be used exclusively for paying such~~
 25 ~~salaries, transcript fees, and expenses of court reporters as may be provided~~
 26 ~~by law to be paid from state funds.~~

27
 28 SECTION 7. Arkansas Code § 16-13-904 is repealed because it is
 29 obsolete.

30 ~~16-13-904. Additional judgeship. [Referred to Arkansas Judicial~~
 31 ~~Council for approval.]~~

32 ~~(a) There is created in the First Judicial District an additional~~
 33 ~~circuit judgeship which shall have jurisdiction in law, equity, and probate.~~

34 ~~(b) As soon as possible after July 30, 1999, the Governor shall~~
 35 ~~appoint a qualified person to temporarily fill the First Judicial District~~
 36 ~~circuit judgeship created by subsection (a) of this section, and the~~

1 appointed person shall serve until December 31, 2000, or until a successor
2 has been elected and qualified, whichever occurs last.

3 (c)(1) ~~The qualified electors of the district shall elect the~~
4 ~~additional circuit judge created by this section at the November 2000 general~~
5 ~~election to take office on January 1, 2001.~~

6 (2) ~~The additional judge shall be elected from the district and~~
7 ~~shall satisfy the same qualifications for holding office and shall receive~~
8 ~~the same salary, expenses, and other allowances as provided by law for judges~~
9 ~~of the circuit courts.~~

10 (3) ~~The judge shall serve for elected terms of four (4) years.~~

11 (d) ~~The counties which compose the First Judicial District shall~~
12 ~~provide courtroom and office facilities and supplies for the judge of the~~
13 ~~circuit judgeship created by this section, which shall be paid out of the~~
14 ~~county treasuries in the same manner as other demands against the counties,~~
15 ~~out of funds appropriated by the respective quorum courts of the counties for~~
16 ~~such purposes.~~

17 (e) ~~There shall be provided for the judge of the circuit judgeship~~
18 ~~created by this section a court reporter and a trial court administrative~~
19 ~~assistant whose salaries shall be fixed and paid in the manner provided by~~
20 ~~law for court reporters and trial court administrative assistants of the~~
21 ~~circuit courts of this state.~~

22 (f) ~~The Attorney General shall, if it is determined to be necessary,~~
23 ~~present the provisions of this section to the United States District Court~~
24 ~~for the Eastern District of Arkansas pursuant to the decision in Eugene Hunt,~~
25 ~~et al. v. State of Arkansas et al., No. PB-C-89-406.~~

26
27 SECTION 8. Arkansas Code § 16-13-905 is repealed because it is
28 obsolete.

29 ~~16-13-905. Approval by Arkansas Judicial Council. [Referred to Arkansas~~
30 ~~Judicial Council for approval.]~~

31 (a) ~~The provisions of § 16-13-904 and this section shall be effective~~
32 ~~only if approved by the Arkansas Judicial Council which said approval shall~~
33 ~~be in writing to the chairs of the Senate and House Committees on Judiciary.~~

34 (b) ~~The council is hereby directed to review the provisions of § 16-~~
35 ~~13-904 and this section together with all other acts passed and approved by~~
36 ~~the Eighty-second General Assembly regarding the division of, or the adding~~

1 of judgeships to, the First Judicial District, and approve the plan which the
 2 council determines to be the best solution to the problems facing the First
 3 Judicial District.

4 (c) ~~If it is determined by the council that none of the acts passed~~
 5 ~~regarding the First Judicial District is meritorious, then none of the acts~~
 6 ~~should be approved by the council and none of the acts shall take effect even~~
 7 ~~after passage and approval by the Eighty-second General Assembly.~~

8
 9 SECTION 9. Arkansas Code Title 16, Chapter 19, Subchapter 3, is
 10 repealed because its provisions are being transferred to Arkansas Code Title
 11 14 by Section 18 of this act.

12
 13 ~~Subchapter 3—Constables~~

14
 15 ~~16-19-301. Peacekeeping duties and authority—Neglect of duty.~~

16 (a) ~~Each constable shall be a conservator of the peace in his township~~
 17 ~~and shall suppress all riots, affrays, fights, and unlawful assemblies, and~~
 18 ~~shall keep the peace and cause offenders to be arrested and dealt with~~
 19 ~~according to law.~~

20 (b) ~~If any offense cognizable before a justice of the peace in his~~
 21 ~~township is committed in his presence, the constable shall immediately arrest~~
 22 ~~the offender and cause him to be dealt with according to law.~~

23 (c) ~~Nothing in subsection (a) or subsection (b) of this section shall~~
 24 ~~be construed to deprive a constable of authority to serve warrants, summons,~~
 25 ~~writs, and other process as provided by law.~~

26 (d) ~~Nothing in this section shall prevent the fresh pursuit by a~~
 27 ~~constable of a person suspected of having committed a supposed felony in his~~
 28 ~~township, though no felony has actually been committed, if there are~~
 29 ~~reasonable grounds for so believing. “Fresh pursuit” as used in this section~~
 30 ~~shall not necessarily imply instant pursuit, but pursuit without unreasonable~~
 31 ~~delay.~~

32 (e) ~~If it comes to the knowledge of any constable that an offense~~
 33 ~~mentioned in this section has been committed in his township, it shall be the~~
 34 ~~duty of the constable to present the offender to a justice of the peace of~~
 35 ~~the township in order that the offender may be arrested and brought to trial~~
 36 ~~as prescribed by law.~~

1 ~~(f) If a constable fails, refuses, or neglects to perform the duties~~
2 ~~imposed upon him by this section, he shall be deemed guilty of a misdemeanor,~~
3 ~~and upon conviction, by indictment in the circuit court, shall be fined not~~
4 ~~less than five dollars (\$5.00) nor more than one hundred dollars (\$100).~~

5
6 ~~16-19-302. Proceedings against constables upon default.~~

7 ~~(a) A justice of the peace shall, upon the demand of the party~~
8 ~~injured, or his agent, issue a summons against a constable to whom any~~
9 ~~execution has been delivered, or who has received any money upon any judgment~~
10 ~~of the justice, whether with or without execution.~~

11 ~~(1) If the constable fails to make return of the execution~~
12 ~~according to the command thereof;~~

13 ~~(2) If he makes a false return;~~

14 ~~(3) If he fails to have any money collected by him on execution~~
15 ~~before the justice on the return day thereof, ready to be paid over to the~~
16 ~~party entitled thereto, or the receipt of such person therefor; or~~

17 ~~(4) If he fails to pay over on demand to the person entitled~~
18 ~~thereto, or his agent, any money received by him in payment of any judgment.~~

19 ~~(b) The summons shall require the constable to appear before the~~
20 ~~justice at a place and time to be specified therein, not exceeding ten (10)~~
21 ~~days, and show cause why an execution should not be issued against him for~~
22 ~~the amount due upon the execution placed in his hands, or for the amount~~
23 ~~received by him upon the judgment, according to the nature of the case. The~~
24 ~~summons shall be served at least four (4) days before the return day thereof~~
25 ~~and may in other respects be executed in the same manner as an original~~
26 ~~summons.~~

27 ~~(c) If the constable fails to appear, or if he appears but fails to~~
28 ~~show good cause in reply to the matters alleged against him, the justice~~
29 ~~shall render judgment against him for the amount due on the execution, or for~~
30 ~~the amount received by him without execution, according to the nature of the~~
31 ~~case, together with interest thereon, at the rate of one hundred percent~~
32 ~~(100%) per annum, from the time the execution ought to have been returned,~~
33 ~~and from the time the money ought to have been had before the justice ready~~
34 ~~to be paid over to the parties entitled thereto, or from the time the money~~
35 ~~was received on the judgment without execution, or was demanded by the party~~
36 ~~or his agent.~~

1 ~~(d) Any process issued against any constable shall be served and~~
2 ~~executed by a special deputy, who shall be appointed by the justice for that~~
3 ~~purpose and who shall have the same power to execute and return such process~~
4 ~~as a constable, and whose return shall be sworn to.~~

5 ~~(e) Upon a judgment against a constable pursuant to this section,~~
6 ~~there shall be no stay of execution, but an appeal may be had as in other~~
7 ~~eases and with like effect.~~

8 ~~(f) The party injured may proceed against the constable as provided in~~
9 ~~this section or may institute a suit against him on his official bond. When~~
10 ~~proceeding on the constable's official bond, the injured party shall be~~
11 ~~entitled to the same recovery as upon a summons against the constable.~~

12
13 ~~16-19-303. Removal from office.~~

14 ~~(a) If any constable fails to pay over any money collected by him~~
15 ~~after demand is made, or fails to return any execution or other process~~
16 ~~within the time specified in the process, or fails or neglects to perform any~~
17 ~~other duty required by law, he shall be removed from office by the county~~
18 ~~court on motion on charges exhibited against him.~~

19 ~~(b) A copy of the charges, together with notice of the time of hearing~~
20 ~~the charges, shall be served on the constable at least five (5) days before~~
21 ~~the commencement of the term of the court at which the motion is made, which~~
22 ~~may be served in the same manner as a summons, and by any person over the age~~
23 ~~of twenty one (21) years who would be a competent witness.~~

24
25 ~~16-19-304. Failure to pay moneys collected — Responsibility of sureties~~
26 ~~— Relief from liability.~~

27 ~~(a) If any constable receives from any person any bonds, bills, notes,~~
28 ~~or accounts for collection and gives his receipt therefor in his official~~
29 ~~capacity, and fails to pay to that person on demand the amount he may have~~
30 ~~collected, and fails to return the bonds, bills, notes, or accounts, if they~~
31 ~~have not been collected, the constable and his securities shall be~~
32 ~~responsible on his official bond for the amount of the bonds, bills, notes,~~
33 ~~or accounts not paid over or returned.~~

34 ~~(b) No constable shall be responsible for any bond, bill, or note for~~
35 ~~which he may have given his receipts and on which suit may have been brought.~~

36

1 ~~16-19-305. Continuance in office upon division of township.~~
2 ~~If any township is divided, the constable in office at the time of the~~
3 ~~division shall continue in office and be constable of the township in which~~
4 ~~he resides.~~

5
6 ~~16-19-306. Restriction on constables' authority to appoint deputies.~~
7 ~~Constables in the various townships in this state shall have no~~
8 ~~authority to appoint deputies.~~

9
10 SECTION 10. Arkansas Code § 16-31-103(c), concerning deferment of jury
11 service for a member of the General Assembly, is amended to read as follows
12 to make stylistic changes:

13 (c) If a member of the General Assembly is summoned for service on a
14 petit or grand jury in circuit court within thirty (30) days preceding the
15 convening of the General Assembly or at any time during a regular session,
16 extraordinary session, or fiscal session, he or she is entitled to a
17 deferment of that service until thirty (30) days after adjournment sine die
18 of the General Assembly.

19
20 SECTION 11. Arkansas Code § 16-84-117(b)-(c), concerning denial of bail
21 for certain arrested persons, is amended to read as follows to clarify
22 references:

23 (b) Unless waived by the court under subsection (c) of this section, a
24 person arrested for a violation of trafficking of persons, § 5-18-103,
25 kidnapping, § 5-11-102, or false imprisonment in the first degree, § 5-11-
26 103, or an offense that involves the taking of a minor or holding a minor
27 without consent, shall not be granted bail before the person agrees to the
28 following conditions imposed by the arraigning court:

- 29 (1) An ankle monitor or GPS-enabled tracking device;
30 (2) Restricted movement limited to the person's residence,
31 except in the case of a medical emergency;
32 (3) A restriction on internet access and access to electronic
33 media;
34 (4) An agreement by the ~~defendant~~ person to:
35 (A) A no contact order prohibiting direct or indirect
36 contact with the victim or victims of the charged offense;

1 (B) Relinquish all firearms to a third party until the
 2 expiration of the no contact order; and

3 (C) Refrain from using an illegal controlled substance;

4 (5) A cash bond or a secured bond requiring the ~~defendant~~ person
 5 to put up at least fifty percent (50%) of the principal bond amount, at the
 6 discretion of the court;

7 (6) Maintaining regular reporting requirements, at the
 8 discretion of the court; and

9 (7) Obeying a curfew, at the court's discretion.

10 (c) The court may waive a condition under subsection (b) of this
 11 section upon a showing that the waiver would not result in an increased risk
 12 to the community or an increased risk of flight by the ~~defendant~~ person.
 13

14 SECTION 12. Arkansas Code § 16-85-714(b)(1), concerning issuance of no
 15 contact orders with respect to certain persons in custody, is amended to read
 16 as follows to clarify a reference:

17 (b)(1) A court may issue a no contact order under this section in
 18 addition to any other condition of release from custody that is imposed by
 19 the court if:

20 (A) The ~~person~~ defendant is charged with one (1) or more of the
 21 following offenses:

22 (i) Terroristic threatening, § 5-13-301;

23 (ii) Trafficking of persons, § 5-18-103; or

24 (iii) False imprisonment in the first degree, § 5-11-103;

25 or

26 (B) It appears that there exists a danger that a defendant will:

27 (i) Commit a serious crime;

28 (ii) Seek to intimidate a witness; or

29 (iii) Otherwise unlawfully interfere with the orderly
 30 administration of justice.
 31

32 SECTION 13. Arkansas Code § 16-93-613(a), concerning eligibility for
 33 parole for certain offenses, is amended to read as follows to clarify its
 34 application and to make stylistic changes:

35 (a) Except for ~~those persons~~ a person subject to delayed release under
 36 § 5-4-405 and except for a drug offense addressed in § 16-93-618 or a Class Y

1 felony addressed in § 5-4-104(c)(2), § 16-93-614, or § 16-93-618, a person
 2 who commits a Class Y felony, Class A felony, or Class B felony, ~~except those~~
 3 ~~drug offenses addressed in § 16-93-618 or those Class Y felonies addressed in~~
 4 ~~§ 5-4-104(c)(2), § 16-93-614, or § 16-93-618~~, and who shall be is convicted
 5 and incarcerated for ~~that~~ the Class Y felony, Class A felony, or Class B
 6 felony, shall be is eligible for release on parole as follows:

7 (1) An inmate under sentence of death or life imprisonment
 8 without parole is not eligible for release on parole but may be pardoned or
 9 have his or her sentence commuted by the Governor as provided by law; and

10 (2)(A) An inmate sentenced to life imprisonment is not eligible
 11 for release on parole unless the sentence is commuted to a term of years by
 12 executive clemency.

13 (B) Upon commutation, the inmate is eligible for release
 14 on parole as provided in this subchapter.

15
 16 SECTION 14. Arkansas Code Title 16, Chapter 96, Subchapter 1, is
 17 repealed because it is obsolete.

18
 19 ~~Subchapter 1—City Courts~~

20
 21 ~~16-96-101. Procedure generally.~~

22 ~~The proceedings in circuit courts for the trial of criminal cases, so~~
 23 ~~far as applicable, shall govern the proceedings of the city courts, except as~~
 24 ~~otherwise provided in this subchapter.~~

25
 26 ~~16-96-102. Applicability to judge acting as clerk.~~

27 ~~Where a judge acts as the clerk of the court, the provisions of this~~
 28 ~~subchapter as to the clerk shall apply to him or her.~~

29
 30 ~~16-96-103. Terms of sessions.~~

31 ~~The judge of the city court may, by orders entered on its minutes, fix~~
 32 ~~terms for its sessions, to which process shall be returnable, but may hold~~
 33 ~~the court at any time for the transaction of business brought before him or~~
 34 ~~her.~~

35
 36 ~~16-96-104. Pleadings and indictments.~~

1 ~~(a) No written information or pleadings are required in prosecutions~~
2 ~~in which an indictment is not required.~~

3 ~~(b) No indictment shall be necessary in prosecutions for violations of~~
4 ~~the bylaws or ordinances of a city or town nor in other prosecutions in city~~
5 ~~courts.~~

6
7 ~~16-96-105. Summons.~~

8 ~~(a) Upon information given by a peace officer, or by a private person~~
9 ~~on oath, to the judge or clerk of a court that an offense within the~~
10 ~~jurisdiction of the court has been committed, the judge or clerk shall issue~~
11 ~~a summons against the offender.~~

12 ~~(b)(1) The summons shall command the peace officer to whom it is~~
13 ~~directed to summon the defendant, naming him or her, to appear in the court,~~
14 ~~on a day to be named in the summons, to answer the charge made against him or~~
15 ~~her of having committed an offense, naming or briefly describing it, and the~~
16 ~~peace officer shall return the summons on a day to be named.~~

17 ~~(2) It shall be signed by the judge or clerk and directed to the~~
18 ~~peace officer of the town or city, but it may be executed by any peace~~
19 ~~officer of the city or county.~~

20 ~~(c) The summons shall be executed by the officer reading it to the~~
21 ~~defendant or stating to him or her its contents; and, if required, the~~
22 ~~officer shall show it to him or her.~~

23
24 ~~16-96-106. Warrant of arrest.~~

25 ~~Upon information on oath made to the judge of the court, he or she may~~
26 ~~order a warrant of arrest to be issued, which shall be similar to the summons~~
27 ~~except in the command to arrest the defendant instead of summon him or her.~~

28
29 ~~16-96-107. Subpoenas.~~

30 ~~The clerk shall issue subpoenas for witnesses at the request of the~~
31 ~~officers of the city or of the defendant, and the court may compel their~~
32 ~~attendance in the manner prescribed in the Code of Practice in Civil Cases.~~

33
34 ~~16-96-108. Right to speedy trial or bail.~~

35 ~~When a person has been arrested and brought before the city court, or~~
36 ~~the judge thereof, charged with an offense within the jurisdiction of the~~

1 court, he or she shall be immediately tried or, at the discretion of the
 2 judge, held to bail for his or her future appearance for trial, or discharged
 3 from custody.

4
 5 ~~16-96-109. Time of trial.~~

6 ~~(a) All prosecutions in city courts shall stand for trial immediately,~~
 7 ~~where the defendant is in custody or on bail for the offense charged, or on~~
 8 ~~the day when the defendant has been summoned to appear, but only if the~~
 9 ~~summons was executed within the limits of the court's jurisdiction one (1)~~
 10 ~~day or, elsewhere, ten (10) days before the day on which he or she is warned~~
 11 ~~to appear.~~

12 ~~(b) If not executed as provided in subsection (a) of this section, the~~
 13 ~~trial shall be postponed to a day to be fixed by the court.~~

14
 15 ~~16-96-110. Trial by judge or jury for violations of other than~~
 16 ~~ordinances.~~

17 ~~The issues of law and of fact in cases for violations of other than~~
 18 ~~ordinances may be tried by the judge unless the defendant demands a trial by~~
 19 ~~jury, in which case the issues shall be tried by a jury of twelve (12)~~
 20 ~~persons unless the defendant shall consent to be tried by a lesser number.~~

21
 22 ~~16-96-111. [Repealed.]~~

23
 24 ~~16-96-112. Trials in city court.~~

25 ~~All trials in the city court for violation of the bylaws or ordinances~~
 26 ~~of any city or incorporated town shall be before the judge without the~~
 27 ~~intervention of a jury, but the defendant, upon appeal, shall have the right~~
 28 ~~to a trial by jury in the circuit court.~~

29
 30 ~~16-96-113. Continuances.~~

31 ~~The court may, for good cause, grant continuances or postponements of~~
 32 ~~the trial.~~

33
 34 SECTION 15. Arkansas Code 16-96-503 is repealed because it is
 35 obsolete.

36 ~~16-96-503. Jurisdiction.~~

1 ~~The court shall have appellate jurisdiction over the judgments of city~~
2 ~~courts in their respective counties without regard to the amount in~~
3 ~~controversy.~~

4
5 SECTION 16. Arkansas Code § 16-102-102(g)-(h), concerning DWI/BWI
6 specialty courts, is amended to read as follows to clarify its application
7 and to make stylistic changes:

8 (g) Subject to § 5-65-108, probation and any other services ordered by
9 the DWI/BWI specialty court shall be ordered after the person pleads guilty
10 or nolo contendere to ~~violating~~ driving or boating while intoxicated, § 5-65-
11 103.

12 (h) A DWI/BWI specialty court shall not reduce or dismiss a charge or
13 conviction of driving or boating while intoxicated, § 5-65-103, as provided
14 under § 5-65-107.

15
16 SECTION 17. Arkansas Code § 16-118-118(a), concerning definitions for
17 a civil action for vulnerable victims of sexual abuse, is amended to read as
18 follows to include respectful language pursuant to § 1-2-124:

19 (a) As used in this section:

20 (1) ~~“Disabled”~~ “Disability” means that a person was determined
21 legally ~~disabled to have a disability~~ or determined medically ~~disabled to~~
22 have a disability by a medical or mental health provider at the time of the
23 alleged wrongful conduct and was unable to give legal consent;

24 (2) “Minor” means a person of under eighteen (18) years of age;

25 (3) “Sexual abuse” means the commission of one (1) or more of
26 the following acts or offenses:

27 (A) Rape, § 5-14-103;

28 (B) Sexual assault in the first degree, § 5-14-124;

29 (C) Sexual assault in the second degree, § 5-14-125;

30 (D) Engaging children in sexually explicit conduct for use
31 in a visual or print medium, § 5-27-303;

32 (E) Transportation of minors for prohibited sexual
33 conduct, § 5-27-305;

34 (F) Use of children in sexual performances, § 5-27-401 et
35 seq.;

36 (G) Unlawful sexual contact with a vulnerable victim; and

1 (H) Unlawful sexually explicit conduct with a vulnerable
2 victim;

3 (4) "Sexual contact" means the same as defined in § 5-14-101;

4 (5) "Sexually explicit conduct" means the same as defined in §
5 5-27-302; and

6 (6) "Vulnerable victim" means a person who was either ~~disabled a~~
7 person with a disability, a minor, or both at the time he or she was a victim
8 of sexual abuse.

9
10 SECTION 18. Arkansas Code Title 14, Chapter 15, is amended to add an
11 additional subchapter that was repealed by Section 9 of this act and that
12 includes corrections to obsolete language and stylistic changes.

13
14 Subchapter 11 – Constables

15
16 14-15-1101. Peacekeeping duties and authority – Neglect of duty.

17 (a) Each constable shall be a conservator of the peace in his or her
18 township and shall suppress all riots, affrays, fights, and unlawful
19 assemblies, and shall keep the peace and cause offenders to be arrested and
20 dealt with according to law.

21 (b) If any offense cognizable before a district court in his or her
22 township is committed in his or her presence, the constable shall immediately
23 arrest the offender and cause him or her to be dealt with according to law.

24 (c) Nothing in subsection (a) or subsection (b) of this section shall
25 be construed to deprive a constable of authority to serve warrants, summons,
26 writs, and other process as provided by law.

27 (d) Nothing in this section shall prevent the fresh pursuit by a
28 constable of a person suspected of having committed a supposed felony in his
29 or her township, though no felony has actually been committed, if there are
30 reasonable grounds for so believing. As used in this section, "fresh
31 pursuit" shall not necessarily imply instant pursuit, but pursuit without
32 unreasonable delay.

33 (e) If it comes to the knowledge of any constable that an offense
34 mentioned in this section has been committed in his or her township, it shall
35 be the duty of the constable to present the offender to a district court in
36 order that the offender may be arrested and brought to trial as prescribed by

1 law.

2 (f) If a constable fails, refuses, or neglects to perform the duties
3 imposed upon him or her by this section, he or she shall be deemed guilty of
4 a violation, and upon conviction, by indictment in the circuit court, shall
5 be fined not less than five dollars (\$5.00) nor more than one hundred dollars
6 (\$100).

7
8 14-15-1102. Proceedings against constables upon default.

9 (a) A district court shall, upon the demand of the party injured, or
10 his or her agent, issue a summons against a constable to whom any execution
11 has been delivered, or who has received any money upon any judgment of the
12 justice, whether with or without execution:

13 (1) If the constable fails to make return of the execution
14 according to the command thereof;

15 (2) If he or she makes a false return;

16 (3) If he or she fails to have any money collected by him or her
17 on execution before the district court on the return day thereof, ready to be
18 paid over to the party entitled thereto, or the receipt of such person
19 therefor; or

20 (4) If he or she fails to pay over on demand to the person
21 entitled thereto, or his or her agent, any money received by him or her in
22 payment of any judgment.

23 (b) The summons shall require the constable to appear before the
24 district court at a place and time to be specified therein, not exceeding ten
25 (10) days, and show cause why an execution should not be issued against him
26 or her for the amount due upon the execution placed in his or her hands, or
27 for the amount received by him or her upon the judgment, according to the
28 nature of the case. The summons shall be served at least four (4) days before
29 the return day thereof and may in other respects be executed in the same
30 manner as an original summons.

31 (c) If the constable fails to appear, or if he or she appears but
32 fails to show good cause in reply to the matters alleged against him or her,
33 the district court shall render judgment against him or her for the amount
34 due on the execution, or for the amount received by him or her without
35 execution, according to the nature of the case, together with interest
36 thereon, at the rate of one hundred percent (100%) per annum, from the time

1 the execution ought to have been returned, and from the time the money ought
2 to have been had before the district court ready to be paid over to the
3 parties entitled thereto, or from the time the money was received on the
4 judgment without execution, or was demanded by the party or his or her agent.

5 (d) Any process issued against any constable shall be served and
6 executed by a special deputy, who shall be appointed by the district court
7 for that purpose and who shall have the same power to execute and return such
8 process as a constable, and whose return shall be sworn to.

9 (e) Upon a judgment against a constable pursuant to this section,
10 there shall be no stay of execution, but an appeal may be had as in other
11 cases and with like effect.

12 (f) The party injured may proceed against the constable as provided in
13 this section or may institute a suit against him or her on his or her
14 official bond. When proceeding on the constable's official bond, the injured
15 party shall be entitled to the same recovery as upon a summons against the
16 constable.

17
18 14-15-1103. Removal from office.

19 (a) If any constable fails to pay over any money collected by him or
20 her after demand is made, or fails to return any execution or other process
21 within the time specified in the process, or fails or neglects to perform any
22 other duty required by law, he or she shall be removed from office by the
23 county court on motion on charges exhibited against him or her.

24 (b) A copy of the charges, together with notice of the time of hearing
25 the charges, shall be served on the constable at least five (5) days before
26 the commencement of the term of the county court at which the motion is made,
27 which may be served in the same manner as a summons, and by any person over
28 the age of twenty-one (21) years who would be a competent witness.

29
30 14-15-1104. Failure to pay moneys collected – Responsibility of
31 sureties – Relief from liability.

32 (a) If any constable receives from any person any bonds, bills, notes,
33 or accounts for collection and gives his or her receipt therefor in his or
34 her official capacity, and fails to pay to that person on demand the amount
35 he or she may have collected, and fails to return the bonds, bills, notes, or
36 accounts, if they have not been collected, the constable and his or her

1 securities shall be responsible on his or her official bond for the amount of
2 the bonds, bills, notes, or accounts not paid over or returned.

3 (b) No constable shall be responsible for any bond, bill, or note for
4 which he or she may have given his or her receipts and on which suit may have
5 been brought.

6
7 14-15-1105. Continuance in office upon division of township.

8 If any township is divided, the constable in office at the time of the
9 division shall continue in office and be constable of the township in which
10 he or she resides.

11
12 14-15-1106. Restriction on constables' authority to appoint deputies.
13 Constables in the various townships in this state shall have no
14 authority to appoint deputies.

15
16 SECTION 19. DO NOT CODIFY. CONSTRUCTION AND LEGISLATIVE INTENT.

17 It is the intent of the General Assembly that:

18 (1) The enactment and adoption of this act shall not expressly
19 or impliedly repeal an act passed during the regular session of the Ninety-
20 Fourth General Assembly;

21 (2) To the extent that a conflict exists between an act of the
22 regular session of the Ninety-Fourth General Assembly and this act:

23 (A) The act of the regular session of the Ninety-Fourth
24 General Assembly shall be treated as a subsequent act passed by the General
25 Assembly for the purposes of:

26 (i) Giving the act of the regular session of the
27 Ninety-Fourth General Assembly its full force and effect; and

28 (ii) Amending or repealing the appropriate parts of
29 the Arkansas Code of 1987; and

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

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

33
34
35 APPROVED: 3/2/23