

INTERIM STUDY PROPOSAL 2019-011

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

HOUSE BILL 1749

4 By: Representative Richardson

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

For An Act To Be Entitled

9 AN ACT TO REPEAL THE INSTALLMENT FEE FOR AN
10 INSTALLMENT PAYMENT TOWARDS A COURT-ORDERED FINE; AND
11 FOR OTHER PURPOSES.
12

Subtitle

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15 TO REPEAL THE INSTALLMENT FEE FOR AN
16 INSTALLMENT PAYMENT TOWARDS A COURT-
17 ORDERED FINE.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 16-13-704 is amended to read as follows:
24 16-13-704. Installment payments – Definition.

25 (a)(1) If the court concludes that the defendant has the ability to
26 pay the fine, but that requiring the defendant to make immediate payment in
27 full would cause a severe and undue hardship for the defendant and the
28 defendant’s dependents, the court may authorize payment of the fine by means
29 of installment payments in accordance with this subchapter.

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

34 (B) In fixing the date of payment, the court shall issue
35 an order which will complete payment of the fine as promptly as possible

1 without creating a severe and undue hardship for the defendant and the
2 defendant's dependents.

3 (3) When a person is authorized to pay a fine on an installment
4 basis, any court cost assessed under § 9-15-202(d) or § 16-10-305(h) shall be
5 collected from the initial installment payment first.

6 ~~(b)(1)(A) In addition to the fine and any other assessments authorized
7 by this subchapter, an installment fee of five dollars (\$5.00) per month
8 shall be assessed on each person who is authorized to pay a fine on an
9 installment basis.~~

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

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

14 ~~(2)(A)(i) One half (½) of the installment fee collected in
15 circuit court shall be remitted by the tenth day of each month to the
16 Administration of Justice Funds Section of the Office of Administrative
17 Services of the Department of Finance and Administration, on a form provided
18 by that office, for deposit into the Judicial Fine Collection Enhancement
19 Fund established by § 16-13-712.~~

20 ~~(ii) The other half of the installment fee shall be
21 remitted by the tenth day of each month to the county treasurer to be
22 deposited into a fund entitled the "circuit court automation fund" to be used
23 solely for circuit court related technology.~~

24 ~~(B)(i) Expenditures from the circuit court automation fund
25 shall be approved by the administrative circuit judge of each judicial
26 circuit and shall be authorized and paid under the state laws governing the
27 appropriation and payment of county expenditures.~~

28 ~~(ii) Expenditures may be made for indirect expenses
29 related to implementation of new court related technology, including overtime
30 pay, personnel or travel expenses, and technology related supplies.~~

31 ~~(iii) Funds in each county in a judicial district
32 may be pooled for expenditure pursuant to a circuit wide technology plan
33 approved by the administrative circuit judge.~~

34 ~~(3)(A) One half (½) of the installment fee collected in district
35 court shall be remitted by the tenth day of each month to the Administration
36 of Justice Funds Section, on a form provided by that section, for deposit~~

1 ~~into the Judicial Fine Collection Enhancement Fund established by § 16-13-~~
2 ~~712.~~

3 ~~(B) The other half of the installment fee collected in~~
4 ~~district court shall be remitted by the tenth day of each month to the city~~
5 ~~treasurer of the city in which the district court is located to be deposited~~
6 ~~into a fund entitled the "district court automation fund" to be used solely~~
7 ~~for district court related technology.~~

8 ~~(C) In any district court which is funded solely by the~~
9 ~~county, the other half of this fee shall be remitted by the tenth day of each~~
10 ~~month to the county treasurer of the county in which the district court is~~
11 ~~located to be deposited into the district court automation fund to be used~~
12 ~~solely for district court related technology.~~

13 ~~(D)(i) Expenditures from the district court automation~~
14 ~~fund shall be approved by a district judge and shall be authorized and paid~~
15 ~~under state laws governing the appropriation and payment of county or~~
16 ~~municipal expenditures by the governing body or, if applicable, governing~~
17 ~~bodies, that contribute to the expenses of a district court.~~

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

21 ~~(E)(i) In circuit court only, an installment fee of an~~
22 ~~additional five dollars (\$5.00) per month shall also be assessed on the first~~
23 ~~day of each month on each person who is ordered to pay a fine on an~~
24 ~~installment basis with the additional five dollars (\$5.00) to be remitted to~~
25 ~~the collecting official to be used to defray the cost of fine collection.~~

26 ~~(ii) In district court only, an installment fee of~~
27 ~~an additional five dollars (\$5.00) per month shall also be assessed on the~~
28 ~~first day of each month on each person who is ordered to pay a fine on an~~
29 ~~installment basis with the additional five dollars (\$5.00) to be remitted by~~
30 ~~the tenth day of each month to the Administration of Justice Funds Section of~~
31 ~~the Office of Administrative Services of the Department of Finance and~~
32 ~~Administration on a form provided by that section for deposit into the State~~
33 ~~Administration of Justice Fund.~~

34 ~~(e)(b)~~ Any defendant who has been authorized by the court to pay a
35 fine by installments shall be considered to have irrevocably appointed the
36 clerk of the court as his or her agent upon whom all papers affecting his or

1 her liability may be served, and the clerk shall forthwith notify the
2 defendant thereof by ordinary mail at his or her last known address.

3 ~~(d) "Ability to pay"~~ As used in this section, "ability to pay" means
4 that the resources of the defendant, including all available income and
5 resources, are sufficient to pay the fine and provide the defendant and his
6 or her dependents with a reasonable subsistence compatible with health and
7 decency.

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10 Referred requested by the Arkansas House of Representatives
11 Prepared by: BPG/VJF

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