

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL 1134

4 **By: Representatives Willems, Rorie, Tom Baker, McCuiston, McJunkin, Hawkins, Watts, M.**
5 **Jones, Sturgis, Miller, and Riable**

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For An Act To Be Entitled

9 "AN ACT TO REQUIRE RESTITUTION FOR THEFT OF PUBLIC
10 PROPERTY; TO REQUIRE THE PAYMENT OF INTEREST FOR TIME-
11 PAYMENTS; TO PROVIDE FOR A LIEN UPON PROPERTY OF THE
12 DEFENDANT; AND FOR OTHER PURPOSES."

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Subtitle

15 "AN ACT TO REQUIRE RESTITUTION FOR THEFT OF PUBLIC
16 PROPERTY."

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

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21 SECTION 1. RESTITUTION FOR THEFT OF PUBLIC PROPERTY. (a). When any
22 defendant pleads guilty, is found guilty, or pleads nolo contendere for theft
23 or any other offense affecting property held by or belonging to the state or
24 any political subdivision thereof, the court shall require, as part of the
25 sentence, the payment of restitution for the benefit of the state or the
26 applicable political subdivision.

27 (b). The court shall set the amount of restitution based on reliable
28 and probative evidence. Any amounts received by the state or a political
29 subdivision from the Self-Insured Fidelity Bond Program or other third party
30 bonds as a result of the defendant_s actions shall not reduce the amount of
31 restitution required to be paid by the defendant.

32 (c). If payments are made by the Self-Insured Fidelity Bond Program to
33 reimburse the state or political subdivision for losses incurred as a result
34 of the actions of the defendant, the Self-Insured Fidelity Bond Program is

1 entitled to receive priority to any restitution ordered and received by the
2 court up to the amount paid by the Self-Insured Fidelity Bond Program to the
3 state or political subdivision.

4 (d). The Self-Insured Fidelity Bond Program, as codified at Subchapter
5 7 of Title 21 of the Arkansas Code Annotated, is subrogated to any right of
6 the state or political subdivision to the extent of any proceeds paid by the
7 Self-Insured Fidelity Bond Program.

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9 SECTION 2. PAYMENT OF INTEREST. If restitution is allowed to be made
10 over a period of time, the court shall also require the payment of interest on
11 the amount of outstanding restitution. Interest shall begin to accrue from
12 the date the court ordered restitution is filed with the court clerk. The
13 court shall determine the rate of interest to be assessed.

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15 SECTION 3. LIEN ON PROPERTY. (a). When any defendant pleads guilty,
16 is found guilty, or pleads nolo contendere for theft or any other offense
17 affecting property held by or belonging to the state or any political
18 subdivision thereof, the court shall order a lien upon any and all property,
19 refunds, or any other items, in which the defendant may have a vested
20 interest.

21 (b). The purpose of the lien is to secure the payment of any
22 restitution, fines, court costs, or other payments that may be ordered by the
23 court. The lien shall have the same effect as any other civil judgment. The
24 state or the applicable political subdivision may execute upon the judgment in
25 any manner provided by law. Notwithstanding any other provisions of law, the
26 state or any political subdivision may execute upon any funds held by a state
27 public retirement system, or any state agency or political subdivision in
28 which the defendant may have a vested interest. Upon satisfaction of all
29 payments ordered by the court, the court shall order that these liens be
30 released.

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32 SECTION 4. RESTITUTION NO BAR TO CIVIL ACTION. An order of restitution
33 for the benefit of the state or any political subdivision pursuant to the
34 provisions of this Act does not bar any civil remedy that may also be
35 available under law.

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SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Frank J. Willems, et al

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