

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Fairchild**

A Bill

HOUSE BILL 2085

For An Act To Be Entitled

8 "AN ACT TO DEFINE THE DUTIES OF PROSECUTING ATTORNEYS; AND
9 FOR OTHER PURPOSES."

Subtitle

12 "AN ACT TO DEFINE THE DUTIES OF PROSECUTING ATTORNEYS."

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

16 *SECTION 1. Subchapter 1, Chapter 21 of title 16, Arkansas Code*
17 *Annotated is amended by adding the following new sections:*

18 *"16-21-121 - Reserved for First District Prosecuting Attorney.*

19 *16-21-122 - The Second Judicial District shall be a Division A Judicial*
20 *District effective January 1, 1993.*

21 *16-21-123 - The Third Judicial District shall be a Division A Judicial*
22 *District effective January 1, 1993.*

23 *16-21-124 - The Fourth Judicial District shall be a Division A Judicial*
24 *District effective January 1, 1993.*

25 *16-21-125 - The Fifth Judicial District shall be a Division B Judicial*
26 *District effective January 1, 1993.*

27 *16-21-126 - The Sixth Judicial District shall be a Division A Judicial*
28 *District effective January 1, 1993.*

29 *16-21-127 - The Seventh Judicial District shall be a Division A Judicial*
30 *District effective January 1, 1993.*

31 *16-21-128 - The Eighth Judicial District shall be a Division A Judicial*
32 *District effective January 1, 1993.*

33 *16-21-129 - The Ninth-East Judicial District shall be a Division B*
34 *Judicial District effective January 1, 1993.*

35 *16-21-130 - The Ninth-West Judicial District shall be a Division B*

1 Judicial District effective January 1, 1993.

2 16-21-131 - The Tenth Judicial District shall be a Division A Judicial
3 District effective January 1, 1993.

4 16-21-132 - The Eleventh-East Judicial District shall be a Division B
5 Judicial District effective January 1, 1993.

6 16-21-133 - The Eleventh-West Judicial District shall be a Division A
7 Judicial District effective January 1, 1993.

8 16-21-134 - The Twelfth Judicial District shall be a Division A Judicial
9 District effective January 1, 1993.

10 16-21-135 - The Thirteenth Judicial District shall be a Division B
11 Judicial District effective January 1, 1993.

12 16-21-136 - The Fourteenth Judicial District shall be a Division A
13 Judicial District effective January 1, 1993.

14 16-21-137 - The Fifteenth Judicial District shall be a Division B
15 Judicial District effective January 1, 1993.

16 16-21-138 - The Sixteenth Judicial District shall be a Division B
17 Judicial District effective January 1, 1993.

18 16-21-139 - The Seventeenth-East Judicial District shall be a Division A
19 Judicial District effective January 1, 1993.

20 16-21-140 - The Seventeenth-West Judicial District shall be a Division B
21 Judicial District effective January 1, 1993.

22 16-21-141 - The Eighteenth-East Judicial District shall be a Division A
23 Judicial District effective January 1, 1993.

24 16-21-142 - The Eighteenth-West Judicial District shall be a Division A
25 Judicial District effective January 1, 1993.

26 16-21-143 - The Nineteenth Judicial District shall be a Division A
27 Judicial District effective January 1, 1993.

28 16-21-144 - The Twentieth Judicial District shall be a Division A
29 Judicial District effective January 1, 1993."

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31 SECTION 2. The prosecuting attorney shall have the power to appoint all
32 deputies and employees without confirmation of any Court or tribunal.

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34 SECTION 3. The Quorum Courts of the respective counties of a Judicial
35 District shall annually appropriate sufficient amounts to cover the salaries

1 and expenses of the prosecuting attorney_s office. The Quorum Courts of the
2 respective counties may appropriate any additional funds and create additional
3 deputy prosecutor positions as they deem necessary for the efficient operation
4 of the office of the Prosecuting Attorney.

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6 SECTION 4. (a) A Deputy Prosecuting Attorney who is duly appointed in
7 any county of the Judicial District shall, with the prosecuting attorney_s
8 consent, have the authority to perform all official acts as Deputy Prosecuting
9 Attorney in all counties within the District.

10 (b) The Prosecuting Attorney and those Deputy Prosecuting Attorneys and
11 other staff members he designates shall be considered law enforcement officers
12 for the purposes of utilizing emergency, protective, and communication
13 equipment in coordination with inter-agency cooperative investigations and
14 operations. Provided that the Prosecuting Attorney and all members of his
15 office shall have no greater arrest powers than that accorded all citizens
16 under the Arkansas Constitution and the Arkansas Code.

17 (c) The Prosecuting Attorney shall have the power to appoint Deputy
18 Prosecuting Attorneys and other employees at such salaries as are authorized
19 in the grant awards from the department of Finance and Administration Drug Law
20 Enforcement Program, Anti-Drug Abuse Act of 1986 as amended or its successor.

21 (d) All federal forfeitures to the prosecuting attorney_s office shall
22 be deposited in the Drug Control Fund.

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24 SECTION 5. In addition to the deputy prosecuting attorney positions
25 created by Arkansas Code Annotated §16-21-113(a)(1) and other Arkansas Code
26 provisions and laws, the prosecuting attorneys shall have the power to enter
27 into a contract for personal services with a licensed attorney whose duty it
28 will be to act as a deputy prosecutor to prosecute civil asset forfeiture
29 actions at such hourly amount as is deemed proper by the Prosecuting Attorney.
30 This attorney may be paid from funds generated from Arkansas Code Annotated
31 §5-64-505(k)(4).

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33 SECTION 6. The prosecuting attorneys shall have the power to appoint
34 the attorneys of the Prosecutor Coordinator_s Office as deputy prosecuting
35 attorneys.

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SECTION 7. From and after the effective date of this act, no prosecuting attorney shall prosecute city misdemeanor cases or appeals to circuit or appellate courts unless the prosecuting attorney consents to do so.

SECTION 8. Arkansas Code Annotated 14-42-112(e) is amended to read as follows:

"(e) The municipal attorney shall receive as part of his compensation the same fees as are allowed prosecuting attorneys pursuant to Arkansas Code Annotated §21-6-410 in this state in all criminal cases. However, the city or town, by resolution or ordinance, may specify a certain salary or salary and fees as the city or town council may desire. In the event the municipal attorney is paid a salary only, the city or town is authorized to collect the fees referred to in this subsection and apply them as the council may direct."

SECTION 9. 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 10. 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 11. All laws and parts of laws in conflict with this act are hereby repealed. Arkansas Code Annotated §§ 16-21-117(b)(1) and (2), and 25-16-710 are specifically repealed.

SECTION 12. All agencies and public officials receiving fees pursuant to Arkansas Code Annotated §5-37-307 or §16-21-120 shall submit a report to the Prosecutor Coordinator_s Office monthly. The Prosecution Coordination Commission shall determine the contents of the report. This report shall be reviewed by the Prosecutor Coordinator_s Office. After three months, where the accounts and accounting systems are not reconciled or reports not received

1 by the Prosecution Coordination Commission, the Commission shall have the
2 authority to, after a hearing, suspend an agency_s or officer_s ability to
3 have a hot check program for failure to comply with good governmental
4 accounting procedures and practices and the reporting requirement mandated by
5 this act. Any entity with a program suspended shall be reported to the
6 Legislative Audit Committee.

7 /s/Rep. Fairchild

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As Engrossed: 3/19/93

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