

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Representative McGee

# A Bill

HOUSE BILL 1945

## For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR THE PROCEDURES AND REGULATION OF  
9 POLICE COURTS IN ARKANSAS CITIES; TO AMEND ARKANSAS CODE §  
10 16-18-112, AS AMENDED BY ACT 175 OF 1995, TO ADD A  
11 REFERENCE TO POLICE COURTS FOR POLICE JUDGES SALARIES; TO  
12 REPEAL ARKANSAS CODE § 16-18-106; AND FOR OTHER PURPOSES."

## Subtitle

15 "TO PROVIDE FOR THE PROCEDURES AND  
16 REGULATION OF POLICE COURTS IN ARKANSAS  
17 CITIES."

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

### SECTION 1. Jurisdiction - Incapacity of judge.

22 (a) The police judge shall preside over the police court, shall  
23 perform the duties of judge thereof, and shall have jurisdiction over all  
24 cases of misdemeanor arising under this act and all ordinances passed by the  
25 city council in pursuance thereof.

26 (b) In the case of the disability or unavoidable absence of the police  
27 judge, it shall be the duty of the council of a city of the first class to  
28 secure a justice of the peace of the township in which the city is situated  
29 to act as police judge during the absence or disability. The justice of the  
30 peace so appointed shall have power to act as judge during the time of  
31 absence or disability and shall receive such compensation for performing the  
32 police judge's duties as may have been previously agreed upon.

34 SECTION 2. Time for conducting court - Procedure before court -  
35 Compelling attendance.

1       The police court shall always be open for the dispatch of business but  
2 may adjourn from day to day or from time to time. The mode in which cases  
3 shall be brought before the court shall be fixed by an ordinance of the city  
4 council or by a rule of the police court, not in conflict with the laws of  
5 this state. The police court shall have power to compel the attendance of  
6 witnesses and parties.

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8       SECTION 3. Rules of court - Clerk.

9       (a) The police judge shall adopt such rules of practice and procedure  
10 as will give parties a proper statement of any charge against them and an  
11 opportunity of being heard but shall, at the same time, dispatch the business  
12 with convenient speed. All rules of the court shall be written or printed and  
13 posted in the room in which the police court holds its sittings.

14       (b) The police judge shall be clerk of his own court and shall have  
15 the care and custody of all papers, books, and records belonging to the  
16 court.

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18       SECTION 4. Monthly report to council - Payment of funds into city  
19 treasury.

20       On the first day of every month or within three (3) days thereafter,  
21 the judge of the police court shall account, under oath, for all penalties,  
22 fines, and forfeitures imposed by the court, in city cases, to the city  
23 council and shall pay into the city treasury the amount thus received by him.

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25       SECTION 5. Fees of witnesses.

26       Witnesses in the police court shall be allowed the same fees in cases  
27 arising from a violation of an ordinance as are allowed in similar cases  
28 before a justice of the peace, and the fees shall be paid in the same manner.

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30       SECTION 6. Disposition of additional court costs imposed by  
31 § 5-65-113.

32       (a) All moneys received from the additional court costs imposed by the  
33 provisions of § 5-65-113 on persons who plead guilty or nolo contendere to,  
34 or are found guilty of, driving while intoxicated or driving while impaired  
35 shall be remitted at least quarterly, by January 1, April 1, July 1, and

1 October 1 of each year, to the Director of the Department of Finance and  
2 Administration.

3 (b)(1) The city or the county of the court which has levied such  
4 additional court costs shall retain for its use and benefit one hundred  
5 dollars (\$100) of the amount.

6 (2)(A) All moneys received by the director shall be deposited in  
7 the State Treasury as follows:

8 (i) Eighty-three and three-tenths percent  
9 (83.3%) to the Highway Safety Special Fund; and

10 (ii) Sixteen and seven-tenths percent (16.7%)  
11 to the Alcohol and Drug Safety Fund.

12 (B) From the amounts deposited in the Highway Safety  
13 Special Fund, the Director of the Highway Safety Program shall cause to be  
14 transferred from time to time an amount equal to four hundred thousand  
15 dollars (\$400,000) each fiscal year to the Department of Arkansas State  
16 Police Fund.

17 (C) The Alcohol and Drug Safety Fund shall be authorized  
18 to receive temporary loans from the Budget Stabilization Trust Fund under the  
19 provisions of § 19-5-501 for funds established in the Revenue Classification  
20 Law of Arkansas, § 19-6-101 et seq.

21

22 **SECTION 7. Appeals.**

23 Any final conviction or sentence of the police court may be examined  
24 into by the circuit court of the county, in the manner provided by law  
25 regulating appeals from justices of the peace, and proceedings may be stayed  
26 on such terms as may be reasonable. The police judge shall, upon appeal,  
27 return all matters of record or on file touching the proceedings, or a  
28 transcript thereof, and any facts which may have been noted by the judge, or  
29 certified in the nature of a bill of exceptions at the time of trial, which  
30 it shall be the duty of the judge, on the request of the party, to do. On  
31 return, the circuit court shall make such order as right and justice may  
32 require and may either discharge the party, set aside the conviction, or  
33 order a new trial. However, no conviction or sentence shall be set aside or  
34 disregarded for want of any technical averment that any matter or thing is  
35 within its jurisdiction.

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*SECTION 8. Seal - Court of record.*

*Every police court shall have a seal and shall be deemed a court of record. The seal shall be provided by the city council, with the name of the state in the center and the words "police court" around the margin.*

*SECTION 9. Election and term in first-class cities.*

*The police judges of cities of the first class as provided by law shall be elected every four (4) years and shall serve a term of four (4) years and until a successor is elected and qualified as such.*

*SECTION 10. Arkansas Code § 16-18-112 is amended to read as follows:*

*"16-18-112. Schedule of fees or monthly allowance for judge of police court or city court - Designation of substitute judge of city court.*

*(a) The governing body of any city or town having a police court, city court or a mayor's court may establish a schedule of fees to be paid by the city or town from the general fund to the judge of the court for the trial of cases in the court. Alternatively, the governing body of the city or town may provide for the payment of a monthly allowance from the general fund of the city or town as compensation to the judge for sitting as judge in that court. However, the fee schedule or monthly allowance shall not be based upon the conviction of any person tried in the court.*

*(b) The mayor of any city or town having a city court or mayor's court shall have, within the limits of the city, all the jurisdiction and power of a justice of the peace in all civil or criminal matters arising under the laws of this state, to all intents and purposes. For crimes and offenses committed within the limits of the city, the mayor's jurisdiction shall be coextensive with the county.*

*(c) The mayor shall give bond and security in any amount to be determined and approved by the city council.*

*(d) (1) The mayor shall have exclusive jurisdiction of all prosecutions for the violation of any ordinances of the city;*

*(2) He may award and issue any process or writs that may be necessary to enforce the administration of justice throughout the city, and for the lawful exercise of his jurisdiction, according to the usages and*

1 principles of law.

2 (e) Any mayor of a city of the first class meeting the limitations of  
3 this section, any city of the second class or any town may designate, at such  
4 times as he shall choose to do so, any attorney licensed in the State of  
5 Arkansas who resides in the county in which the city or town is situated, to  
6 sit in the mayor's stead as judge of the city court. Any person so designated  
7 by the mayor to sit as judge shall receive such remuneration as is provided  
8 by the governing body of the city or town as hereinabove provided."

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10 SECTION 11. All provisions of this act of general and permanent nature  
11 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
12 Revision Commission shall incorporate the same in the Code.

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14 SECTION 12 . If any provisions of this act or the application thereof  
15 to any person or circumstance is held invalid, the invalidity shall not  
16 affect other provisions or applications of the act which can be given effect  
17 without the invalid provisions or application, and to this end the provisions  
18 of this act are declared to be severable.

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20 SECTION 13. (a) Arkansas Code § 16-18-106 is repealed.

21 (b) All laws and parts of laws in conflict with this act are hereby  
22 repealed.

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24 /s/Rep. McGee

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***As Engrossed: 3/20/95 4/5/95***

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