

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

A Bill

SENATE BILL 609

For An Act To Be Entitled

"AN ACT TO PROVIDE FOR UNIFORM FILING FEES AND COURT
COSTS; AND FOR OTHER PURPOSES."

Subtitle

"TO PROVIDE FOR UNIFORM FILING FEES AND
COURT COSTS"

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

SECTION 1. (a) It is hereby found by the General Assembly that the current system of funding the state judicial system has created inequity in the level of judicial services available to the citizens of the state. It is further determined that the current method of financing the state judicial system has become so complex as to make the administration of the system impossible. Finally, it is determined that the lack of any reliable data on the current cost of the state judicial system prohibits any comprehensive change in the funding of the system at this time.

(b) It is, therefore, the intent of this act to eliminate the current system of collecting and assessing a large number of individual court costs and filing fees, to replace it with a uniform cost and fee to be applied statewide, and to prohibit the implementation of new costs and fees for specific programs in the future. It is, further, the intent of this act to put in place a reporting system which will allow the General Assembly to obtain accurate data to determine the cost to the state for the funding of the judicial system, so as to allow the state, in the 1997-1999 biennium, to fund the cost of the judicial system from the costs, fees, fines, and such other sources as the General Assembly shall determine.

(c) The General Assembly hereby advises all individuals, programs, and

1 agencies which are affected by this act and which receive or expend funds as
2 a part of the state judicial system to be prepared to provide information on
3 the level of expenditures, number of staff, and related information which
4 were in place and existing during the period January 1, 1994 - December 31,
5 1994 to the 1997 session of the General Assembly.

6

7 SECTION 2. (a) Except as otherwise provided by this Act, all filing
8 fees and all court costs shall be uniform for each type of case in all
9 general and limited jurisdiction courts of this state.

10 (b) In all cases filed in such courts on or after July 1, 1995, the
11 court costs and filing fees shall be assessed and distributed according to
12 this act.

13 (c) In all cases filed in such courts prior to July 1, 1995, all court
14 costs and filing fees shall be assessed and distributed according to law in
15 existence on the date of the filing, including monies collected on and after
16 July 1, 1995.

17 (d) Prosecuting Attorneys filing actions on behalf of the State, with
18 the exception of child support cases, shall be exempt from paying filing
19 fees.

20

21 SECTION 3. Arkansas Code Annotated 21-6-403 is amended to read as
22 follows:

23 "21-6-403. Circuit and chancery court clerks - Uniform filing fees.

24 (a) The uniform filing fees to be charged by the clerks of the circuit
25 and chancery courts for initiating or reopening a cause of action in the
26 circuit and chancery courts in the state shall be as prescribed in this
27 section. No portion of the filing fees shall be refunded:

- 28 (1) For initiating a cause of action in the circuit court (including
- 29 appeals) \$110.00
- 30 (2) For initiating a cause of action in the chancery court \$110.00
- 31 (3) For reopening a cause of action in the chancery court \$30.00

32 (b) No fee shall be charged or collected by the clerks of the circuit
33 and chancery courts for reopening a cause of action in the chancery court
34 under the following circumstances:

- 35 (1)(A) An agreed order is presented to be filed; or

1 (B) An order of income withholding is to be filed; and
2 (2) No service of process is required.

3 (c) No county shall authorize and no circuit or chancery court clerk
4 shall assess or collect any other filing fees than those authorized by this
5 act, unless specifically provided by state law."
6

7 SECTION 4. Arkansas Code Annotated 16-14-105(a) is amended to read as
8 follows:

9 "16-14-105. Uniform advance fees and court costs.

10 (a) The uniform advance fees to be charged by the clerks of the probate
11 court for initiating a cause of action in probate court in this state shall
12 be one hundred twenty dollars (\$120), and no portion of the advance fees
13 shall be refunded. No county shall authorize and no chancery or probate
14 court clerk shall assess or collect any other filing fees than those
15 authorized, unless specifically provided by state law."
16

17 SECTION 5. Arkansas Code Annotated 16-17-705 is amended to read as
18 follows:

19 "16-17-705. Filing fees and costs.

20 (a) The uniform filing fee to be charged by the clerks of the
21 municipal courts for initiating a cause of action in municipal court in this
22 state shall be as prescribed in this section. No portion of the filing fee
23 shall be refunded.

24 (1) For initiating a cause of action in the civil division of municipal
25 court \$35.00

26 (2) For initiating a cause of action in the small claims division of
27 municipal court \$25.00

28 (b) No municipality shall authorize, and no municipal court clerk
29 shall assess or collect, any other filing fees than those authorized by this
30 act, unless specifically provided by state law."
31

32 SECTION 6. (a) The uniform filing fee to be charged by clerks for
33 initiating a cause of action in city or police courts, courts of common
34 pleas, or any other court of limited jurisdiction in this state shall be
35 twenty-five dollars (\$25.00). No portion of the filing fee shall be

1 refunded.

2 (b) No city shall authorize, and no city court clerk shall assess or
3 collect, any other filing fees than those authorized by this act, unless
4 specifically provided by state law.

5

6 SECTION 7. (a) There shall be levied and collected from each
7 defendant upon each conviction, each plea of guilty or nolo contendere, or
8 forfeiture of bond the following court costs:

9 (1) For misdemeanor or felony violation of state law, excluding violation of
10 the Omnibus DWI Act, in circuit court \$100.00

11 (2) For offenses which are misdemeanors or violations under state law or
12 local ordinance, excluding violation of the Omnibus DWI Act, in municipal,
13 city, or police court \$50.00

14 (3) For traffic offenses which are misdemeanors or violations under state
15 law or local ordinance, excluding violation of the Omnibus DWI Act, in
16 municipal, city, or police court \$50.00

17 (4) For violation of the Omnibus DWI Act in circuit, municipal, and city
18 court \$300.00

19 (b) The costs set forth in this act shall be imposed at the conclusion
20 of any criminal case that does not end in an acquittal, dismissal, or, with
21 the consent of the prosecution, a nolle prosequi. They shall be imposed at
22 the conclusion of cases involving a suspended or probated sentence even
23 though that sentence may be expunged or otherwise removed from the
24 defendant's record.

25 (c) No county, municipality, or town shall be liable for the payment
26 of the costs taxed under this section in any instance where they are not
27 collected, or in any case in which the defendant pays the costs by serving
28 time in a jail, on a county farm, or at any other official place of detention
29 or work.

30 (d) No municipality or county shall authorize and no police, city,
31 municipal, or circuit court shall assess or collect any other court costs
32 other than those authorized by this act, unless specifically provided by
33 state law.

34

35 SECTION 8. (a) The following court costs shall not be immediately

1 affected by this act and shall continue to be assessed and collected until
2 such time as the Arkansas Division of Legislative Audit shall certify in
3 writing that the debt service for the original construction for which the
4 revenues generated by the court costs have been applied shall have been paid
5 in full:

6 (1) The costs assessed by the city, municipal, and circuit
7 courts in Garland County pursuant to § 12-41-617 for the purpose of building
8 a new jail;

9 (2) The costs assessed by the city, municipal, and circuit
10 courts in Lawrence County pursuant to § 12-41-617 for the purpose of building
11 a new jail;

12 (3) The costs assessed by the city and municipal courts of
13 Pulaski County pursuant to §§ 16-17-111 and 16-17-113 for the purpose of
14 completing the municipal court renovation.

15 (4) The costs assessed pursuant to Act 685 of 1971, as amended,
16 by the city and county courts of Pulaski County for the purpose of retiring
17 the indebtedness on the Pulaski County Law Center.

18 (5) The costs assessed by the circuit and chancery courts in
19 Saline County pursuant to § 21-6-403 in effect on January 1, 1995, and used
20 for the purpose of renovation, refurbishing, and equipping of the Saline
21 County Courthouse.

22 (6) Any other costs assessed by the city, municipal, circuit,
23 chancery, or probate courts which are dedicated on the effective date of this
24 act for the purpose of retiring any debt service for construction, when
25 certified by the Arkansas Division of Legislative Audit.

26 (b) For each court in which a court cost included in paragraph (a) of
27 this section shall be continued, that cost shall be in addition to the
28 uniform court costs and filing fees provided in Section 3 through Section 7
29 of this act.

30 (c) The additional costs specified in paragraph (a) shall not be
31 remitted to the Department of Finance and Administration with the uniform
32 court costs and filing fees provided for in Section 3 through Section 7 of
33 this act, but shall be remitted to the city or county treasurer and credited
34 to the fund and for the limited purpose as provided for in Arkansas Code
35 Annotated §§ 12-41-617, 16-17-111 and 16-17-113 and Act 685 of 1971 as

1 amended.

2

3 SECTION 9. (a) *There is hereby created in the Department of Finance*
4 *and Administration an Administration of Justice Funds Section, to which shall*
5 *be remitted court costs and filing fees enumerated in Section 3 through*
6 *Section 7 as provided in this act which are assessed and collected in the*
7 *police, city, municipal, chancery, probate, and circuit courts in this state.*
8 *There is hereby created on the books of the State Treasurer, the State*
9 *Auditor, and the Chief Fiscal Officer of the State a trust fund account to be*
10 *known as the "State Administration of Justice Fund." Said funds shall be*
11 *deposited by the Section in the State Administration of Justice Fund. The*
12 *Section shall keep an accurate account of all receipts by type of case and*
13 *type and location of court from which such fees and costs are submitted.*

14 (b) *The Section shall also prescribe, in cooperation with the*
15 *Administrative Office of the Courts and the Association of Arkansas Counties,*
16 *appropriate forms for the reporting and allocation of all funds and such*
17 *other information relevant to the income derived by and the costs associated*
18 *with the operation of the justice system by cities and counties, and shall*
19 *require, beginning July 1, 1995, the use thereof by all parties remitting*
20 *funds.*

21

22 SECTION 10. (a) *There is hereby created in each county a fund in the*
23 *Office of the County Treasurer to be known as the County Administration of*
24 *Justice Fund.*

25 (b) *The County Administration of Justice Fund shall be used to defray*
26 *a part of the expenses of the administration of justice in the county. From*
27 *the Fund, the county shall continue to finance the following county agencies*
28 *and programs which are currently funded, in whole or in part, by filing fees*
29 *and/or court costs, at a funding level equal to not less than the greater of*
30 *the amount which was disbursed by the county from filing fees and/or court*
31 *costs to the agency or program in the calendar year ending December 31, 1994,*
32 *or the amount appropriated by ordinance enacted prior to December 31, 1994,*
33 *or on February 14, 1995, or by Resolution dated February 9, 1995, to the*
34 *agency or program for the calendar year ending December 31, 1995:*

35 (1) *the prosecuting attorney fund including all grant funds*

- 1 awarded and appropriated for calendar year ending December 31, 1995;
- 2 (2) the prosecuting attorney_s victim-witness program fund;
- 3 (3) the public defender/indigent defense fund and public defender
- 4 investigator fund including all grant funds awarded and appropriated for
- 5 calendar year ending December 31, 1995;
- 6 (4) the county law library fund;
- 7 (5) the county jail fund; and
- 8 (6) the intoxication detection equipment fund.

9 (c) The County Administration of Justice Fund of each county may

10 retain an amount equal to the amount which was disbursed by the county from

11 court costs and filing fees for county administration of justice expense in

12 the calendar year ending December 31, 1994, or the amount appropriated from

13 court costs and filing fees by ordinance enacted prior to December 31, 1994,

14 or on February 14, 1995, or by Resolution dated February 9, 1995, for county

15 administration of justice expense from court costs and filing fees for the

16 calendar year ending December 31, 1995, plus for each year after calendar

17 year 1995 an additional amount based upon the increase in the Consumer Price

18 Index as published by the Bureau of Labor Statistics of the Department of

19 Labor using the greater of the amount disbursed in calendar year 1994 or the

20 amount appropriated for calendar year 1995 as the base, which base shall be

21 increased by the percentage that the Consumer Price Index for December of the

22 succeeding year bears to the base.

23 (d) Nothing in this act shall prevent the county from funding any

24 additional costs for the administration of justice from other county funds or

25 as disbursed by the county as required and authorized by the 80th General

26 Assembly meeting in regular session.

27

28 SECTION 11. (a) There is hereby created in each municipality which

29 operates a police, city, or municipal court a fund in the Office of the City

30 Treasurer to be known as the City Administration of Justice Fund.

31 (b) The City Administration of Justice Fund shall be used to defray a

32 part of the expense of the administration of justice in the city. From the

33 Fund, the city shall continue to finance the following city agencies and

34 programs which are currently funded, in whole or in part, by filing fees

35 and/or court costs, at a funding level equal to not less than the greater of

1 the amount which was disbursed by the city from court costs and/or filing
2 fees to the agency or program in the calendar year ending December 31, 1994,
3 or the amount appropriated by ordinance enacted prior to December 31, 1994,
4 to the agency or program for the calendar year ending December 31, 1995:

- 5 (1) the municipal court judge and clerk retirement fund;
- 6 (2) the police and fire pension fund;
- 7 (3) the intoxication detection equipment fund;
- 8 (4) all municipal-level programs and agencies funded in whole or
9 in part by court costs and filing fees assessed and collected by the
10 municipal, city, or police court, notwithstanding the repeal by this act, of
11 laws authorizing the collection of court costs and filing fees; and
12 (5) all county-level programs and agencies funded in whole or in
13 part by court costs and filing fees assessed and collected by the municipal,
14 city, or police court, notwithstanding the repeal, by this act, of laws
15 authorizing the collection of court costs and filing fees and the
16 disbursement of all or a part thereof to the county.

17 (c) The City Administration of Justice Fund of each city may retain an
18 amount equal to the amount which was disbursed by the city from court costs
19 and filing fees for city administration of justice expense in the calendar
20 year ending December 31, 1994, or the amount appropriated from court costs
21 and filing fees by ordinance enacted prior to December 31, 1994, for city or
22 county administration of justice expense from court costs and filing fees for
23 the calendar year ending December 31, 1995, plus for each year after calendar
24 year 1995 an additional amount based upon the increase in the Consumer Price
25 Index as published by the Bureau of Labor Statistics of the Department of
26 Labor using the greater of the amount disbursed in calendar year 1994 or the
27 amount appropriated for calendar year 1995 as the base, which base shall be
28 increased by the percentage that the Consumer Price Index for December of the
29 succeeding year bears to the base.

30 (d) Nothing in this act shall prevent the city from funding any
31 additional costs for the administration of justice from other city funds.

32
33 SECTION 12. The county shall, on or before the tenth (10th) day of
34 November, 1995, and on or before the tenth (10th) day of each month
35 thereafter, remit all sums received in excess of the amounts necessary to

1 fund the expenses enumerated in Section 10(b) and (c) of this act during the
2 previous month from the uniform filing fees provided for in Sections 3 and 4
3 herein and the uniform court costs provided for in Section 7 herein to the
4 Department of Finance and Administration, Administration of Justice Fund
5 Section, for deposit in the State Administration of Justice Fund.

6
7 SECTION 13. The city shall, on or before the tenth (10th) day of
8 November, 1995, and on or before the tenth (10th) day of each month
9 thereafter, remit all sums received in excess of the amounts necessary to
10 fund the expenses enumerated in Section 11(b) and (c) of this act during the
11 previous month from the uniform filing fees provided for in Sections 5 and 6
12 herein and the uniform court costs provided for in Section 7 herein to the
13 Department of Finance and Administration, Administration of Justice Fund
14 Section, for deposit in the State Administration of Justice Fund.

15
16 SECTION 14. (a) In the event a city or county fails to timely or
17 adequately submit funds and reports required by Sections 9, 12, or 13 of this
18 act,

19 (1) the Attorney General may file a civil suit in circuit court
20 against the city or county alleged to have failed to submit the funds
21 required by this act. If the county or city is found by the court to have
22 failed to submit the funds and reports required by this act, the court shall
23 impose a civil penalty on such county or city of ten percent (10%) of the
24 amount required to be remitted for the period of time the county or city has
25 failed to be in compliance with this act. Such actions may be brought in the
26 circuit court of the subject county or the circuit court of Pulaski County.
27 The Attorney General shall be allowed to recover costs and attorney_s fees
28 associated with the civil suit from the county or city found to have violated
29 the provisions of this act; or

30 (2) the Chief Fiscal Officer of the State may, upon a finding
31 that the city or county has failed to submit the funds and reports required
32 by this act, withhold from month to month an equal amount from the city's or
33 county's share of the state turnback funds owed to such city or county, until
34 the funds required to be paid by this act have been submitted; and

35 (3) provided the failure to act continues for a period of sixty

1 (60) days, the State may, upon a finding by the Chief Fiscal Officer, require
2 such county or city to remit all costs and fees generated by this act. Such
3 county or city will thereafter receive its share of these funds at a time and
4 in the manner prescribed by regulations of the Chief Fiscal Officer.

5 (b) All funds received pursuant to Section 14(a) shall be transferred
6 to the Administration of Justice Fund to be held and distributed pursuant to
7 this act.

8
9 SECTION 15. At the close of books on the twentieth (20th) working day
10 of November, 1995, and on or before the twentieth (20th) working day of each
11 month thereafter, the Department of Finance and Administration shall make the
12 following distribution of revenue received for the previous month and
13 credited to the State Administration of Justice Fund:

14 The following State programs and agencies which are currently funded by
15 court costs and filing fees shall be paid at an annual rate, at not less than
16 the amounts certified by the Department of Finance and Administration which
17 were received by the program or agency in the fiscal year ending June 30,
18 1995, in a monthly installment of at least one-twelfth (1/12) of the annual
19 appropriation provided for each agency for this purpose from the State
20 Administration of Justice Fund:

21 (1) the Board of Trustees of the University of Arkansas for the
22 purpose and as regulated by Arkansas Code Annotated § 6-64-604 - 606;

23 (2) the Public Health Fund for use in the Drug Abuse Prevention and
24 Treatment program of the Division of Alcohol and Drug Abuse Prevention;

25 (3) the Highway Safety Special Fund for programs of the Arkansas
26 Highway Safety Program;

27 (4) the Department of Arkansas State Police for the State Police
28 Retirement Fund;

29 (5) the Crime Victims Reparations Revolving Fund for the purpose and
30 as regulated by Arkansas Code Annotated § 16-90-701 et seq.;

31 (6) the Prosecutor Coordinator's office for deposit in the Law
32 Enforcement and Prosecutor Drug Enforcement Training Fund;

33 (7) the Code Revision Fund for the purpose and as regulated by
34 Arkansas Code Annotated § 1-2-305;

35 (8) the Crime Information System Fund;

1 (9) the Municipal Court Judge and the Municipal Court Clerk Education
2 Fund;

3 (10) the Arkansas Judicial Retirement System Fund;

4 (11) the state Central Services Fund for the benefit of the Public
5 Defender Commission;

6 (12) the Court Reporter Fund;

7 (13) the Justice Building Fund;

8 (14) until June 30, 1996, the Arkansas Counties Alcohol and Drug Abuse
9 and Crime Prevention Fund; and

10 (15) effective July 1, 1996, the Administration of Justice Fund to
11 fund the trial court staff persons authorized by Section 16 of this act.

12

13 SECTION 16. (a) Beginning July 1, 1996, positions shall be authorized
14 and funds appropriated to the Auditor of State from the State Administration
15 of Justice Fund to provide one (1) staff person for each of the judges of the
16 circuit, chancery, and probate courts. The staff person may be employed to
17 perform secretarial, docketing, and management services. Each judge of the
18 circuit, chancery, or probate court shall report to the Administrative Office
19 of the Courts his intention to employ such a staff person. Two (2) or more
20 judges within a judicial district may employ jointly, in their discretion,
21 one (1) staff person when coordinated with the Administrative Office of the
22 Courts.

23 (b) The circuit, chancery, or probate judges authorized by
24 subparagraph (a) of this section to employ a staff person shall have the
25 authority to select and hire the person who will serve, and any person so
26 employed shall serve at the will and pleasure of the judge.

27 (c) The entry level salary of a trial court staff person shall be
28 equal to that established in the State pay plan at grade 16. No trial court
29 staff person authorized by this act shall receive a salary from the state in
30 excess of twenty-five thousand dollars (\$25,000). A county or counties shall
31 be authorized to supplement the base salary of any trial court staff person,
32 when approved by the quorum court.

33 (d) The staff persons shall be subject to the Uniform Attendance and
34 Leave Policy Act, as administered by the judge by whom they are employed.

35 (e) A trial judge who already has one (1) or more staff persons on the

1 effective date of this act shall designate one (1) such staff person to be
2 subject to and paid by the provisions of this act.

3

4 SECTION 17. The uniform filing fees and court costs established by
5 Sections 3 through 7 of this act shall become effective on July 1, 1995;
6 however, from the period beginning July 1, 1995, through September 30, 1995,
7 all courts shall deduct from the uniform fees and costs the individual fees
8 and costs owed to local, county, and state level agencies and disburse those
9 funds as required by law prior to the adoption of this act. Excess funds
10 shall be retained by the city or county and utilized as directed by the
11 governing body, but are, however, intended to provide a sufficient level of
12 funds as to allow for the change in the disbursement of funds as required by
13 Sections 12 and 13 of this act.

14

15 SECTION 18. All provisions of this act of a general and permanent
16 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
17 Code Revision Commission shall incorporate the same in the Code.

18

19 SECTION 19. If any provision of this act or the application thereof to
20 any person or circumstance is held invalid, such invalidity shall not affect
21 other provisions or applications of the act which can be given effect without
22 the invalid provision or application, and to this end the provisions of this
23 act are declared to be severable.

24

25 SECTION 20. Arkansas Code Annotated §§ 1-2-306, 5-64-416, 5-64-709,
26 5-65-113, 5-65-115(c), 5-65-307(c)(1) and (2), 6-64-603, 12-41-617,
27 14-20-102(b), 14-20-115, 14-42-112(e), 16-17-109, 16-17-110, 16-17-111,
28 16-17-112, 16-17-113, 16-17-123, 16-17-402(c) and (d), 16-17-614, 16-19-413,
29 16-20-107, 16-21-106(b)(2)(B) and (C), 16-21-113(f), 16-21-1103(b),
30 16-21-1503(a), 16-23-103, 16-87-111(b), 16-90-718, 16-92-110, 16-92-111,
31 16-92-116, 20-7-123(a)(1)(C) and (F), 20-18-405, 20-18-502(c), 21-6-404,
32 21-6-405, 21-6-410, 22-3-920, 24-8-303, 24-8-315(e), 24-8-402 and 27-50-401
33 are hereby repealed effective October 1, 1995.

34

35 SECTION 21. Section 2 of Act 685 of 1971 as amended by Acts 995 and

1 1081 of 1975, Act 311 of 1981, Act 472 of 1981, Act 958 of 1981, Act 972 of
2 1981, Act 978 of 1981, Act 989 of 1981, Act 4 of 1983, Act 300 of 1983,
3 Section 3 of Act 335 of 1983, Section 7 of Act 485 of 1983, Act 576 of 1983,
4 Act 607 of 1983, Act 610 of 1983, Act 682 of 1983, Act 803 of 1983, Act 919
5 of 1983, Act 322 of 1987, Act 543 of 1987, Act 782 of 1987, Act 851 of 1987,
6 Act 255 of 1989, Act 349 of 1989, Act 398 of 1989, Act 442 of 1989, Act 1149
7 of 1991, Act 1150 of 1991, and Act 311 of 1993 are hereby repealed effective
8 October 1, 1995.

9

10 SECTION 22. All other laws and parts of laws in conflict with this act
11 are hereby repealed.

12

13 SECTION 23. EMERGENCY. It is hereby found and determined by the
14 General Assembly of the State of Arkansas that the current system of funding
15 the state judicial system has created inequity in the level of judicial
16 services available to the citizens of the state; and it is further determined
17 that the current method of financing the state judicial system has become so
18 complex as to make the administration of the system impossible, and the lack
19 of reliable data on the current costs of the state judicial system prohibits
20 any comprehensive change in the funding of the system at this time.
21 Therefore, an emergency is hereby declared to exist and this act being
22 necessary for the immediate preservation of the public peace, health, and
23 safety, shall be in full force and effect from and after its passage and
24 approval."

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/s/Dowd

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