

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

# A Bill

SENATE BILL 764

## For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE TO  
9 DELAY UNTIL JANUARY 1, 1996 IMPLEMENTATION OF CERTAIN  
10 PROVISIONS OF ACT 1085 OF 1993 WHICH ADDED SIX JUDGES TO  
11 THE ARKANSAS COURT OF APPEALS; AND FOR OTHER PURPOSES."

## Subtitle

14 "TO DELAY UNTIL JANUARY 1, 1996  
15 IMPLEMENTATION OF CERTAIN PROVISIONS OF  
16 ACT 1085 OF 1993 WHICH ADDED SIX JUDGES  
17 TO THE ARKANSAS COURT OF APPEALS"

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

21 SECTION 1. Arkansas Code Annotated §16-12-101 is amended to read as  
22 follows:

23 "16-12-101. Creation of court and apportionment board - Composition -  
24 Establishment of districts.

25 (a) There is created, pursuant to Arkansas Constitution, Amendment 58,  
26 the Arkansas Court of Appeals, to be composed of six (6) members, and the  
27 Court of Appeals Apportionment Board, to be composed of the Governor, the  
28 Chief Justice of the Supreme Court, the Secretary of State, the Attorney  
29 General, the Chairman of the Senate Judiciary Committee, and the Chairman of  
30 the House Judiciary Committee.

31 (b) The apportionment board shall establish Court of Appeals districts  
32 in such manner as will result in each district containing substantially equal  
33 populations.

34 (c)(1) On and after January 1, 1996, the Court of Appeals shall be  
35 composed of twelve (12) judges.

1           (2) The judges shall be elected for full eight-year terms.

2           (3) Each of the judges shall be a resident of the district from  
3 which elected and shall have the same qualifications for holding office and  
4 shall receive the same salary, expenses, and other allowances as provided by  
5 law for other judges of the Court of Appeals."

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7           SECTION 2. Arkansas Code Annotated §16-12-103 is amended to read as  
8 follows:

9           "16-12-103. Location of court.

10          Effective January 1, 1996, the Court of Appeals shall be located in  
11 Little Rock and shall have offices as convenient to the State Capitol and the  
12 law library in the Justice Building as can be arranged, but the court en  
13 banc, or any division thereof, may sit in any county seat for the purpose of  
14 hearing argument in cases before it."

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16          SECTION 3. Arkansas Code Annotated §16-12-109 is amended to read as  
17 follows:

18          "16-12-109. Divisions of court.

19          (a) Effective January 1, 1996, four (4) divisions of the Court of  
20 Appeals, to be known and designated as Division I, Division II, Division III,  
21 and Division IV are authorized.

22          (b) Effective January 1, 1996, each of the divisions authorized shall  
23 consist of three (3) judges of the Court of Appeals, but no judge shall be  
24 permanently assigned to any division.

25          (c) Effective January 1, 1996, the judges constituting the respective  
26 divisions shall be rotated not less frequently than semiannually under rules  
27 prescribed by the Court of Appeals."

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29          SECTION 4. Arkansas Code Annotated §16-12-110 is amended to read as  
30 follows:

31          "16-12-110. Presiding judge in each division.

32          Effective January 1, 1996, the Chief Judge of the Court of Appeals  
33 shall preside over the court sitting en banc and over any division or  
34 divisions of which he or she is a member. The presiding judges of other  
35 divisions shall be selected under rules prescribed by the Court of Appeals."

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SECTION 5. Arkansas Code Annotated §16-12-111 is amended to read as follows:

"16-12-111. Assignment of cases.

Effective January 1, 1996, any case submitted to the Court of Appeals for action may be heard by the court en banc or assigned to one (1) or more of the divisions created by this chapter."

SECTION 6. Arkansas Code Annotated §16-12-113 is amended to read as follows:

"16-12-113. Decisions of court.

Effective January 1, 1996, the decision of a division must be unanimous. If the decision is not unanimous, the case shall be resubmitted under rules prescribed by the Court of Appeals to the original division to which the case was submitted and to another of the divisions authorized by § 16-12-109. The two (2) divisions shall then decide the case by majority vote; however, if there is a tie vote, the decision appealed from shall be affirmed."

SECTION 7. Arkansas Code Annotated §16-12-114 is amended to read as follows:

"16-12-114. Rehearings.

(a) Effective January 1, 1996, a party aggrieved by the decision of a division of the Court of Appeals shall have the right to petition for a rehearing which shall be decided under rules prescribed by the Court of Appeals by the original division which decided the case and by another of the divisions authorized by § 16-12-109. If the petition is granted, the rehearing shall be decided by the majority vote of the two (2) divisions which granted the rehearing, and, if there is a tie vote on rehearing, the decision of the original division shall stand.

(b) Effective January 1, 1996, petitions for rehearing in cases decided by the vote of two (2) divisions sitting together shall be decided in the same manner provided in subsection (a) of this section by the same divisions which made the original decision.

(c) Effective January 1, 1996, motions filed in the Court of Appeals

1 shall be submitted to and decided by at least two (2) divisions sitting  
2 together, under rules prescribed by the Court of Appeals."

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4 SECTION 8. Uncodified Section 2 of Act 1085 of 1993 is amended to read  
5 as follows:

6 "(a) The additional judgeships created by Section 1 of this act shall  
7 be effective on and after January 1, 1996. The Governor shall appoint one  
8 (1) person from each of the new districts to serve from January 1, 1996  
9 through December 31, 1996. Said judges shall be residents of the district  
10 from which appointed. None of those appointees shall be eligible to seek  
11 election as a member of the court in the 1996 general election.

12 (b) The qualified electors of the Court of Appeals Districts  
13 established in compliance with Section 4 of this act shall elect the  
14 additional Court of Appeals judges at the November, 1996 general election to  
15 take office on January 1, 1997."

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17 SECTION 9. Uncodified Section 4 of Act 1085 of 1993 is amended to read  
18 as follows:

19 "(a) The 80th General Assembly shall determine the number and location  
20 of Court of Appeals districts from which the members of the Court of Appeals  
21 shall be selected.

22 (b) In order to assist the General Assembly with the establishment of  
23 these districts, there is hereby created the Court of Appeals Apportionment  
24 Commission to be composed of the following persons:

25 (1) The Governor or his designee;

26 (2) The Chairman of the Senate Judiciary Committee or his  
27 designee, plus one (1) other member of the Senate Judiciary Committee to be  
28 selected by the President Pro Tempore of the Senate;

29 (3) The Chairman of the House Judiciary Committee or his  
30 designee, plus one (1) other member of the House Judiciary Committee to be  
31 selected by the Speaker of the House;

32 (4) The Chief Judge of the Court of Appeals;

33 (5) A citizen, appointed by the Governor, who shall represent  
34 the interest of minority voters; and

35 (6) A member to be selected by the Arkansas Bar Association.

1 (c) The Commission shall review the current Court of Appeals districts  
2 and shall make a recommendation to the 80th General Assembly on the changes,  
3 if any, to be made to the districts, effective January 1, 1996."  
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5 SECTION 10. All provisions of this act of a general and permanent  
6 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
7 Code Revision Commission shall incorporate the same in the Code.  
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9 SECTION 11. If any provision of this act or the application thereof to  
10 any person or circumstance is held invalid, such invalidity shall not affect  
11 other provisions or applications of the act which can be given effect without  
12 the invalid provision or application, and to this end the provisions of this  
13 act are declared to be severable.  
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15 SECTION 12. All laws and parts of laws in conflict with this act are  
16 hereby repealed.  
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18 SECTION 13. EMERGENCY. It is hereby found and determined by the  
19 General Assembly of the State of Arkansas that this act amends Arkansas Code  
20 Annotated § 16-12-101 and uncodified sections of Acts 1993, No. 1085; the  
21 judicial positions created by § 16-12-101 are to become effective July 1,  
22 1995 and this act would delay the effect of Act 1085 until January 1, 1996;  
23 and that in the event of the extension of the regular session the delay in  
24 the effective date of this act beyond July 1, 1995 would work irreparable  
25 harm on the proper administration of this act. Therefore, an emergency is  
26 hereby declared to exist and this act being necessary for the immediate  
27 preservation of the public peace, health, and safety, shall be in full force  
28 and effect from and after its passage and approval.  
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