

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: H3/5/97

# A Bill

HOUSE BILL 1909

4  
5 By: Representative Luker  
6  
7

## For An Act To Be Entitled

8  
9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
10 ANNOTATED TO PHASE IN THE TRANSFER OF FUNDING OF THE STATE  
11 TRIAL COURT SYSTEM FROM COUNTY GOVERNMENT TO THE STATE;  
12 AND FOR OTHER PURPOSES."  
13

## Subtitle

14  
15 "TO PHASE IN THE TRANSFER OF FUNDING OF  
16 THE STATE TRIAL COURT SYSTEM FROM COUNTY  
17 GOVERNMENT TO THE STATE."  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. (a) It is hereby found by the General Assembly that the  
22 current system of funding the state judicial system has created inequity in  
23 the level of judicial services available to the citizens of the state. It is  
24 further determined that, with the passage and implementation of Act 1256 of  
25 1995, a uniform structure for the accounting and distribution of court  
26 generated funds has been established and reliable data on the cost of  
27 providing court services and the revenue produced by the court system now  
28 exists.

29 (b) It is, therefore, the intent of this Act to begin to phase in the  
30 responsibility of the funding of a part of the state trial court system from  
31 county government to the state. It is, further, the intent of this Act to  
32 continue and improve the reporting of information from cities and counties  
33 concerning the costs of providing the court system and the revenues produced  
34 from court costs, fees, and fines.  
35

36 SECTION 2. Arkansas Code Annotated § 5-76-103 is amended to read as

1 follows:

2 "5-76-103. Penalties.

3 (a)~~(1)~~ Any person who pleads guilty or nolo contendere to, or who is  
4 found guilty of violating, § 5-76-102, shall, in addition to other penalties  
5 provided therein, be required to complete an alcohol education program as  
6 prescribed and approved by the Arkansas Highway Safety Program or an  
7 alcoholism treatment program as approved by the Bureau of Alcohol and Drug  
8 Abuse Prevention of the Department of Health.

9 (b)~~(2)~~ Such alcohol education program may collect a program fee of up  
10 to fifty dollars (\$50.00) per enrollee to offset program costs.

11 (c)~~(1)~~~~(3)~~~~(A)~~ A person ordered to complete an alcoholism treatment  
12 program under this section may be required to pay, in addition to the costs  
13 collected for treatment, a fee of up to twenty-five dollars (\$25.00) to offset  
14 the additional costs associated with reporting requirements under this  
15 chapter.

16 (2)~~(B)~~ The alcohol education program shall report semiannually to  
17 the Arkansas Highway Safety Program all revenue derived from this fee."

18 ~~----- (b)(1) Within six (6) months of the final adjudication of guilt, the~~  
19 ~~operator shall furnish proof of attendance at and completion of the alcoholism~~  
20 ~~treatment or education program.~~

21 ~~----- (2)(A) If such proof is not furnished, the operator shall be~~  
22 ~~cited for contempt of court and assessed an additional court cost of two~~  
23 ~~hundred dollars (\$200.00), with fifty dollars (\$50.00) retained by the~~  
24 ~~municipal court.~~

25 ~~----- (B)(i) The remaining moneys received from these additional~~  
26 ~~court costs shall be remitted at least quarterly, by January 1, April 1, July~~  
27 ~~1, and October 1 to the Director of the Department of Finance and~~  
28 ~~Administration.~~

29 ~~----- (ii) One-half (1/2) of the moneys so received by the~~  
30 ~~director shall be deposited in the State Treasury to be credited to the~~  
31 ~~Highway Safety Special Fund for use to support programs of the Arkansas~~  
32 ~~Highway Safety Program.~~

33 ~~----- (iii) The remaining one-half (1/2) of such moneys~~  
34 ~~received by the director shall be deposited in the State Treasury to be~~  
35 ~~credited to the Alcohol and Drug Safety Fund to support alcoholism treatment~~  
36 ~~programs of the Bureau of Alcohol and Drug Abuse Prevention.~~

1

2 SECTION 3. Arkansas Code Annotated § 16-10-209 is amended to read as  
3 follows:

4 "16-10-209. Court clerk - Activities and clerical duties.

5 The following activities and clerical duties relating to court functions  
6 shall be required of all court clerks:

7 (1) Collection, Receipt, and Deposit Procedures:

8 (A) All receipt books must be prenumbered by the printer, and a  
9 printer's certificate or other evidence shall be furnished to the court clerk,  
10 which shall be made available for inspection;

11 (B) All void or spoiled receipts must be accounted for by  
12 attaching the original copy of the receipt to the duplicate copy of the  
13 receipt in the receipt book;

14 (C) For those checks forwarded with the arrest reports, the  
15 receipt shall be issued in the name of the police department, marshal's  
16 office, or sheriff's office; for those receipts issued at court date, the  
17 court clerk shall issue such receipts in the name of the defendant, regardless  
18 of who paid the bond or fine or who collected the bond or fine;

19 (D) A prenumbered receipt shall be issued for all moneys  
20 collected, and such receipts shall be deposited intact daily into the separate  
21 bank account maintained by the court clerk;

22 (E) The bank deposit slips prepared by the court clerk shall  
23 contain the range or receipt numbers evidencing such collections;  
24 additionally, the receipts issued shall be reconciled with the monthly bank  
25 deposits;

26 (F) A bank reconciliation shall be made at the end of each month,  
27 and any balance remaining in the bank account shall be identified with receipt  
28 numbers for cases not yet adjudicated and the payments made on all unpaid  
29 individual time accounts;

30 (G) The court clerk may maintain separate bank accounts for city  
31 cases and for county cases.

32 (2) Preparation and Submission of Court Report:

33 (A) The court report shall contain columns for the following  
34 information:

35 (i) Uniform traffic ticket number;

36 (ii) Defendant's name;

- 1 (iii) Nature of the offense;
- 2 (iv) Name of arresting officer;
- 3 (v) Court docket number;
- 4 (vi) Disposition or date continued;
- 5 (vii) Receipt number;
- 6 (viii) Total fine and costs collected;
- 7 (ix) Fine;
- 8 (x) Costs itemized including all prosecuting attorney fees;
- 9 (xi) Bond refund amount;
- 10 (xii) Bond refund check number; and
- 11 (xiii) Time payment amount.

12 (B) The court clerk at each court date shall prepare the court  
 13 report from the arrest report supplied by the police department, marshal's  
 14 office, or sheriff's office;

15 (C) At the end of each court date, the court clerk shall complete  
 16 the court report for the court date and total the dollar amounts contained  
 17 therein;

18 (D) The court reports prepared each court date shall be  
 19 summarized at least monthly;

20 (E)(i) The court clerk shall make a direct monetary settlement on  
 21 or before the fifth day of the next following month with each of the  
 22 following:

- 23 (a) The city treasurer; and
- 24 (b) The county treasurer; and
- 25 (c) The prosecuting attorney. ~~The treasurer of the~~  
 26 ~~community alcohol safety fund; and~~
- 27 ~~\_\_\_\_\_ (d) If applicable, the treasurer of the policemen's~~  
 28 ~~pension and relief fund and the municipal judge and clerk's retirement fund.~~

29 (ii) For those fines, penalties, and other charges arising  
 30 from tickets issued by the Arkansas Highway Police and the Arkansas State  
 31 Highway and Transportation Department, the court clerk shall make a direct  
 32 monetary settlement with them at the time the appropriate billing notice is  
 33 received;

34 (F) The court clerk, in conjunction with the making of the above  
 35 monetary settlement, will make reports in quadruplicate of the applicable  
 36 individual court reports and distribute the reports in the following manner:

- 1 (i) One (1) copy to the mayor;
- 2 (ii) One (1) copy to the county clerk;
- 3 (iii) One (1) copy to the Administrative Office of the
- 4 Courts; and
- 5 (iv) One (1) copy to be retained by the clerk and made
- 6 available for inspection.

7 (3) Minimum Bookkeeping Requirements:

8 (A) The court clerk shall maintain a separate cash receipts and

9 disbursements journal for city cases and county cases. The journal shall

10 consist of sufficient columns in order to properly classify all moneys

11 receipted as to their proper nature, i.e., fines, ~~state police retirement~~

12 ~~fund, county law library, administration of justice fund,~~ etc. The journal

13 shall also contain sufficient columns to properly classify all moneys

14 disbursed as to their proper nature, i.e., general fund, county treasurer,

15 bond refunds, etc.;

16 (B) The court clerk shall total and balance the receipts and

17 disbursements journal monthly and establish and maintain year-to-date totals

18 monthly;

19 (C) The court clerk shall prepare monthly bank reconciliations

20 for each court bank account. The cash receipts and disbursements journal shall

21 be utilized in effecting the bank reconciliations;

22 (D) Copies of bank reconciliations shall be furnished to the

23 court's presiding judge, county judge, and mayor.

24 (4) Bond Refunds:

25 (A) All bond refunds shall be made only upon the authorization of

26 the presiding judge and shall be indicated as such on the court docket;

27 (B) All bond refunds shall be made only by a check drawn on the

28 court's bank account. Additionally, the check shall indicate the court docket

29 number for authorization;

30 (C) The court clerk shall enter all bond refunds on the

31 applicable court report.

32 (5) Time or Partial Payments:

33 (A) Time payments shall be allowed only upon the authorization of

34 the presiding judge and shall be indicated as such on the court docket;

35 (B) The court clerk shall establish and maintain individual time

36 payment account ledger cards, with a duplicate copy of the ledger card being

1 furnished to and maintained by the appropriate police department, marshal's  
2 office, or sheriff's office. The ledger cards shall contain the following  
3 minimum information:

- 4 (i) Name of individual;
- 5 (ii) Court docket number and court date;
- 6 (iii) Nature of violation;
- 7 (iv) Total fine and costs assessed;
- 8 (v) Receipt number, date, and amount of payment; and
- 9 (vi) Unpaid balance of fine, fees and costs.

10 (C) The police department, marshal's office, or sheriff's office  
11 shall be responsible for collecting all time payments and shall enter all  
12 collected time payments on each applicable arrest report;

13 (D) The court clerk shall establish and maintain a control total  
14 for time payments, which is a summary of all unpaid individual time payment  
15 accounts. The control total shall be reconciled monthly with the individual  
16 time payment accounts;

17 (E) The court clerk shall furnish the presiding judge and the  
18 police department, marshal's office, or sheriff's office monthly with a list  
19 of all unpaid time payment accounts for which a payment has not been received  
20 within the past thirty (30) days. The presiding judge shall then take the  
21 necessary action deemed appropriate in the circumstances;

22 (F)(i) All time payments shall initially be deemed to be  
23 collections of court costs until the costs have been collected in full, with  
24 any remaining time payments representing collections of fines. The court clerk  
25 shall prepare at least monthly a separate court report for all time payments  
26 made on accounts. The monetary settlement for this separate court report shall  
27 be made on or before the fifth day of the next-following month. No settlement  
28 shall be made on any time payment account until all of the court costs  
29 applicable to the account have been collected in full, except that court costs  
30 on DWI cases may be settled as collected. Any subsequent collections on the  
31 time payment account, representing fines collected, shall be settled on the  
32 appropriate court report as they are collected.

33 (ii) A municipal or county governing body may provide by  
34 appropriate municipal or county legislation an alternative method of time  
35 payment allocation as follows:

36 (a) All time payments shall be allocated fifty

1 percent (50%) to court costs and fifty percent (50%) to fines. Whenever either  
2 court costs or fines are fully paid, all remaining time payments shall be  
3 allocated to remaining amounts due.

4 (b) The court clerk shall prepare at least monthly a  
5 separate court report for all time payments made on accounts. The monetary  
6 settlement for this separate court report shall be made on or before the fifth  
7 day of the next-following month.

8 (6) Reconciliation of Completed Ticket Books to Arrest Report:

9 (A) The court clerk shall, on a quarterly basis, on or  
10 before the fifteenth day of the month following the end of the calendar  
11 quarter, reconcile the individual tickets in the completed ticket book to the  
12 individual tickets as reflected on the arrest reports;

13 (B) For any discrepancies noted in the above  
14 reconciliation, the court clerk shall prepare a written list and present this  
15 list to the court's judge for his appropriate action."  
16

17 SECTION 4. Arkansas Code Annotated § 16-10-305 is amended to read as  
18 follows:

19 "16-10-305. Court costs.

20 (a) There shall be levied and collected from each defendant upon each  
21 conviction, each plea of guilty or nolo contendere, or forfeiture of bond, the  
22 following court costs:

23 (1) For misdemeanor or felony violation of state law, excluding  
24 violation of the Omnibus DWI Act, ~~§ 5-65-101 et seq.~~, in circuit court,  
25 ~~\$100.00~~ \$150.00;

26 (2) For ~~offenses which are misdemeanors or violations under state~~  
27 ~~law or local ordinance~~ misdemeanor violations of state law, excluding  
28 violation of the Omnibus DWI Act, ~~§ 5-65-101 et seq.~~, in municipal ~~court, city~~  
29 ~~court, or police~~ court, ~~\$50.00~~ \$75.00;

30 (3) For traffic offenses which are misdemeanors or violations  
31 under state law or local ordinance, excluding violation of the Omnibus DWI  
32 Act, ~~§ 5-65-101 et seq.~~, in municipal ~~court, city court, or police~~ court,  
33 ~~\$50.00~~ \$75.00;

34 (4) For non-traffic offenses which are violations under local  
35 ordinance in municipal, city, or police court, \$25.00;

36 ~~(4)(5) For violation of the Omnibus DWI Act, § 5-65-101 et seq.,~~

1 in circuit court, municipal court, and city, or police court, \$300.00.

2 (6) For offenses which are misdemeanors or violations under state  
3 law or local ordinance, excluding violation of the Omnibus DWI Act, \$50.00.

4 (b)~~(1)~~ The costs set forth in this section shall be imposed at the  
5 conclusion of any criminal case enumerated in subparagraph (a) that does not  
6 end in an acquittal, dismissal, or, with the consent of the prosecution, a  
7 nolle prosequi.

8 ~~—————(2)~~ They shall be imposed at the conclusion of cases involving a  
9 suspended or probated sentence even though that sentence may be expunged or  
10 otherwise removed from the defendant's record.

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

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

20 (e) This section shall become effective July 1, 1997 and the revised  
21 court costs shall be imposed on all cases which come before the court for  
22 final disposition on or after July 1, 1997."

23

24 SECTION 5. Establishment of City and County Shares.

25 (a) Pursuant to Arkansas Code Annotated §§ 16-10-307(c) and  
26 16-10-308(c), each city and county may retain a portion of the uniform court  
27 costs and filing fees collected and deposited into the city or county  
28 administration of justice fund. On or before the first day of October of each  
29 year, the Department of Finance and Administration shall certify in writing to  
30 each county and to each city which operates a municipal, city, or police court  
31 the amount of money which may be retained during each month of the following  
32 calendar year by the city or county.

33 (b) In case of a disagreement between the state and a city or county as  
34 to the appropriate amount of the city or county share, the Director of the  
35 Department of Finance and Administration is authorized to establish an  
36 administrative review process and, when necessary, adjust the city or county



1 share upon a finding of gross inadequacy.

2

3 SECTION 6. Arkansas Code Annotated 16-10-307 is amended to read as  
4 follows:

5 "16-10-307. County administration of justice fund.

6 (a) There is hereby created in each county a fund in the office of the  
7 county treasurer to be known as the county administration of justice fund .

8 (b) The county administration of justice fund shall be used to defray a  
9 part of the expenses of the administration of justice in the county. From the  
10 fund, the county shall continue to finance the following county agencies and  
11 programs which are currently funded, in whole or in part, by filing fees  
12 and/or court costs, at a funding level equal to not less than the greater of  
13 the amount which was ~~disbursed~~ collected by the county from filing fees and/or  
14 court costs ~~to~~ for the agency or program in the calendar year ending December  
15 31, 1994, or the amount appropriated by ordinance enacted prior to December  
16 31, 1994, or on February 13, 1995, or on February 14, 1995, or by resolution  
17 dated February 9, 1995, to the agency or program for the calendar year ending  
18 December 31, 1995:

19 (1) The prosecuting attorney fund, including all grant funds  
20 awarded and appropriated for the calendar year ending December 31, 1995;

21 (2) The prosecuting attorney's victim-witness program fund;

22 (3) The public defender/indigent defense fund and public defender  
23 investigator fund, including all grant funds awarded and appropriated for the  
24 calendar year ending December 31, 1995;

25 (4) The county law library fund;

26 (5) The county jail fund; and

27 (6) The intoxication detection equipment fund.

28 (c)(1) The county administration of justice fund of each county may  
29 retain an amount equal to the amount which was ~~disbursed~~ collected by the  
30 county from court costs and filing fees for county administration of justice  
31 expense in the calendar year ending December 31, 1994, or the amount  
32 appropriated from court costs and filing fees by ordinance enacted prior to  
33 December 31, 1994, or on February 13, 1995, or on February 14, 1995, or by  
34 resolution dated February 9, 1995, for county administration of justice  
35 expense from court costs and filing fees for the calendar year ending December  
36 31, 1995, plus, for each year after calendar year 1995, an additional amount

1 based upon the average percentage increase in the Consumer Price Index for All  
 2 Urban Consumers or its successor, as published by the ~~Bureau of Labor~~  
 3 ~~Statistics of the Department of Labor, using the greater amount disbursed in~~  
 4 ~~calendar year 1994 or the amount appropriated for calendar year 1995 as the~~  
 5 ~~base, which base shall be increased by the percentage that the Consumer Price~~  
 6 ~~Index for December of the succeeding year bears to the base U. S. Department~~  
 7 of Labor for the two years immediately preceding.

8 (2) For the calendar year beginning January 1, 1998, the base  
 9 amount to be retained shall be:

10 (A) increased by any increase in the Consumer Price Index,  
 11 as provided for in subsection (c)(1) of this section; and

12 (B) decreased by eighty five percent (85%) of the total  
 13 dollar amount which was certified by the county as having been collected  
 14 during calendar year 1994 and for the purpose of funding the office and  
 15 operation of the public defender and public defender investigator.

16 (d) Nothing in this Act shall prevent the county from funding any  
 17 additional costs for the administration of justice from these or other county  
 18 funds.

19 ~~—(d)~~(e) The county shall, on or before the tenth day of November, 1995,  
 20 and on or before the tenth day of each month thereafter, remit all sums  
 21 received in excess of the amounts necessary to fund the expenses enumerated in  
 22 subsections (b) and (c) of this section during the previous month from the  
 23 uniform filing fees provided for in §§ 16-14-105 and 21-6-304 and the uniform  
 24 court costs provided for in § 16-10-305 to the Department of Finance and  
 25 Administration, Administration of Justice Funds Section, for deposit in the  
 26 State Administration of Justice Fund."  
 27

28 SECTION 7. Procedure - County Administration of Justice Fund.

29 (a) Pursuant to Arkansas Code Annotated § 16-10-307, each county is to  
 30 create a county administration of justice fund. Each county treasurer should  
 31 deposit into the fund:

32 (1) All receipts from the collection of uniform filing fees  
 33 established by Arkansas Code Annotated 21-6-403 and Arkansas Code Annotated  
 34 16-14-105 which are collected by the circuit clerk, county clerk, or other  
 35 official and remitted to the county treasurer;

36 (2) All receipts from the collection of uniform court costs

1 established by Arkansas Code Annotated 16-10-305 which are collected by the  
2 circuit clerk, county clerk, county sheriff, or other official and remitted to  
3 the county treasurer;

4 (3) All receipts of the county's share of uniform filing fees  
5 established by Arkansas Code Annotated 16-17-705 and 16-10-303 which are  
6 collected by the municipal, city, and police courts within the county and  
7 remitted to the county treasurer; and

8 (4) All receipts of the county's share of uniform court costs  
9 established by Arkansas Code Annotated 16-10-305 which are collected by the  
10 municipal, city, and police courts within the county and remitted to the  
11 county treasurer.

12 (b) From the county administration of justice fund, the county treasurer  
13 is to make, on a monthly basis, the following fund transfers or disbursements;

14 (1) Pursuant to Arkansas Code Annotated 16-10-307(c) and Section  
15 11 of this Act, the Department of Finance and Administration will certify for  
16 each county the county's monthly share of uniform court costs and filing fees  
17 to be retained by the county. Each year the quorum court shall establish the  
18 amount of uniform filing fees and court costs to be appropriated to each of  
19 the county programs or agencies enumerated in Arkansas Code Annotated  
20 16-10-307(b) from the county's share of uniform court costs and filing fees,  
21 provided that each program or agency shall receive, as a minimum, the amount  
22 established by Arkansas Code Annotated 16-10-307(b).

23 (2) The excess of the monthly receipts into the fund from  
24 subsection (a)(1) and (2) of this section less the county's certified monthly  
25 share and the county treasurer's commission, if any, as authorized by Arkansas  
26 Code Annotated § 21-6-302, shall be remitted to the Department of Finance and  
27 Administration, pursuant to Arkansas Code Annotated § 16-10-307(d).

28

29 SECTION 8. Arkansas Code Annotated § 16-10-308 is amended to read as  
30 follows:

31 "16-10-308. City administration of justice fund.

32 (a) There is hereby created in each municipality which operates a  
33 police, city, or municipal court a fund in the office of the city treasurer to  
34 be known as the city administration of justice fund.

35 (b) The city administration of justice fund shall be used to defray a  
36 part of the expense of the administration of justice in the city. From the

1 fund, the city shall continue to finance the following city agencies and  
2 programs which are currently funded, in whole or in part, by filing fees  
3 and/or court costs, at a funding level equal to not less than the greater of  
4 the amount which was ~~disbursed~~ collected by the city from court costs and/or  
5 filing fees ~~to~~ for the agency or program in the calendar year ending December  
6 31, 1994, or the amount appropriated by ordinance enacted prior to December  
7 31, 1994, to the agency or program for the calendar year ending December 31,  
8 1995:

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

21 (c)(1) The city administration of justice fund of each city may retain  
22 an amount equal to the amount which was ~~disbursed~~ collected by the city from  
23 court costs and filing fees for city administration of justice expense in the  
24 calendar year ending December 31, 1994, or the amount appropriated from court  
25 costs and filing fees by ordinance enacted prior to December 31, 1994, for  
26 city or county administration of justice expense from court costs and filing  
27 fees for the calendar year ending December 31, 1995, plus, for each year after  
28 calendar year 1995, an additional amount based upon the average percentage  
29 increase in the Consumer Price Index for All Urban Consumers or its successor,  
30 as published by the ~~Bureau of Labor Statistics of the Department of Labor,~~  
31 ~~using the greater of the amount disbursed in calendar year 1994 or the amount~~  
32 ~~appropriated for calendar year 1995 as the base, which base shall be increased~~  
33 ~~by the percentage that the Consumer Price Index for December of the succeeding~~  
34 ~~year bears to the base~~ U. S. Department of Labor for the two years immediately  
35 preceding.

36 (2) For the calendar year beginning January 1, 1998, the base

1 amount to be retained shall be:

2 (A) increased by any increase in the Consumer Price Index,  
3 as provided for in subsection (c)(1) of this section;

4 (B) decreased by eighty-five percent (85%) of the total  
5 dollar amount which was certified by the city as having been collected during  
6 calendar year 1994 for the purpose of funding the office and operation of the  
7 public defender and public defender investigator; and

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

10 (e) The city shall, on or before the tenth day of November, 1995, and  
11 on or before the tenth day of each month thereafter, remit all sums received  
12 in excess of the amounts necessary to fund the expenses enumerated in  
13 ~~subsections~~ subsections (b) and (c) of this section during the previous month  
14 from the uniform filing fees provided for in §§ 16-10-303 and 16-17-705 and  
15 the uniform court costs provided for in § 16-10-305 to the Department of  
16 Finance and Administration, Administration of Justice Funds Section, for  
17 deposit in the State Administration of Justice Fund.

18

19 SECTION 9. Procedure - City Administration of Justice Fund.

20 (a) Pursuant to Arkansas Code Annotated 16-10-308, each municipality  
21 which operates a police, city, or municipal court is to create a city  
22 administration of justice fund. There shall be deposited into the fund:

23 (1) All receipts from the collection of uniform filing fees  
24 established by Arkansas Code Annotated 16-17-705 and Arkansas Code Annotated  
25 16-10-303 which are collected by the police, city, or municipal court operated  
26 by the municipality; and

27 (2) All receipts from the collection of uniform court costs  
28 established by Arkansas Code Annotated 16-10-305 which are collected by the  
29 police, city, or municipal court operated by the municipality.

30 (b) From the city administration of justice fund, the following fund  
31 transfers or disbursements shall be made on a monthly basis:

32 (1) Pursuant to Arkansas Code Annotated 16-10-308(c) and Section  
33 11 of this Act, the Department of Finance and Administration will certify for  
34 each city the city's monthly share of uniform court costs and filing fees to  
35 be retained by the city. Each year the city council shall establish the  
36 amount of uniform filing fees and court costs to be appropriated to each of

1 the city programs or agencies enumerated in Arkansas Code Annotated  
2 16-10-308(b) from the city's share of uniform court costs and filing fees,  
3 provided that each program or agency shall receive, as a minimum, the amount  
4 established by Arkansas Code Annotated 16-10-308(b). Each program or agency  
5 shall be paid, by warrant or fund transfer, a monthly installment of at least  
6 one-twelfth (1/12) of the annual appropriation provided for each by the city  
7 council.

8           (2) Pursuant to Arkansas Code Annotated 16-10-308(b)(5), the city  
9 shall remit to the county treasurer for deposit into the county administration  
10 of justice fund a portion of the city's share of uniform court costs and  
11 filing fees. The amount of the remittance shall be based upon the amount, if  
12 any, of uniform court costs and filing fees which had been remitted by the  
13 city to the county to fund county-level programs and agencies during the base  
14 year defined in Arkansas Code Annotated 16-10-308(b). By common agreement,  
15 cities and counties may establish a different fixed dollar amount or  
16 percentage of the city's monthly share of filing fees and court costs which  
17 shall be remitted to the county treasurer;

18           (3) For the calendar year beginning January 1, 1998 the amount of  
19 the remittance shall be based upon the amount, if any, of uniform court costs  
20 and filing fees which had been remitted by the city to fund county-level  
21 programs and agencies during the base year defined in Arkansas Code Annotated  
22 16-10-308(b) less eighty-five percent (85%) of the total dollar amount which  
23 was certified by the city as having been collected during calendar year 1994  
24 for the purpose of funding the office and operation of the public defender and  
25 public defender investigator.

26           (4) The excess of the monthly receipts into the fund less the  
27 city's certified monthly share shall be remitted to the Department of Finance  
28 and Administration, pursuant to Arkansas Code Annotated 16-10-308(e).

29           (c) If a municipal court is operated solely by a county rather than a  
30 city and all of the uniform court costs and filing fees collected by the court  
31 are remitted to the county, the city shall not be required to create a city  
32 administration of justice fund; rather, the city's share of uniform court  
33 costs and filing fees shall be remitted directly to the county treasurer for  
34 deposit into the county administration of justice fund.

35           (d) For any municipal, city, or police court which was created after  
36 January 1, 1994, such that the base year used to calculate the city share

1 pursuant to Arkansas Code Annotated 16-10-308 was not complete, the city share  
 2 shall be deemed to be fifty percent (50%) of the uniform court costs and  
 3 filing fees collected and remitted to the city administration of justice fund.  
 4 From this fifty percent (50%) share, the city shall disburse or transfer  
 5 funds to the local programs or agencies pursuant to subsection (b)(1) of this  
 6 section and to the county treasurer, pursuant to subsection (b) (2) of this  
 7 section. The remaining fifty percent (50%) shall be remitted to the  
 8 Department of Finance and Administration, pursuant to Arkansas Code Annotated  
 9 16-10-308(e).

10

11 SECTION 10. Arkansas Code Annotated § 16-10-310 is amended to read as  
 12 follows:

13 "16-10-310. Distribution of revenue.

14 At the close of books on the twentieth working day of November, 1995,  
 15 and on or before the twentieth working day of each month thereafter, the  
 16 Department of Finance and Administration shall make the following distribution  
 17 of revenue received for the previous month and credited to the State  
 18 Administration of Justice Fund:

19 The following state programs and agencies ~~which are currently funded by~~  
 20 ~~court costs and filing fees~~ shall be paid at an annual rate, at not less than  
 21 the amounts certified by the Department of Finance and Administration which  
 22 were received by the program or agency in the fiscal year ending June 30,  
 23 1995, in a monthly installment of at least one-twelfth (1/12) of the annual  
 24 appropriation provided for each agency for this purpose from the State  
 25 Administration of Justice Fund:

26 (1) The Board of Trustees of the University of Arkansas for the  
 27 purpose and as regulated by §§ 6-64-604 - 6-64-606;

28 (2) The Public Health ~~Fund~~ and the Drug Abuse Prevention and  
 29 Treatment Funds for use in the drug abuse prevention and treatment program of  
 30 the Bureau of Alcohol and Drug Abuse Prevention ~~of the Department of Health;~~

31 (3) The Highway Safety Special Fund for programs of the Highway  
 32 Safety Program;

33 (4) The Department of Arkansas State Police for the State Police  
 34 Retirement Fund;

35 (5) The Crime Victims Reparations Revolving Fund for the purpose  
 36 and as regulated by § 16-90-701 et seq.;

1 (6) The Prosecutor Coordinator's office for deposit in the Law  
2 Enforcement and Prosecutor Drug Enforcement Training Fund;

3 (7) The Arkansas Code Revision Fund for the purpose and as  
4 regulated by § 1-2-305;

5 (8) The Crime Information System Fund;

6 (9) The Justice Building Construction Fund;

7 ~~\_\_\_\_\_ (9)(10)~~ The Municipal Court Judge and Municipal Court Clerk  
8 Education Fund;

9 ~~\_\_\_\_\_ (10)(11)~~ The Arkansas Judicial Retirement System Fund;

10 ~~\_\_\_\_\_ (11)(12)~~ The State Central Services Fund for the benefit of the  
11 Arkansas Public Defender Commission;

12 ~~\_\_\_\_\_ (12)(13)~~ The Court Reporter Fund;

13 ~~\_\_\_\_\_ (13)(14)~~ The Justice Building Fund;

14 ~~\_\_\_\_\_ (14)(15)~~ The Arkansas Counties Alcohol and Drug Abuse and Crime  
15 Prevention Program Fund; ~~and~~

16 ~~\_\_\_\_\_ (15)(16) Effective July 1, 1996, the~~ The Administration of  
17 Justice Fund for disbursement by the Auditor of State to fund the trial court  
18 staff persons authorized by § 16-10-133; and

19 (17) The Department of Arkansas State Police Fund.  
20

21 SECTION 11. Arkansas Code Annotated § 16-14-105(a) is amended to read  
22 as follows:

23 "16-14-105. Uniform ~~advance~~ filing fees and court costs.

24 (a)(1) The uniform ~~advance~~ filing fees to be charged by the clerks of  
25 the probate court for initiating a cause of action in probate court in this  
26 state shall be ~~one hundred twenty dollars (\$120)~~ one hundred dollars (\$100),  
27 and no portion of the ~~advance fees~~ filing fee shall be refunded.

28 (2) The filing fee for reopening a cause of action in the probate  
29 court shall be thirty dollars (\$30.00); provided, however, that this fee shall  
30 not apply to revocation of conditional release of insanity acquittees pursuant  
31 to § 5-16-316.

32 ~~\_\_\_\_\_ (2)(3)~~ No county shall authorize, and no chancery or probate  
33 court clerk shall assess or collect, any other filing fees than those  
34 authorized, unless specifically provided by state law."  
35

36 SECTION 12. Funding of Public Defenders.



1           (a) Effective January 1, 1998, the Arkansas Public Defender Commission  
2 shall be responsible for the payment of the following:

3                   (1) the salaries of public defenders;

4                   (2) the salaries of secretaries and other support staff of the  
5 public defender's office;

6                   (3) the payment of the costs of certain expenses, as authorized by  
7 Arkansas Code Annotated § 16-87-212.

8           (b) Effective January 1, 1998, each county of counties within a judicial  
9 district shall be responsible for the payment of the following:

10                   (1) the cost of facilities, equipment, supplies, and other office  
11 expenses of the public defender's office; and

12                   (2) the compensation of additional personnel within the office of  
13 the public defender, when approved in advance by the quorum court.

14

15           SECTION 13. Selection and Qualifications of Public Defenders.

16           (a) Each person selected as a public defender shall be:

17                   (1) licensed to practice law in the State of Arkansas; and

18                   (2) experienced in the defense of criminal cases.

19           (b) Any person interested in being considered for appointment as a  
20 public defender in a judicial district shall submit his name to the Arkansas  
21 Public Defender Commission. The Commission shall evaluate each candidate and  
22 make a recommendation to the circuit, chancery, and circuit-chancery judges  
23 within the judicial district. The judges shall, by majority vote, choose the  
24 public defender from the list of all persons considered and evaluated by the  
25 Commission.

26           (c) The public defender in each judicial district shall be appointed for  
27 a term of two years to begin January 1, 1998 and shall be removed by the  
28 Commission before the expiration of his term only for just cause. Just cause  
29 for removal shall consist of permanent physical or mental disability seriously  
30 interfering with the performance of duties, willful misconduct in office,  
31 willful and persistent failure to perform public defender duties, habitual  
32 intemperance, or conduct prejudicial to the administration of justice.

33           (d) The public defender shall be eligible for reappointment.

34           (e) Vacancies in the office shall be filled in the same manner as the  
35 initial appointment.

36

1           SECTION 14. Distribution and Placement of Public Defender Positions.

2           (a) Effective January 1, 1998, there shall be created within the  
3 Arkansas Public Defender Commission a number of positions, including chief  
4 public defenders, public defenders, investigators, and secretaries.

5           (b) The Arkansas Public Defender commission shall allocate positions to  
6 each county and/or judicial district based on an appropriate formula adopted  
7 by the Commission. In the distribution of positions, the Commission shall be  
8 guided by:

9                     (1) the current distribution and type of positions across the  
10 state;

11                    (2) an evaluation of court case filings and dispositions, the  
12 number of judges, the size and population of the county or district, and other  
13 appropriate factors; and

14                    (3) the desire to avoid the necessity of appointing outside public  
15 defenders or private counsel due to conflicts of interest.

16           (c)(1) There shall be at least one public defender position allocated to  
17 each judicial district.

18                    (2) Where appropriate, a position or positions may be assigned to  
19 a single county. In counties where more than one position is allocated, the  
20 Commission may designate one or more of the positions as chief public  
21 defenders.

22                    (3) When one or more chief public defenders is assigned to a  
23 county or judicial district and said chief public defender shall have  
24 administrative authority over other public defenders within the county or  
25 district, the chief public defender may be given the authority to select the  
26 other public defenders in consultation with the Arkansas Public Defender  
27 Commission, if such selection process is approved by the judges within the  
28 judicial district. If such a selection process is approved, the chief public  
29 defender, and not the judges as authorized by Section 13 (b) of this Act,  
30 shall select the public defenders.

31                    (4) Public defender positions may be allocated on a full-time or  
32 part-time basis. When a public defender is employed on a part-time basis, he  
33 may engage in the general practice of law. No person shall serve as a  
34 part-time public defender who also serves as a part-time municipal court  
35 judge, city court judge, or deputy prosecuting attorney in any judicial  
36 district.

1        (d) The Commission shall develop the initial allocation of public  
2 defender positions to all counties and judicial districts on or before August  
3 1, 1997. The plan shall be reviewed by the Joint Interim Committee on  
4 Judiciary on or before October 1, 1997.

5

6        SECTION 15. Salaries of Public Defenders.

7        (a) The entry level salaries of public defenders and public defender  
8 staff positions shall be consistent with that established by the state pay  
9 plan for the appropriate grade of each position.

10       (b) The public defenders and public defender staff positions shall be  
11 subject to the Uniform Attendance and Leave Policy Act.

12

13       SECTION 16. The public defender in each judicial district shall have  
14 the following duties:

15       (1) Defend indigents within the District as determined by the circuit,  
16 municipal, city, police, juvenile, probate or chancery courts in the district  
17 in all felony, misdemeanor, juvenile, guardianship, and mental health cases,  
18 all traffic cases punishable by incarceration, and all contempt proceedings  
19 punishable by incarceration.

20       (2) In all capital cases where the death penalty is sought two  
21 attorneys shall be appointed, unless the prosecuting attorney informs the  
22 circuit court at the arraignment of the defendant that the death penalty will  
23 not be sought. The Capital, Conflicts, and Appellate Office of the Public  
24 Defender Commission may be appointed, consistent with Arkansas Code Annotated  
25 § 16-87-205. It should be presumed for purposes of this section that the  
26 death penalty will be sought.

27

28       SECTION 17. Trial Public Defender Office.

29       There is hereby created within the Arkansas Public Defender Commission  
30 the Trial Public Defender Office to be comprised as follows:

31       (1) The Trial Public Defender Office shall supervise the development  
32 and operations of each of the components of the Arkansas trial public defender  
33 system pursuant to the rules, regulations and standards for governing the  
34 system adopted by the Commission.

35       (2) The Executive Director of the Commission shall appoint a defense  
36 services administrator. The administrator shall be chosen solely on the basis

1 of training, experience, and other qualifications. The administrator need not  
2 be licensed to practice law.

3 (3) The administrator may hire support staff and other personnel as  
4 necessary to properly discharge the duties assigned to the Trial Public  
5 Defender Office to the extent allowed and as funds are appropriated by the  
6 General Assembly.

7

8 SECTION 18. Arkansas Code Annotated § 16-87-203(a) is amended to read  
9 as follows:

10 "(a) The commission shall have the following powers and duties:

11 (1) To establish policies and standards for the public defender  
12 system throughout the state, including standards for determining who qualifies  
13 as an indigent person;

14 (2) To establish policies and standards for the organization and  
15 operation of ~~trial~~ public defender's offices throughout the state, including  
16 funding, compensation, staffing, and standards of experience for attorneys  
17 assigned to particular cases;

18 (3) To allocate personnel ~~approve the annual budget~~ for each  
19 ~~trial~~ public defender's office throughout the state;

20 (4) To require annual reports regarding expenditures, caseloads,  
21 and status of cases from each ~~trial~~ public defender;

22 (5) To evaluate the performance of the Executive Director of the  
23 Arkansas Public Defender Commission, the Capital, Conflicts, and Appellate  
24 Office, the Trial Public Defender Office, each ~~trial~~ public defender, and  
25 private attorneys assigned to represent indigent persons;

26 (6) To ~~approve~~ the reassignment of cases from one ~~trial~~ public  
27 defender to another ~~trial~~ public defender in an adjacent area for the purpose  
28 of avoiding conflicts or adjusting caseloads;

29 (7) To ~~approve~~ the purchase, rental, and sharing of office space,  
30 equipment, or personnel among ~~trial~~ public defenders in the event and to the  
31 extent such items have been provided through an appropriation of the General  
32 Assembly;

33 (8) To establish employee personnel policies for the commission  
34 and the ~~trial~~ public defenders;

35 (9) To accept and to authorize a ~~trial~~ public defender to accept  
36 moneys, gifts, grants, or services from any public or private source;

1                   (10) To enter and authorize a ~~trial~~ public defender to enter into  
2 contracts with individuals, educational institutions, nonprofit associations,  
3 or state or federal agencies, including contracts for the provision of legal  
4 services related to the defense of indigent persons;

5                   (11) To maintain for each judicial district a current list of  
6 private attorneys who are willing to accept court appointments and who meet  
7 any other qualifications established by the commission; and

8                   (12) To maintain a separate list of private attorneys who are  
9 willing to accept court appointments in capital cases and who meet any other  
10 qualifications established by the commission."  
11

12           SECTION 19. Arkansas Code Annotated § 16-87-204(b) is amended to read  
13 as follows:

14           (b) The executive director shall have the following powers and duties:

15                   (1) To supervise the operations of the Capital, Conflicts, and  
16 Appellate Office, and the Trial Public Defender Office;

17                   (2) To maintain records of the operation of the public defender  
18 system, including, but not limited to, the following:

19                           (A) Detailed descriptions of the organization of each ~~trial~~  
20 public defender's office;

21                           (B) The caseload of each ~~trial~~ public defender's office,  
22 including cases assigned to private attorneys;

23                           (C) Budgets and actual expenditures of the commission and  
24 each ~~trial~~ public defender's office;

25                           (D) Reassignment of cases from one ~~trial~~ public defender to  
26 another ~~trial~~ public defender in an adjacent area; and

27                           (E) Assignment of cases to private attorneys.

28                   (3) To present to the commission within ninety (90) days after  
29 the end of the fiscal year an annual report on the operation of the public  
30 defender system which shall include an accounting of all funds received and  
31 disbursed, an evaluation of the cost-effectiveness of the public defender  
32 system, and recommendations for improvement;

33                   (4) To prepare a budget for the operations of the commission;

34                   (5) To allocate and disburse funds appropriated for the  
35 operations of the commission and the public defender system pursuant to  
36 guidelines established by the commission;

1                   (6) To allocate public defenders, investigators, and secretary  
2 positions to the office of the public defender in each county or judicial  
3 district, based upon a formula established by the commission;

4                   ~~(6)~~(7) To establish procedures for evaluating the performance of  
5 public defenders and private attorneys participating in the public defender  
6 system, pursuant to policies and standards developed by the commission;

7                   ~~(7)~~(8) To appear before and provide assistance to the General  
8 Assembly and other relevant bodies regarding matters related to the public  
9 defender system;

10                   ~~(8)~~(9) To convene conferences and training seminars related to  
11 the public defender system;

12                   ~~(9)~~(10) To compile and disseminate statutes, court opinions, and  
13 other information to ~~trial~~ public defenders and private attorneys  
14 participating in the public defender system;

15                   ~~(10)~~(11) To maintain a brief bank for use in connection with  
16 appeals; and

17                   ~~(11)~~(12) To perform other duties related to the administration of  
18 the public defender system as the commission may direct.

19

20                   SECTION 20. Conflicts of Interest.

21                   If a court determines that a conflict of interest exists between an  
22 indigent person and the public defender, the case shall be reassigned as  
23 follows:

24                   (1) If there is, within the county or judicial district, another public  
25 defender, the appointment of whom would not create a conflict of interest, the  
26 judge shall appoint that public defender to defend the person.

27                   (2) If there is no other public defender within the county or judicial  
28 district eligible to represent the person, the judge shall notify the Arkansas  
29 Public Defender Commission, which may appoint a public defender from an  
30 adjacent area.

31                   (3) As a last resort, a private attorney may be appointed by the judge,  
32 pursuant to Section 21 of this Act.

33

34                   SECTION 21. Arkansas Code Annotated § 16-87-210 is amended to read as  
35 follows:

36                   "16-87-210. Attorney fees and expenses.

1 (a) When private attorneys ~~or trial public defenders from another area~~  
2 are appointed to represent an indigent person and authorized by the Public  
3 Defender Commission, the attorneys or trial public defenders shall be paid by  
4 ~~the county wherein the crime was committed~~ the Commission.

5 (b) The ~~courts~~ Commission may authorize the disbursement of interim  
6 fees in complex cases.

7 (c) The attorneys ~~or trial public defenders~~ shall also be reimbursed  
8 for reasonable expenses.

9

10 SECTION 22. Arkansas Code Annotated § 16-87-212(a) is amended to read  
11 as follows:

12 "16-87-212. Court fees and expenses.

13 (a)(1) The commission is authorized to pay for certain expenses  
14 regarding the defense of indigents, ~~other than salaries, attorney's fees, and~~  
15 ~~regular office expenses~~.

16 (2) The expenses shall include, but shall not necessarily be  
17 limited to, fees for appointed counsel, expert witnesses, temporary  
18 investigators, testing, and travel.

19 (3)~~(A)~~ Whenever, in a case involving an indigent person, a judge  
20 orders the payment of funds for the aforementioned expenses, the judge shall  
21 transmit a copy of the order to the commission, which is authorized in its  
22 discretion to pay the funds."

23 ~~\_\_\_\_\_ (B) If the commission declines to pay the funds, the funds~~  
24 ~~shall be paid by the county wherein the crime was committed, provided that the~~  
25 ~~Arkansas Supreme Court may promulgate rules for the stay of such orders in the~~  
26 ~~event that they are contested.~~

27

28 SECTION 23. Transition to State Funding.

29 (a) It is the intent of the General Assembly, in the transition to a  
30 state-funded public defender system, to provide an appropriate and adequate  
31 level of legal representation to indigent persons in all areas of the state.  
32 It is recognized by the General Assembly that in many areas of the state,  
33 resources have not been available to support a public defender system at the  
34 necessary level. It is also recognized, however, that in other areas, a  
35 system has been developed which is appropriately and successfully serving  
36 indigent persons and the justice system. With the transition from local

1 funding of the system to state funding of the system, it is not the intent of  
2 the General Assembly to adversely affect those systems which are working well  
3 or to put in place a system which is too inflexible to respond to local needs  
4 or restrictions.

5 (b) In its administration of the system, therefore, the Arkansas Public  
6 Defender Commission is charged with the authority and responsibility to  
7 establish and maintain a system of public defenders which equitably serves all  
8 areas of the state, provides quality representation, makes prudent use of  
9 state resources, and works with others in the justice system at the state and  
10 local level to provide an appropriate level of legal services to indigent  
11 persons in our state.

12

13 SECTION 24. Arkansas Code Annotated § 16-96-403 is amended to read as  
14 follows:

15 "16-96-403. Imposition by circuit court on appeal - Costs.

16 ~~—— The fines, penalties, forfeitures, and costs imposed by the circuit~~  
17 ~~court for the violation of municipal ordinances or any law, in cases appealed~~  
18 ~~from the inferior courts of cities of the first class, cities of the second~~  
19 ~~class, or incorporated towns, shall be collected and disbursed by the sheriff~~  
20 ~~in the following manner:~~

21 ~~—— (1) The fine or penalty imposed for the violation of the city or town~~  
22 ~~ordinance or any law shall be immediately paid to the city or town treasury of~~  
23 ~~the city or town whose ordinance or any law was violated for city or town~~  
24 ~~purposes;~~

25 ~~—— (2) The inferior court costs shall be retaxed in the circuit court and~~  
26 ~~shall be paid immediately to the city or town treasury for city or town~~  
27 ~~purposes;~~

28 ~~—— (3) The costs taxed for the trial in the circuit court shall be paid to~~  
29 ~~the county treasurer for county purposes.~~

30 The fines, penalties, forfeitures, and costs imposed by the circuit  
31 court for offenses which are misdemeanors or violations under state law or  
32 local ordinance or for traffic offenses which are misdemeanors or violations  
33 under state law or local ordinance, in cases appealed from the municipal, city  
34 or police courts of this state, shall be collected and disbursed in the  
35 following manner:

36 (1) If the appeal proceeds to a de novo bench trial or jury trial, the



1 fines, penalties, forfeitures and costs imposed by the circuit court shall be  
2 collected by the sheriff and paid to the county treasurer;

3 (2) If the defendant pleads guilty or nolo contendere or the circuit  
4 court dismisses the appeal, the judgment of the municipal, city or police  
5 court shall be affirmed;

6 (i) The circuit court clerk shall, within thirty days, of the  
7 affirmance or dismissal, notify in writing the municipal, city or police court  
8 from which the appeal originated, of the affirmance or dismissal;

9 (ii) Upon receipt of the notice of affirmance or dismissal, the  
10 municipal, city or police court shall collect and disburse the fines,  
11 penalties, forfeitures and costs pursuant to 16-17-707.

12 (3) Nothing in this act shall affect the right of municipal, city or  
13 police courts to require a supersedeas bond for an appeal to circuit court nor  
14 the ability of these courts to collect any fine, penalty, forfeiture or costs  
15 imposed in the absence of a supersedeas bond."

16  
17 SECTION 25. Arkansas Code Annotated § 21-6-403 is amended to read as  
18 follows:

19 "21-6-403. Circuit and chancery court clerks - Uniform filing fees.

20 (a)(1) The uniform filing fees to be charged by the clerks of the  
21 circuit and chancery courts for initiating or reopening a cause of action in  
22 the circuit and chancery courts in the state shall be as prescribed in this  
23 section.

24 (2) No portion of the filing fees shall be refunded.

25 (b)(1) For initiating a cause of action in the circuit court, including  
26 appeals ~~..... \$110.00~~ \$100.00

27 (2) For initiating a cause of action in the chancery court ~~110.00~~  
28 100.00

29 (3) For reopening a cause of action in the chancery court ~~. 30.00~~

30 (c) No fee shall be charged or collected by the clerks of the circuit  
31 and chancery courts when the court, by order, pursuant to Arkansas Rules of  
32 Civil Procedure, Rule 72, allows an indigent person to prosecute a cause of  
33 action in forma pauperis.

34 (d) No initial filing fee shall be charged for domestic violence  
35 petitions filed pursuant to Arkansas Code Annotated § 9-15-201 et. seq.  
36 Established filing fees may be assessed pursuant to Act 401 of 1995.

1 ~~\_\_\_\_\_ (e)~~(e) No fee shall be charged or collected by the clerks of the  
2 circuit and chancery courts for reopening a cause of action in the chancery  
3 court under the following circumstances:

- 4 (1)(A) An agreed order is presented to be filed; or
- 5 (B) An order of income withholding is to be filed; and
- 6 (2) No service of process is required.

7 ~~\_\_\_\_\_ (d)~~(f) No county shall authorize, and no circuit or chancery court  
8 clerk shall assess or collect, any other filing fees than those authorized by  
9 this section, unless specifically provided by state law.

10

11 SECTION 26. Justice Building Construction Fund.

12 (a) There is hereby created in accordance with Arkansas Code Annotated  
13 §§ 19-4-801 - 806, inclusive, and 19-6-101 et seq., a cash fund entitled the  
14 Justice Building Construction Fund, which shall be maintained in such  
15 depository bank or banks as may, from time to time, be designated by the State  
16 Building Services Department.

17 (b) All moneys transferred to and deposited in the Justice Building  
18 Construction Fund, whether pursuant to Section 10 of this Act or otherwise,  
19 and all income, interest, and earnings thereof, are declared to be cash funds,  
20 restricted in their use, and dedicated and are to be used solely for, the  
21 financing of additions, extensions, and improvements to, the renovation of,  
22 and the equipping of such additions, extensions, and improvements of the State  
23 Justice Building situated on the Capitol Grounds. Such cash funds shall not  
24 be deemed to be a part of the State Treasury for any purpose, including,  
25 without limitation, the provisions of Article 5, § 29, Article 16, § 12, or  
26 Amendment 20 to the Arkansas Constitution, or any other constitutional or  
27 statutory provision.

28 (c) The Justice Building Construction Fund shall be held and the  
29 amounts therein invested by the State Building Services Department in  
30 accordance with the authority provided in Arkansas Code Annotated §§ 22-3-901  
31 et seq. The State Building Services Department may also use the Justice  
32 Building Construction Fund to provide for the repayment of obligations issued  
33 by the Arkansas Development Finance Authority pursuant to the State Agencies  
34 Facilities Acquisition Act of 1991, as amended (Arkansas Code Annotated §§ 22-  
35 3-1401 et seq.), to accomplish the purposes specified in subsection (b) of  
36 this section and to pay the costs and expenses related to the issuance of such

1 obligations.

2       (d) The provisions of Arkansas Code Annotated §§ 22-3-1402(c) and 22-3-  
3 1406 shall not be applicable in any respect to the construction of additions  
4 or extensions to, the renovation of, or the equipping of such additions,  
5 extensions, and renovations of the State Justice Building, and shall not,  
6 under any circumstances, constitute a limitation on or prohibition to the  
7 financing of such capital improvements by the Arkansas Development Finance  
8 Authority.

9

10       SECTION 27. Arkansas Code Annotated § 16-10-133 is amended to read as  
11 follows:

12       "16-10-133. Trial court staff.

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

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

26       (c) The entry level salary of a trial court staff person shall be equal  
27 to that established in the state pay plan at grade 16. No trial court staff  
28 person authorized by this act shall receive a salary from the state in excess  
29 of twenty-five thousand dollars (\$25,000); provided, however, that beginning  
30 July 1, 1997, those persons who have reached the maximum salary limit may  
31 receive such increases in salary as are recommended for other State employees  
32 Personnel Pay Plan adopted by the General Assembly.

33       (d) A county or counties shall be authorized to supplement the base  
34 salary of any trial court staff person, when approved by the quorum court.  
35 Any county or counties that employed trial court administrative assistants as  
36 of July 1, 1996 and that supplemented their salaries pursuant to this

1 subsection shall be required to continue to provide said supplement so long as  
2 the trial court administrative assistant shall continue to be employed in that  
3 position in the county.

4 ~~——(d)~~ (e) The staff persons shall be subject to the Uniform Attendance  
5 and Leave Policy Act, § 21-4-210 et seq., as administered by the judge by whom  
6 they are employed.

7 ~~——(e)~~ (f) A trial judge who already has one (1) or more staff persons on  
8 April 13, 1995 shall designate one (1) such staff person to be subject to and  
9 paid by the provisions of this act."

10

11 SECTION 28. Arkansas Code Annotated § 26-60-112 is amended to read as  
12 follows:

13 "26-60-112. Disposition of funds collected.

14 (a) The revenues from the additional tax levied by § 26-60-105(b) shall  
15 be deemed special revenues and shall be deposited and distributed according to  
16 § 15-12-103.

17 (b) The revenues derived from the tax levied by § 26-60-105(a) shall be  
18 deposited by the Director of the Department of Finance and Administration in  
19 the State Treasury, and the Treasurer of State shall, after deducting three  
20 percent (3%) thereof for distribution to the Constitutional Officers Fund and  
21 the State Central Services Fund to be used for the purposes as provided by  
22 law, distribute the net amount thereof as follows:

23 (1) Ten percent (10%) of the remainder shall be distributed as  
24 special revenues, as follows:

25 (A) The first forty thousand dollars (\$40,000) thereof  
26 during each fiscal year shall be credited to the County and Circuit Clerks  
27 Continuing Education Fund, which is established in the State Treasury, to be  
28 used for defraying the expenses of training seminars and other educational  
29 projects benefiting county and circuit clerks in this state, as provided by  
30 appropriations enacted by the General Assembly; and

31 (B) The remainder of the ten percent (10%) thereof  
32 available for distribution during each fiscal year shall be credited as  
33 special revenues to the County Aid Fund, to be distributed in the manner  
34 provided by law to the circuit clerk in the county in which the property upon  
35 which the tax is paid is situated, to be paid over by the circuit clerk to the  
36 county general fund;

1                   (2) Ninety percent (90%) of the remainder thereof shall be  
2 distributed as follows:

3                   (A) The entire amount collected during each fiscal year  
4 until there has been collected an amount of such tax equaling the amount of  
5 tax collected under this chapter during fiscal year 1982-83 shall be credited  
6 as general revenues to be allocated to the various funds participating in the  
7 distribution of general revenues in the amount of each such fund as provided  
8 by and to be used for the respective purposes set forth in the Revenue  
9 Stabilization Law, § 19-5-101 et seq.; and

10                   (B) After making the distribution thereof as provided in  
11 subdivision (b)(2)(A) of this section, the remainder available each fiscal  
12 year shall be credited as special revenues to the ~~County Aid Administration of~~  
13 Justice Fund to be used for supplementing moneys therein for court reporter  
14 salaries and expenses ~~as provided by law in the event that the moneys~~  
15 available in the Court Reporters Fund are inadequate during any fiscal year to  
16 make the necessary payments for salary and related expenses of the various  
17 court reporters of the state. Any amount received over and above this amount  
18 shall be ~~deposited into the State Treasury as general revenues credited as~~  
19 special revenues to the County Aid Fund."

20

21           SECTION 29. Adoption of Additional Court Costs and Filing Fees.

22           (a) All bills introduced in either house of the General Assembly to add  
23 any additional court costs or filing fees to be assessed by circuit, chancery,  
24 probate, municipal, city, or police courts shall be referred to the Senate  
25 Judiciary Committee, if the bill is from the Senate, or the House Judiciary  
26 Committee, if the bill is from the House of Representatives.

27           (b) The Senate or House Judiciary Committee shall request a letter  
28 certifying whether or not the proposed cost or fee has been evaluated and is  
29 recommended by the Arkansas Judicial Council, which shall be certified by the  
30 secretary-treasurer of the Arkansas Judicial Council.

31           (c) No bill to add any additional court costs or filing fees shall be  
32 acted upon in either committee until a letter certifying that the change has  
33 been evaluated and including a recommendation has been attached to the bill.

34           (d) Upon suspension of the Joint Rules of the House and Senate, a bill  
35 may be withdrawn from the House or Senate Judiciary Committee and acted upon  
36 without the certification of the Arkansas Judicial Council attached thereto.

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SECTION 30. Funding of Official Court reporters.

(a) The state, rather than individual counties, shall bear the responsibility of funding the salaries and expenses of official state court reporters.

(b) Each county or counties within a judicial district shall continue to bear the responsibility of providing, at the county's expense, each official court reporter with appropriate office space and operating expenses, when approved in advance by the quorum court.

SECTION 31. Arkansas Code Annotated § 16-13-511 is repealed effective July 1, 1997.

~~16-13-511. Court Reporters' Fund - Transfer of funds from County Aid Fund to pay salaries and expenses.~~

~~(a) If, during any month, moneys in the Court Reporters' Fund in the State Treasury are inadequate to pay salaries and expenses, as authorized by law, of the various court reporters of the state, then, upon certification thereof by the Chief Fiscal Officer of the State, the Treasurer of State shall transfer to the Court Reporters' Fund from the County Aid Fund general revenue turnback funds such additional amounts as may be necessary to make such payments of salaries and expenses of the court reporters. The amounts so transferred shall be considered a temporary loan from the County Aid Fund to be repaid on or before the end of the fiscal year from funds available therefor, if any, in the Court Reporters' Fund. If, at the end of any fiscal year, there are not adequate funds in the Court Reporters' Fund to repay the full amount of loans made from the County Aid Fund to the Court Reporters' Fund during said fiscal year, the Chief Fiscal Officer of the State shall certify such fact to the Treasurer of State and the Treasurer of State shall write the same off the books as a permanent transfer from the County Aid Fund to the Court Reporters' Fund.~~

~~(b) It is the intent of this section that if during any fiscal year it is necessary to transfer funds from the County Aid Fund to the Court Reporters' Fund to provide moneys for the payment of the salaries and expense allowances provided herein for court reporters, and if during such fiscal year funds in the Court Reporters' Fund are not adequate to make repayment to the County Aid Fund, the amount so transferred to the Court Reporters' Fund from~~

1 ~~the County Aid Fund during that fiscal year shall be considered a direct cost~~  
2 ~~to county government to be charged against general revenue turnback to the~~  
3 ~~counties for such year.~~

4

5 SECTION 32. Arkansas Code Annotated §§ 16-17-706, 16-18-106, and  
6 16-90-115 are repealed.

7 ~~16-17-706. Disposition of filing fees - Municipal court costs fund.~~

8 ~~(a) The municipal court clerk shall deposit all civil filing fees into~~  
9 ~~a separate account. From these filing fees, the municipal court clerk shall~~  
10 ~~deduct and remit those fees and costs established by statute or local~~  
11 ~~ordinance for specific purposes, including, but not limited to, municipal~~  
12 ~~judge and court clerk retirement, library, legal education fund,~~  
13 ~~victim/witness coordinator, referee's fees under the Small Claims Procedure~~  
14 ~~Act, § 16-17-601 et seq., if any, prepaid postage, if any, and public defender~~  
15 ~~fees in nonsmall claims division cases.~~

16 ~~(b) The treasurer of the political subdivision shall establish a~~  
17 ~~separate account to be known as the municipal court costs fund and shall~~  
18 ~~deposit all moneys received from the clerk which represents that political~~  
19 ~~subdivision's portion of the filing fees collected. Moneys deposited in this~~  
20 ~~fund shall be used exclusively for operation and expenses of the municipal~~  
21 ~~court through appropriation by the governing body of the political~~  
22 ~~subdivision.~~

23 ~~16-18-106. Disposition of additional court costs.~~

24 ~~(a) All moneys received from the additional court costs imposed by the~~  
25 ~~provisions of § 5-65-113 [repealed] on persons who plead guilty or nolo~~  
26 ~~contendere to, or are found guilty of, driving while intoxicated or driving~~  
27 ~~while impaired shall be remitted at least quarterly, by January 1, April 1,~~  
28 ~~July 1, and October 1 of each year, to the Director of the Department of~~  
29 ~~Finance and Administration.~~

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

33 ~~(2)(A) All moneys received by the director shall be deposited in~~  
34 ~~the State Treasury as follows:~~

35 ~~(i) Eighty-three and three-tenths percent (83.3%) to~~  
36 ~~the Highway Safety Special Fund; and~~

1 ~~\_\_\_\_\_ (ii) Sixteen and seven-tenths percent (16.7%) to the~~  
2 ~~Alcohol and Drug Safety Fund.~~

3 ~~\_\_\_\_\_ (B) From the amounts deposited in the Highway Safety~~  
4 ~~Special Fund, the Director of the Highway Safety Program shall cause to be~~  
5 ~~transferred from time to time an amount equal to four hundred thousand dollars~~  
6 ~~(\$400,000) each fiscal year to the Department of Arkansas State Police Fund.~~

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

11 ~~\_\_\_\_\_ 16-90-115. Suspension of sentence.~~

12 ~~\_\_\_\_\_ (a)(1) In all instances where courts have the authority to suspend the~~  
13 ~~imposition of sentences or otherwise grant suspensions, the courts may also~~  
14 ~~suspend execution of sentences under the same circumstances.~~

15 ~~\_\_\_\_\_ (2) Suspension of execution of sentence means the procedure~~  
16 ~~whereby a defendant who pleads guilty to, or is found guilty of, a criminal~~  
17 ~~offense is released by the court after pronouncement of sentence.~~

18 ~~\_\_\_\_\_ (b) All courts of record in this state shall have the authority to~~  
19 ~~suspend the execution of sentences, or the imposition of fines, or both, in~~  
20 ~~all criminal cases pending before the courts, unless specifically prohibited~~  
21 ~~by law.~~

22 ~~\_\_\_\_\_ (c) At any time before a court has entered a judgment of conviction~~  
23 ~~against a criminal defendant, the court may dismiss the case, and, in that~~  
24 ~~instance, any fine imposed against the defendant shall be considered a civil~~  
25 ~~penalty.~~

26

27 SECTION 33. All provisions of this act of a general and permanent  
28 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
29 Code Revision Commission shall incorporate the same in the Code.

30

31 SECTION 34. If any provision of this act or the application thereof to  
32 any person or circumstance is held invalid, such invalidity shall not affect  
33 other provisions or applications of the act which can be given effect without  
34 the invalid provision or application, and to this end the provisions of this  
35 act are declared to be severable.

36



1 SECTION 35. All laws and parts of laws in conflict with this act are  
2 hereby repealed.

3

4 SECTION 36. EMERGENCY. It is found and determined by the General  
5 Assembly of the State of Arkansas that the effectiveness of this act on  
6 July 1, 1997 is essential to the operation of the state court system, and that  
7 in the event of an extension of the Regular Session, the delay in the  
8 effective date of this act beyond July 1, 1997 could work irreparable harm  
9 upon the proper administration and provision of essential governmental  
10 progress. Therefore, an emergency is declared to exist and this act being  
11 necessary for the preservation of the public peace, health, and safety, shall  
12 be in full force and effect from and after July 1, 1997.

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/s/Rep. Luker

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