

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

State of Arkansas

As Engrossed: S2/11/99 S2/26/99 S3/11/99

82nd General Assembly

## A Bill

Regular Session, 1999

HOUSE BILL 1245

By: Representative Lynn

### For An Act To Be Entitled

"AN ACT TO AMEND VARIOUS CODE SECTIONS PERTAINING TO  
THE COSTS COLLECTED BY THE VARIOUS COURTS OF THIS  
STATE; AND FOR OTHER PURPOSES. "

### Subtitle

"AMEND ARKANSAS CODE PERTAINING TO THE  
COSTS COLLECTED BY THE VARIOUS COURTS OF  
THIS STATE. "

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

SECTION 1. Arkansas Code 16-10-209 as amended by Act 788 of 1997 is  
repealed.

~~16-10-209. Court clerk - Activities and clerical duties. [As amended by Acts  
1997, No. 788.]~~

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

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

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

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

~~(C) For those checks forwarded with the arrest reports, the  
receipt shall be issued in the name of the police department, marshal's  
office, or sheriff's office; for those receipts issued at court date, the~~

~~court clerk shall issue such receipts in the name of the defendant, regardless of who paid the bond or fine or who collected the bond or fine;~~

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

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

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

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

~~(2) Preparation and Submission of Court Report:~~

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

~~(i) Uniform traffic ticket number;~~

~~(ii) Defendant's name;~~

~~(iii) Nature of the offense;~~

~~(iv) Name of arresting officer;~~

~~(v) Court docket number;~~

~~(vi) Disposition or date continued;~~

~~(vii) Receipt number;~~

~~(viii) Total fine and costs collected;~~

~~(ix) Fine;~~

~~(x) Costs itemized including all prosecuting attorney fees;~~

~~(xi) Bond refund amount;~~

~~(xii) Bond refund check number; and~~

~~(xiii) Time payment amount.~~

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

~~(C) At the end of each court date, the court clerk shall~~

~~complete the court report for the court date and total the dollar amounts contained therein;~~

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

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

~~(a) The city treasurer; and~~

~~(b) The county treasurer; and~~

~~(c) The prosecuting attorney.~~

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

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

~~(i) One (1) copy to the mayor;~~

~~(ii) One (1) copy to the county clerk;~~

~~(iii) One (1) copy to the Administrative Office of the Courts; and~~

~~(iv) One (1) copy to be retained by the clerk and made available for inspection.~~

~~(3) Minimum Bookkeeping Requirements:~~

~~(A) The court clerk shall maintain a separate cash receipts and disbursements journal for city cases and county cases. The journal shall consist of sufficient columns in order to properly classify all moneys receipted as to their proper nature, i.e., fines, administration of justice fund, etc. The journal shall also contain sufficient columns to properly classify all moneys disbursed as to their proper nature, i.e., general fund, county treasurer, bond refunds, etc.;~~

~~(B) The court clerk shall total and balance the receipts and disbursements journal monthly and establish and maintain year-to-date totals monthly;~~

~~(C) The court clerk shall prepare monthly bank reconciliations for each court bank account. The cash receipts and disbursements journal shall be utilized in effecting the bank reconciliations;~~

~~(D) Copies of bank reconciliations shall be furnished to the court's presiding judge, county judge, and mayor.~~

~~(4) Bond Refunds:~~

~~(A) All bond refunds shall be made only upon the authorization of the presiding judge and shall be indicated as such on the court docket;~~

~~(B) All bond refunds shall be made only by a check drawn on the court's bank account. Additionally, the check shall indicate the court docket number for authorization;~~

~~(C) The court clerk shall enter all bond refunds on the applicable court report.~~

~~(5) Time or Partial Payments:~~

~~(A) Time payments shall be allowed only upon the authorization of the presiding judge and shall be indicated as such on the court docket;~~

~~(B) The court clerk shall establish and maintain individual time payment account ledger cards, with a duplicate copy of the ledger card being furnished to and maintained by the appropriate police department, marshal's office, or sheriff's office. The ledger cards shall contain the following minimum information:~~

~~(i) Name of individual;~~

~~(ii) Court docket number and court date;~~

~~(iii) Nature of violation;~~

~~(iv) Total fine and costs assessed;~~

~~(v) Receipt number, date, and amount of payment; and~~

~~(vi) Unpaid balance of fine, fees and costs.~~

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

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

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

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

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

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

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

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

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

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

SECTION 2. Arkansas Code 16-10-209(5)(F)(i) as amended by Act 1341 of 1997 is amended to read as follows:

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

SECTION 3. Arkansas Code 16-10-305(a), as amended by Act 1341 of 1997, is amended to read as follows:

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

(1) For misdemeanor or felony violation of state law, excluding violation of the Omnibus DWI Act, beginning at § 5-65-101 ~~et seq.~~, in circuit court, \$150;

(2) For offenses which are misdemeanor ~~misdemeanors~~ or violations of state law, excluding violation of the Omnibus DWI Act, beginning at § 5-65-101 ~~et seq.~~, in municipal ~~city~~ ~~[sic]~~ court, \$75.00;

(3) For traffic offenses which are misdemeanors or violations under state law or local ordinance, excluding violation of the Omnibus DWI Act, beginning at § 5-65-101 ~~et seq.~~, in municipal ~~city~~ ~~[sic]~~ court, \$75.00;

(4) For nontraffic offenses which are misdemeanors or violations under local ordinance in municipal, city, or police court, \$25.00;

(5) For violation of the Omnibus DWI Act, beginning at § 5-65-101 ~~et seq.~~, in circuit ~~city~~ ~~[sic]~~ municipal ~~city~~ ~~[sic]~~ city, or police court, \$300-;

(6) For offenses which are misdemeanors or violations under state law ~~or local ordinance~~, excluding violation of the Omnibus DWI Act, beginning at § 5-65-101 ~~et seq.~~, \$50.00 in city and police courts-;

(7) For traffic offenses which are misdemeanors or violations under

1 state law or local ordinance, excluding violations of the Omnibus DWI Act,  
2 beginning at § 5-65-101, \$50.00 in city and police courts."

3  
4 SECTION 4. Arkansas Code 21-6-403(b), circuit and chancery court filing  
5 fees, is amended to add the following subdivision:

6 "(4) For any cause of action which by court order is transferred from  
7 any municipal, circuit or chancery court to a circuit or chancery  
8 court.....50.00. This section does not apply to transfers between circuit  
9 and chancery courts within the same county, for which there shall be no  
10 additional filing fee."

11  
12 SECTION 5. Arkansas Code 16-14-105(d) is amended to read as follows:

13 "(d) The probate court may waive the filing fee in cases of involuntary  
14 admission upon a finding that the petition is being brought for the benefit of  
15 the respondent and it would be inequitable to require the petitioner to pay  
16 the fee.

17 ~~(d)~~ (e) The fee provisions provided for in this section shall be in  
18 lieu of any and all fees now established by law."  
19

20 SECTION 6. Arkansas Code 5-4-303(g) is amended to read as follows:

21 "(g) In cases where the counsel has been appointed to represent a  
22 defendant due to his indigency and if if the court suspends the imposition of  
23 sentence on a defendant or places him a defendant on probation and if the  
24 defendant was determined to be indigent and was appointed counsel, who was  
25 paid by the county, then the court, as a condition thereof, may require the  
26 defendant to pay, in an amount he can afford to pay, to the county the amount  
27 of any indigent attorney's fee expended on his behalf. If the attorney's fees  
28 were paid from the county general fund, they shall be returned to the county  
29 general fund. If the attorney's fees were expended from the fund pursuant to §  
30 14-20-102, then the money shall be placed back in that fund. at the time of  
31 disposition, the court may revisit the issue of the defendant's indigency.  
32 Where appropriate, and where the defendant is financially able to do so, the  
33 court may assess an attorney's fee to be paid by the defendant as part of his  
34 suspended or probated sentence. The amount of the fee assessed should be  
35 commensurate with the defendant's ability to pay. The fee assessed shall be  
36 paid to the state as a means of partial reimbursement for providing appointed

counsel. In no event shall failure to pay the assessed attorney's fees, standing alone, be grounds for the revocation of the suspended sentence or probated sentence. Any money collected pursuant to this subsection shall be remitted on or before the tenth (10<sup>th</sup>) day of the month following the month of collection to the Department of Finance and Administration, Administration of Justice Fund Section, for deposit in the State Administration of Justice Fund."

SECTION 7. Arkansas Code 21-6-402(8), circuit and chancery court miscellaneous fees, is amended to read as follows:

~~"(8) For entering each appeal from inferior court~~  
~~.....15.00~~ For Scire Facias .....15.00"

SECTION 8. Arkansas Code 16-17-603 is amended to read as follows:

"16-17-603. Referees - Appointment, qualifications, compensation.

(a) If in the judgment of the judge or judges of the municipal court it is necessary for the prompt and efficient disposal of cases filed in the small claims division to have a referee take the testimony, the judge or a majority of the judges may appoint a referee to conduct hearings and take testimony in small claims cases and make recommendations of law and fact to the judge.

(b) The referee shall have the same qualifications as are required of the municipal judge.

(c) The referee shall serve at the pleasure of the judge or judges who appointed him and shall receive as compensation the sum of seven dollars (\$7.00) per case, to be paid out of the Uniform Filing Fee as provided in A.C.A. § 16-17-705.

~~(d) The fees collected under this subchapter shall be kept in a separate fund, and the compensation for the referee of small claims cases as provided in this section shall be paid to the referee monthly from the fund by the municipal clerk.~~

~~(e)~~ (d) Under no circumstances shall the municipal judge or judges of the municipal court receive the compensation for the referee in those cases heard by the court."

SECTION 9. Arkansas Code 16-96-403(1), costs imposed by circuit court on appeal, is amended to read as follows:

1       “(1) If the appeal proceeds to a de novo bench trial or jury trial, the  
2 fines, penalties, forfeitures and costs imposed by the circuit court shall be  
3 collected ~~by the sheriff~~ pursuant to A.C.A. § 16-13-709 and paid to the county  
4 treasurer;”

5  
6       SECTION 10. Arkansas Code 16-13-709(a)(1) is amended to read as  
7 follows:

8       “(a)(1) The quorum court of each county of the state shall, on or  
9 before January 1, 1996, and on or before January 1 of each subsequent year,  
10 designate a county official, agency, department, or private contractor who  
11 shall be primarily responsible for the collection of fines assessed upon  
12 defendants in the circuit, state division municipal and chancery courts of  
13 this state. In addition, the quorum court may delegate to the county  
14 official, agency, department, or private contractor the primary responsibility  
15 of collecting court costs, restitution, probation fees, or any other monetary  
16 penalties assessed upon defendants in the circuit, state division municipal  
17 and chancery courts of this state.”

18  
19       SECTION 11. Arkansas Code 14-43-503 is repealed.

20       ~~14-43-503. Imposition of costs on misdemeanor convictions.~~

21       ~~— (a) The governing body of any municipality in this state in all~~  
22 ~~counties which have a population of two hundred thousand (200,000) or more~~  
23 ~~inhabitants, according to the most recent federal decennial census, is~~  
24 ~~authorized to adopt ordinances to impose costs upon each conviction of a~~  
25 ~~misdemeanor or other crime in the municipal court of the municipality.~~

26       ~~— (b)(1) The governing body may impose specific costs to be used~~  
27 ~~exclusively for police officers' salaries.~~

28       ~~— (2) All costs so imposed and specifically enacted for such a special~~  
29 ~~“policemen's salary fund” shall be credited to this fund of the municipality~~  
30 ~~and shall be used solely and exclusively for payments of police officers'~~  
31 ~~salaries, and for no other purpose.~~

32  
33       SECTION 12. Arkansas Code 16-10-305, as amended by Act 788 of 1997, is  
34 repealed.

35       ~~16-10-305. Court costs. [As amended by Acts 1997, No. 788.]~~

36       ~~— (a) There shall be levied and collected from each defendant upon each~~

1 ~~conviction, each plea of guilty or nolo contendere, or forfeiture of bond, the~~  
2 ~~following court costs:~~

3 ~~— (1) For misdemeanor or felony violation of state law, excluding violation~~  
4 ~~of the Omnibus DWI Act, § 5-65-101 et seq., in circuit court, \$150;~~

5 ~~— (2) For misdemeanor violations of state law, excluding violation of the~~  
6 ~~Omnibus DWI Act § 5-65-101 et seq., in municipal, , [sic] court, \$75.00;~~

7 ~~— (3) For traffic offenses which are misdemeanors or violations under state~~  
8 ~~law or local ordinance, excluding violation of the Omnibus DWI Act § 5-65-101~~  
9 ~~et seq., in municipal, , [sic] court, \$75.00;~~

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

12 ~~— (5) For violation of the Omnibus DWI Act § 5-65-101 et seq., in circuit,~~  
13 ~~[sic] municipal, [sic] city, or police court, \$300.~~

14 ~~— (6) For offenses which are misdemeanors or violations under state law or~~  
15 ~~local ordinance, excluding violation of the Omnibus DWI Act, § 5-65-101 et~~  
16 ~~seq., \$50.00.~~

17 ~~— (b) The costs set forth in this section shall be imposed at the~~  
18 ~~conclusion of any criminal case enumerated in subsection (a) of this section~~  
19 ~~that does not end in an acquittal, dismissal, or, with the consent of the~~  
20 ~~prosecution, a nolle prosequi.~~

21 ~~— They shall be imposed at the conclusion of cases involving a suspended or~~  
22 ~~probated sentence even though that sentence may be expunged or otherwise~~  
23 ~~removed from the defendant's record.~~

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

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

33 ~~— (e) This section shall become effective July 1, 1997 and the revised~~  
34 ~~court costs shall be imposed on all cases which come before the court for~~  
35 ~~final disposition on or after July 1, 1997.~~

36

SECTION 13. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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

SECTION 15. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Lynn