

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/22/01

A Bill

HOUSE BILL 2051

5 By: Representatives Carson, Green
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS CODE SECTIONS PERTAINING
10 TO THE COSTS COLLECTED BY THE VARIOUS COURTS OF
11 THIS STATE; AND FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO AMEND VARIOUS CODE SECTIONS
14 PERTAINING TO THE COSTS COLLECTED BY THE
15 VARIOUS COURTS OF THIS STATE.
16
17
18

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

21 SECTION 1. Arkansas Code 16-10-302 is amended to read as follows:

22 16-10-302. Court costs and filing fees - Generally.

23 (a) Except as otherwise provided by this act, all filing fees and all
24 court costs shall be uniform for each type of case in all general and limited
25 jurisdiction courts of this state.

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

29 (c) ~~(1)~~ In all cases filed in such courts prior to July 1, 1995, all
30 court costs and filing fees shall be assessed according to law in existence
31 on the date of the filing, but shall be disbursed in accordance with this
32 act.

33 ~~(2) However, nothing in this subsection shall prevent, upon~~
34 ~~determination by a county, as evidenced by a county court order, or upon~~
35 ~~determination by a municipality, as evidenced by a municipal resolution, the~~
36 ~~continued distribution of all court costs and filing fees assessed prior to~~

1 ~~July 1, 1995 under such authorization existing prior to July 1, 1995.~~

2
3 SECTION 2. Arkansas Code 16-10-604(d), concerning the procedure for
4 the city administration of justice fund, is amended to read as follows:

5 (d)(1)(A) For any municipal, city, or police court which was created
6 after January 1, 1994, such that the base year used to calculate the city
7 share pursuant to § 16-10-308 was not complete, the city share shall be
8 deemed to be fifty-percent (50%) of the uniform court costs and filing fees
9 collected and remitted to the city administration of justice fund.

10 (B) From this fifty-percent (50%) share, the city shall
11 disburse or transfer fifty percent (50%) of the funds to the local programs
12 or agencies pursuant to subdivision (b)(1) of this section and fifty percent
13 (50%) to the county treasurer pursuant to subdivision (b)(2) of this section.

14 (2) The remaining fifty percent (50%) shall be remitted to the
15 Department of Finance and Administration, pursuant to § 16-10-308(e).

16
17 SECTION 3. Arkansas Code 16-17-127 is amended to read as follows:

18 16-17-127. Contractors providing certain services.

19 (a) If a municipal court, district court, city court or police court,
20 upon approval of the governing body or governing bodies exercising control
21 over the ~~municipal~~ court, contracts with a person for the person to provide
22 any of the following services:

23 (1) Probation services;

24 (2) Pretrial supervised release programs;

25 (3) Alternate sentencing programs; or

26 (4) The collection and enforcement of fines and costs; then, to
27 insure the integrity of the court and to protect the city and county
28 officials, before services regulated by this section are rendered, the person
29 shall register with the Secretary of State and shall file with the Secretary
30 of State a surety bond or certificate of deposit.

31 (b) The amount of the surety bond or certificate of deposit shall be
32 fifty thousand dollars (\$50,000). The city or county or any person suffering
33 damage by reason of the acts or omissions of the person or an employee of the
34 person in the performance of services subject to this section may bring
35 action on the bond for damages.

36 (c) A person shall be ineligible to provide services subject to this

1 section if the person or an owner, operator, or any stockholder has been
2 convicted of a felony.

3 (d) For the purposes of this section, "person" means any individual,
4 corporation, partnership, firm, association, or other business entity.

5

6 SECTION 4. Arkansas Code 5-4-322 is amended to read as follows:

7 5-4-322. Fine and probation fee or public service work fee authorized.

8 (a) A municipal court, district court, city court or police court may
9 place a person on probation or sentence him to public service work, and may,
10 as a condition of its order, require the defendant to pay a fine in one (1)
11 or several sums, and in addition may require the person to pay a probation
12 fee or pay a public service work supervisory fee in an amount to be
13 established by the ~~municipal~~ court.

14 (b) This section regarding probation and probation fees shall not
15 apply in instances where the defendant is charged with violating the Omnibus
16 DWI Act, § 5-65-101 et seq.

17 (c) In instances where the defendant is charged with violating the
18 Omnibus DWI Act, § 5-65-101 et seq., the court may require the defendant to
19 pay a public service work supervisory fee in an amount to be established by
20 the court if the court orders public service in lieu of jail pursuant to § 5-
21 65-111.

22 ~~(e)-(d)~~ This section is supplemental to all other laws allowing a
23 municipal court, district court, city court or police court to attach
24 conditions on an order of probation.

25

26 SECTION 5. Arkansas Code 16-10-303 is amended to read as follows:

27 16-10-303. Filing fees.

28 (a)(1) The uniform filing fee to be charged by clerks for initiating a
29 civil cause of action in city or police courts, ~~courts of common pleas, or~~
30 ~~any other court of limited jurisdiction~~ in this state shall be twenty-five
31 dollars (\$25.00).

32 (2) No portion of the filing fee shall be refunded.

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

36

1 SECTION 6. Arkansas Code 16-87-213(B), regarding public defender fees,
2 is amended to read as follows:

3 (B)(i)(a) At the time of appointment of counsel, the court
4 shall assess a fee of not less than ten dollars (\$10.00) nor more than one
5 hundred dollars (\$100) to be paid to the commission in order to defray the
6 costs of the public defender system.

7 (b) The fee may be waived if the court finds
8 such an assessment to be too burdensome.

9 (ii) The fee shall be collected by the individual or
10 entity designated ~~by the quorum court pursuant to § 16-13-709 to collect~~
11 ~~fin es, costs, and restitution. or, in the case of a municipal court, the~~
12 ~~municipal court clerk.~~

13
14 SECTION 7. Arkansas Code 27-50-311, is amended to read as follows:
15 27-50-311. Penalties for large trucks exceeding speed limits.

16 (a) The General Assembly has determined that the operation of trucks
17 as defined in subsection (b) of this section at high speeds creates a unique
18 threat to the public safety of Arkansas motorists and causes substantial
19 damage to Arkansas highways. Through enacting this section, it is the intent
20 of the General Assembly to deter such unsafe and damaging driving practices
21 by providing severe penalties against those persons who are determined to be
22 guilty of violating this section.

23 (b) For purposes of this section, the term "truck" means any vehicle
24 with a registered gross weight of at least twenty thousand pounds (20,000
25 lbs.).

26 (c) When the operator of any truck as defined in subsection (b) of
27 this section pleads guilty or nolo contendere to or forfeits bond for or is
28 found guilty of operating such vehicle at a speed in excess of five (5) miles
29 per hour over the posted or legal speed limit, the operator shall be fined
30 fifty dollars (\$50.00) for each mile per hour in excess of five (5) miles per
31 hour over the posted or legal speed limit.

32 (d) The fine provided for in this section is in addition to all other
33 fines and court costs levied for the violation.

34 (e)(1) The courts levying and collecting the fines prescribed by this
35 section may retain two percent (2%) of the fines as a collection fee. Any
36 collection fee retained shall, pursuant to state accounting laws, be

1 deposited monthly in the Court Automation Fund of the city or county to be
2 used solely for court related technology.

3 (2) After deducting the collection fee provided in subdivision
4 (e)(1) of this section, the court shall remit to the Treasurer of State as
5 general revenues the balance of the fines levied and collected under this
6 section.

7
8 SECTION 8. Arkansas Code 28-41-101 is amended to read as follows:
9 28-41-101. Collection of small estates by distributee.

10 (a) The distributee of an estate shall be entitled thereto without the
11 appointment of a personal representative when:

12 (1) No petition for the appointment of a personal representative
13 is pending or has been granted; and

14 (2) Forty-five (45) days have elapsed since the death of the
15 decedent; and

16 (3) The value, less encumbrances, of all property owned by the
17 decedent at the time of death, excluding the homestead of and the statutory
18 allowances for the benefit of a spouse or minor children, if any, of the
19 decedent, does not exceed fifty thousand dollars (\$50,000); and

20 (4) There shall be filed with the clerk of the probate court of
21 the county of proper venue for administration an affidavit of one (1) or more
22 of the distributees setting forth:

23 (A) That there are no unpaid claims or demands against the
24 decedent or his estate, that the Department of Human Services furnished no
25 federal or state benefits to the decedent, or, that if such benefits have
26 been furnished, the Department of Human Services has been reimbursed in
27 accordance with state and federal laws and regulations; and

28 (B) An itemized description and valuation of the personal
29 property and a legal description and valuation of any real property of the
30 decedent, including the homestead; and

31 (C) The names and addresses of persons having possession
32 of the personal property and the names and addresses of any persons
33 possessing or residing on any real property of the decedent; and

34 (D) The names, addresses, and relationship to the decedent
35 of the persons entitled to and who will receive the property; and

36 (5) There is furnished to any person owing any money, having

1 custody of any property, or acting as registrar or transfer agent of any
2 evidence of interest, indebtedness, property, or right, a copy of the
3 affidavit certified by the clerk.

4 (b)(1) The clerk shall file the affidavit, assign it a number, and
5 index it as required by § 28-1-108(1). He shall make a charge of ten dollars
6 (\$10.00) for filing the affidavit and three dollars (\$3.00) for each
7 certified copy. No order of the court or other proceeding shall be necessary.
8 No additional fees shall be charged if a will is attached to the affidavit.

9 (2)(A) If an estate collected under this section contains any real
10 property, the distributee, in order to allow for claims against the estate to
11 be presented, may, promptly after the affidavit has been filed, cause a
12 notice of decedent's death and the filing of an affidavit for collecting of
13 his or her estate to be published.

14 (B) The notice shall contain:

15 (i) The name of the decedent and his or her last
16 known address;

17 (ii) The date of death;

18 (iii) A statement that the affidavit was filed, the
19 date of the filing, and a legal description of all real property listed in
20 the affidavit;

21 (iv) A statement requiring all persons having claims
22 against the estate to exhibit them, properly verified, within three (3)
23 months from the date of the first publication of the notice, or they shall be
24 forever barred and precluded from any benefit in the estate;

25 (v) The name and mailing address of the distributee
26 or his attorney; and

27 (vi) The date the notice was first published.

28 (C) Publication of the notice shall be as provided in §§
29 28-1-112(b)(4) and 28-40-111(a)(4).

30

31 SECTION 9. Arkansas Code 24-11-413 is amended to read as follows:

32 24-11-413. Moneys added to fund - Contributions.

33 (a) There shall be added to the fund the following moneys:

34 (1) All forfeitures and fines imposed upon any member of the
35 police department by way of discipline;

36 (2) All money given or donated to the fund;

1 (3) All money deducted from the salary of any member of the
2 police department on account of absence or loss of time;

3 (4) All rewards paid for any purpose;

4 (5) Ten percent (10%) of all fines and forfeitures collected by
5 the police department of the city for violation of ordinances or state law;

6 (6) Six percent (6%) of the monthly salary of each member of the
7 department, to be deducted each month by the city and immediately paid to the
8 board of trustees of the policemen's pension and relief fund; however, the
9 monthly deduction shall be four percent (4%) for police officers contributing
10 to social security unless increased, but not to exceed six percent (6%), by
11 the majority vote of the contributing members of a police department covered
12 by social security; and

13 ~~(7) In a city having a population of between sixty thousand~~
14 ~~(60,000) and sixty five thousand (65,000) persons, according to the 1990~~
15 ~~Federal Decennial Census, ten percent (10%) of all court costs collected by~~
16 ~~the police department of the city for violation of city ordinances or state~~
17 ~~law may, if provided for by city ordinance, be added to the fund.~~

18 (b) All cities and towns in which a policemen's pension and relief
19 fund is established shall contribute to the fund an amount not less than six
20 percent (6%) of the police officers' salary.

21 (c) The contributions by cities and towns shall not exceed the amount
22 contributed by the police officers except where authorized by appropriation
23 of the city's or town's governing body.

24
25 SECTION 10. Arkansas Code 16-17-802 is amended to read as follows:

26 16-17-802. Combining multiple municipal court convictions.

27 If a person who has been convicted of more than one (1) related
28 misdemeanor offense in municipal court, district court, city court or police
29 court shall present otherwise lawfully sufficient documents to the circuit
30 clerk ~~of the court~~ for an appeal of the related convictions, accompanied by
31 an affidavit of the person or his attorney stating that the convictions arise
32 out of the same set of facts and circumstances, the circuit clerk ~~of the~~
33 ~~court~~ shall:

34 (1) Combine the convictions; and

35 (2)(A) Prepare and file the appeal as one (1) case; and

36 (B) Charge only one (1) filing fee for the appeal.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 11. Arkansas Code 16-10-602 is amended to read as follows:

16-10-602. Establishment of city and county shares.

(a)~~(1)~~ Pursuant to §§ 16-10-307(c) and 16-10-308(c), each city and county may retain a portion of the uniform court costs and filing fees collected and deposited into the city or county administration of justice fund.

~~(b)(2)~~ On or before the first day of October of each year, the Department of Finance and Administration shall certify in writing to each county and to each city which operates a municipal, city, or police court the amount of money which may be retained during each month of the following calendar year by the city or county.

~~(b)~~ In case of a disagreement between the state and a city or county as to the appropriate amount of the city or county share, the Director of the Department of Finance and Administration is authorized to establish an administrative review process and, when necessary, adjust the city or county share upon a finding of gross inadequacy.

SECTION 12. Arkansas Code 16-13-701 is amended to read as follows:

16-13-701. Scope.

(a) The procedures established by this subchapter shall apply to the assessment of all monetary fines, however designated, imposed by circuit courts, ~~and state division~~ municipal courts, district courts, city courts or police courts for criminal convictions, traffic convictions and civil violations, ~~and juvenile delinquency adjudications by chancery courts for~~ civil violations exclusive of child support, and by juvenile courts for delinquency adjudications, and shall be utilized to obtain prompt and full payment of all such fines.

(b) For purposes of this subchapter, the term "fine" or "fines" means all monetary penalties imposed by the courts of this state, which include fines, court costs, restitution, probation fees, and public service work supervisory fees.

SECTION 13. Arkansas Code 16-13-704 is amended to read as follows:

16-13-704. Installment payments.

(a)(1) If the court concludes that the defendant has the ability to

1 pay the fine, but that requiring the defendant to make immediate payment in
2 full would cause a severe and undue hardship for the defendant and the
3 defendant's dependents, the court may authorize payment of the fine by means
4 of installment payments in accordance with this subchapter.

5 (2)(A) When a court authorizes payment of a fine by means of
6 installment payments, it shall issue, without a separate disclosure hearing,
7 an order that the fine be paid in full by a date certain and that in default
8 of payment the defendant must appear in court to explain the failure to pay.

9 (B) In fixing, the date of payment, the court shall issue
10 an order which will complete payment of the fine as promptly as possible
11 without creating a severe and undue hardship for the defendant and the
12 defendant's dependents.

13 (b)(1) In addition to the fine and any other assessments authorized by
14 this subchapter an installment fee of five dollars (\$5.00) per month shall be
15 assessed on each person who is authorized to pay ~~pays~~ a fine on an
16 installment basis.

17 (2) One-half (1/2) of the installment fee collected in circuit
18 court shall be remitted monthly to the Department of Finance and
19 Administration for deposit in the Judicial Fine Collection Enhancement Fund,
20 as established by § 16-13-712, and the other half of the installment fee
21 shall be remitted monthly to the county treasurer to be deposited in a fund
22 entitled the Court Automation Fund to be used solely for ~~the administration~~
23 of justice court related technology.

24 (3)(A) One-half (½) of the installment fee collected in
25 municipal court, district court, city court or police court shall be remitted
26 monthly to the Department of Finance and Administration for deposit in the
27 Judicial Fine Collection Enhancement Fund as established by § 16-13-712.

28 (B) The other half of the installment fee shall be
29 remitted monthly to the city treasurer to be deposited in a fund entitled the
30 Court Automation Fund to be used solely for court related technology.

31 (C) In any municipal court or district court which is
32 funded solely by the county, the other half of this fee shall be remitted
33 monthly to the county treasurer to be deposited in the Municipal Court or
34 District Court Automation Fund to be used solely for municipal court or
35 district court related technology.

36 (c) Any defendant who has been authorized by the court to pay a fine

1 by installments shall be considered to have irrevocably appointed the clerk
 2 of the court as his agent upon whom all papers affecting his liability may be
 3 served, and the clerk shall forthwith notify the defendant thereof by
 4 ordinary mail at his last known address.

5 (d) "Ability to pay" means that the resources of the defendant,
 6 including all available income and resources, are sufficient to pay the fine
 7 and provide the defendant and his dependents with a reasonable subsistence
 8 compatible with health and decency.

9

10 SECTION 14. Arkansas Code 16-13-707 is amended to read as follows:

11 16-13-707. Lien on property.

12 (a) When a defendant sentenced to pay a fine defaults in the payment
 13 thereof or of any installment, the fine may be collected by any means
 14 authorized for the enforcement of money judgments in civil actions.

15 (b) A judgment that the defendant pay a fine shall constitute a lien
 16 on the real and personal property of the defendant in the same manner and to
 17 the same extent as a money judgment in a civil action.

18 (c) A judgment entered by a municipal court or district court shall
 19 not become a lien against real property unless a certified copy of such
 20 judgment, showing the name of the judgment debtor, the date and amount
 21 thereof, shall be filed in the office of the circuit clerk of the county in
 22 which such land is situated.

23

24 SECTION 15. Arkansas Code 16-13-709 is amended to read as follows:

25 16-13-709. Responsibility for collection.

26 (a)(1)(A) The quorum court of each county of the state shall,
 27 on or before January 1, ~~1996,~~ 2002, and on or before January 1 of each
 28 subsequent year, designate a county official, agency, department, or private
 29 contractor who shall be primarily responsible for the collection of fines
 30 assessed ~~upon defendants in the circuit, state division municipal, and~~
 31 ~~chancery~~ courts of this state.

32 (B) ~~In addition, the quorum court may delegate to the~~
 33 ~~county official, agency, department, or private contractor the primary~~
 34 ~~responsibility of collecting court costs, restitution, probation fees, or any~~
 35 ~~other monetary penalties assessed upon defendants in the circuit courts,~~
 36 ~~state division municipal courts, and chancery courts of this state.~~ In the

1 event the quorum court delegates such responsibility to a private contractor,
2 such contractor may receive, pursuant to state accounting laws, a portion
3 agreed upon in advance by the county, as commission for the collection of any
4 and all delinquent fines assessed in the circuit courts of this state.

5 (2)(A) The quorum court of each county of the state or the
6 governing body of the city in which the court is located, or both, shall, on
7 or before January 1, 2002, and on or before January 1 of each subsequent
8 year, designate a county or city official, agency, department, or private
9 contractor who shall be primarily responsible for the collection of fines
10 assessed in the municipal courts, district courts, city courts or police
11 courts of this state.

12 (B) In the event the quorum court or the governing body of
13 the city in which the court is located, or both, delegates such
14 responsibility to a private contractor, such contractor may receive, pursuant
15 to state accounting laws, a portion agreed upon in advance by the quorum
16 court or the governing body of the city in which the court is located, or
17 both, as commission for the collection of any and all delinquent fines
18 assessed in the municipal courts, district courts, city courts or police
19 courts of this state.

20 (3) "Delinquent" means any fines assessed in the circuit courts,
21 municipal courts, district courts, city courts or police courts of this state
22 which have not been paid as ordered for a period of ninety (90) days or three
23 (3) payments, either consecutive or concurrent, since payment was ordered or
24 since last partial payment was received.

25 ~~(2)(4)~~ A copy of the ordinance making such designation shall be
26 provided to the Administrative Office of the Courts by the first day of
27 February of each year.

28 (b)(1) If a private contractor is selected ~~by the quorum court~~ to
29 collect fines, then, to ensure the integrity of the court and to protect the
30 county or city, the contractor shall register with the Secretary of State and
31 shall file with the Secretary of State a surety bond or certificate of
32 deposit.

33 (2) The amount of the surety bond or certificate of deposit
34 shall be fifty thousand dollars (\$50,000).

35 (3) The county, city or any person suffering damage by reason of
36 the acts or omissions of the contractor may bring action on the bond for

1 damages.

2 (4) A contractor shall be ineligible to provide such services if
3 the owner, operator, partner, or employee shall have been convicted of a
4 felony.

5

6 SECTION 16. Arkansas Code 16-13-710 is amended to read as follows:

7 16-13-710. Automated collection procedures.

8 The Administrative Office of the Courts shall have the responsibility
9 to assist circuit courts ~~and chancery~~, municipal courts, district courts,
10 city courts and police courts in the assessment and collection of fines and
11 the management and reporting of fine revenue.

12

13 /s/ Carson

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36