## 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	As Engrossed: H2/23/05	
2	85th General Assembly	A Bill	
3	Regular Session, 2005		HOUSE BILL 1795
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5	By: Representative Ledbetter		
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8		For An Act To Be Entitled	
9	AN ACT TO PROHIBIT A STATE EMPLOYEE FROM		
10	RETAINING WITNESS OR MILEAGE FEES WHEN SUBPOENAED		
11	AS A WITNESS FOR A MATTER WITHIN THE SCOPE OF THE		
12	EMPLOYEE'	'S EMPLOYMENT; AND FOR OTHER PURE	POSES.
13			
14		Subtitle	
15	AN ACT	T TO PROHIBIT A STATE EMPLOYEE FR	ROM
16	RETAIN	NING WITNESS OR MILEAGE FEES WHEN	1
17	SUBPOR	ENAED AS A WITNESS FOR A MATTER	
18	WITHIN	N THE SCOPE OF THE EMPLOYEE'S	
19	EMPLO	YMENT.	
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22	BE IT ENACTED BY THE GE	ENERAL ASSEMBLY OF THE STATE OF A	RKANSAS:
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24	SECTION 1. Arkan	nsas Code § 5-2-317 is amended to	read as follows:
25	5-2-317. Jurisdic	ction and venue.	
26	(a) The circuit	courts of this state shall have	exclusive jurisdiction
27	over those persons acqu	iitted by reason of mental diseas	e or defect and
28	committed to the custod	ly of the Director of the Departm	ent of Human Services
29	pursuant to § 5-2-314(b	»).	
30	(b) Venue shall	be determined as follows:	
31	(1) For pe	ersons committed to the custody o	f the Department of
32	Human Services pursuant	to $$5-2-314(b)$ and who have be$	en committed to the
33	Arkansas State Hospital	l for examination, venue may be i	n Pulaski County for
34	the initial hearing pur	rsuant to $\S$ 5-2-314 and for condi	tional release
35	hearings pursuant to §	5-2-315.	
36	(2) For pe	ersons who have been conditionall	y released pursuant to

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- 1 § 5-2-315, venue for any hearing seeking the modification, revocation, or
- 2 dismissal of a conditional release order shall be in the county where the
- 3 person currently resides.
- 4 (3) The witness and travel fees, as provided for in the Arkansas
- 5 Rules of Civil Procedure, for employees of a designated receiving facility
- 6 whose presence is compelled pursuant to a subpoena shall be paid by the
- 7 designated receiving facility to which the acquittee is, or will be,
- 8 conditionally released.

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- SECTION 2. Arkansas Code § 11-10-314(1), pertaining to payment for witnesses from the Employment Security Department, is amended to read as
- 12 follows:
- 13 (1)(1) Upon receipt of an order from a court of record of this state
- 14 by the director for information pertaining to an individual's current wage
- 15 file and unemployment benefit payment record as contained in the records of
- 16 the Arkansas Employment Security Department, the information shall be made
- 17 available to the court for the purpose of determining an amount of support to
- 18 be set during a proceeding for the establishment or collection of child
- 19 support obligations or both.
- 20 (2) A photocopy of the records containing the information or a
- 21 statement that no information for the requested individual is contained in
- 22 the file of the Arkansas Employment Security Department under the official
- 23 seal of the director shall be received into evidence in the court of record.
- 24 (3) The court order shall be satisfied by mailing the document
- 25 under seal directly to the court of record within ten (10) working days of
- 26 receipt of the court order unless a motion challenging the information is
- 27 filed or a subpoena is issued requiring the appearance of an employee of the
- 28 Arkansas Employment Security Department with the court within thirty (30)
- 29 days prior to the trial.
- 30 (4) The moving party challenging the information or requesting
- 31 the subpoena to testify or other evidentiary hearing shall post a bond with
- 32 the court in an amount determined by the court but not less than two hundred
- 33 fifty dollars (\$250) to cover the cost of the appearance of the officer or
- 34 employee of the Arkansas Employment Security Department as a witness at the
- 35 trial or other evidentiary proceeding.
- 36 (5)(A) If an appearance is required, the Arkansas Employment

1 Security Department shall be awarded a witness fee to cover the actual costs 2 of the appearance of the witness. 3 (B) Such award shall be taxed by the court as other costs 4 in the case. 5 (6)(4) The director shall comply with the court order for 6 information if the following conditions are met: 7 (A) The order is delivered at least ten (10) workdays 8 prior to the date the information is required; 9 (B) The court order includes the name and social security 10 number of the individual for whom information is requested; and 11 (C) The court order is accompanied by the payment of ten 12 dollars (\$10.00) by the moving party seeking the information to the Arkansas 13 Employment Security Department for costs associated with producing the 14 information. (7)(5) Provided, however, the Arkansas Employment Security 15 16 Department may not release information under this subsection (1) if the 17 United States Secretary of Labor rules that release of the information would be grounds to find that the state is in substantial noncompliance with 42 18 U.S.C. § 503 or 26 U.S.C. § 3304. 19 20 21 SECTION 3. Arkansas Code § 21-4-213 is amended to read as follows: 22 21-4-213. Court and jury leave. 23 (a) Any A state employee serving as a juror or subpoenaed as a 24 witness to give a deposition in a court or hearing not involving personal 25 litigation or service as a paid expert witness outside the scope of state 26 employment in state or federal court shall be entitled to full compensation 27 in addition to any fees paid for such services, and such services or 28 necessary appearances in any court shall not be counted as annual leave. 29 (b) A state employee subpoenaed as a witness to give a deposition or 30 testimony in a state or federal court, a hearing, or before any body with 31 power to issue a subpoena shall: 32 (1) Be entitled to his or her salary for the time 33 attributable to service as a witness only if the matter before the court or 34 body with subpoena power is within the employee's scope of state employment. 35 The time away from the employee's state employment shall not be counted as 36 annual leave;

1	(2) Not retain any witness fees that may be tendered to him		
2	or her under state or federal law or court rules unless the matter before the		
3	court or body with subpoena power is outside of the scope of the employee's		
4	state employment; and		
5	(3) Not retain any fees for mileage that may be tendered to him		
6	or her under state or federal law or court rules unless the employee uses a		
7	personal vehicle for travel in obeying the subpoena and the employee's		
8	employer does not reimburse the employee for travel expenses.		
9	(c)(1) If a law enforcement officer is subpoenaed to appear at a time		
10	when the officer is not scheduled for regular duty:		
11	(A) This section shall not apply; and		
12	(B) A law enforcement officer shall be entitled to retain		
13	witness and mileage fees tendered to the officer.		
14	(2) As used in this section, "law enforcement officer" means		
15	any public servant vested by law with a duty to maintain public order or to		
16	make arrests for offenses.		
17	SECTION 4. Arkansas Code § 23-112-509(b), pertaining to witnesses		
18	before the Arkansas Motor Vehicle Commission, is amended to read as follows:		
19	(b)(1) The sheriffs and constables serving and returning any summons,		
20	citation, or subpoena shall be paid the same fees as provided for the		
21	services in the circuit court.		
22	(2) Any person who appears before the commission, or a duly		
23	designated employee thereof other than an employee of the commission, in		
24	response to a summons, citation, or subpoena shall be paid the same witness		
25	fee and mileage allowance as witnesses in the circuit court.		
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27	/s/ Ledbetter		
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