

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 85th General Assembly  
3 Regular Session, 2005  
4

# A Bill

HOUSE BILL 2801

5 By: Representative Lamoureux  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS CONCERNING PROBATION  
10 FEES IN DISTRICT COURTS AND CITY COURTS; TO AMEND  
11 PROVISIONS CONCERNING CONTRACTORS PROVIDING  
12 SERVICES TO DISTRICT COURTS AND CITY COURTS; AND  
13 FOR OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO AMEND PROVISIONS CONCERNING  
16 PROBATION FEES IN DISTRICT COURTS AND  
17 CITY COURTS AND TO AMEND PROVISIONS  
18 CONCERNING CONTRACTORS PROVIDING  
19 SERVICES TO DISTRICT COURTS AND CITY  
20 COURTS.  
21  
22  
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code § 5-4-322 is amended to read as follows:

27 5-4-322. Fine and probation fee or public service work fee authorized.

28 (a)(1) A district court, or city court, ~~or police court~~ may place a  
29 person on probation or sentence him or her to public service work, and, as a  
30 condition of its order, may require the defendant to pay a fine in one (1) or  
31 several sums, and in addition may require the person to pay a probation fee  
32 or pay a public service work supervisory fee in an amount to be established  
33 by the court.

34 (2) The broad objective of probation shall be to educate and  
35 rehabilitate persons placed on probation. The conditions for probation shall  
36 bear a reasonable relationship to the crime committed or to future



1 criminality and be reasonably necessary to assist the defendant in leading a  
 2 law-abiding life.

3 (3) The conditions of probation shall be closely monitored and  
 4 supervised by the court or by a probation officer. The court shall determine  
 5 if the conditions of probation are in compliance with the provisions of  
 6 subdivision (a)(2) of this section.

7 (b)(1) This section regarding probation and probation fees shall not  
 8 apply in instances where the defendant is charged with violating the Omnibus  
 9 DWI Act, § 5-65-101 et seq., or the Underage DUI Law, § 5-65-301 et seq.

10 (2) In instances where the defendant is charged with violating  
 11 the Omnibus DWI Act, § 5-65-101 et seq., the court may require the defendant  
 12 to pay a public service work supervisory fee in an amount to be established  
 13 by the court if the court orders public service in lieu of jail pursuant to §  
 14 5-65-111.

15 (3) In instances in which the defendant is charged with  
 16 violating the Underage DUI Law, § 5-65-301 et seq., the court may require the  
 17 defendant to pay a public service work supervisory fee in an amount to be  
 18 established by the court for any public service work ordered by the court.

19 (c) This section is supplemental to all other laws allowing a district  
 20 court, or city court, or police court to attach conditions on an order of  
 21 probation.

22 (d)(1) Except as provided in subsection (e) of this section, no court  
 23 may impose probation fees in any case in which the only sentence available is  
 24 a monetary fine, court costs, or, if applicable, restitution.

25 (2) In those cases, a defendant may be given time to make those  
 26 payments and the installment payment fee in § 16-13-704 shall be the only fee  
 27 authorized for administering those accounts.

28 (3) If the sentence available includes incarceration, probation  
 29 and probation fees may be ordered in lieu of incarceration.

30 (e) If a fine is an authorized sentence, the fine may be suspended and  
 31 probation and probation fees may be ordered in lieu of the fine.

32 (f) Probation fees shall be collected in full for each month in which  
 33 a defendant is on probation. The fees shall accrue for each month that a  
 34 defendant does not make a payment and the defendant remains on probation as  
 35 ordered by the court.

36

1 SECTION 2. Arkansas Code § 16-17-127 is amended to read as follows:  
 2 16-17-127. Contractors providing certain services. [Effective January  
 3 1, 2005.]

4 ~~To ensure the integrity of the court and to protect city and~~  
 5 ~~county officials before services regulated by this section are rendered, a~~  
 6 ~~person shall register with the Secretary of State and shall file with the~~  
 7 ~~Secretary of State a surety bond or certificate of deposit if a district~~  
 8 ~~court or city court, upon approval of the governing body or governing bodies~~  
 9 ~~exercising control over the court, contracts with a person for the person to~~  
 10 ~~provide any of the following services~~ Upon request of the district court  
 11 judge or city court judge, the governing body in which a district court or  
 12 city court is located or, if applicable, each governing body of a political  
 13 subdivision which contributes to the expenses of a district court may  
 14 contract with a person who has registered with the Secretary of State and  
 15 filed a surety bond or certificate of deposit with the Secretary of State to  
 16 provide any of the following services:

- 17 (1) Probation services;
- 18 (2) Pretrial supervised release programs;
- 19 (3) Alternate sentencing programs; or
- 20 (4) The collection and enforcement of delinquent fines and
- 21 costs.

22 (b)(1) The amount of the surety bond or certificate of deposit shall  
 23 be fifty thousand dollars (\$50,000).

24 (2) The city or county or any person suffering damage by reason  
 25 of the acts or omissions of the person or an employee of the person in the  
 26 performance of services subject to this section may bring action on the bond  
 27 for damages.

28 (c) A person shall be ineligible to provide services subject to this  
 29 section if the person or an owner, operator, or any stockholder has been  
 30 convicted of a felony.

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

33 (e) A district court or city court may require a defendant to pay  
 34 reasonable fees, in an amount to be established by the court, relating to  
 35 private contractors providing probation services, pretrial supervised release  
 36 programs, or alternate sentencing programs authorized by law.

1           (f)(1) Notwithstanding §§ 16-13-701 – 16-13-701, a private contractor  
2 may only collect and retain the fees established by the court for services  
3 provided pursuant to subsection (a) of this section.

4           (2) When the order of the district court or city court requires  
5 a defendant to use the services or programs of a private contractor, the  
6 designated contractor shall report on or before the fifth day of each month  
7 all fees collected. This report shall be provided to the mayor and county  
8 judge of the political subdivision or subdivisions which contribute to the  
9 expenses of the district court or city court and to the district court clerk  
10 or city court clerk for inclusion in the court’s monthly report as required  
11 by law.

12           (3) The report of the private contractor, as required in this  
13 section, shall contain columns with the following information by defendant:

- 14                   (A) Uniform traffic ticket number;
- 15                   (B) Defendant’s name;
- 16                   (C) Court docket number;
- 17                   (D) Receipt number;
- 18                   (E) Amount collected; and
- 19                   (F) Total of all fees collected.

20           (g) A private contractor providing the collection of delinquent fines  
21 and court costs shall follow the procedures in §§ 16-13-701 – 16-13-712.

22           (h) This section shall not apply to the alcohol treatment or education  
23 programs authorized by § 5-65-115 and § 5-65-307.

24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36