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: S4/1/05	
2	85th General Assembly	A Bill	
3	Regular Session, 2005		HOUSE BILL 2801
4			
5	By: Representative Lamoure	eux	
6			
7			
8		For An Act To Be Entitled	
9	AN ACT	TO AMEND PROVISIONS CONCERNING PROBA	TION
10	FEES IN	DISTRICT COURTS AND CITY COURTS; TO	MEND
11	PROVISI	ONS CONCERNING CONTRACTORS PROVIDING	i r
12	SERVICE	S TO DISTRICT COURTS AND CITY COURTS	; AND
13	FOR OTH	IER PURPOSES.	
14			
15		Subtitle	
16	AN A	CT TO AMEND PROVISIONS CONCERNING	
17	PROB	ATION FEES IN DISTRICT COURTS AND	
18	CITY	COURTS AND TO AMEND PROVISIONS	
19	CONC	ERNING CONTRACTORS PROVIDING	
20	SERV	ICES TO DISTRICT COURTS AND CITY	
21	COUR	TS.	
22			
23			
24	BE IT ENACTED BY THE (GENERAL ASSEMBLY OF THE STATE OF ARKA	ANSAS:
25			
26	SECTION 1. Arka	ansas Code § 5-4-322 is amended to re	ead as follows:
27	5-4-322. Fine an	nd probation fee or public service we	ork fee authorized.
28	(a) <u>(l)</u> A distr	ict court , <u>or</u> city court , or police (court may place a
29	person on probation of	r sentence him or her to public serv	ice work, and, as a
30	condition of its orde:	r, may require the defendant to pay a	a fine in one (1) or
31	several sums, and in a	addition may require the person to pa	ay a probation fee
32	or pay a public servi	ce work supervisory fee in an amount	to be established
33	by the court.		
34	<u>(2)</u> The 1	broad objective of probation shall be	<u>e to educate and</u>
35	<u>rehabilitate persons</u>	placed on probation. The conditions	for probation shall
36	<u>bear a reasonable rela</u>	ationship to the crime committed or	to future



As Engrossed: S4/1/05

HB2801

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)(l) 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 , <u>or</u> city court , or police court to attach conditions on an order of
21	probation.
22	(d)(l) 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	

2

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	(a) 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 <u>Upon request of the district court</u>		
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)(l) 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.		

3

As Engrossed: S4/1/05

1	(f) Notwithstanding §§ 16-13-701 - 16-13-701, a private contractor may			
2	only collect and retain the fees established by the court for services			
3	provided pursuant to subsection (a) of this section.			
4	(g) A private contractor providing the collection of delinquent fines			
5	and court costs shall follow the procedures in §§ 16-13-701 - 16-13-712.			
6	(h) This section shall not apply to the alcohol treatment or education			
7	programs authorized by § 5-65-115 and § 5-65-307.			
8				
9	SECTION 3. EMERGENCY CLAUSE. It is found and determined by the			
10	General Assembly of the State of Arkansas that probation is utilized in			
11	criminal cases to educate and rehabilitate persons placed on probation; that			
12	the number of persons on probation has increased because of the increase in			
13	the number of criminal cases; and that this act is immediately necessary in			
14	order to closely monitor and supervise persons placed on probation.			
15	Therefore, an emergency is declared to exist and this act being immediately			
16	necessary for the preservation of the public peace, health, and safety shall			
17	become effective on:			
18	(1) The date of its approval by the Governor;			
19	(2) If the bill is neither approved nor vetoed by the Governor,			
20	the expiration of the period of time during which the Governor may veto the			
21	<u>bill; or</u>			
22	(3) If the bill is vetoed by the Governor and the veto is			
23	overridden, the date the last house overrides the veto.			
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25	/s/ Lamoureux			
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