

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/5/09

A Bill

HOUSE BILL 1853

5 By: Representative Williams
6
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE PAYMENT AND COLLECTION OF
10 FINES, COSTS AND RESTITUTION; TO REPEAL ARKANSAS
11 CODE § 21-6-401(d) AS MAY BE ENACTED BY HOUSE
12 BILL 1353 OF 2009; AND FOR OTHER PURPOSES.
13

Subtitle

14 CONCERNING THE PAYMENT AND COLLECTION OF
15 FINES, COSTS AND RESTITUTION.
16
17
18

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

21 SECTION 1. Arkansas Code § 5-4-203 is repealed.

22 ~~5-4-203. Consequences of nonpayment.~~

23 ~~(a)(1) When a defendant sentenced to pay a fine or costs defaults in~~
24 ~~the payment of the fine or costs or of any installment, upon the court's own~~
25 ~~motion or that of the prosecuting attorney, the court may require the person~~
26 ~~to show cause why he or she should not be imprisoned for nonpayment.~~

27 ~~(2) The court may issue a warrant of arrest or a summons for the~~
28 ~~defendant's appearance.~~

29 ~~(3)(A) The court may order the defendant imprisoned in the~~
30 ~~county jail or other authorized institution designated by the court until the~~
31 ~~fine or costs or a specified part of the fine or costs is paid unless the~~
32 ~~defendant shows that his or her default was not attributable to a~~

33 ~~(i) Purposeful refusal to obey the sentence of the~~
34 ~~court; or~~

35 ~~(ii) Failure on the defendant's part to make a good~~
36 ~~faith effort to obtain the funds required for payment.~~



1 ~~(B) The period of imprisonment shall not exceed the~~
2 ~~shorter period of:~~

3 ~~(i) One (1) day for each forty dollars (\$40.00) of~~
4 ~~the fine or costs;~~

5 ~~(ii) Thirty (30) days if the fine or costs were~~
6 ~~imposed upon conviction of a misdemeanor; or~~

7 ~~(iii) One (1) year if the fine or costs were imposed~~
8 ~~upon conviction of a felony.~~

9 ~~(4) If the court determines that the default in payment of fine~~
10 ~~or costs is not attributable to a cause specified in subdivision (a)(3)(A) of~~
11 ~~this section, the court may enter an order:~~

12 ~~(A) Allowing the defendant additional time for payment;~~

13 ~~(B) Reducing the amount of each installment; or~~

14 ~~(C) Revoking the fine or costs or the unpaid portion of~~
15 ~~the fine or costs in whole or in part.~~

16 ~~(b)(1) When a defendant sentenced to pay a fine or costs defaults in~~
17 ~~the payment of the fine or costs or of any installment, the clerk of the~~
18 ~~court in which payment is due shall:~~

19 ~~(A) Submit the last known address provided to the court by~~
20 ~~the defendant to the Department of Finance and Administration; and~~

21 ~~(B) Notify the department to suspend any driver's license~~
22 ~~held by the defendant.~~

23 ~~(2) Upon receipt of notification under subdivision (b)(1) of~~
24 ~~this section, the department shall notify the defendant that his or her~~
25 ~~driver's license will be suspended thirty (30) days from the date of the~~
26 ~~notice.~~

27 ~~(3) Notice from the department is sufficient if mailed to the~~
28 ~~defendant at either the:~~

29 ~~(A) Last known address provided to the court by the~~
30 ~~defendant; or~~

31 ~~(B) Address used by the defendant on any driver's license.~~

32 ~~(4) Except as notified otherwise by the clerk of the court, the~~
33 ~~department shall suspend any driver's license held by the defendant as~~
34 ~~provided in this subsection.~~

35 ~~(5) The defendant is entitled to retain or regain any driver's~~
36 ~~license if:~~

1 ~~(A) The default is cured and the clerk of the court~~
2 ~~notifies the department to cancel or release the suspension; or~~

3 ~~(B) The court orders reinstatement.~~

4 ~~(e)(1)(A) When a corporation is sentenced to pay a fine or costs, it~~
5 ~~is the duty of the person authorized to make disbursements from the assets of~~
6 ~~the corporation to pay the fine or costs.~~

7 ~~(B) If a disbursement under subdivision (e)(1)(A) of this~~
8 ~~section requires approval of the board of directors, it is the duty of the~~
9 ~~board of directors to authorize a disbursement to pay the fine or costs.~~

10 ~~(2) Failure to comply with a duty imposed by this subsection~~
11 ~~renders a person or a director subject to imprisonment under subdivisions~~
12 ~~(a)(1)-(3) of this section.~~

13
14 SECTION 2. Arkansas Code § 5-4-205(e), concerning restitution, is
15 amended to read as follows:

16 (e)(1) Restitution shall be made immediately unless prior to the
17 imposition of sentence the court determines that the defendant should be:

18 (A) Given a specified time to pay; or

19 (B)(i) Allowed to pay in specified installments.

20 (ii) A district court may order installment payments
21 of restitution to be collected first in lieu of the procedure under § 16-10-
22 209(5)(F).

23 (2) In determining the method of payment, the court shall take
24 into account:

25 (A) The financial resources of the defendant and the
26 burden that payment of restitution will impose with regard to another
27 obligation of the defendant;

28 (B) The ability of the defendant to pay restitution on an
29 installment basis or on another condition to be fixed by the court; and

30 (C) The rehabilitative effect on the defendant of the
31 payment of restitution and the method of payment

32
33 SECTION 3. Arkansas Code § 5-4-309 is amended to read as follows:

34 5-4-309. Violation of conditions – Arrest, revocation, and sentencing.

35 (a)(1) At any time before the expiration of a period of suspension or
36 probation, a court may summon a defendant to appear before it or may issue a

1 warrant for the defendant's arrest.

2 (2) The warrant may be executed by any law enforcement officer.

3 (b) At any time before the expiration of a period of suspension or
4 probation, any law enforcement officer may arrest a defendant without a
5 warrant if the law enforcement officer has reasonable cause to believe that
6 the defendant has failed to comply with a condition of his or her suspension
7 or probation.

8 (c) A defendant arrested for violation of suspension or probation
9 shall be taken immediately before the court that suspended imposition of
10 sentence, or if the defendant was placed on probation, before the court
11 supervising the probation.

12 (d) If a court finds by a preponderance of the evidence that the
13 defendant has inexcusably failed to comply with a condition of his or her
14 suspension or probation, the court may revoke the suspension or probation at
15 any time prior to the expiration of the period of suspension or probation.

16 (e) A finding of failure to comply with a condition of suspension or
17 probation as provided in subsection (d) of this section, may be punished as
18 contempt under § 16-10-108.

19 ~~(e)~~(f) A court may revoke a suspension or probation subsequent to the
20 expiration of the period of suspension or probation if before expiration of
21 the period:

22 (1) The defendant is arrested for violation of suspension or
23 probation;

24 (2) A warrant is issued for the defendant's arrest for violation
25 of suspension or probation;

26 (3) A petition to revoke the defendant's suspension or probation
27 has been filed if a warrant is issued for the defendant's arrest within
28 thirty (30) days of the date of filing the petition; or

29 (4) The defendant has been:

30 (A) Issued a citation in lieu of arrest under Rule 5 of
31 the Arkansas Rules of Criminal Procedure for violation of suspension or
32 probation; or

33 (B) Served a summons under Rule 6 of the Arkansas Rules of
34 Criminal Procedure for violation of suspension or probation.

35 ~~(f)~~(g)(1)(A) If a court revokes a suspension or probation, the court
36 may enter a judgment of conviction and may impose any sentence on the

1 defendant that might have been imposed originally for the offense of which he
2 or she was found guilty.

3 (B) However, any sentence to pay a fine or of
4 imprisonment, when combined with any previous fine or imprisonment imposed
5 for the same offense, shall not exceed the limits of § 5-4-201 or § 5-4-401,
6 or if applicable, § 5-4-501.

7 (2)(A) As used in this subsection, "any sentence" includes the
8 extension of a period of suspension or probation.

9 (B) If an extension of suspension or probation is made
10 upon revocation, the court is not deprived of the ability to revoke the
11 suspension or probation again should the defendant's conduct warrant
12 revocation again.

13

14 SECTION 4. Arkansas Code § 5-65-205(a), concerning a refusal to submit
15 to a chemical test, is amended to read as follows:

16 (a)(1) If a person under arrest refuses upon the request of a law
17 enforcement officer to submit to a chemical test designated by the law
18 enforcement agency, as provided in § 5-65-202, no chemical test shall be
19 given, and the person's motor vehicle operator's license shall be seized by
20 the law enforcement officer, and the law enforcement officer shall
21 immediately deliver to the person from whom the motor vehicle operator's
22 license was seized a temporary driving permit, as provided by § 5-65-402.

23 (2) Refusal to submit to a chemical test under this subsection
24 is a strict liability offense and is a violation pursuant to § 5-1-108.

25

26 SECTION 5. Arkansas Code § 5-65-310(a), concerning the offense of
27 underage refusal to submit, is amended to read as follows:

28 (a)(1) If an underage person under arrest refuses upon the request of
29 a law enforcement officer to submit to a chemical test designated by the law
30 enforcement agency, as provided in § 5-65-309, no chemical test shall be
31 given, and the underage person's driver's license shall be seized by the law
32 enforcement officer, and the law enforcement officer shall immediately
33 deliver to the underage person from whom the driver's license was seized a
34 temporary driving permit as provided by § 5-65-402.

35 (2) Refusal to submit to a chemical test under this subsection
36 is a strict liability offense and is a violation pursuant to § 5-1-108.

1
2 SECTION 6. Arkansas Code § 16-10-211(a), concerning record retention
3 in district courts, is amended to read as follows:

4 (a) All towns, cities, and counties of the State of Arkansas shall
5 maintain records for the district courts and city courts and are to:

6 (1) Permanently maintain:

7 (A) Case indices for all courts;

8 (B) Case dockets for all courts;

9 (C) ~~Warrants~~ Unserved warrants;

10 (D) Waivers;

11 (E) Expungement and sealed records;

12 (F) Circuit court judgments;

13 (G) Files concerning convictions under the Omnibus DWI
14 Act, § 5-65-101 et seq.;

15 (H) Files concerning cases resulting in a suspended
16 imposition of sentence; and

17 (I) Domestic battering files;

18 (2) Maintain for a period of at least seven (7) years and in no
19 event dispose of prior to being audited:

20 (A) Records and reports of court costs;

21 (B) Fines and fees assessed and collected;

22 (C) Complete case files and written exhibits for all
23 courts;

24 (D) Month-end settlements;

25 (E) Monthly distribution reports;

26 (F) Show cause orders;

27 (G) Case information, including arrest reports and
28 affidavits; and

29 (H) Alternative service or community service time sheets;

30 and

31 (3) Maintain for a period of at least three (3) years and in no
32 event dispose of prior to being audited:

33 (A) Bank reconciliations;

34 (B) Check book registers;

35 (C) Cancelled checks;

36 (D) Bank statements;

- 1 (E) Receipts;
- 2 (F) Deposit collection records;
- 3 (G) Budget packets or books;
- 4 (H) Accounts payable;
- 5 (I) Payroll time sheets;
- 6 (J) Information concerning vacation and sick leave;
- 7 (K) Month-end payroll; ~~and~~
- 8 (L) Uniform traffic ticket books from each police
- 9 department and sheriff's office; and
- 10 (M) Served warrants.

11

12 SECTION 7. Arkansas Code § 16-10-305(a)[Effective until January 1,

13 2012], concerning court costs, is amended to read as follows:

14 (a) There shall be levied and collected the following court costs from

15 each defendant upon each conviction, each plea of guilty or nolo contendere,

16 or each forfeiture of bond:

17 (1) In circuit court, one hundred fifty dollars (\$150) for ~~For~~

18 *misdemeanor or felony violations of state law, excluding violations of ~~the~~*

19 ~~Omnibus DWI Act, § 5-65-101 et seq., in circuit court, one hundred fifty~~

20 ~~dollars (\$150);~~

- 21 (A) The Omnibus DWI Act, § 5-65-101 et seq.;
- 22 (B) The Underage DUI Law, § 5-65-301 et seq.;
- 23 (C) Section 5-75-101 et seq.;
- 24 (D) Section 5-76-101 et seq.;
- 25 (E) Section 27-23-114; or
- 26 (F) Section 15-42-127;

27 (2) In district court, one hundred dollars (\$100) for ~~For~~

28 offenses which are misdemeanors or violations of state law, excluding

29 violations of ~~the Omnibus DWI Act, § 5-65-101 et seq., in district court, one~~

30 ~~hundred dollars (\$100);~~

- 31 (A) The Omnibus DWI Act, § 5-65-101 et seq.;
- 32 (B) The Underage DUI Law, § 5-65-301 et seq.;
- 33 (C) Section 5-75-101 et seq.;
- 34 (D) Section 5-76-101 et seq.;
- 35 (E) Section 27-23-114; or
- 36 (F) Section 15-42-127;

1 (3) In circuit court or district court, seventy-five dollars
2 (\$75) for For traffic offenses which are misdemeanors or violations under
3 state law or local ordinance, excluding violations of ~~the Omnibus DWI Act, §~~
4 ~~5-65-101 et seq., in district court, seventy five dollars (\$75);:~~

5 (A) The Omnibus DWI Act, § 5-65-101 et seq.;

6 (B) The Underage DUI Law, § 5-65-301 et seq.;

7 (C) Section 5-75-101 et seq.;

8 (D) Section 5-76-101 et seq.;

9 (E) Section 27-23-114; or

10 (F) Section 15-42-127;

11 (4) For nontraffic offenses which are misdemeanors or violations
12 under local ordinance in circuit, district or city court, twenty-five dollars
13 (\$25.00);

14 (5) In circuit court, district court, or city court, three
15 hundred dollars (\$300) for For violations of ~~the Omnibus DWI Act, § 5-65-101~~
16 ~~et seq., in circuit court, district court or city court three hundred dollars~~
17 ~~(\$300);:~~

18 (A) The Omnibus DWI Act, § 5-65-101 et seq.;

19 (B) The Underage DUI Law, § 5-65-301 et seq.;

20 (C) Section 5-75-101 et seq.;

21 (D) Section 5-76-101 et seq.;

22 (E) Section 27-23-114; or

23 (F) Section 15-42-127;

24
25 (6) In city court, seventy-five dollars (\$75) for For offenses
26 which are misdemeanors or violations under state law, excluding violations of
27 ~~the Omnibus DWI Act, § 5-65-101 et seq., seventy five dollars (\$75.00) in~~
28 ~~city court;:~~

29 (A) The Omnibus DWI Act, § 5-65-101 et seq.;

30 (B) The Underage DUI Law, § 5-65-301 et seq.;

31 (C) Section 5-75-101 et seq.;

32 (D) Section 5-76-101 et seq.;

33 (E) Section 27-23-114; or

34 (F) Section 15-42-127;

35 (7) In city court, fifty dollars (\$50) for For traffic offenses
36 which are misdemeanors or violations under state law or local ordinance,

1 excluding violations of the Omnibus DWI Act, § 5-65-101 et seq., fifty
2 dollars (\$50.00) in city court,;

3 (A) The Omnibus DWI Act, § 5-65-101 et seq.;

4 (B) The Underage DUI Law, § 5-65-301 et seq.;

5 (C) Section 5-75-101 et seq.;

6 (D) Section 5-76-101 et seq.;

7 (E) Section 27-23-114; or

8 (F) Section 15-42-127;

9
10 SECTION 8. Arkansas Code § 16-13-703 is amended to read as follows:

11 16-13-703. Imprisonment.

12 (a) When a defendant sentenced to pay a fine defaults in the payment
13 thereof, or of any an installment, the court, upon its own motion or that of
14 the prosecuting attorney, may require him or her to show cause why he or she
15 should not be imprisoned for nonpayment.

16 (b) The court may issue a warrant of arrest or summons for his or her
17 appearance.

18 (c)(1) Unless the defendant shows that his or her default was not
19 attributable to a purposeful refusal to obey the sentence of the court or to
20 a failure on his or her part to make a good-faith effort to obtain the funds
21 required for payment, the court may order the defendant imprisoned in the
22 county jail or other authorized institution designated by the court until the
23 fine or specified part thereof is paid.

24 (2)(A) The period of imprisonment shall not exceed one (1) day
25 for each forty dollars (\$40.00) of the fine, thirty (30) days if the fine was
26 imposed upon conviction of a misdemeanor, or one (1) year if the fine was
27 imposed upon conviction of a felony, whichever is the shorter period.

28 (B) The total amount of fines owed shall not automatically
29 be reduced by the period of imprisonment, but the court may credit forty
30 dollars (\$40.00) for each day of imprisonment against the total fine the
31 defendant has been sentenced to pay.

32 (3) A finding by the court that the default in payment of the
33 fine is attributable to the defendant's purposeful refusal to obey the
34 sentence of the court or to a failure on his or her part to make a good-faith
35 effort to obtain the funds required for payment may be punished as contempt
36 under § 16-10-108.

1 ~~(3)~~(4) The provisions of this subsection shall be an addition to
2 the revocation options contained in § 5-4-301 et seq.

3 (d) If the court determines that the default in payment of the fine is
4 not attributable to the causes specified in subsection (c) of this section,
5 the court may enter an order allowing the defendant additional time for
6 payment, reducing the amount of each installment, or revoking the fine or the
7 unpaid portion thereof in whole or in part.

8
9 SECTION 9. Arkansas Code § 16-13-704 is amended to read as follows:

10 16-13-704. Installment payments. [Effective until January 1, 2012.]

11 (a)(1) If the court concludes that the defendant has the ability to
12 pay the fine, but that requiring the defendant to make immediate payment in
13 full would cause a severe and undue hardship for the defendant and the
14 defendant's dependents, the court may authorize payment of the fine by means
15 of installment payments in accordance with this subchapter.

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

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

24 (b)(1)(A) In addition to the fine and any other assessments authorized
25 by this subchapter, an installment fee of five dollars (\$5.00) per month
26 shall be assessed on the first day of each month on each person who is
27 authorized to pay a fine on an installment basis.

28 (B) This fee shall be collected in full each month in
29 which a defendant makes an installment payment.

30 (C) This fee shall accrue each month that a defendant does
31 not make an installment payment and the fine has not been paid in full.

32 (2)(A)(i) One-half ($\frac{1}{2}$) of the installment fee collected in
33 circuit court shall be remitted by the tenth day of each month to the
34 ~~Administration of Justice Funds Section of the Office of Administrative~~
35 ~~Services of the Department of Finance and Administration~~ Administration of
36 Justice Funds Section, on a form provided by that office, for deposit in the

1 Judicial Fine Collection Enhancement Fund established by § 16-13-712.

2 (ii) The other half of the installment fee shall be
3 remitted by the tenth day of each month to the county treasurer to be
4 deposited in a fund entitled the circuit court automation fund to be used
5 solely for circuit court-related technology.

6 (B)(i) Expenditures from the circuit court automation fund
7 shall be approved by the administrative circuit judge of each judicial
8 circuit and shall be authorized and paid under the state laws governing the
9 appropriation and payment of county expenditures. Expenditures may be made
10 for indirect expenses related to implementation of new court-related
11 technology, including overtime pay, personnel or travel expenses, and
12 technology related supplies.

13 (ii) Funds in each county in a judicial circuit may
14 be pooled for expenditure pursuant to a circuitwide technology plan approved
15 by the administrative circuit judge.

16 ~~(iii) All expenditures from the circuit court~~
17 ~~automation fund shall be authorized, pursuant to the county accounting law,~~
18 ~~by the quorum court.~~

19 (3)(A) One-half ($\frac{1}{2}$) of the installment fee collected in district
20 court or city court, shall be remitted by the tenth day of each month to the
21 Administration of Justice Funds Section ~~of the Office of Administrative~~
22 ~~Services of the Department of Finance and Administration~~ on a form provided
23 by that office, for deposit in the Judicial Fine Collection Enhancement Fund
24 established by § 16-13-712.

25 (B)(i) The other half of the installment fee collected in
26 district court shall be remitted by the tenth day of each month to the city
27 treasurer of the city in which the district court is located to be deposited
28 in a fund entitled the district court automation fund to be used solely for
29 district court-related technology.

30 (ii) The other half of the installment fee collected
31 in city court shall be remitted by the tenth day of each month to the
32 treasurer of the city or town in which the city court is located to be
33 deposited in a fund entitled the city court automation fund to be used solely
34 for city court-related technology.

35 (C) In ~~any~~ a district court which is funded solely by the
36 county, the other half of this fee shall be remitted by the tenth day of each

1 month to the county treasurer of the county in which the district court is
2 located to be deposited in the district court automation fund to be used
3 solely for district court-related technology.

4 (D)(i) Expenditures from the district court automation
5 fund shall be approved by a district judge and shall be authorized and paid,
6 ~~pursuant to state accounting law~~ under state laws governing the appropriation
7 and payment of county or municipal expenditures, by the governing body or, if
8 applicable, governing bodies which contribute to the expenses of a district
9 court.

10 (ii) Expenditures may be made for indirect expenses
11 related to implementation of new court-related technology, including overtime
12 pay, personnel or travel expenses, and technology related supplies.

13 (E)(i) Expenditures from the city court automation fund
14 shall be approved by the city court judge and shall be authorized and paid,
15 ~~pursuant to state accounting law~~ under state laws governing the appropriation
16 and payment of municipal expenditures, by the governing body of the city or
17 town in which the city court is located.

18 (ii) Expenditures may be made for indirect expenses
19 related to implementation of new court-related technology, including,
20 overtime pay, personnel or travel expenses, and technology related supplies.

21 (c) ~~Any~~ A defendant who has been authorized by the court to pay a fine
22 by installments shall be considered to have irrevocably appointed the clerk
23 of the court as his or her agent upon whom all papers affecting his or her
24 liability may be served, and the clerk shall forthwith notify the defendant
25 thereof by ordinary mail at his or her last known address.

26 (d) "Ability to pay" means that the resources of the defendant,
27 including all available income and resources, are sufficient to pay the fine
28 and provide the defendant and his or her dependents with a reasonable
29 subsistence compatible with health and decency.

30
31 SECTION 10. Arkansas Code § 16-13-709(a)(2)[Effective until January 1,
32 2012], concerning the responsibility for collection of fines, is amended to
33 read as follows:

34 (2)(A)(i) The governing body or, if applicable and by mutual
35 agreement, each governing body of a political subdivision which contributes
36 to the expenses of a district court, or the governing body of the city in

1 which a city court is located, shall designate a county or city official,
2 agency, or department ~~who~~ that shall be primarily responsible for the
3 collection of fines assessed in the district courts, city courts, or police
4 courts of this state.

5 (ii) All fines collected each month in district
6 court or a department of district court by the designated county or city
7 official, agency, or department shall be disbursed by the tenth working day
8 of the following month ~~pursuant to~~ under § 16-17-707.

9 (B) All fines collected each month in city courts by the
10 designated city official, agency, or department shall be disbursed by the
11 tenth working day of the following month to the general fund or other city
12 fund, state agency, or state entity as provided by law; the city
13 administration of justice fund; the county administration of justice fund;
14 and the State Administration of Justice Fund.

15 (C) The chief of police of the town or city in which a
16 district court or city court is located or the sheriff shall remain
17 responsible for collecting bail or money deposited in lieu of bail on behalf
18 of defendants discharged from incarceration ~~pursuant to~~ under law in district
19 court or city court.

20 (D)(i) The governing body or, if applicable and by mutual
21 agreement, each governing body of a political subdivision which contributes
22 to the expenses of a district court, or the governing body of the city in
23 which a city court is located, may delegate the responsibility for the
24 collection of delinquent fines assessed in district court or city court to a
25 private contractor.

26 (ii) The contractor may receive under a written
27 contract a commission on delinquent fines collected for district court or
28 city court.

29 (iii) The commission agreed to be received by the
30 private contractor shall be a portion of the total fine owed by a defendant.

31 (iv) The court shall credit the defendant with the
32 gross amount remitted to the private contractor.

33 (v) The private contractor shall remit the gross
34 amounts collected to the county or city official, agency, or department
35 designated under ~~subsection~~ subdivision (a)(2)(A) of this section on a
36 monthly basis.

1 (vi) The commission expense shall be apportioned
2 among each governing body of a political subdivision which contributes to the
3 expenses of a district court in proportion to the gross amount of fines
4 collected for that political subdivision.

5 (vii) Payment of the commission shall be according
6 to accounting procedures prescribed by law.

7 (viii) Payment of the commission for city courts
8 shall be made by the governing body of the city in which the court is
9 located.

10 (ix) The remainder of fines received shall be
11 disbursed pro rata under this section and §§ 14-44-108, 14-45-106, 16-10-209,
12 16-10-308, and 16-17-707, ~~and 16-18-104.~~

13
14 SECTION 11. Arkansas Code § 16-17-117 is repealed.

15 ~~16-17-117. Issuance of arrest warrants by clerk of court.~~

16 ~~(a) A clerk of the municipal court may, when empowered by the judge of~~
17 ~~the municipal court, issue a warrant of arrest upon the filing with the clerk~~
18 ~~of an information by the prosecuting attorney or an information or complaint~~
19 ~~by the city attorney.~~

20 ~~(b) A clerk of the municipal court shall issue a warrant of arrest~~
21 ~~upon the filing with the clerk of an affidavit for warrant of arrest signed~~
22 ~~by any individual, if such affidavit has been processed by the prosecuting~~
23 ~~attorney or city attorney or the prosecuting attorney or city attorney has~~
24 ~~marked thereon approval of issuance of the warrant.~~

25 ~~(c) The methods provided in this section for issuance of warrants of~~
26 ~~arrest shall be in addition to those provided by law but shall not authorize~~
27 ~~a clerk to issue a search warrant.~~

28
29 SECTION 12. Arkansas Code § 16-17-128 is repealed.

30 ~~16-17-128. Payment of fines by credit card.~~

31 ~~(a) All municipal courts may accept payment of fines and associated~~
32 ~~costs by an approved credit card.~~

33 ~~(b)(1) All municipal courts are authorized to enter into contracts~~
34 ~~with credit card companies and to pay those companies fees normally charged~~
35 ~~by those companies for allowing the court to accept their credit cards in~~
36 ~~payment as authorized by subsection (a) of this section.~~

1 ~~(2)(A) Where the offender pays fines by an approved credit card,~~
2 ~~the court shall assess a service fee equal to the amount charged to the court~~
3 ~~by the credit card issuer.~~

4 ~~(B) This charge may be added to, and become a part of, any~~
5 ~~underlying obligation.~~

6
7 SECTION 13. Arkansas Code § 16-17-136 is amended to read as follows:
8 16-17-136. Waiver of appearance and entry of plea to traffic
9 violations in district court and city court.

10 Notwithstanding any rule of criminal procedure to the contrary:

11 (1) A person who is charged in district court or city court with
12 committing a traffic an offense ~~that is a violation under state law or local~~
13 ~~ordinance~~, excluding a violation of the Omnibus DWI Act, § 5-65-101 et seq.,
14 or the Underage DUI Law, § 5-65-301 et seq., ~~and in which the only sentence~~
15 ~~available is a monetary fine and court costs~~, and any other offense for which
16 a court appearance is mandatory, may waive appearance and trial and plead
17 guilty or nolo contendere by a signed statement;

18 (2)(A) With the signed statement, the person shall pay the fine
19 and court costs in an amount as established by the district court or city
20 court within the limits prescribed by law.

21 (B) Fines and court costs shall be paid to the county or
22 city official, agency, or department designated ~~pursuant to~~ under § 16-13-709
23 as primarily responsible for the collection of fines assessed in the district
24 courts and city courts of this state; and

25 (3) The court shall accept the signed statement accompanied by
26 the fine and court costs assessed as a plea of guilty or nolo contendere and
27 shall proceed accordingly.

28
29 SECTION 14. Arkansas Code § 16-17-211(d), concerning district court
30 clerks, is amended to read as follows:

31 (d) The district court clerk shall:

32 (1) Administer oaths, including special judges of district court
33 under § 16-17-210;

34 (2) Take affidavits required or permitted in the progress of the
35 action;

36 ~~(3) Approve bond in criminal cases in the absence of the judge;~~

1 ~~(4)~~(3) Keep a complete docket of all proceedings to the extent
2 and in the manner directed by the judge;

3 ~~(5)~~(4) Seasonably record the judgments, rules, orders, and other
4 civil or criminal proceedings of the court and keep an alphabetical index
5 thereof;

6 ~~(6)~~(5) Keep such other dockets, books, and indices as may be
7 required by law or by the judge; and

8 ~~(7)~~(6) Issue and attest all process.

9
10 SECTION 15. Arkansas Code § 16-17-707(a)(3)(D), concerning separate
11 accounting records in district court, is amended to read as follows:

12 (a)(3)(D) All other fees and interest earned on the court account
13 shall be disbursed to the treasurers of the political subdivisions which
14 contribute to the expense of the district court in accordance with a written
15 agreement among the political subdivisions.

16
17 SECTION 16. Arkansas Code § 16-65-114 is amended to read as follows:
18 16-65-114. Interest on judgments.

19 (a) Interest on ~~any~~ a judgment entered by ~~any~~ a circuit court ~~or~~
20 ~~magistrate~~ on ~~any~~ a contract shall bear interest at the rate provided by the
21 contract or ten percent (10%) per annum, whichever is greater, and on any
22 other judgment at ten percent (10%) per annum, but not more than the maximum
23 rate permitted by the Arkansas Constitution, Article 19, § 13, as amended.

24 (b) Interest on a judgment entered by a district court on a contract
25 shall bear interest at the rate provided by the contract or ten percent (10%)
26 per annum, whichever is greater, and on any other judgment at ten percent
27 (10%).

28 ~~(b)~~(c) ~~No~~ A judgment rendered or to be rendered against ~~any~~ a county
29 in the state on county warrants or other evidence of county indebtedness
30 shall not bear any interest after the passage of this act.

31
32 SECTION 17. Arkansas Code § 16-84-201 is amended to read as follows:
33 16-84-201. Action on bond in district courts.

34 (a)(1)(A) If the defendant fails to appear for trial or judgment, or
35 at any other time when his or her presence in district court may be lawfully
36 required, or to surrender himself or herself in execution of the judgment,

1 the district court may direct the fact to be entered on the minutes and shall
2 promptly issue an order requiring the surety to appear, on a date set by the
3 district court not more than one hundred twenty (120) days ~~after the issuance~~
4 ~~of the order~~ from the date notice is sent by certified mail to the surety
5 company at the address shown on the bond, whether or not it is received by
6 the surety, to show cause why the sum specified in the bail bond or the money
7 deposited in lieu of bail should not be forfeited.

8 (B) The one hundred twenty-day period in which the
9 defendant must be surrendered or apprehended ~~pursuant to~~ under subdivision
10 (c)(2) of this section begins to run from the date notice is sent by
11 certified mail to the surety company at the address shown on the bond,
12 whether or not it is received by the surety.

13 (2) The order shall also require the officer who was responsible
14 for taking of bail to appear unless:

15 (A) The surety is a bail bondsman; or

16 (B) The officer accepted cash in the amount of bail.

17 (b) The appropriate law enforcement agencies shall make every
18 reasonable effort to apprehend the defendant.

19 (c)(1) If the defendant is surrendered or arrested, or good cause is
20 shown for his or her failure to appear before judgment is entered against the
21 surety, the district court shall exonerate a reasonable amount of the
22 surety's liability under the bail bond.

23 (2) However, if the surety causes the apprehension of the
24 defendant or the defendant is apprehended within one hundred twenty (120)
25 days from the date ~~of receipt of written notification to the surety of the~~
26 ~~defendant's failure to appear~~ notice is sent by certified mail to the surety
27 company at the address shown on the bond, whether or not it is received by
28 the surety, ~~no~~ a judgment or forfeiture of bond may not be entered against
29 the surety, except as provided in subsection (e) of this section.

30 (d) If after one hundred twenty (120) days from the date notice is
31 sent by certified mail to the surety company at the address shown on the
32 bond, whether or not it is received by the surety, the defendant has not
33 surrendered or been arrested, the bail bond or money deposited in lieu of
34 bail may be forfeited without further notice or hearing.

35 (e) If the defendant is located in another state and the location is
36 known within one hundred twenty (120) days ~~after the date of receipt of~~

1 ~~written notification to the surety of the defendant's failure to appear~~ from
2 the date notice is sent by certified mail to the surety company at the
3 address shown on the bond, whether or not it is received by the surety, the
4 appropriate law enforcement officers shall cause the arrest of the defendant
5 and the surety shall be liable for the cost of returning the defendant to the
6 district court in an amount not to exceed the face value of the bail bond.

7 (f)(1) In determining the extent of liability of the surety on a bond
8 forfeiture, the court, without further notice or hearing, may take into
9 consideration the expenses incurred by the surety in attempting to locate the
10 defendant and may allow the surety credit for the expenses incurred.

11 (2) To be considered by the court, information concerning
12 expenses incurred in attempting to locate the defendant should be submitted
13 to the court by the surety no later than the one-hundred-twentieth day ~~after~~
14 ~~the date of receipt of written notification to the surety of the defendant's~~
15 ~~failure to appear~~ from the date notice is sent by certified mail to the
16 surety company at the address shown on the bond, whether or not it is
17 received by the surety.

18 (g) Notwithstanding any law to the contrary, a district court may
19 suspend a bail bond company's or agent's ability to issue bail bonds in its
20 court if the bail bond company or agent fails to comply with an order of the
21 district court or fails to pay forfeited bonds in accordance with a district
22 court's order.

23
24 SECTION 18. Arkansas Code § 16-96-403 is amended to read as follows:

25 16-96-403. Imposition by circuit court on appeal – Costs.

26 The fines, penalties, forfeitures, and costs imposed by a circuit court
27 for offenses which are misdemeanors or violations under state law or local
28 ordinance or for traffic offenses which are misdemeanors or violations under
29 state law or local ordinance in cases appealed from ~~any~~ a court of limited
30 jurisdiction shall be collected and disbursed in the following manner:

31 (1) If the appeal proceeds to a de novo bench trial or jury
32 trial, the fines, penalties, forfeitures, and costs imposed by the circuit
33 court shall be collected ~~pursuant to~~ under § 16-13-709 and paid to the county
34 treasurer;

35 (2)(A) If the defendant pleads guilty or nolo contendere or the
36 circuit court dismisses the appeal, including dismissals under Arkansas Rules

1 of Criminal Procedure 36(h), the judgment of the court from which the appeal
2 originated shall be affirmed~~+~~.

3 (B)(i) The circuit court clerk shall notify in
4 writing, within thirty (30) days of the affirmance or dismissal, the court
5 from which the appeal originated of the affirmance or dismissal and shall
6 return any bond or other security which has been transmitted to the circuit
7 court+.

8 (ii) Upon receipt of the notice of affirmance or
9 dismissal and the bond or other security, the court from which the appeal
10 originated shall collect and disburse the fines, penalties, forfeitures, and
11 costs ~~pursuant to~~ under §§ 16-10-209, 16-10-308, 16-17-707, 14-44-108, and
12 14-45-106~~+~~; and

13 (3) Nothing in this section shall affect the right of a court of
14 limited jurisdiction to require ~~a supersedeas bond~~ the defendant to post a
15 bond or other security for an appeal to guarantee the appearance of the
16 defendant before the circuit court nor the ability of these courts to collect
17 any fine, penalty, forfeiture, or costs imposed in the absence of a
18 ~~supersedeas~~ the bond or other security.

19
20 SECTION 19. Arkansas Code § 17-19-208(b)(1), concerning administrative
21 actions of the Bail Bond Company Licensing Board is amended to read as
22 follows:

23 (b)(1) When a final civil judgment for court-ordered bond forfeitures
24 is entered as to a bail bond issued by the licensee by a court of competent
25 jurisdiction in this state and the judgment is not paid within ninety (90)
26 days thereafter, the court may send a copy of the judgment, duly certified by
27 the clerk of the court, ~~to the board and after having given proof to the~~
28 ~~board~~ of service of process the judgment on the licensee in accordance with
29 ~~present laws governing service of process on defendants in other civil~~
30 ~~actions.~~ The Rule 5 of the Arkansas Rules of Civil Procedure, to the board,
31 then the board may promptly make a claim on the surety for payment of the
32 allowable amount of the licensee's letters of credit on behalf of the court
33 or shall withdraw the allowable amount of the licensee's certificates of
34 deposit and shall transmit to the clerk of the court so much of the
35 securities as are allowable. The board shall honor the judgments from the
36 respective courts up to the limits set out in subdivision (a)(1) of this

1 section.

2

3 SECTION 20. Arkansas Code § 21-2-105(a), concerning administration of
4 oaths of office, is amended to read as follows:

5 (a)(1) The Governor shall take the oath of office before one (1) of
6 the justices of the Supreme Court or one (1) of the judges of the circuit
7 courts, the county clerk, or the clerk of the circuit court.

8 (2) The justices of the Supreme Court ~~and~~, judges of the Court
9 of Appeals, judges of the circuit courts, judges of the district courts,
10 Secretary of State, Treasurer of State, and Auditor of State shall take their
11 oaths before the Governor or any of the justices of the Supreme Court or one
12 of the judges of the circuit courts, the clerk of the county court, or the
13 clerk of the circuit court.

14 (3) All other officers, both civil and military, shall take
15 their oaths before the Secretary of State or his or her official designee,
16 ~~any~~ a justice or judge, clerk of the county court, clerk of the circuit
17 court, the clerk of the district court, or justice of the peace.

18

19 SECTION 21. Arkansas Code § 21-6-401 is amended to read as follows:
20 21-6-401. Clerk of Supreme Court.

21 (a)(1) The Clerk of the Supreme Court shall be allowed and paid by the
22 appellant or petitioner, in advance, in all civil actions and misdemeanors
23 filed in either the Supreme Court or the Court of Appeals a fee of one
24 hundred fifty dollars (\$150), ~~which shall be full payment of all the costs in~~
25 ~~the proceedings.~~

26 (2)(A) The Clerk of the Supreme Court shall be allowed a fee of
27 one hundred fifty dollars (\$150) for a certified question from a federal
28 court;

29 (B) The fee shall be prorated among the parties filing
30 briefs and paid by each party at the time the brief is filed except that if
31 the Arkansas Attorney General is requested to file a brief, he or she shall
32 not be required to pay any portion of the fee.

33 (3) The Clerk of the Supreme Court shall be allowed and paid by
34 the petitioner in advance, for each petition for rehearing of a decision of
35 the Court of Appeals or Supreme Court a fee of twenty-five dollars (\$25.00).

36 ~~(2)(4)~~ If the judgment of the Supreme Court or the Court of

1 Appeals is in favor of the appellant or petitioner, the Clerk of the Supreme
2 Court shall tax the fee provided in this subsection in favor of the appellant
3 or petitioner.

4 (b)(1) The Clerk of the Supreme Court shall be allowed and paid by the
5 petitioner, in advance, for each petition for review of a decision of the
6 Court of Appeals filed in the Supreme Court a fee of twenty-five dollars
7 (\$25.00), ~~which shall be full payment of all the costs in the proceedings.~~

8 (2) If the decision of the Court of Appeals is reversed by the
9 Supreme Court, the Clerk of the Supreme Court shall tax the fee provided in
10 this subsection in favor of the petitioner.

11 (c) The Clerk of the Supreme Court shall also be allowed:

- 12 (1) For each certificate and seal \$ 1.00
- 13 (2) For acknowledging each deed50
- 14 (3) For copies of papers and records per page .50
- 15 (4) For other services, the same fees allowed clerks of the
16 circuit court.

17 ~~(d) The Clerk of the Supreme Court shall be allowed and paid in
18 advance in all civil actions and misdemeanors filed in either the Supreme
19 Court or the Court of Appeals a fee of twenty dollars (\$20.00) for every
20 motion, response, and similar paper.~~

21 ~~(e)~~(d) The Supreme Court may implement a case management system for
22 the courts of the state in which members of the public may be afforded that
23 may include electronic access filing and public online access to court
24 decisions and other court records, and the Supreme Court by court rule may
25 establish a reasonable fee for ~~the~~ access and related use.

26 ~~(f)~~(e) All of the collected fees provided ~~for~~ in subsections (a)(1),
27 (a)(4), (b), and (c) of this section shall be deposited in a bank to the
28 account of the Supreme Court Library Fund, to be used by the Supreme Court
29 for the maintenance and improvement of the Supreme Court Library.

30 ~~(g)~~(f) All of the collected fees provided ~~for~~ in ~~subsection~~
31 subsections (a)(2), (a)(3), and (d) of this section shall be deposited
32 remitted by the Clerk of the Supreme Court on or before the fifteenth day of
33 each month to the Administration of Justice Funds Section of the Office of
34 Administrative Services of the Department of Finance and Administration on a
35 form provided by that office for deposit into ~~in~~ the Judicial Fine Collection
36 Enhancement Fund ~~as~~ established by § 16-13-712.

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SECTION 22. Arkansas Code § 27-14-314 is repealed.

~~27-14-314. Additional penalties—Disposition of fines.~~

~~(a) Any person who, while driving a motor vehicle more than sixty (60) days after the period for registering the motor vehicle, is arrested for failure to register the motor vehicle shall upon conviction be subject to a penalty in addition to any other penalty provided for by law. The additional penalty shall be:~~

~~(1) Not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100) for the first offense, and the minimum fine shall be mandatory;~~

~~(2) Not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250) for the second and subsequent offenses, and the minimum fine shall be mandatory.~~

~~(b)(1) If a person is convicted of two (2) offenses under subsection (a) of this section within one (1) year, the court may order that the unregistered vehicle be impounded until proof of motor vehicle registration is made to the court.~~

~~(2) The owner of the vehicle impounded shall be responsible for all costs of impoundment.~~

~~(c)(1) If the arresting officer is an officer of the Department of Arkansas State Police, the fine collected shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit in the Department of Arkansas State Police Fund to be used for the purchase and maintenance of state police vehicles.~~

~~(2) If the arresting officer is a county law enforcement officer, the fine collected shall be deposited in that county fund used for the purchase and maintenance of rescue, emergency medical, and law enforcement vehicles, communications equipment, animals owned or used by law enforcement agencies, life saving medical apparatus, and law enforcement apparatus to be used for those purposes.~~

~~(3) If the arresting officer is a municipal law enforcement officer, the fine collected shall be deposited in that municipal fund used for the purchase and maintenance of rescue, emergency medical, and law~~

1 ~~enforcement vehicles, communications equipment, animals owned or used by law~~
2 ~~enforcement agencies, life saving medical apparatus, and law enforcement~~
3 ~~apparatus to be used for those purposes.~~

4
5 SECTION 23. Arkansas Code § 27-37-705 is amended to read as follows:
6 27-37-705. Reduction of fine.

7 (a) When ~~any~~ a motor vehicle operator is stopped by a law enforcement
8 officer and the law enforcement officer notes that the provisions of this
9 subchapter have not been violated, any fine levied for a moving traffic
10 violation against the motor vehicle operator as a result of being stopped
11 shall be reduced by ten dollars (\$10.00) as an incentive to comply with this
12 subchapter.

13 (b) Subsection (a) of this section shall not apply to fines levied for
14 traffic offenses classified as misdemeanors.

15
16 SECTION 24. Arkansas Code § 27-50-604 is repealed.

17 ~~27-50-604. Violation of promise to appear.~~
18 ~~Any person willfully violating his written promise to appear in court, given~~
19 ~~as provided in this subchapter, is guilty of a misdemeanor regardless of the~~
20 ~~disposition of the charge upon which he was originally arrested.~~

21
22 */s/ Williams*
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