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4

As Engrossed: S2/18/13

A Bill

SENATE BILL 307

5 By: Senators D. Johnson, J. Hutchinson
6 By: Representatives *Vines*, Wright, Steel, Westerman
7

For An Act To Be Entitled

9 AN ACT CONCERNING FUNDING FOR COURTS AND COURT-
10 RELATED SERVICES; TO AMEND THE ASSESSMENT,
11 COLLECTION, AND REMITTANCE OF FUNDING FOR THE STATE
12 ADMINISTRATION OF JUSTICE FUND; TO DECLARE AN
13 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

16 CONCERNING FUNDING FOR COURTS AND COURT-
17 RELATED SERVICES; TO AMEND THE
18 ASSESSMENT, COLLECTION, AND REMITTANCE OF
19 FUNDING FOR THE STATE ADMINISTRATION OF
20 JUSTICE FUND; TO DECLARE AN EMERGENCY.
21
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23

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

26 SECTION 1. Arkansas Code § 9-9-205(a), concerning jurisdiction of
27 adoption of minors, is amended to add a new subdivision to read as follows:

28 (4) A petition for adoption may not be asserted in a guardianship
29 proceeding, but a separate action shall be filed, and the clerk shall assign
30 a new case number and charge a filing fee unless the filing fee is waived
31 under Rule 72 of the Arkansas Rules of Civil Procedure.
32

33 SECTION 2. Arkansas Code § 9-15-202 is amended to read as follows:
34 9-15-202. Filing fees.

35 (a)(1) The court, clerks of the court, and law enforcement agencies
36 shall not require any initial filing fees or service costs.



1 (2) A claim or counterclaim for other relief, including without
2 limitation divorce, annulment, separate maintenance, or paternity shall not
3 be asserted in an action brought under this subchapter except to the extent
4 permitted in this subchapter.

5 (b)(1) Established filing fees may be assessed against the respondent
6 at the full hearing.

7 (2) Filing fees under this section shall be collected by the
8 county official, agency, or department designated under § 16-13-709 as
9 primarily responsible for the collection of fines assessed in circuit court
10 and shall be remitted on or before the tenth day of each month to the office
11 of county treasurer for deposit to the county administration of justice fund.

12 (3) The county shall remit on or before the fifteenth day of
13 each month all sums received in excess of the amounts necessary to fund the
14 expenses enumerated in § 16-10-307(b) and (c) during the previous month from
15 the uniform filing fees provided for in § 21-6-403, the uniform court costs
16 provided for in § 16-10-305, and the fees provided for in this section to the
17 Administration of Justice Funds Section of the Office of Administrative
18 Services of the Department of Finance and Administration for deposit into the
19 State Administration of Justice Fund.

20 (c)(1) The abused in ~~any~~ a domestic violence petition for relief for a
21 protection order sought ~~pursuant to~~ under this subchapter shall not bear the
22 cost associated with its filing or the costs associated with the issuance or
23 service of a warrant and witness subpoena.

24 ~~(2) Nothing in this subsection shall be construed to~~ This
25 subsection does not prohibit a judge from assessing costs against a
26 petitioner if the allegations of abuse are determined after a hearing to be
27 false.

28
29 SECTION 3. Arkansas Code § 16-10-209(5)(F), concerning installment
30 payments to the court clerk, is amended to read as follows:

31 (F)(i) All installment payments shall initially be deemed to be
32 collections of ~~restitution, and then~~ court costs until the court costs have
33 been collected in full, with any remaining installment payments representing
34 collections of restitution, and then fines.

35 ~~(ii) A municipal or county governing body may provide by~~
36 ~~appropriate municipal or county legislation an alternative method of~~

1 ~~installment payment allocation as follows:~~ If court costs, restitution, and
 2 finances are fully paid, all remaining installment payments shall be allocated
 3 to remaining amounts due.

4 ~~(a) All installment payments are initially deemed~~
 5 ~~collections of restitution;~~

6 ~~(b) After restitution is fully collected, all installment~~
 7 ~~payments shall be allocated fifty percent (50%) to court costs and fifty~~
 8 ~~percent (50%) to fines; and~~

9 ~~(c) Whenever either court costs or fines are fully paid,~~
 10 ~~all remaining installment payments shall be allocated to remaining amounts~~
 11 ~~due.~~

12 (iii) A municipal or county governing body that adopted
 13 municipal or county legislation before July 1, 2012, to provide an
 14 alternative method of installment payment allocation as then authorized by
 15 state law shall remain in effect until repealed.

16
 17 SECTION 4. Arkansas Code § 16-10-305(a), concerning court costs for
 18 specific offenses, is amended to read as follows:

19 (a) There shall be levied and collected the following court costs from
 20 each defendant upon each conviction, each plea of guilty or nolo contendere,
 21 or each forfeiture of bond:

22 (1) In circuit court, one hundred fifty dollars (\$150) for a
 23 misdemeanor or felony ~~violations~~ violation of state law, excluding ~~violations~~
 24 a violation of:

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

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

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

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

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

30 (F) Section 15-42-127;

31 (2) In district court, one hundred dollars (\$100) for ~~offenses~~
 32 an offense that ~~are misdemeanors or violations~~ is a misdemeanor or violation
 33 of state law, excluding ~~violations~~ a violation of:

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

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

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

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

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

3 (F) Section 15-42-127;

4 (3) In circuit court or district court, seventy-five dollars
5 (\$75.00) for a traffic offenses offense that are misdemeanors or violations
6 is a misdemeanor or violation under state law or local ordinance, excluding
7 violations a violation of:

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

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

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

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

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

13 (F) Section 15-42-127;

14 (4) ~~For~~ In district court, for a nontraffic offenses that are
15 misdemeanors or violations offense that is a misdemeanor or violation under
16 local ordinance ~~in district court~~, twenty-five dollars (\$25.00);

17 (5) In circuit court or district court, three hundred dollars
18 (\$300) for violations of:

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

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

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

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

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

24 (F) Section 15-42-127; ~~and~~

25 (6)(A) ~~For knowingly~~ In circuit court or district court, three
26 hundred dollars (\$300) for possessing less than four ounces (4 oz.) of a
27 Schedule VI controlled substance in circuit court, district court, or city
28 court, three hundred dollars (\$300).

29 (B) One hundred fifty dollars (\$150) of the court costs
30 collected under subdivision (a)(6) of this section shall be remitted to the
31 Treasurer of State by the court clerk for deposit into the Drug Abuse
32 Prevention and Treatment Fund for the Office of Alcohol and Drug Abuse
33 Prevention to be used exclusively for drug courts or other substance abuse
34 and prevention activities; and

35 (7) In circuit court or district court, twenty-five dollars
36 (\$25.00) for a violation of the mandatory seat belt use law, § 27-37-701 et

1 seq., and for failure to present proof of insurance at the time of a traffic
2 stop, §§ 27-22-103, 27-22-104, and 27-22-111.

3
4 SECTION 5. Arkansas Code § 16-10-306 is amended to read as follows:

5 16-10-306. State Administration of Justice Fund. [Effective January 1,
6 2012.]

7 ~~(a) There is hereby created on the books of the Treasurer of State,~~
8 ~~the Auditor of State, and the Chief Fiscal Officer of the State a trust fund~~
9 ~~account to be known as the "State Administration of Justice Fund".~~

10 ~~(b)(1)(a)~~ There is hereby created in the Department of Finance and
11 Administration an Administration of Justice Funds Section, to which shall be
12 remitted the court costs and filing fees enumerated in §§ 21-6-403, 16-17-
13 705, and 16-10-305, ~~as provided in this act,~~ which are assessed and collected
14 in the district courts and circuit courts in this state.

15 ~~(2)(A) Said funds shall be deposited by the section in~~

16 (b) The section shall deposit the court costs and filing fees
17 enumerated in §§ 21-6-403, 16-17-705, and 16-10-305 into the State
18 Administration of Justice Fund.

19 ~~(B)(c)~~ The section shall keep an accurate account of all receipts by
20 type of case and type and location of court from which ~~such fees and costs~~
21 the court costs and filing fees enumerated in §§ 21-6-403, 16-17-705, and 16-
22 10-305 are submitted.

23
24 SECTION 6. Arkansas Code § 16-10-307(c)(1)(B)(ii), concerning the
25 county administration of justice fund, is amended to read as follows:

26 (ii) Except as provided in subdivision (c)(1)(B)(iii) of this
27 section, for calendar years beginning ~~2006~~ 2014 and each calendar year
28 thereafter, an additional amount shall be added to the amount to be retained
29 based upon the lesser of the average percentage increase in the Consumer
30 Price Index for All Urban Consumers or its successor, as published by the
31 United States Department of Labor for the two (2) years immediately preceding
32 or the percentage rate of increase in collections of the State Administration
33 of Justice Fund for the two (2) years immediately preceding.

34
35 SECTION 7. Arkansas Code § 16-10-307(e), concerning the county
36 administration of justice fund, is amended to read as follows:

1 (e) The county shall remit on or before the fifteenth day of each
2 month all sums received in excess of the amounts necessary to fund the
3 expenses enumerated in subsections (b) and (c) of this section during the
4 previous month from the uniform filing fees provided for in §§ 21-6-403 and
5 9-15-202, and the uniform court costs provided for in § 16-10-305 to the
6 Administration of Justice Funds Section of the Office of Administrative
7 Services of the Department of Finance and Administration, ~~Administration of~~
8 ~~Justice Funds Section~~, for deposit ~~in~~ into the State Administration of
9 Justice Fund.

10
11 SECTION 8. Arkansas Code § 16-10-308(c)(1)(B)(ii), concerning the city
12 administration of justice fund, is amended to read as follows:

13 (ii) Except as provided in subdivision (c)(1)(B)(iii) of this
14 section, for calendar years beginning ~~2006~~ 2014 and each calendar year
15 thereafter, an additional amount shall be added to the amount to be retained
16 based upon the lesser of the average percentage increase in the Consumer
17 Price Index for All Urban Consumers or its successor, as published by the
18 United States Department of Labor for the two (2) years immediately preceding
19 or the percentage rate of increase in collections of the State Administration
20 of Justice Fund for the two (2) years immediately preceding.

21
22 SECTION 9. Arkansas Code § 16-13-704(b)(3)(E), concerning installment
23 payments of fines is amended to read as follows:

24 (E)(i) In circuit court only, an installment fee of an additional five
25 dollars (\$5.00) per month shall also be assessed on the first day of each
26 month on each person who ~~is authorized to~~ is ordered to pay a fine on an
27 installment basis with the additional five dollars (\$5.00) to be remitted to
28 the collecting official to be used to defray the cost of fine collection.

29 (ii) In district court only, an installment fee of an additional
30 five dollars (\$5.00) per month shall also be assessed on the first day of
31 each month on each person who is ordered to pay a fine on an installment
32 basis with the additional five dollars (\$5.00) to be remitted by the tenth
33 day of each month to the Administration of Justice Funds Section of the
34 Office of Administrative Services of the Department of Finance and
35 Administration on a form provided by that section for deposit into the State
36 Administration of Justice Fund.

1
2 SECTION 10. Arkansas Code § 16-90-904(a), concerning the sealing of
3 records, is amended to read as follows:

4 (a)(1) An individual who is eligible to have an offense expunged may
5 file a uniform petition to seal records, as described in § 16-90-905, in the
6 circuit court or district court in the county where the ~~crime~~ offense was
7 committed and in which the person was convicted for the offense he or she is
8 now petitioning to have expunged.

9 (2)(A) Unless the circuit court or district court is presented
10 with and finds that there is clear and convincing evidence that a misdemeanor
11 conviction should not be expunged under this subchapter, the circuit court or
12 district court shall expunge the misdemeanor conviction for a person after
13 the person files a petition as described in this section, except for the
14 following offenses:

- 15 (i) Negligent homicide, § 5-10-105, if it was a
16 Class A misdemeanor;
17 (ii) Battery in the third degree, § 5-13-203;
18 (iii) Indecent exposure, § 5-14-112;
19 (iv) Public sexual indecency, § 5-14-111;
20 (v) Sexual assault in the fourth degree, § 5-14-127;
21 (vi) Domestic battering in the third degree, § 5-26-
22 305; or
23 (vii) Driving while intoxicated, § 5-65-103.

24 (B) An offense listed in subdivisions (a)(2)(A)(i)-(vii)
25 of this section:

26 (i) May be expunged after a period of five (5) years
27 has elapsed since the completion of the person's sentence for that
28 misdemeanor conviction; and

29 (ii) Shall be expunged after the period of time
30 required in subdivision (a)(2)(B)(i) of this section unless the circuit court
31 or district court is presented with and finds that there is clear and
32 convincing evidence that the misdemeanor conviction should not be expunged
33 under this subchapter.

34 (3)(A) The circuit clerk or district court clerk shall collect a
35 fee of fifty dollars (\$50.00) for filing the uniform petition to seal records
36 unless the petitioner is indigent and the fee is waived under Rule 72 of the

1 Arkansas Rules of Civil Procedure.

2 (B) The circuit clerk or district court clerk shall remit:

3 (i) One-half (1/2) of the fee by the tenth day of
4 each month to the Administration of Justice Funds Section of the Office of
5 Administrative Services of the Department of Finance and Administration on a
6 form provided by that office for deposit into the State Administration of
7 Justice Fund; and

8 (ii) The remaining one-half (1/2) of the fee
9 remitted as follows:

10 (a) If collected in circuit court, to the
11 county treasurer to be deposited into the county general fund by the tenth
12 day of each month;

13 (b) If collected in district court, to the
14 treasury of each political subdivision that contributes to the expenses of
15 the district court based on the percentage of the expenses contributed by the
16 political subdivision by the tenth day of each month; or

17 (c) In a district court funded solely by the
18 county, to the county treasurer of the county in which the district court is
19 located to be deposited into the county general fund by the tenth day of each
20 month.

21
22 SECTION 11. Arkansas Code § 16-93-104, concerning payment of probation
23 and parole supervision fees, is amended to add a new subsection to read as
24 follows:

25 (d) Court costs under § 16-10-305 shall be collected in full before
26 any fees are collected under this section.

27
28 SECTION 12. Arkansas Code § 16-98-304(b)(7), concerning drug court
29 costs and fees, is amended to read as follows:

30 (7)(A) All court costs and program user fees assessed by the drug
31 court judge shall be paid to the court clerk for remittance to the county
32 treasury under § 14-14-1313.

33 (B) All installment payments shall initially be deemed to be
34 collection of court costs under § 16-10-305 until the court costs have been
35 collected in full with any remaining payments representing collections of
36 other fees and costs as authorized in this section and shall be credited to

1 the county administration of justice fund and distributed under § 16-10-307.

2 (C) All program user fees shall be credited to a fund known as
3 the drug court program fund and appropriated by the quorum court for the
4 benefit and administration of the drug court program.

5
6 SECTION 13. Arkansas Code § 21-6-403 is amended to read as follows:

7 21-6-403. Circuit court clerks – Uniform filing fees.

8 (a)(1) The uniform filing fees to be charged by the clerks of the
9 circuit courts for initiating or reopening a cause of action in the circuit
10 courts in the state shall be as prescribed in this section.

11 (2) No portion of the filing fees shall be refunded.

12 (b) The uniform filing fees are:

13 (1) For initiating a cause of action in the circuit court,
14 including appeals \$150.00

15 (2) For filing a mortgagee’s or trustee’s notice of default and
16 intention to sell pursuant to § 18-50-104 140.00

17 (3) For reopening a cause of action in the circuit court . . .
18 . . 50.00

19 (4) For any cause of action which by court order is transferred
20 from any district or circuit court to a circuit court 50.00.

21 (c) ~~No~~ A fee shall not be charged or collected by the clerks of the
22 circuit courts when the court, by order, pursuant to Rule 72 of the Arkansas
23 Rules of Civil Procedure, allows an indigent person to prosecute a cause of
24 action in forma pauperis.

25 (d) ~~No~~ An initial filing fee shall not be charged for domestic
26 violence petitions filed pursuant to § 9-15-201 et seq. Established filing
27 fees may be assessed pursuant to §§ 5-26-310 and ~~9-15-202(e)~~ 9-15-202(b) and
28 (c).

29 (e)(1)(A) The fee established in section (b)(3) of this section shall
30 be assessed and collected by the circuit clerk to reopen a cause of action in
31 which a final order has been entered, so long as the new claim involves the
32 same parties and the same issues as were present in the initial cause of
33 action.

34 (B) Otherwise, the circuit clerk shall assess and collect
35 the fee established in subdivision (b)(1) of this section.

36 (2) ~~No~~ A fee shall not be charged or collected by the clerks of

1 the circuit courts for reopening a cause of action in the circuit court under
2 the following circumstances:

3 ~~(1)~~(i) Application is made for revocation of conditional
4 release of insanity acquittees pursuant to § 5-2-316; or

5 ~~(2)~~(ii) An agreed order or an order of income withholding
6 is presented to be filed, and ~~no~~ a service of process is not required.

7 (f) ~~No~~ A county shall not authorize, and ~~no~~ a circuit court clerk
8 shall not assess or collect, any other filing fees than those authorized by
9 this section unless specifically provided by state law.

10 (g) The circuit court may waive the filing fee in cases of involuntary
11 admission upon a finding that the petition is being brought for the benefit
12 of the respondent and it would be inequitable to require the petitioner to
13 pay the fee.

14 (h) As used in this section, "circuit court clerk" means the circuit
15 clerk and, with respect to probate matters, any county clerk who serves as ex
16 officio clerk of the probate division of the circuit court.

17 (i)(1) When a statutory cause of action waives the payment of a filing
18 fee, no other claim for relief shall be brought in that action.

19 (2) To assert another claim:

20 (A) A separate case shall be opened;

21 (B) A new case number shall be assigned; and

22 (C) A filing fee shall be assessed.

23
24 SECTION 14. Arkansas Code § 26-36-303(2)(D), concerning the definition
25 of debt is amended as follows:

26 (D) All of the following ~~that have been delinquent for more~~
27 ~~than six (6) months and~~ that are not under appeal:

28 (i) Traffic fines;

29 (ii) Any court-imposed fine or cost, including fines
30 related to the prosecution of hot checks under the Arkansas Hot Check Law, §
31 5-37-301 et seq.; and

32 (iii) Restitution ordered by a circuit, county,
33 district, or city court related to the violation of any state law;

34

35 SECTION 15. Arkansas Code § 27-22-111(b), concerning the fines for
36 failure to present proof of insurance at the time of a traffic stop, is

1 amended to read as follows:

2 (b) Court costs under § 16-10-305 ~~or~~ shall be assessed but other costs
3 or fees shall not be assessed under this section.

4

5 SECTION 16. Arkansas Code § 27-37-706 is amended to read as follows:

6 27-37-706. Penalties – Court costs.

7 (a) Any person who violates this subchapter shall be subject to a fine
8 not to exceed twenty-five dollars (\$25.00).

9 (b) When a person is convicted, pleads guilty, pleads nolo contendere,
10 or forfeits bond for violation of this subchapter, ~~no~~ court costs ~~pursuant to~~
11 under § 16-10-305 or shall be assessed but other costs or fees shall not be
12 assessed.

13

14 SECTION 17. EMERGENCY CLAUSE. It is found and determined by the
15 General Assembly of the State of Arkansas that the Constitution of the State
16 of Arkansas prohibits the appropriation of funds for more than a one-year
17 period; that the effectiveness of this act as soon as possible is essential
18 to the operation of the judiciary and the administration of justice; and that
19 this act is immediately necessary because the delay in the effective date of
20 this act could cause irreparable harm upon the proper administration of
21 essential governmental programs. Therefore, an emergency is declared to
22 exist, and this act being immediately necessary for the preservation of the
23 public peace, health, and safety shall become effective on:

24 (1) The date of its approval by the Governor;

25 (2) If the bill is neither approved nor vetoed by the Governor,
26 the expiration of the period of time during which the Governor may veto the
27 bill; or

28 (3) If the bill is vetoed by the Governor and the veto is
29 overridden, the date the last house overrides the veto.

30

31 */s/D. Johnson*

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