

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: H1/19/17

A Bill

HOUSE BILL 1007

5 By: Representatives Tucker, V. Flowers, D. Ferguson, Leding, Sabin, D. Whitaker
6 By: Senators K. Ingram, Elliott, L. Chesterfield, U. Lindsey, Maloch, E. Cheatham, S. Flowers
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For An Act To Be Entitled

9 AN ACT TO PROTECT CITIZENS WHO ARE VICTIMS OF
10 JUDICIAL ETHICS VIOLATIONS; TO CREATE A CAUSE OF
11 ACTION AGAINST JUDGES AND JUSTICES WHO HAVE BEEN
12 CONVICTED OF CERTAIN OFFENSES; TO CREATE AN EXCEPTION
13 TO JUDICIAL IMMUNITY; AND FOR OTHER PURPOSES.
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Subtitle

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17 TO PROTECT CITIZENS WHO ARE VICTIMS OF
18 JUDICIAL ETHICS VIOLATIONS; TO CREATE A
19 CAUSE OF ACTION AGAINST JUDGES AND
20 JUSTICES WHO HAVE BEEN CONVICTED OF
21 CERTAIN OFFENSES; AND TO CREATE AN
22 EXCEPTION TO JUDICIAL IMMUNITY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code Title 16, Chapter 106, Subchapter 1, is
28 amended to add an additional section to read as follows:

29 16-106-111. Exception to judicial immunity.

30 (a) The General Assembly finds that:

31 (1) The common law doctrine of judicial immunity from civil suit
32 has been accepted by the courts under Peterson v. Judges of Jefferson County
33 Circuit Court, 2014 Ark. 228 (per curiam) and Pierson v. Ray, 386 U.S. 547
34 (1967), and is state law; and

35 (2) An exception to this blanket grant of judicial immunity is
36 necessary to protect the public from certain criminal and unethical acts



1 committed by judges and justices.

2 (b) A person who has had an adverse decision against him or her in a
3 court in this state may file a claim in the circuit court with jurisdiction
4 against a judge or justice who made the adverse decision in the judge or
5 justice's individual capacity:

6 (1) If the judge or justice:

7 (A) Made or influenced the adverse decision as a result of
8 bribery;

9 (B) Has been found guilty of, or pleaded guilty to, nolo
10 contendere to, or the equivalent of nolo contendere to, a criminal offense
11 for conduct constituting bribery in any state or federal court; and

12 (C) The bribery conviction described in subdivision
13 (b)(1)(B) of this section resulted from the conduct described in subdivision
14 (b)(1)(A) of this section; or

15 (2) If the judge or justice:

16 (A) Made or influenced the adverse decision as a result of
17 bribery;

18 (B) Has been fined, removed, or otherwise disciplined by
19 the Supreme Court or the Judicial Discipline and Disability Commission for
20 conduct constituting bribery; and

21 (C) The fine, removal, or other disciplinary action for
22 conduct constituting bribery described in subdivision (b)(2)(B) of this
23 section resulted from the conduct described in subdivision (b)(2)(A) of this
24 section.

25 (c) A person is entitled to the following remedies if he or she
26 prevails on a claim under subsection (b) of this section:

27 (1) Costs;

28 (2) Damages, including without limitation punitive damages; and

29 (3) Attorney's fees.

30 (d) A prosecuting attorney may bring a cause of action under this
31 section, and may, in his or her discretion, use any proceeds recovered in the
32 proceeding to:

33 (1) Cover the prosecuting attorney's costs of the proceeding in
34 which the adverse decision described in subsection (b) of this section
35 occurred;

36 (2) Give to the victim or the estate of the victim of the crime

1 that the prosecuting attorney was prosecuting in the proceeding in which the
2 adverse decision described in subsection (b) under this section occurred;

3 (3) Donate to a nonprofit victims' rights advocacy group; or

4 (4) Donate to the State Treasury.

5 (e) The statute of limitations for a cause of action under this
6 section:

7 (1) Is three (3) years;

8 (2) Begins to run the day the judge or justice is found guilty
9 of, or pleads guilty to, nolo contendere to, or the equivalent of nolo
10 contendere to, a criminal offense for conduct constituting bribery in any
11 state or federal court, if the claim is brought under subdivision (b)(1) of
12 this section; and

13 (3) Begins to run the day the disciplinary decision by the
14 Supreme Court or the Judicial Discipline and Disability Commission is issued
15 and made public, if the claim is brought under subdivision (b)(2) of this
16 section.

17 (f)(1) If a cause of action is timely filed under this section and the
18 judge or justice is deceased at the time of the filing or dies during the
19 pendency of the cause of action, the person or the estate of the person
20 filing the cause of action may proceed against the estate of the judge or
21 justice.

22 (2) The estate of a person may proceed with a cause of action
23 under this section against a judge, justice, or the estate of the judge or
24 justice, if the person dies before the cause of action accrues or during the
25 pendency of the action.

26 (g) As used in this section:

27 (1) "Adverse decision" means a ruling in which a judge's or
28 justice's order differs from the relief or request sought by a litigant on a
29 motion or objection in a civil or criminal matter;

30 (2) "Bribery" means giving, offering, accepting, or agreeing to
31 accept money or any other benefit, pecuniary or otherwise, for the purpose of
32 affecting the outcome of a court proceeding or decision; and

33 (3) "Person" means any individual, corporation, business trust,
34 estate, trust, partnership, limited liability company, association, joint
35 venture, government, governmental subdivision, agency, or instrumentality,
36 public corporation, or any other legal or commercial entity.

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/s/Tucker