

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: S2/18/13  
**A Bill**

SENATE BILL 307

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

### **For An Act To Be Entitled**

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

### **Subtitle**

CONCERNING FUNDING FOR COURTS AND COURT-RELATED SERVICES; TO AMEND THE ASSESSMENT, COLLECTION, AND REMITTANCE OF FUNDING FOR THE STATE ADMINISTRATION OF JUSTICE FUND; TO DECLARE AN EMERGENCY.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) The Omnibus DWI Act, § 5-65-101 et seq.;
- (B) The Underage DUI Law, § 5-65-301 et seq.;
- (C) Section 5-75-101 et seq.;

- (D) Section 5-76-101 et seq.;
- (E) Section 27-23-114; or
- (F) Section 15-42-127;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Arkansas Rules of Civil Procedure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The uniform filing fees are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) To assert another claim:

(A) A separate case shall be opened;

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

(C) A filing fee shall be assessed.

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

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

(i) Traffic fines;

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

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

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

amended to read as follows:

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

SECTION 16. Arkansas Code § 27-37-706 is amended to read as follows:  
27-37-706. Penalties – Court costs.

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

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

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

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

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

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

*/s/D. Johnson*