

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

State of Arkansas *As Engrossed: H1/19/17 H2/3/17 H2/15/17*
91st General Assembly **A Bill**
Regular Session, 2017

HOUSE BILL 1007

By: Representatives Tucker, V. Flowers, D. Ferguson, Leding, Sabin, D. Whitaker, *Della Rosa*
By: Senators K. Ingram, Elliott, L. Chesterfield, U. Lindsey, Maloch, E. Cheatham, S. Flowers

For An Act To Be Entitled

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

Subtitle

TO PROTECT CITIZENS WHO ARE VICTIMS OF
JUDICIAL ETHICS VIOLATIONS; TO CREATE A
CAUSE OF ACTION AGAINST JUDGES AND
JUSTICES WHO HAVE BEEN CONVICTED OF
CERTAIN OFFENSES; AND TO CREATE AN
EXCEPTION TO JUDICIAL IMMUNITY.

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

SECTION 1. Arkansas Code Title 16, Chapter 106, Subchapter 1, is amended to add an additional section to read as follows:

16-106-111. Exception to judicial immunity.

(a) The General Assembly finds that:

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

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



committed by judges and justices.

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

(1) Made or influenced the adverse decision as a result of bribery;

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

(3) The bribery conviction described in subdivision (b)(2) of this section resulted from the conduct described in subdivision (b)(1) of this section.

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

(1) Costs;

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

(3) Attorney's fees.

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

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

(2) Give to the victim or the estate of the victim of the crime that the prosecuting attorney was prosecuting in the proceeding in which the adverse decision described in subsection (b) under this section occurred;

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

(4) Donate to the State Treasury.

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

(1) Is three (3) years; and

(2) Begins to run the day the judge or justice is found guilty of, or pleads guilty to, nolo contendere to, or the equivalent of nolo contendere to, a criminal offense for conduct constituting bribery in any state or federal court.

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

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

(g) As used in this section:

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

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

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

/s/Tucker