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Arkansas District Court Rules

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Code of Judicial Conduct

District Court Clerk

Supreme Court Administrative Order Number 4

Supreme Court Administrative Order Number 18

Statement of Financial Interest w/Instructions

DISTRICT COURT BENCHBOOK

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I MANAGEMENT AND OPERATION OF THE COURT

A General Court Procedures

1 Opening court, duty of bailiff.

(a) The opening ceremony can affect the entire proceeding by impressing on those in the courtroom that they are involved in a proceeding of sufficient dignity to require their attention and respect.

(b) Judge should be preceded into courtroom by bailiff or clerk, who should request that all rise.

(c) Judge assumes bench and remains standing while clerk or bailiff opens court by announcing:

"The district court of _____ is now in session, subject to adjournment, the Honorable _____ District Judge, presiding."

(d) After the introduction, judge or other court personnel announces that everyone may be seated.

2 Explaining rules of the court.

(a) Before disposing of cases on the docket, the judge or other court personnel should explain court procedure.

(b) Individuals appearing before the court should understand their rights, what to do when their names are called, possible pleas and effects of those pleas.

3 Jury Trials.

There is no right to a jury trial in district court.

Ark. Code Ann. § 16-17-703
Ark. Dist. Ct. R. 2
See also State v. Roberts, 321 Ark. 3, 900 S.W.2d 175 (1995); Valek v. Ark., 198 F.R.D. 661 (E.D. Ark. 2000).

4 Swearing witnesses, administration of oath.

(a) Judges and clerks of district court have the power to administer oaths and affirmations to witnesses.

Ark. Code Ann. § 16-2-102

(b) Witnesses may be sworn all at the same time or as they take the stand.

(c) Suggested oath.

"Do you solemnly swear the testimony you are about to give is the truth, the whole truth and nothing but the truth"?

Ark. Code Ann. § 16-2-101

(d) Any person who declares a conscientious scruple against taking an oath or swearing shall be permitted to make a solemn declaration or affirmation in the following form:

"Do you solemnly and truly declare and affirm..."

Ark. Code Ann. § 16-2-101; A. R. Civ. P. 43(b)

(e) At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion.

Ark. R. Evid. 615

(f) Fees

(1) Civil - Subpoena for attendance of a witness must be accompanied by a tender of a witness fee calculated at the rate of $30 per day for attendance and $0.25 per mile for travel from the witness' home to the place of trial.

Ark. R. Civ. P. 45

(2) Criminal - Witnesses shall be allowed compensation for attendance in criminal cases, $5.00 per day.

Ark. Code Ann. § 16-43-801

"This rate is not intended to be a ceiling amount," **Williams v. State, 304 Ark. 279, 801 S.W.2d 296 (1990)**

5 Recesses

(a) Allowed at court's discretion to:

(1) Secure presence of witness;

(2) Permit prosecutor and defense counsel to confer with witnesses;

(3) arrange a plea bargain;

(4) Research the law.

(b) Clerk or bailiff announces recess and duration.

6 Continuances

(a) Allowed at court's discretion upon motion for good cause shown.

(b) Not required to be in writing.

(c) Notice not required, but discretionary with court if practical.

Ark. R. Civ. P. 40(b); Ark. R. Crim. P. 27.3

Decision to grant sole discretion of court; not disturbed on appeal about abuse of discretion. **Smith v. City of Little Rock, 279 Ark. 4, 648 S.W.2d 454 (1983); David v. State, 295 Ark. 131, 748 S.W.2d 117 (1988).**

7 Closing Court

(a) Clear daily docket.

(b) If people remain, inquire why.

(1) Hear matter if practical; or

(2) Docket matter for later session.

(c) Adjourn court; "We will now stand adjourned until _____."

8 Courtroom Attire

(a) Judicial attire should include a judicial robe.

(b) Attire of attorney, litigant and others. The court should make clear any expectations about proper attire for all persons participating in court proceedings.

B Court Administration and Record Keeping

1 Introduction. Every court in Arkansas has record keeping requirements that are essential to the administration of justice and for the information of the public.

2 Judicial Responsibility. The judge is responsible for the custody and control of all the court records.

3 The District Court Clerk. There are statutory provisions regarding the appointment, salary, duties and accounting practices of district court clerks.

Ark. Code Ann. § 16-17-211; Ark. Code Ann. § 16-10-201 et seq.

4 Case Files. All documents filed with the court should be kept safely and in an orderly manner. Separate files should be maintained for each case.

5 The Docket. The docket is the basic record of the court and constitutes the permanent record of all actions and proceedings. Each department of a district court shall maintain its own docket, and the docket shall be heard at times and places as may be determined by the judge(s) of the district court.

6 Docket Type. The district court judges shall establish the following subject-matter divisions in each district court: criminal, civil, traffic, and small claims. Each district court, regardless of size should maintain dockets for each of the divisions.

S. Ct. Admin. Order No. 18
Ark. Code Ann. § 16-10-206

See Relevant Forms

7 Docket Contents: General. The most important considerations for any docket are:

(a) That all required entries be made promptly, carefully and legibly.

(b) That they be convenient and accessible, old volumes as well as new;

(c) That they be carefully kept in a manner minimizing risk of mutilation or destruction;

(d) That they be filed numerically so that loss or theft may be easily detected;

(e) That they evidence a concise and complete account of the proceedings and result thereof;

(f) That they be accurately indexed for quick and easy reference.

8 Docket Contents: Violations

See XV F Fees, Costs and Fines (Accounting and Collection)

9 Docket Contents: Criminal, Civil and Small Claims.

The requirements for a violations docket, with needed variations will suffice for criminal, civil and small claims dockets.

10 Deposit of Court Records with Successor.

Upon expiration of the term of office, each judge has the duty to turn over to his/her successor all of the official court records.

Ark. Code Ann. § 21-12-401

11 Record Retention Schedule

Act 627 of 2007 established a record retention schedule for district courts and city courts.

See Section XV, "District and City Court Accounting Law"
Ark. Code Ann. § 16-10-211

12 Destruction of Records – additional authority.

(a) District court clerks are authorized to use an approved system of photo- graphic recording, photostatic recording, microfilm, microcard, miniature photographic recording, digital compact disc, optical disc, and other processes which accurately reproduce or form a durable medium for reproducing the original court record.

Ark. Code Ann. § 13-4-201

(b) When any document is recorded by the means prescribed above, the paper original may be destroyed unless the document is over 50 years old and handwritten or has been determined to be of historical value by the Ark. History Commission. If the paper original does not meet these criteria the electronically stored document shall be considered the original document and shall be treated as such when proffered with the recorder's certification.

Ark. Code Ann. § 13-4-204

12 Amendment of Court Records.

The court may and should correct clerical errors in its records. However, no court may correct a judicial error under the guise of correcting a clerical error.

Ark. R. Civ. P. 60

C Special Appointments

1 Special District Court Judge - Election or Appointment

(a) If a district judge is disqualified or temporarily unable to serve, or if the Chief Justice of the Supreme Court shall determine that there is other need for a special judge to be temporarily appointed, a special judge may be assigned by the Chief Justice or elected by the bar of the district court, under rules prescribed by the Supreme Court, to serve during the period of temporary disqualification, absence, or need.

(b) A special judge shall have the same power and authority in the court as the regular district judge would have if present and presiding and shall have the same qualifications as are required by law for the regular district judge.

(c) A special judge assigned or elected under this section shall receive compensation for his or her service as provided by law.

Ark. Code Ann. § 16-17-210
See S. Ct. Admin. Order No. 18

See Relevant Form.

See XVII Disqualification and Assignment

(d) Oath of office.

I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of _____, upon which I am now about to enter.

Ark. Const. Art. 19, § 20.

The district court clerk may administer the oath to a special district court judge under Ark. Code Ann. § 16-17-211.

2 Prosecuting Attorney Pro Tem

(a) If any prosecuting attorney neglects or fails, from sickness or any other cause, to attend any of the courts of the district for which he/she was elected and to prosecute as required by law, it shall be the duty of the court to appoint some proper person, being an attorney at law, to prosecute for the state during the term.

(b) District court judges have authority to appoint a special prosecutor under the circumstances prescribed in this section.

Ark. Code Ann. § 16-21-112

3 Appointment of Counsel

(a) An accused's desire for, not ability to retain, counsel should be determined by a judicial officer before the first appearance, whenever practicable.

(b) Whenever an indigent accused is charged with a criminal offense and, upon being brought before any court, does not knowingly and intelligently waive the appointment of counsel to represent the indigent, the court shall appoint counsel to represent the indigent unless the indigent is charged with a misdemeanor and the court has determined that under no circumstances will incarceration be imposed as a part of the punishment if the indigent is found guilty. A suspended or probationary sentence to incarceration shall be considered a sentence to incarceration if revocation of the suspended or probationary sentence may result in the incarceration of the indigent without the opportunity to contest guilt of the offense for which incarceration is imposed.

Ark. R. Crim. P. 8.2

Court must inquire into defendants' ability to afford counsel. **Kincade v. State, 303 Ark. 331, 796 S.W.2d 580 (1990).**

4 Public Defender

(a) Effective 1/98 a statewide public defender program is created. The Public Defender Commission will evaluate applications and make recommendations to the circuit judges in the judicial district who shall by majority vote choose the public defender.

(b) The public defender positions in the Arkansas Public Defender Commission will be allocated to each county or judicial district based on a formula developed by the Commission.

(c) No person shall serve as part-time public defender who also serves as part-time district judge, city court judge or deputy prosecuting attorney.

(d) The public defender shall defend indigents as determined by the district court, in all misdemeanor cases and all traffic cases punishable by incarceration and all contempt proceedings punishable by incarceration.

(e) The Trial Public Defender's Office is created within the Arkansas Public Defender Commission to supervise the development and operation of each component of this system.

Ark. Code Ann. § 16-87-201 et seq.

5 Public Defender/Conflicts of interest.

If the court determines that a conflict of interest exists between an indigent person and a public defender, the case shall be reassigned as follows:

(a) If there is, within the county or judicial district, another public defender, the appointment of whom would not create a conflict of interest, the judge shall appoint that public defender to defend the person;

(b) If there is no other public defender within the county or judicial district eligible to represent the person, the judge shall notify the Arkansas Public Defender Commission, which may appoint a public defender from an adjacent area; or

(c) A private attorney may be appointed by the judge who, within twenty (20) days of the appointment, shall notify in writing the commission of the appointment, the type of case, and the reason for the appointment.

(d) The commission shall continue to maintain a list of private attorneys based on their qualifications for acceptance of appointment.

(e) A list for each judicial district shall be prepared, certified, and updated annually by the commission.

(f) The court may wish to consider an exchange agreement with another public defender for conflict cases. Would save the expense of appointing private attorneys.

Ark. Code Ann. § 16-87-307

See Relevant Form

(g) Compensation.

At the conclusion of each case, the appointed attorney shall submit his bill to the appointing court which shall issue an order authorizing compensation.

An application for compensation shall be submitted to the Arkansas Public Defender Commission and accompanied by the affidavit of the appointed attorney detailing the hours spent on the case and the services rendered and whether compensation was received or has been applied for from any other source; the Arkansas Public Defender Commission shall determine and set the compensation award based upon guidelines established by the Commission.

Ark. Code Ann. § 16-87-211.

But, see **Ark. R. Crim. P. 8.2.** Attorneys appointed by district courts may receive fees for services rendered upon certification by the presiding officer if provision therefore has been made by the county or municipality in which the offense is committed or the services are rendered. Attorneys so appointed shall continue to represent the indigent accused until relieved for good cause or until substituted by other counsel.

6 Public Defender/Certificate of Indigency.

(a) Any person charged with an offense punishable by imprisonment who desires to be represented by an appointed attorney shall file with the court in which the person is charged a written certificate of indigency. The court shall not appoint counsel prior to review of the submitted affidavit.

(b) The certificate of indigency shall be in a form approved by the commission and shall be provided by the court in which the person is charged.

(c) The certificate of indigency shall be executed under oath by the person and shall state in bold print that a false statement is punishable

(d) Upon execution, the certificate of indigency shall be made a permanent part of the indigent person's records.

(e) If the court in which the person is charged determines that the person qualifies for the appointment of an attorney under standards set by the commission, the court shall, except as otherwise provided, appoint the trial public defender to represent the person before the court.

(f) At the time of the appointment of counsel, the court shall assess a fee of not less than $10.00 nor more than $100.00 to be paid to the Public Defender Commission to defray the costs of the public defender system.

(g) The appointing court may at any time review and determine whether a person is an indigent person who qualifies for the appointment of an attorney.

(h) The State of Arkansas, or a county, or both, may file a civil action for recovery of money expended in the representation of a person who is determined by a court not to have been indigent at the time expenditures were made.

Ark. Code Ann. § 16-87-213

See Relevant Forms

7 Court Interpreter

(a) All persons, whether or not able to understand or communicate adequately in the English language, must be afforded rights when they appear in court.

See Ark. Code Ann. §§ 16-64-111, 16-89-104, 16-10-102 and 25-15-101.

(b) When an interpreter is requested or when the judge determines that a party or witness has a limited ability to understand and communicate in English, a certified interpreter shall be appointed, using the most current roster of certified interpreters maintained by the AOC. Where possible but particularly for more complex cases, an interpreter with Advanced Certification as denoted on the roster should be used.

(c) The judge may appoint a non-certified interpreter only upon finding that diligent, good faith efforts to obtain a certified interpreter have been made and none has been found to be reasonably available. Recognizing that the judge is the final arbiter of any interpreter's qualifications, a non-certified interpreter may be appointed only after the judge has evaluated the totality of the circumstances including the gravity of the judicial proceeding and the potential penalty or consequence involved. Before appointing a non-certified interpreter, the judge shall make a finding that the proposed non-certified interpreter appears to have adequate language skills, knowledge of interpreting techniques, familiarity with interpreting in a court setting, and that the proposed non-certified interpreter has read, understands, and will abide by Administrative Order No. 11, the Arkansas Code of Professional Responsibility for Interpreters in the Judiciary. A summary of the efforts made to obtain a certified interpreter and to determine the capabilities of the proposed non-certified interpreter shall be made on the record or as a docket entry of the legal proceeding.

(d) A non-English speaking party or witness may at any point in the proceeding waive the right to the services of an interpreter, but only when (1) the waiver is approved by the judge on the record or by docket entry after explaining to the non-English speaking party or witness through an interpreter the nature and effect of the waiver; (2) the judge makes a finding on the record or by docket entry that the waiver has been made knowingly, intelligently, and voluntarily; and (3) in cases where the non-English speaking party or witness has retained/appointed counsel or has the right to counsel, that party or witness has been afforded the opportunity to consult with his or her attorney. At any point in any proceeding, for good cause shown, a non-

English speaking party or witness may retract his or her waiver and request an interpreter.

(e) All interpreters, before commencing their duties, shall take an oath that they will make a true and impartial interpretation using their best skills and judgment in accordance with the standards and ethics of the interpreter profession.

See Relevant Form

(f) Any of the following actions shall constitute good cause for the judge to remove an interpreter: (1) being unable to interpret adequately, including where the interpreter self-reports such inability; (2) knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity; (4) failing to adhere to the requirements prescribed by the AOC, including the Arkansas Code of Professional Responsibility for foreign language interpreters; (5) failing to follow other standards prescribed by law. The judge shall notify the AOC in writing whenever he or she removes an interpreter, setting forth the reason(s) for that action.

In Re: Certification for Foreign Language Interpreters in Arkansas Courts; 338 Ark. Appx. 827 (1999); See also Ark. Code Ann. § 16-89-104 and Ark. Code Ann. § 16-89-105.

"Ark. Code Ann. § 16-89-105(c) must be read as a whole with the entire statute; when read as a whole, it is clear the last sentence refers to the first and the intent is to preclude statements made by a deaf person after arrest and while in custody for any alleged violation of a criminal law of the State of Arkansas without the assistance of an interpreter; a deaf person is not entitled to an interpreter under the statute until after he is arrested and taken into custody; for statements made prior to arrest and being taken into custody, the legislature apparently intended the trier of fact to determine the accuracy of the officers interpretation of the deaf person's communications." **Sanders v. State, 310 Ark. 630, 839 S.W.2d 518 (1992)**

(g) Compensation.

Whenever a judicial officer appoints a certified foreign language interpreter or transliterator from the registry to a criminal or a civil case, upon the conclusion of the interpretation or transliteration services in the case, the judicial officer may certify those services to the to the Director of the Administrative Office of the Courts, upon a form provided by the AOC. The director is authorized to pay, from funds specifically appropriated for this purpose, the certified foreign language interpreter or transliterator for the interpreting services furnished to the Court.

Ark. Code Ann. § 16-10-127

See Relevant Form.

8 District Court Clerk

(a) The judge of any district court may appoint a clerk for the court who shall be designated and known as the district court clerk. The city council sets the salary but:

(b) If any portion of the salary is to be paid by the county, the quorum court must approve the salary; or

(c) If the expenses and salaries of the district court are paid entirely by the county in which the court is located, the salary is set by the quorum court.

Ark. Code Ann. § 16-17-211
See Appendix - District Court Clerk

9 Deputy Court Clerks

(a) The district judge may, with the approval of the governing body of the city, appoint one or more deputy clerks to serve under the supervision of the district court clerk.

(b) The salary of the deputy clerk may be less but not more than the salary of the district court clerk. The salary designated for the office of district court clerk may be apportioned by the city council between and among the district court clerks and any or all of the deputies.

Ark. Code Ann. § 16-17-106
See Appendix - District Court Clerk

D Broadcasting, Recording or Photographing In the Courtroom

1 This Order shall apply to all courts, but it shall not apply to the juvenile division of circuit court as set out below.

2 A judge may authorize broadcasting, recording or photographing in the courtroom and areas immediately adjacent thereto during sessions of court, recesses between sessions, and on other occasions, provided that the participants will not be distracted, nor will the dignity of the proceedings be impaired.

3 The following exceptions shall apply:

(a) An objection timely made by a party or an attorney shall preclude broadcasting, recording or photographing of the proceedings;

(b) The court shall inform witnesses of their right to refuse to be broadcast, recorded or photographed, and an objection timely made by a witness shall preclude broadcasting, recording or photographing of that witness;

(c) All matters in the juvenile division of the circuit court, as well as domestic relations matters, e.g., adoptions, guardianships, divorce, custody, support and paternity, shall not be subject to broadcasting, recording or photographing;

(d) In camera proceedings shall not be broadcast, recorded or photographed except with consent of the court;

(e) Jurors, minors without parental or guardian consent, victims in cases involving sexual offenses, and undercover police agents or informants shall not be broadcast, recorded or photographed.

4 The broadcasting, recording or photographing of any court proceeding shall comply with the following rules:

(a) The court shall direct that the news media representatives enter into a pooling a news medium wanting to broadcast, record or photograph court proceedings shall present to the court a written statement agreeing to share with other media representatives. The media pool shall select one of its members to serve as pool coordinator. The media pool shall establish its own procedures, not inconsistent with these rules or with the wishes of the court, and the pool coordinator shall arbitrate any problems that arise. If a problem arises that requires the assistance of the court, the pool coordinator alone shall be responsible for coordinating with the court. A plan for the placement of the broadcast equipment shall be prepared and filed by the pool coordinator, subject to the final approval of the court.

(b) The court shall retain ultimate control of the application of these rules over the broadcasting, recording or photographing of a trial. Decisions made as to the details are final and are not subject to appeal. The court may in its discretion terminate the broadcasting, recording or photographing at any time. Such a decision should not be made in an effort to edit the proceedings but only as one necessary in the interest of justice.

(c) The media pool may have two cameras in the courtroom during the course of a trial. One camera shall be used for still photography, and one camera shall be used for television photography. Both cameras shall remain in stationary positions outside the bar of the courtroom. Videotape recording and other electronic equipment not a component part of the cameras shall be located in an area remote from the courtroom to be designated by the court.

(d) One additional audio system for radio broadcasting shall be permitted provided that all microphones and related essential wiring will be unobtrusive and located in places designated in advance by the basic courtroom plan. The pool coordinator shall permit the installation of a pickup distribution box to be located outside the courtroom area to allow additional agencies access to the audio feed.

(e) Only television and photographic equipment that does not require distracting sound or light shall be employed to cover court proceedings. No artificial lighting device shall be employed in connection with television cameras. Any court approved alterations in existing lighting or wiring shall be accomplished by and at the expense of the media pool.

(f) Camera and audio equipment shall be installed or removed only when the court is not in session. Film changes shall not be made while court is in session. No audio

equipment shall be used to record conversations between attorneys and clients or conversations between attorneys and the court held outside the hearing of the jury

(g) Electronic devices shall not be used in the courtroom to broadcast, record, photograph, e-mail, blog, tweet, text, post, or transmit by any other means except as may be allowed by the court.

(h) If a court has its own broadcasting, recording, or photography system, the court's system shall be used, subject to the provisions of this Order, unless different or additional arrangements are necessary in the court's discretion.

5 Failure to abide by any provision of this Order can result in a citation for contempt against the news representative and his/her agency.

S. Ct. Admin. Order No. 6.
In Re Amendment to Administrative Order No. 6 2010 Ark. 268

No rule of court or judicial order shall be promulgated that prohibits representatives of the news media from broadcasting or publishing any information in their possession relating to a criminal case.

Ark. R. Crim. P. 38

E Marriages

1 Elected district court judges and former judges who have served at least four years may solemnize marriages.

Ark. Code Ann. § 9-11-213

2 All persons contracting marriages in Arkansas are required to first obtain a license from the clerk of the county court of some county in Arkansas.

Ark. Code Ann. § 9-11-201

3 Form of license

(a) The license may be in the following form:

State of Arkansas,
County of _____

To any person authorized by law to solemnize marriage:

You are hereby commanded to solemnize the rites and publish the banns of matrimony between A.B., age ____ years, and D.C., age ____ years, according to law, officially sign and return this license to the parties herein named.

Witness my hand and official seal this ____ day of _____, 20__ [L.S.]
_____ A.B., County Clerk

(b) The party solemnizing the rites of matrimony shall endorse on the license a certificate of that fact in the following form:

State of Arkansas,
County of _____

I, A.B., do certify that on the ____ day of _____, 20__, I did duly, and according to law as commanded in the foregoing license, solemnize the rites and publish the banns of matrimony between the parties herein named.

Witness my hand this ____ day of _____, 20__.
_____ A.B., District Judge

Ark. Code Ann. § 9-11-202

4 Covenant marriages must also contain the following declaration of intent:

We _____ and _____ declare our intent to contract a covenant marriage and, accordingly, have executed the attached declaration of intent.

Ark. Code Ann. § 9-11-801 - Covenant Marriage Act of 2001.

See Relevant Form

5 It is a misdemeanor to solemnize marriages contrary to law or to fail to officially sign and return any license to the party at the time of the marriage.

Ark. Code Ann. § 9-11-216 - 217

6 Marriage ceremony

(a) When marriages are solemnized by a district judge the ceremony form observed shall be the one the judge deems most appropriate.

Ark. Code Ann. § 9-11-215

(b) Suggested ceremony

See Relevant Form.

F Contractors Providing Certain Services

1 Upon request of a district court judge, the governing body in which a district court is located or, if applicable each governing body of a political subdivision which contributes to the expenses of a district court may contract with a person who has registered with

the Secretary of State and filed a surety bond or certificate of deposit with the Secretary of State to provide any of the following services:

(a) Probation services;

(b) Pretrial supervised release programs;

(c) Alternative sentencing programs;

(d) The collection and enforcement of delinquent fines and costs;

2 The amount of the surety bond or certificate of deposit shall be $50,000. The city or county or any person suffering damage by reason of the acts or omissions of the person or any employee of the person in the performance of services subject to this section may bring action on the bond for damages.

3 A person shall be ineligible to provide services subject to this section if the person or an owner, operator or any stockholder has been convicted of a felony.

4 For the purpose of this section, "person" means any individual, corporation, partnership, firm, association, or other business entity.

5 A district court may require a defendant to pay reasonable fees, in an amount to be established by the court, relating to private contractors providing probation services, pretrial supervised release programs, or alternate sentencing programs authorized by law.

Ark. Code Ann. § 16-17-127
See also Sections X F and XV F

II COURT STRUCTURE and JURISDICTION

A Court Structure

1 "Department" means the physical location where sessions of court are held;

2 "District" means the geographical area in which a state district court may exercise jurisdiction and from which a state district court judge is elected;

3 "Division" means the designation of the judicial positions for case management or election purposes and does not refer to "subject matter divisions" under Arkansas Constitution, Amendment 80, § 7;

4 "Local district court" includes a department of a district court;

5(A) "State district court" means a district court that is created by this subchapter and has:

(i) Criminal jurisdiction, as established by the General Assembly; and

(ii) Civil jurisdiction, as established by the Supreme Court.

(B) "State district court" includes a department of a state district court; and

6 "State district court judge" means a full-time judge:

(A) Whose salary is paid by the state;

(B) Who is not engaged in the private practice of law; and

(C) Who is available for work in circuit court under rules adopted by the Supreme Court.

Ark. Code Ann. § 16-17-1102

B Jurisdiction/State District Courts

(a)(1) State district courts are courts of limited jurisdiction with criminal jurisdiction as defined by the General Assembly and by the Arkansas Constitution, Amendment 80, § 7, and civil jurisdiction as defined by the Supreme Court.

(2) State district courts may be given greater criminal and civil jurisdiction than that provided for local district courts, subject to the provisions of the Arkansas Constitution, Amendment 80, §§7 and 10.

(b) Under rules prescribed by the Supreme Court, a state district court judge may hear cases filed in the circuit court that arise within the territorial jurisdiction of the state district court judge.

(c)(1) Under rules prescribed by the Supreme Court, a state district court judge may be assigned by the Chief Justice to hear cases outside the territorial jurisdiction of the court.

(2) When assigned, the state district court judge is entitled to the reimbursement of travel expenses under § 16-17-1108.

Ark. Code Ann. § 16-17-1109
See Ark. Code Ann. §§ 16-17-1110 - 1113 for Organization and designation of State District Courts

C Jurisdictional Amount/Subject Matter Jurisdiction/Civil Cases/State District Courts

1 The district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:

(a) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars ($100), excluding interest, costs and attorney's fees;

(b) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of twenty-five thousand dollars ($25,000), excluding interest, costs and attorney's fees;

(c) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of twenty-five thousand dollars ($25,000); and

(d) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of twenty-five thousand dollars ($25,000), excluding interest and costs.

S. Ct. Admin. Order No. 18

D Jurisdictional Amount/Subject Matter Jurisdiction/Civil Cases/Local District Courts

1 The district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:

(a) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars ($100), excluding interest, costs and attorney's fees;

(b) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of five thousand dollars ($5,000), excluding interest, costs and attorney's fees;

(c) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of five thousand dollars ($5,000); and

(d) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of five thousand dollars ($5,000), excluding interest and costs.

S. Ct. Admin. Order No. 18

2 The small claims division for local and state district courts shall have the same jurisdiction over amounts in controversy as provided above. Special procedural rules governing actions filed in the small claims division are set out in Rule 10 of the District Court Rules.

S. Ct. Admin. Order No. 18

3 The district courts shall have subject matter jurisdiction as established by Supreme Court rule.

Ark. Code Ann. § 16-17-704

E Criminal Jurisdiction

4 The district court shall have original jurisdiction, exclusive of the circuit court, for the trial of violations of ordinances of any town, city, or county within the territorial jurisdiction of the district court, and shall have original jurisdiction, concurrent with the circuit court, for the trial of offenses defined as misdemeanors and violations by state law and committed within the county in

which the district court is located.

5 A district court may issue arrest warrants and search warrants and may perform other pretrial functions, as authorized by the Arkansas Rules of Criminal Procedure, in the prosecution of a person for an offense within the exclusive jurisdiction of the circuit court.

Ark. Code Ann. § 16-88-101

F Criminal Magistrates

1 With the concurrence of a majority of the circuit court judges of a judicial circuit, the administrative judge of the judicial circuit may designate one or more district court judge(s), with the judge's consent, as a referee or master, who shall be referred to as a "criminal magistrate" for the judicial circuit, and who shall be authorized to perform any of the duties described in subsection (b) of this rule. A criminal magistrate shall be subject at all times to the superintending control of the circuit judges of the judicial circuit, and the criminal magistrate's territorial jurisdiction shall be coextensive to that of the circuit judges of the judicial circuit unless specifically limited by the designating order.

2 A criminal magistrate may perform the following duties with respect to an investigation or prosecution of an offense lying within the exclusive jurisdiction of the circuit court:

(a) Issue a search warrant pursuant to Rule 13.1.

(b) Issue an arrest warrant pursuant to Rule 7.1 or Arkansas Code § 16-81-104, or issue a summons pursuant to Rule 6.1.

(c) Make a reasonable cause determination pursuant to Rule 4.1(e).

(d) Conduct a first appearance pursuant to Rule 8.1, at which the criminal magistrate may appoint counsel pursuant to Rule 8.2; inform a defendant pursuant to Rule 8.3; accept a plea of "not guilty" or "not guilty by reason of insanity"; conduct a pretrial release inquiry pursuant to Rules 8.4 and 8.5; or release a defendant from custody pursuant to Rules 9.1, 9.2, and 9.3.

(e) Conduct a preliminary hearing as provided in Ark. Code Ann. § 5-4-310(a).

3 If a person is charged with the commission of an offense lying within the exclusive jurisdiction of the circuit court, a criminal magistrate designated

pursuant to this rule may not accept or approve a plea of guilty or *nolo contendere* to the offense charged or to a lesser included offense.

4 Nothing in this order shall affect the authority of a district court judge to perform the duties described in subsection (2) as otherwise permitted by these Rules or other law.

5 Nothing in this rule shall impair or render ineffectual any proceeding or procedural matters which occurred before the effective date of this rule.

Ark. R. Crim. P. 1.8

6 A county may employ one (1) or more district court judges to act as criminal magistrates in accordance with the provisions of Rule 1.8(a) of the Arkansas Rules of Criminal Procedure or in accordance with per curiam orders issued by the Arkansas Supreme Court.

Ark. Code Ann. § 16-17-135

7 A district court judge acting as a criminal magistrate may be authorized to perform any of the duties described in Rule 1.8(b) of the Arkansas Rules of Criminal Procedure.

Ark. Code Ann. § 16-17-135

8 A county with a population of over one hundred thousand (100,000) persons may compensate a district court judge acting as criminal magistrate in excess of his or her salary as a district court judge in an annual amount not to exceed fifty percent (50%) of the district court judge's maximum annual salary as set forth in § 16-17-108.

Ark. Code Ann. § 16-17-135

9 A county, city, or town that contributes to the salary of a district judge may treat the increased payment for magistrate duties as salary to be calculated for purposes of the Arkansas District Judge Retirement System.

Ark. Code Ann. § 16-17-135

10 The compensation for a district court judge acting as criminal magistrate for a circuit court judge shall be set by the county quorum court by ordinance and may be paid by the county from the county administration of justice fund or the county general fund as appropriated by ordinance.

Ark. Code Ann. § 16-17-135

G Jurisdiction over certain criminal matters

(a) If authorized by the administrative plan for the judicial circuit required by Administrative Order No. 14 of the Supreme Court, a state district court judge may preside over the following criminal matters:

(1) A drug court program authorized under § 16-98-301 et seq.; and

(2) Probation supervision program.

(b) The administrative judge of the judicial district may withdraw authorization under this section at any time.

Ark. Code Ann. § 16-17-137

H Juvenile Jurisdiction (See Section XI)

I Geographical Boundaries

If there is only one district court in a county it shall have county-wide jurisdiction.

Ark. Const. Amend. 80 § 7 (C)

The General Assembly shall have the power to establish jurisdiction of all courts and venue of all actions therein, unless otherwise provided in the Constitution, and the power to establish judicial circuits and districts, provided such circuits or districts are comprised of contiguous territories.

Ark. Const. Amend. 80 § 10
See Ark. Code Ann. §§ 16-17-901 et seq. for specific geographical boundaries of various district courts

J Exchange of Jurisdiction

1 District judges may temporarily exchange districts by joint order entered of record in their respective courts. They may hold court for each other for such length of time as may seem practicable and for the best interest of their respective courts.

2 District judges exchanging jurisdictional authority or districts shall have the same power or authority, holding court for each other, as the district judge for the district in which the court or courts shall be held.

3 No city or county shall be held liable for nor shall incur any expense whatsoever for any special pay or travel costs arising out of any exchange of judicial districts between district judges.

Ark. Code Ann. § 16-17-102
Ark. Const. Amend. 80, § 7(e)

K Venue/Traffic Citations

All traffic citations issued within the boundaries of a town or city of this state which has a district court shall be placed on the docket of the district court of that town or city, unless the presiding judge of that court authorizes a transfer to another court exercising jurisdiction over the area in which the citation was issued.

Ark. Code Ann. § 16-88-116

III CIVIL CASES

A Small Claims Division

1 Establishment

(a) Each district court must establish a small claims division.

(b) Jurisdictional limit is $5,000.

(c) Judge determines time and place to hear docket.

S. Ct. Admin. Order No. 18

2 Filing fee - for initiating a cause of action in the small claims division of district court.....$50.00

Ark. Code Ann. § 16-17-705

3 Technology fees - For initiating a cause of action in the civil or small claims division of district court.....15.00

Ark. Code Ann. § 21-6-416

4 Small claims versus regular civil division

(a) Small claims court is served by the same personnel as district court and is located in the same building.

(b) Small claims court is designed to allow individuals to settle certain disputes in court with relaxed rules of procedure and without attorneys.

(c) Small claims division should maintain a separate docket.

(d) If an attorney appears in a small claims case, the case must be transferred to the regular civil division.

S. Ct. Admin. Order No. 18
Ark. Dist. Ct. R. 10

5 Small Claims Magistrates

(a) At the request of the majority of the district judges of a district court, with the concurrence of a majority of the circuit judges of a judicial circuit, the Administrative Judge of the judicial circuit may designate one or more licensed attorney(s) to serve as a Small Claims Magistrate to preside over the Small Claims Division of the district court. A Small Claims Magistrate shall

be deemed the "judge" as that term is used in Rule 10 of the District Court Rules. A Small Claims Magistrate shall be subject to the superintending control of the district judges of the district court.

(b) A Small Claims Magistrate shall possess the same qualifications as a district court judge. The appointment shall be in writing and filed with the District Court Clerk.

S. Ct. Admin. Order No. 18

6 Restrictions on Appearance

(a) No action may be brought in small claims division by any collection agency or agent, or assignee of a claim or any person, firm, partnership, association or corporation engaged primarily or secondarily, in the business of lending money at interest. By definition this includes credit bureaus and collection agencies.

S. Ct. Admin. Order No. 18

(b) Corporations, other than those listed in section 5a, if organized under Arkansas law with no more than three stockholders, or in which 85% of voting stock is held by persons related by blood or marriage within the 3rd degree of consanguinity or any closely held corporation by unanimous vote of the shareholders may sue and be sued in small claims court. Such corporation must be represented by an officer of the corporation.

S. Ct. Admin. Order No. 18

Once an action is transferred to the regular division of district court, the corporation must be represented by an attorney and proceedings in a suit conducted by one not entitled to practice law are a nullity. **Moreland v. Vickers Chevrolet Co., 37 Ark. App.1, 826 S.W.2d 289 (1992).**

(c) No attorneys may practice in small claims division.

S. Ct. Admin. Order No. 18

7 Venue

(a) Contracts - county where contract to be performed or where defendant resides.

Ark. Code Ann. § 16-17-706

(b) Damage to personal property - county where damage occurred or where defendant resides.

Ark. Code Ann. § 16-17-706

(c) All other cases - county where defendant resides.

Ark. Code Ann. § 16-17-706

8 Statute of Limitations

(a) Written contract - 5 years from date contract is broken.

Ark. Code Ann. § 16-56-111

(b) Oral contract - 3 years from date contract is broken.

Ark. Code Ann. § 16-56-105

(c) Recovery of personal property - 3 years from date property was taken.

Ark. Code Ann. § 16-56-105

(d) Damage to personal property - 3 years from date property was damaged.

Ark. Code Ann. § 16-56-105

9 The Complaint

(a) An action is begun in small claims court by filing with the clerk a claim form.

(b) The court should keep blank claim forms for public use.

(c) A small claims court complaint needs the following to serve its legal purpose:

(i) the names and addresses of the plaintiff and defendant;

(ii) the amount of money claimed or description of property to be recovered;

(iiii) a brief description of why the plaintiff believes the defendant owes the amount of money or property claimed;

(iv) notice to the defendant that a claim has been filed against him/her; and

(v) receipt for certified letter and return card or other evidence of service.

Ark. Dist. Ct. R. 10

(d) The plaintiff prepares the claim form and presents it to the clerk in person.

(e) Clerk files claim form and assists plaintiff in obtaining service.

(f) A copy of the answer is included with claim form when serving the defendant.

Ark. Dist. Ct. R. 10

See Relevant Forms

10 Service of Process.

(a) Unless service by the sheriff or other authorized person is requested by the plaintiff, the defendant shall be served by certified mail.

(b) The clerk shall enclose a copy of the claim form in an envelope addressed to the defendant at the address stated in the claim form, prepay the postage, the cost of which may be collected from the plaintiff at time of filing, and mail the envelope to the defendant by certified mail and request a return receipt from addressee only. The clerk shall attach to the original claim form the receipt for the certified letter and the return card thereon or other evidence of service of the claim form.

Ark. Dist. Ct. R. 10

(c) There are four types of service available for serving a summons:

(i) By a sheriff of the county where the service is to be made, or his or her deputy, unless the sheriff is a party to the action. Sheriff's fees are found in Ark. Code Ann. § 21-6-307. Plaintiff pays sheriff directly unless the court has made other arrangements.

(ii) By any person appointed pursuant to Administrative Order No. 20 for the purpose of serving summons by either the court in which the action is filed or a court in the county in which service is to be made. Fee set by agent. Plaintiff pays agent directly unless the court has made other arrangements.

(iii) By any person authorized to serve process under the law of the place outside this state where service is made.

(iv) Return receipt certified mail or commercial delivery company. Receipt must be returned to the court clerk. Commercial delivery company must maintain permanent records of actual delivery and be approved by the court.

Ark. R. Civ. P. 4

(d) Subpoenas.

If subpoenas are requested, the plaintiff or defendant must provide a list of the names and addresses and telephone numbers to the court clerk. There will be additional costs for serving each subpoena.

Ark. R. Civ. P. 45

See Relevant Form

11 Answer by Defendant

(a) Defendant must file answer with clerk of the court within 30 days after service of the claim form on him or her.

(a) Defendant must mail copy of answer to plaintiff.

(a) If defendant does not answer within these time limits the court may enter a judgment against the defendant.

Ark. Dist. Ct. R. 10

See Relevant Form

12 Procedure

(a) Plaintiff and defendant shall have the right to offer evidence in their behalf by witnesses appearing at the hearing or, with court permission, at any other time.

(b) Small claims actions shall be tried informally before the court with relaxed rules of evidence.

(c) No depositions shall be taken and no interrogatories or other discovery proceedings shall be used except in the aid of execution.

(d) No new parties shall be brought in and no party shall be allowed to intervene.

(e) Burden of proof is on plaintiff and case must be proved by a preponderance of the facts presented.

Ark. Dist. Ct. R. 10

13 Judgments and Orders

(a) Judge may give judgment and make such orders as to time of payment or otherwise as deemed to be right and just.

(b) Judgments and orders shall be in writing and entered upon official record in the same manner as other orders of the court.

(c) No prejudgment attachment or garnishment shall issue.

(d) Proceedings to enforce or collect a judgment shall be in all respects as in other cases, except that security interests may be proved at the same time as proof of the claim.

(e) Order of judgment may include an order of delivery directing the sheriff to deliver the property subject to the security interests to the plaintiff.

(f) Unless court orders otherwise, no execution or enforcement proceedings shall issue on any judgment until after expiration of 10 days from entry of judgment.

(g) Prevailing party entitled to costs, including costs of service and notice to defendant and costs of enforcing the judgment.

(h) Appeals may be taken in same manner as other civil appeals.

Ark. Dist. Ct. R. 10

B Civil Division

1 All civil cases filed in district court shall be subject to the procedural rules adopted by the Supreme Court for such cases.

Ark. Code Ann. § 16-17-702

2 Jurisdiction

(a) Jurisdictional limit is $5,000

(b) Jurisdictional limit is $25,000 in State District Courts

(See Section II)

3 Venue

(a) The venue of civil actions, except those in the small claims division, shall be as in like actions instituted in the circuit courts.

Ark. Code Ann. § 16-17-706

(b) Actions against corporations - An action against a corporation created by the laws of this state may be brought in the county in which it is situated or has its principal office or place of business, or in which its chief officer resides. However, if the corporation is a bank or insurance company, the action may be brought in the county in which there is a branch of the bank or agency of the company, where it arises out of a transaction of the bank or agency.

Ark. Code Ann. § 16-60-104

(c) Actions against persons, partnerships or associations maintaining more than one office - An action, other than those mentioned in §§ 16-60-101-110 against a person, firm, co-partnership or association engaged in business in this state which has or maintains more than one office or place of business in this state, may be brought in any county in which the person, firm, co-partnership or association has or maintains any office, branch office, sub-office, or place of business, and service of process upon any agent of any person, firm, co-partnership or association at any such office, branch office, sub-office, or place of business shall be service upon such person, firm, co-partnership or association.

Ark. Code Ann. § 16-60-105

(d) Actions against nonresident individual or foreign corporation - An action, other than one of those mentioned in §§ 16-10-101-103, against a nonresident of this state, or a foreign corporation, may be brought in any county in which there may be property of or debt owing to the defendant.

Ark. Code Ann. § 16-60-108

(e) Contract actions against nonresident - Contract action against a nonresident of this state or a foreign corporation may be brought in the county in which the plaintiff resided at the time the cause of action arose.

Ark. Code Ann. § 16-60-109

(f) Action on debt or note- An action on a debt, account or note, or for goods or services, may be brought in the county where the defendant resided at the time the cause of action arose.

Ark. Code Ann. § 16-60-111

(g) Actions for damage to, or conversion of, personal property - Any action for damage to personal property by wrongful or negligent act, whether arising from contract, tort or conversion of personal property, may be brought either in the county where the damage occurred, or in the county where the

property was converted, or in the county of residence of the person who was the owner of the property at the time the cause of action arose.

Ark. Code Ann. § 16-60-113

4 Civil Justice Reform Act – Venue

(a) All civil actions other than those mentioned in §§ 16-60-101 - 16-60-103, 16-60-107, 16-60-114, and 16-60-115, and subsection (e) of this section must be brought in any of the following counties:

(1) The county in which a substantial part of the events or omissions giving rise to the claim occurred;

(2)(A) The county in which an individual defendant resided.

(B) If the defendant is an entity other than an individual, the county where the entity had its principal office in this state at the time of the accrual of the cause of action; or

(3)(A) The county in which the plaintiff resided.

(B) If the plaintiff is an entity other than an individual, the county where the plaintiff had its principal office in this state at the time of the accrual of the cause of action.

Ark. Code Ann. § 16-55-213

(b) There is some thought that the "Civil Justice Reform Act" and its venue provision, repealed by implication the venue code sections listed in 3(b) – (g) above.

See, David Newbern and John Watkins, *Civil Practice and Procedure,* § 9.1 (4th ed. 2006)

5 Commencement of Action

(a) Civil actions are commenced in district court by filing a complaint with the clerk, who notes the date and time of filing thereon.

Ark. Dist. Ct. R. 3

(b) If the clerk(s office has facsimile machine, the clerk shall accept facsimile transmissions of any paper filed under Ark. R. Civ. P. 5 and may charge a fee of $1.00 per page. Any signature appearing on a facsimile copy shall be presumed authentic until proven otherwise. The clerk shall stamp or otherwise mark a facsimile copy as filed on the date and time that it is

received on the clerk's facsimile machine during the regular hours of the clerk's office or, if received outside those hours, at the time the office opens on the next business day.

Ark. R. Civ. P. 5(c)(2)

(c) An action is not commenced unless defendant is served with claim form within 120 days of filing. The court may, within this time and for good cause shown, by written order or docket entry, extend time for service.

Ark. Dist. Ct. R. 3

6 Filing Fee - For initiating a cause of action in the civil division of district court……....$65.00

See Section XV

Ark. Code Ann. § 16-17-705

7 Technology fees - For initiating a cause of action in the civil or small claims division of district court……... 15.00

See Section XV

Ark. Code Ann. § 21-6-416

8 Complaint

(a) Must be in writing and signed by plaintiff or his/her attorney, if any.

(b) Must state the names and addresses of the parties and claimants attorney, if any.

(c) Must state the nature and basis of the claim.

(d) Must state the nature and amount of relief sought. Should state the date the claim arose and the factual basis of the claim.

(e) Must warn the defendant to file a written answer with the clerk of the court and to serve a copy to the plaintiff or his/her attorney within 20 days after service of the complaint upon him. Must also warn the defendant that failure to file an answer may result in a default judgment being entered against him/her.

(f) Must have a return form to be completed by the person serving the defendant.

Ark. Dist. Ct. R. 4
See Relevant Form.

A licensed collection agency can obtain assignments of debts and then bring an action on the debts in its own name, as "the real party in interest," pursuant to Ark. R. Civ. P. 17(a). **Smith v. National Cashflow Systems, Inc., 309 Ark. 101, 827 S.W.2d 146 (1992)**

9 Service of Complaint

(a) There are five types of service available for serving a complaint.

(1) By a sheriff of the county where the service is to be made, or his or her deputy, unless the sheriff is a party to the action. Sheriff's fees are found in Ark. Code Ann. § 21-6-307. Plaintiff pays sheriff directly unless the court has made other arrangements.

(2) By any person appointed pursuant to Administrative Order No. 20 for the purpose of serving summons by either the court in which the action is filed or a court in the county in which the action is filed or a court in the county in which service is to be made. Fee set by agent. Plaintiff pays agent directly unless the court has made other arrangements.

(3) By any person authorized to serve process under the law of the place outside this state where service is made.

(4) Return receipt certified mail or commercial delivery company. May be by the plaintiff or an attorney of record for the plaintiff. The return receipt must be returned to the court clerk. Commercial Delivery Company must maintain permanent records of actual delivery and have been approved by the court.

(5) Where service is permitted upon an attorney, such service may be effected by facsimile, provided the attorney being served has facilities in his/her office to receive and reproduce verbatim electronic transmissions, or such service may be made by a commercial delivery service which maintains permanent records of actual delivery.

(b) If the clerk(s office has facsimile machine, the clerk shall accept facsimile transmissions of any paper filed under Ark. R. Civ. P. 5 and may charge a fee of $1.00 per page. Any signature appearing on a facsimile copy shall be presumed authentic until proven otherwise. The clerk shall stamp or otherwise mark a facsimile copy as filed on the date and time that it is received on the clerk's facsimile machine during the regular hours of the clerk's office or, if received outside those hours, at the time the office opens on the next business day.

(c) The judge may permit papers or pleadings to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk. If the judge permits filing by facsimile transmission, the provisions of subsection (c)(2) of this rule shall apply.

(d) Proof of Service. The person serving the complaint shall promptly make proof of service thereof to the clerk of the court. Proof of service shall reflect that which has been done to show compliance with these rules. Service by one other than the sheriff or constable shall state by affidavit the time, place, and manner of service.

Ark. Dist. Ct. R. 5
Ark. R. Civ. P. 4

See Relevant Form

10 Subpoenas

If subpoenas are requested the plaintiff or defendant must provide a list of the names and addresses and telephone numbers to the court clerk. There will be additional costs for serving each subpoena.

Ark. R. Civ. P. 45
See Relevant Form

11 Contents of Answer; Time for Filing

(a) An answer shall be in writing and signed by the defendant or his/her attorney, if any. It shall also state:

(1) the reasons for denial of the relief sought by the plaintiff, including any affirmative defenses and the factual basis therefore;

(2) any affirmative relief sought by the defendant, whether by way of counter-claim, set-off, cross-claim, or third party claim, the factual basis for such relief, and the names and addresses of other persons needed for determination of the claim for affirmative relief;

(3) the address of the defendant or his/her attorney, if any.

(b) An answer to a complaint, cross-claim, or third-party claim, and a reply to a counterclaim, shall be filed with the clerk of the court within 30 days of the date that the complaint or other pleading asserting the claim is served.

(c) A copy of an answer or reply shall also be served on the opposing party or parties in accordance with Ark. R. Civ. P. 5.

Ark. Dist. Ct. R. 6
See Relevant Form

12 Jurisdiction - Effect of Counterclaim, Cross-Claim or Third Party Claim - Transfer

(a) If the plaintiff's claim is an amount that exceeds the court's jurisdictional limit, the court, upon its own motion or upon motion of either party, shall dismiss the claim for lack of subject matter jurisdiction.

(b) If a compulsory counterclaim or set-off involves an amount that would cause the court to lose jurisdiction of the case, the court, upon its own motion or upon motion of either party, shall transfer the entire case to circuit court for determination thereon as if the case had been appealed.

(c) Permissive Counterclaim, Cross-Claim, or Third-Party Claim. If a permissive counterclaim, a cross-claim, or a third-party claim involves an amount that would otherwise cause the court to lose jurisdiction of the case, the court shall disregard such counterclaim, cross-claim, or third-party claim and proceed to determine the claim of the plaintiff.

Ark. Dist. Ct. R. 7

13 Judgments - How Entered

(a) When a defendant has failed to file an answer or reply within time set by District Court Rules, Rule 6(b), a default judgment may be rendered against that defendant.

Ark. Dist. Ct. R. 8
See Ryan v. Reynolds, 70 Ark. App. 54, 16 S.W.3d 556 (2000)

(b) When the court decides the case, it shall enter judgment in favor of the prevailing party for the relief to which the party is deemed entitled.

Ark. Dist. Ct. R. 8
See Tharp vs. Smith, 326 Ark. 260, 930 S.W. 2d 350 (1996)

(c) The court shall timely enter in the docket the date and amount of the judgment whether entered by default or on the merits.

Ark. Dist. Ct. R. 8

NOTE: Dist. Ct. R. 8 states that in limited jurisdiction courts, the effective date of the judgment is when the judge enters in a timely manner the date and amount of the judgment in the court's docket;

(1) This procedure is in contrast to that for general jurisdiction courts where judgments are effective only when they are filed with the clerk of those courts.

Ark. R. App. P. 4(d)
Ark. R. Civ. P. Rule 58
S. Ct. Admin. Order No. 2
West Apts., Inc. v. Booth, 297 Ark. 247, 760 S.W.2d 861 (1988); Jones v. City of Flippin, 47 Ark. App. 102, 886 S.W.2d 875 (1994)

(2) The legislature has adopted yet a third method for effective date of judgments and said: "All judgments, orders and decrees entered in open court by any court of record in the State of Arkansas are effective as to all parties of record from the date rendered and not from the date of entry of record."

Ark. Code Ann. 16-65-121 Superseded by Ar. R. Civ. P. Rule 58
See Price v. Price, 341 Ark. 311, 16 S.W.3d 248 (2000)

See Relevant Form

(d) Judgments entered by district courts shall not become a lien against real property unless a certified copy of such judgment, showing the name of the judgment debtor, the date and amount thereof, shall be filed in the office of the circuit clerk of the county in which such land is situated.

Ark. Dist. Ct. R. 8
Ark. Code Ann. § 16-65-117

(e) The records of all judgments shall contain the address of all parties when reasonably ascertainable.

Ark. Code Ann. § 16-10-132

(f) Any judgment entered by a district court on any contract shall bear interest at the rate provided by the contract or 10% per annum, whichever is greater, and on any other judgment at 10% per annum.

Ark. Code Ann. § 16-65-114

See Relevant Form

14 Enforcement of Judgment

(a) Judgments have a lifespan of 10 years unless revived before the expiration of the 10 year period measured from the date rendered.

Ark. Code. Ann. § 16-56-114

(b) Garnishment - Procedure for Issuing Writ

(1) A qualified judgment creditor makes application to the clerk for a writ of garnishment.

Ark. Code Ann. § 16-110-402

(i) No garnishment shall issue on any judgment until after the expiration of 10 days from the entry thereof.

Ark. R. Civ. P. 62

(ii) No garnishment shall issue if appellant posts and the court approves a supersedeas bond for appeal purposes.

Ark. Dist. Ct. R. 9

See Relevant Form.

(2) Writs of garnishment shall be directed, served and returned in the same manner as writs of summons.

Ark. Code Ann. § 16-110-402
Ark. R. Civ. P. 4

(3) Judgment creditor is responsible for mailing a copy of the writ of garnishment and notice to the judgment debtor the same day the writ of garnishment and notice is served on the garnishee

(4) Judgment creditor shall mail the writ and notice by first-class mail to the residence of the judgment debtor.

(5) If letter returned "undeliverable" by post office, or if residence address is not discoverable, then the writ and notice shall be sent by first-class mail to the judgment debtor at his/her place of employment.

(6) Judgment creditor is not required to mail another "notice to defendant" to the judgment debtor for future garnishments on the same debt within 12 months of the original garnishment.

(7) If further garnishments are filed thereafter, notice is required to be mailed annually by the judgment creditor.

(8) Judgment creditor or his/her attorney must sign and complete a certificate service statement which lists the name and address of the judgment debtor and the date of mailing.

Ark. Code Ann. § 16-110-402

(9) Plaintiff, on the day he/she sends out the writ of garnishment, shall prepare and file all the allegations and interrogatories in writing with the clerk upon which plaintiff may desire information from the garnishee.

Ark. Code Ann. § 16-110-403

(10) Garnishee shall on the return day named in the writ, file under oath full and true answers to all allegations and interrogatories as may have been posed by the plaintiff.

Ark. Code Ann. § 16-110-404

(11) If the garnishee files an answer to the interrogatories and the plaintiff deems the answers untrue or insufficient, plaintiff may deny the answer and cause the denial to be entered of record.

(12) The court shall proceed to try the facts put in issue by the answer of the garnishee and the denial of the plaintiff.

Ark. Code Ann. § 16-110-405

(c) Failure of Garnishee to Answer

(1) If any garnishee, after having been served with a writ of garnishment, neglects or refuses to answer the interrogatories exhibited to him, on or before 20 days after service of the writ, the court, upon motion of the plaintiff, may issue a notice to the garnishee requiring him to appear personally at a hearing not later than 10 days after receipt of said notice (or at such other date as the court may fix) and answer the allegations and interrogatories of the plaintiff. Service of the notice may be by the clerk or the plaintiff, by any method prescribed by A.R.Civ.P for service of notice.

(2) The court, after hearing and reviewing the evidence and testimony of both parties, may then render judgment against the garnishee in such amount, if any, as the court finds the garnishee held at the time of the service of the writ of garnishment of any goods, chattels, wages, credits and effects belonging to the defendant, not otherwise exempt under state or federal law; together with attorney's fees and such other reasonable expenses incurred by the plaintiff, as the court may deem appropriate under the facts and circumstances.

Ark. Code Ann. § 16-110-407

See Relevant Form

(d) In any garnishment, the plaintiff shall include one of the following notices:

"NOTICE TO NON-EMPLOYER GARNISHEE. Failure to answer this writ within 20 days or failure or refusal to answer the interrogatories attached hereto shall result in the court entering a judgment against you and you becoming personally liable for the full amount specified in this writ, together with costs of this action as provided by Ark. Code Ann. § 16-110-407" or

"NOTICE TO EMPLOYER GARNISHEE. Failure to answer this writ within 20 days or failure or refusal to answer the interrogatories attached hereto shall result in the court entering a judgment against you and you becoming personally liable for the amount of the non-exempt wages owed the debtor-employee on the date you were served with this writ as provided by Ark. Code Ann. § 16-110-407."

See Relevant Form

(e) In addition, in any garnishment of salaries, or other compensation due from an employer garnishee, the plaintiff shall include the following notice:

"NOTICE TO EMPLOYER GARNISHEE. The amount of wages available for withholding for this judgment and costs is subject to certain prior claims. Under Arkansas law, income withholding for child support has a priority over all other legal processes. Under federal law, the total amount to be withheld cannot exceed the maximum amount allowed under Sec. 303(b)." [15 U.S.C. Sec. 1673]

Ark. Code Ann. § 16-110-401 and Ark. Code Ann. § 16-110-416

See Relevant Form

(f) Continuing Garnishment

(1) Upon the garnishment of salaries, wages or other compensation due from the employer garnishee, the employer garnishee shall hold, to the extent of the amount due upon the judgment and costs, subject to the order of the court, any non-exempt wages due or which subsequently became due. The judgment or balance due thereon is a lien on salaries, wages or other compensation due at the time of the service of the execution or as set out below.

(2) The lien provided for above shall continue as to subsequent earnings until the total amount due upon the judgment and costs is paid or satisfied. The lien on subsequent earnings shall terminate sooner if the

employment relationship is terminated or if the underlying judgment is vacated or modified.

Ark. Code Ann. § 16-110-415

(g) Discharge of garnishee/surrender of property

(1) If on the return day of any writ of garnishment the garnishee shall surrender to the plaintiff all the goods, chattels, moneys, credits and effects which may be in his/her hands or possession belonging to the defendant, he/she shall be discharged with costs.

(2) The court shall enter an order releasing and discharging the garnishee from all responsibility to the defendant in relation to the goods, chattels, moneys, credits or effects so surrendered.

Ark. Code Ann. § 16-110-409

(h) Discharge of garnishee/judgment against garnishee

(1) If the issue is found for the garnishee, he/she shall be discharged without further proceedings.

(2) However, if the issue is found for the plaintiff, judgment shall be entered for the amount due from the garnishee to the defendant in the original judgment or so much thereof as will be sufficient to satisfy the plaintiff's judgment, with costs.

Ark. Code Ann. § 16-110-410

(3) In all cases where judgment shall be rendered against any garnishee on an answer to interrogatories filed, the judgment shall have the effect to release the garnishee from all responsibility in relation to the goods, chattels, moneys, credits and effects for which the judgment may have been rendered.

Ark. Code Ann. § 16-110-411

<u>See Relevant Form</u>

(i) Upon receipt of the writ of garnishment, the judgment debtor is entitled to a prompt hearing in which to claim exemptions.

(1) Upon filing a claim of exempt property or wages, a hearing must be held within 8 working days to determine validity of claimed exemptions.

(2) No hearing is required and a writ of supersedeas shall issue unless the judgment creditor files, within 5 days, a statement in writing that the judgment debtor's claim of exemption is contested.

Ark. Code Ann. § 16-110-402(5)

(j) Property exempt from execution, garnishment or other creditor process.

(1) Constitutional exemptions:

(i) unmarried non head of household - $200 month of personal property and all wearing apparel;

(ii) married or head of household - $500 of personal property and all wearing apparel of entire family;

(iii) Homestead - if married or head of household.

Ark. Const. Art. 9

(2) Statutory exemptions:

(i) property owned by State of Arkansas

Ark. Code Ann. § 16-66-205, but, see Ark. Code Ann. § 16-110-413

(ii) property of the federal government - doctrine of sovereign immunity effect has been to bar garnishment of wages of federal employees;

U.S. v. Testan, 424 U.S. 392 (1976); May Dept. Stores Co. v. Smith, 572 F.2d 1275 (8th Cir. 1978)

(iii) family or public graveyards

Ark. Code Ann. § 16-66-207

(iv) proceeds of any life, health, accident or disability insurance contract

Ark. Code Ann. § 16-66-209
See Sanders v. Putman, 315 Ark. 251, 866 S.W.2d 251 (1993)

(v) state public assistance payments

Ark. Code Ann. § 20-76-430

(vi) social security benefits

42 U.S.C.A. § 407

(vii) unemployment benefits

Ark. Code Ann. § 11-10-109

(viii) workers compensation benefits

Ark. Code Ann. § 11-9-110

(ix) wages - amount garnished each week may not exceed (a) 25% of the disposable earnings for that week, or (b) the amount by which the individual's disposable earnings for that week exceeds 30 times the applicable hourly minimum wage.

15 U.S.C.A. §§ 1671-1677

(x) Discovery may be had from any person including judgment debtor in aid of a judgment.

Ark. R. Civ. P. 69

(k) Execution

(1) Before execution may issue there must exist an actionable, final judgment or decree from a court of record for a fixed sum of money.

Ark. Code Ann. § 16-66-101

(2) Judgments have a lifespan of 10 years unless revived before the expiration of the 10 year period measured from the date rendered.

Ark. Code Ann. § 16-56-114

(3) Unless the court orders otherwise, execution may not issue until 10 days after the judgment has been formally entered of record.

Ark. R. Civ. P. 62

(4) Procedure for issuing writ.

(i) The district clerk should keep writs of execution and make them available to the public.

<u>See Relevant Form</u>

(ii) The writ of execution must contain the following notice provision.

"NOTICE TO DEFENDANT OF YOUR RIGHT TO CLAIM CERTAIN PROPERTIES AS BEING EXEMPT FROM EXECUTION. The writ of execution delivered to you with this notice means that certain properties belonging to you have not been executed upon in order to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP YOUR PROPERTY FROM BEING TAKEN, OR TO SUBSTITUTE THE PROPERTY THAT IS TAKEN, SO READ THIS NOTICE CAREFULLY. State and federal laws say that certain property may not be taken to pay certain types of court judgments, this money or property is said to be "exempt" from execution. You have the right to petition the court within twenty (20) days to claim an exemption. If your claim of an exemption is contested the court shall promptly hold a hearing after your claim has been filed. YOU MUST IMMEDIATELY SERVE A COPY OF YOUR CLAIM UPON THE PARTY SEEKING EXECUTION."

Ark. Code Ann. § 16-66-104

The form provided in Ark. Code Ann. § 16-66-104 is not required to be used for writs of execution. It is a sample form and it may be used. This code section states that the form may be varied. The fact that the sample form provides for a description of specific property does make that an essential element of the writ. The requirement that judgment debtors prepare and file a schedule of all their real and personal property upon the entry of a final judgment order of a court of record against them does not make a description of specific property essential to a writ of execution. These factors merely indicate that the judgment creditor has the option of describing specific property to be levied upon and facilitate the use of that option. **Op. Att'y. Gen. # 91-357**

District courts are generally "courts of record" and Ark. Code Ann. § 16-66-221 does encompass judgments arising out of district courts. **Op. Att'y Gen. # 92-005**

(iii) Service and return - The "Notice to Defendant", together with a copy of the writ of execution, shall be served on the judgment debtor by: (1) an officer authorized to serve process simultaneously with seizure or levy of property; or (2) the judgment creditor in the same manner as service of writs, or summons before the day the officer authorized to serve process seizes or levies on property of the judgment debtor.

(iv) Mailing of copies - If the judgment creditor mails the writ of execution and the "notice" the mail shall be sent to the last known address of the judgment debtor. However, if the writ and notice are refused, unclaimed or cannot be delivered by the post office, or if the residence address of the judgment debtor is not discoverable after diligent search, then the writ of execution and notice to defendant

shall be sent first class mail to the judgment debtor at his/her last known residence address and, if known, his/her last place of employment.

(v) MAILING OF ANNUAL NOTICE. The judgment creditor shall not be required to serve another "notice to defendant" on the judgment debtor, by mail or otherwise, for future writs of execution on the same debt within one (1) year of the original writ of execution. If further writs of execution on the same debt are filed thereafter, then the notice shall be required to be served by the judgment creditor annually.

(vi) CERTIFICATE OF SERVICE STATEMENT. The circuit clerk shall include as a part of the writ of execution a certification statement of the service required in subparagraph (d) on the judgment debtor. The judgment creditor, or the authorized officer serving the writ, must complete the certificate of service statement by listing the names and address of the judgment debtor and the date of mailing. The statement must be signed by the judgment creditor or his/her attorney.

(vii) HEARING. Upon filing a claim of exempt property, a prompt hearing shall be held to determine the validity of the claimed exemptions, provided no hearing shall be required and a writ of supersedeas shall issue as to the claimed exemption(s) if the judgment creditor files a statement in writing that the judgment debtor's claim of exemption is not contested.

(viii) TIME TO CLAIM EXEMPTION. Upon receipt of a writ of execution and notice to defendant, the judgment debtor shall have twenty (20) days from such receipt to file a petition to claim any of the exemptions provided by law.

1 Whenever any resident of this state has any final judgment order of a court of record entered against him, he shall prepare a schedule, verified by affidavit, of all his property, both real and personal, including moneys, bank accounts, rights, credits, and chose in action held by himself/herself or others for him/her and specify the particular property which he/she claims as exempt under the provisions of the law.

2 The schedule shall be filed with the clerk of the court in which the final judgment order was rendered within 45 days of entry of the final judgment order.

3 All final judgment orders of a court of record in this state shall include a provision requiring the judgment debtor to comply with

the requirements of this section; however, the absence of the provision from a final judgment shall not invalidate the judgment.

Ark. Code Ann. § 16-66-221

ix The clerk may direct the writ to the sheriff of any county in the state where the debtor may have property.

Ark. Code Ann. § 16-66-109

(l) Lien

1 When a writ of execution reaches the hands of the sheriff, a lien attaches to all non-exempt real and personal property of debtor located in the county.

Ark. Code Ann. § 16-66-112

2 An execution lien has a life of 60 days and is renewable only by obtaining another writ of execution.

Ark. Code Ann. § 16-66-416

15 Property subject to execution

(a) All personal property not exempt by the Arkansas Constitution, Arkansas Statutes, or federal law (including cash).

(b) Improvements on public lands of the United States.

(c) Shares of stock in a bank, insurance company or corporation.

(d) Corporate bonds.

(e) Legal and most equitable interest in real estate, including leaseholds.

Ark. Code Ann. §§ 16-66-201 - 204

16 Constitutional exemptions. See B. 13(j)1, this section.

17 Statutory exemptions. See B.13(j)2, this section.

18 Stay of execution

(a) Judgment debtor may receive a stay of execution pending an appeal by posting a supersedeas bond which must be approved by the court.

Ark. R. Civ. P. 62
Ark. Dist. Ct. R. 9

(b) Judgment debtor may secure a 6 month stay of execution any time before the execution sale by posting a bond for the amount due under the judgment, costs and interest.

Ark. Code Ann. § 16-66-303

(c) Stay for cause - A writ of execution may be stayed, quashed or set aside by the judgment debtor for "good cause" e.g., judgment on which execution is based is void, is not actionable and has been satisfied.

Ark. Code Ann. § 16-66-301

19 Waiver of Stay. A waiver of the right to secure a stay of execution is enforceable.

Ark. Code Ann. § 16-66-305

20 Debts not subject to stay:

(a) Debts owed by any collecting officer, attorney or agent for default in executing the duties of office, or for failure to pay over money collected in an official capacity;

(b) Judgments against a principal by his/her surety;

(c) Any judgment for specific property, or for the property or its value;

(d) A judgment enforcing a lien in favor of a seller or mortgagee;

(e) A judgment for personal injury resulting in death.

(f) In those cases when a stay is not allowed the execution shall be so endorsed by the clerk.

Ark. Code Ann. § 16-66-302

21 Discovery may be had from any person including judgment debtor in aid of a judgment.

Ark. R. Civ. P. 69
Ark. R. Civ. P. 26

C Civil Appeals

1 Time for taking appeal. All appeals in civil cases from district court to circuit court must be filed in the office of the clerk of the particular court having jurisdiction of the appeal within 30 days from the date of a docket entry awarding judgment regardless of whether a formal judgment is entered. The 30 day period is not extended by a motion for judgment notwithstanding the verdict, a motion for new trial, a motion to amend the court's findings of fact or to make additional findings, or any other motion to vacate, alter or amend the judgment.

Ark. Dist. Ct. R. 9

2 How taken. A party may take an appeal from district court by filing a certified copy of the district court's docket sheet, which shows the awarding of judgment and all prior entries, with the clerk of the circuit court having jurisdiction over the matter. Neither a notice of appeal nor an order granting leave to appeal shall be required. The appealing party shall serve a copy of the certified docket sheet upon counsel for all parties, and any party proceeding pro se, by any form of mail that requires a signed receipt.

Ark. Dist. Ct. R. 9

3 Procedure.

(1) All the parties shall assert all their claims and defenses in circuit court. Within thirty days after a party perfects its appeal to circuit court by filing a certified copy of the district court docket sheet with the circuit clerk, the party who was the defendant in district court shall file a complaint and plead all its claims in circuit court. The party who was the defendant in district shall file its answer, motions, and claims within the time and manner prescribed by the Arkansas Rules of Civil Procedure. All the parties shall serve their pleadings and other papers on counsel for all opposing parties, and on any party proceeding pro se, by any form of mail which requires a signed receipt.

(2) At the time they file their complaint, answer, motions, and claims, the parties shall also file with the circuit clerk certified copies of any district court papers that they believe are material to the disputed issues in circuit court. Any party may also file certified copies of additional district court papers at any time during the proceeding as the need arises.

(3) As soon as practicable after the pleadings are closed, the circuit court shall establish a schedule for discovery, motions, and trial.

(4) Except as modified by the provisions of this rule, and except for the inapplicability of Rule of Civil Procedure 41, the Arkansas Rules of Civil Procedure shall govern all the circuit court proceedings on appeal of a district court judgment as if the case had been originally in circuit court.

Ark. Dist. Ct. R. 9

4 Supersedeas Bond. Whenever an appellant entitled thereto desires a stay on appeal to circuit court in a civil case, he/she must present to the district court for its approval a supersedeas bond which shall have such surety as the district court requires. The bond must be to the effect that appellant will pay appellee all costs and damages that shall be affirmed against appellant on appeal; or if appellant fails to prosecute the appeal to final conclusion, or if such appeal is dismissed, that appellant will satisfy and perform the judgment of the district court. All proceedings in district court are stayed from and after the date of the district court order approving the supersedeas bond.

Ark. Dist. Ct. R. 9

The posting of an appeal bond is not a jurisdictional prerequisite for an appeal from District Court to Circuit Court and that the appeal was perfected pursuant to rule 9 by the filing of the affidavit before the thirtieth day after the district court's judgment. **Velek v. State, 364 Ark. 531, 222 S.W. 3d 182 (2006)**

See Relevant Form

We think it is clear that an appeal from a district court judgment to circuit court is a continuation of the district court action and Ark. R. Civ. P. 41(b), which applies to original actions in circuit court, does not apply to an appeal from district court so as to vest circuit court with the authority to dismiss the cause of action without prejudice. We also believe that Inferior Court Rule 9 supports our view. Subsection (d) of this rule states that, "if such appeal for any cause be dismissed, that appellant shall satisfy and perform the judgment, decree, or order of the inferior court." Although subsection (d) concerns supersedeas bonds, it is nonsensical to say that an appellant on appeal from an inferior court has to satisfy a judgment if it has put up a supersedeas bond but not otherwise. Therefore, we find that the circuit court erred in holding that its dismissal of the case appealed from district court terminated the action and caused the district court judgment to be invalid or set aside. We hold that the dismissal in circuit court simply did away with the appeal and left the district court judgment valid and enforceable. **Wilson v. C & M Used Cars, 46 Ark. App. 281, 878 S.W.2d 427 (1994)**

The Inferior Court Rules state that when applicable the Ark. R. Civ. P. apply and govern inferior court proceedings; **Kersh v. State, 56 Ark. App. 39,938 S.W.2d 569 (1997)**

Although a defendant has a default judgment entered in district court in a civil matter, Arkansas law allows that default judgment to be appealed de novo to circuit court. **Murdock v. Slater, 326 Ark. 1067, 935 S.W.2d 540 (1996)**

Ark. R. Civ. P. 6(a) - clearly provides that in computing any period of time prescribed by the rules, the day of the event should not be included

D Recovery of Personal Property and Replevin

1 Definitions.

As used in 18-60-801 - 18-60-808, unless the context otherwise requires:

(a) "Party" or "person" shall include individuals, corporations, partnerships, associations, or any entity having the legal capacity to sue or be sued;

(b) "Order of delivery" shall be deemed synonymous with "writ of replevin."

2 Penalties - Damages and fee.

(a) Any person who willfully and knowingly damages property in which there exists a valid right to issuance of an order of delivery, or on which an order has been sought under the provisions of 18-60-801 - 18-60-808, or who conceals it, with the intent to interfere with enforcement of the order, or who removes it from the jurisdiction of the court in which the action is pending with the intention of defeating enforcement of an order of delivery, or who willfully refuses to disclose its location to an officer charged with executing an order for its delivery, or, if the property is in his possession, willfully interferes with the officer charged with executing the writ shall be guilty of a misdemeanor.

(b) If convicted, he shall be subject to a fine of not more than one thousand dollars ($1,000) and imprisonment for a term of not more than six (6) months, or both.

(c) In addition to these criminal penalties, he shall be liable to the plaintiff for double the amount of damage done to the property, together with a reasonable attorney's fee, to be fixed by the court, which damages and fee shall be deemed based on tortuous conduct and enforceable accordingly.

Ark. Code Ann. § 16-60-803

3 Petition for recovery of personal property.

(a) In all cases in this state wherein a party claims a right of possession of property in the possession of another, the party may apply to the circuit court or the municipal court for issuance of an order of delivery of the property. The application shall be by petition, signed by the party or his attorney, and shall set forth the reasons the issuance of the order of delivery is necessary.

(b) The petition may be presented to the circuit judge, who is empowered to hear it in any county of the district he serves, and he may issue an order giving notice of hearing to be held in any county in his district.

(c) The petition may be brought in the municipal court at the election of the party so filing, and the municipal court shall have authority to give notice and hear the petition in the same manner as the circuit court.

(d) If the petition recites facts which, if established by proof, support the existence of a right of possession in the petitioner, an order shall be issued, directing the party against whom the order of delivery is sought to appear before the judge issuing the order and show cause why the order of delivery should not be issued and the property seized and delivered to the petitioner.

Ark. Code Ann. § 16-60-804

4 Notice of hearing.

(a) The order to appear and show cause why the order of delivery should not be issued shall permit a reasonable time for the party against whom it is directed to appear. It shall state the place and time the hearing shall be held.

(b) If served at the same time the summons and complaint are served, it may state with generality the nature of the action, the purpose of the hearing, and the consequences of nonappearance.

(c) If served after the summons and complaint, and separately therefrom, it shall refer to the complaint and, in addition to the foregoing, specifically describe the property to be seized if the petition is granted.

(d) In either event, the order shall inform the party against whom it is directed that civil and criminal penalties may be assessed if the property is willfully damaged, concealed, or removed from the court's jurisdiction, or if the party refuses to release the property to the officer designated to serve the order of delivery.

Ark. Code Ann. § 16-60-805

5 Hearing.

(a) At any hearing held on an application for an order of delivery, the petitioner shall be required to present prima facie evidence that the petitioner has the right of immediate possession of the property.

(b) If the party against whom the order of delivery is sought should fail to appear in response to the notice, the petitioner shall be required to offer the same proof necessary to secure a default judgment.

(c) If the court decides that the order of delivery should issue, an order shall be entered accordingly.

Ark. Code Ann. § 16-60-806

6 Immediate appearance - Impounding of property.

If the petitioner for an order of delivery, after otherwise complying with the requirements for issuance thereof, shall present evidence to the court that there is genuine danger that the property sought under the order will be removed from the court's jurisdiction, damaged, concealed, or otherwise jeopardized, the court shall have the power to direct the immediate appearance of the party having possession thereof or, if the party cannot be immediately served but the property can be located, to direct that the property be taken and impounded pending further hearing, in which event it shall be deemed in custodia legis, subject to possession by neither party without further order of the court.

Ark. Code Ann. § 16-60-807

7 Alternative procedure.

(a) In lieu of the procedure set forth in 18-60-801 - 18-60-808, at the time the complaint is filed and summons issued, a petitioner may obtain a notice issued by the clerk of the court in which the proceeding is filed. The notice shall be served with the complaint and summons and shall notify the defendant that an order of delivery of the property described in the complaint is sought and that if any objection is made to issuance of the order of delivery it must be in the form of a written response, filed within five (5) days of service of the summons and complaint, excluding Sundays and legal holidays, with a copy served on plaintiffs attorney.

(b) In the event no written objection is filed and served within the five-day period, the clerk shall, upon the request of plaintiff or his attorney, issue the writ forthwith. In the event a defendant files a written objection within the five-day period specified, the clerk shall, at the request of either party, set the matter for hearing before the circuit judge as promptly as the business of the judge shall permit.

(c) At the hearing the judge shall proceed in the manner specified in 18-60-806.

Ark. Code Ann. § 16-60-808

8 Replevin.

The plaintiff in an action to recover the possession of specific personal property, may at the commencement of the action or at any time before judgment, claim the immediate delivery of the property, as provided in 18-60-810 - 18-60-822.

Ark. Code Ann. § 16-60-809

9 Affidavit for replevin.

(a) An order for the delivery of property to the plaintiff shall be made by the clerk when there is filed in his office an affidavit of the plaintiff, or of someone in his behalf, showing:

(1) A particular description of the property claimed;

(2) Its actual value and the damages which the affiant believes the plaintiff ought to recover for the detention thereof;

(3) That the plaintiff is the owner of the property or has a special ownership or interest therein, stating the facts in relation thereto, and that he is entitled to the immediate possession of the property;

(4) That the property is wrongfully detained by the defendant, with the alleged cause of the detention thereof, according to the best knowledge, information, and belief of the affiant;

(5) That it has not been taken for a tax or fine against the plaintiff, or under any order or judgment of a court against him, or seized under an execution or attachment against his property, or, if so seized, that it is by statute exempt from seizure;

(6) That the plaintiffs cause of action has accrued within three (3) years; and
(7) Where the action is brought to recover property taken under an execution, the fact of the taking and the nature of the process under which it was done.

(b) Where the delivery of several articles of property is claimed, the affidavit must state the value of each.

Ark. Code Ann. § 16-60-810

10 Order for delivery of property.

(a) The order for the delivery of the property to the plaintiff shall be addressed and delivered, with a copy thereof, to the sheriff. It shall state the names of the parties to the action and the court in which the action is brought and direct the sheriff to take the property, describing it and stating its value as in the affidavit of the plaintiff, and deliver it to him, to make return of the order on a day to be named therein and to summon the defendant to appear on this day in the court and answer the plaintiff in the premises.

(b) If the plaintiff shall file an additional affidavit that he believes the property has been concealed, removed, or disposed of in any way with intent to defeat the plaintiffs action, the clerk or magistrate shall insert a clause commanding

the sheriff, or other officer, that if the property mentioned in the order cannot be had, to take the body of the defendant, so that he appear at the return day of the order to answer the premises. The order shall be made returnable as an order of arrest is directed to be returned.

Ark. Code Ann. § 16-60-811

11 Bond.

(a) The order shall not be complied with by the sheriff until there has been executed in his presence, by one (1) or more sufficient sureties of the plaintiff, a bond to the defendant, to the effect that the plaintiff shall duly prosecute the action and that he shall perform the judgment of the court therein by returning the property, if a return thereof shall be adjudged, and by paying any sums of money adjudged against him in the action, not exceeding double the value of the property and the costs of the action.

(b) Where the action is brought against a sheriff or other officer to recover possession of property taken by him under an execution against a person other than the plaintiff, the bond provided for in subsection (a) of this section shall be to the effect that the plaintiff shall duly prosecute the action and that he shall perform the judgment of the court therein by returning the property, if a return thereof shall be adjudged, and by paying to the defendant or to the plaintiff in the execution, as may be directed by the court, any sums of money adjudged against the plaintiff in the action, not exceeding double the value of the property and the costs of the action.

Ark. Code Ann. § 16-60-812

12 Execution of order.

The sheriff shall execute the order by taking the property therein mentioned, if it is found in the possession of the defendant, or his agent, or of any other person who obtained possession thereof from the defendant, directly or indirectly, after the order was placed in the sheriffs hands. He shall also deliver a copy of the order to the defendant, or to the person from whose possession the property is taken, or, if neither can be found, leave it at the usual place of abode of either, with some person of the age of at least sixteen (16) years.
Ark. Code Ann. § 16-60-813

13 Orders directed to other counties.

An order may, at any time before judgment, be directed to any other county for the delivery of the property claimed. Several orders may issue at the same time, or successively, at the option of the plaintiff. But only one of them shall be taxed in the costs, unless otherwise ordered by the court.

Ark. Code Ann. § 16-60-814

14 Disposition of property replevied.

If the affidavit of the plaintiff states that the property was taken under an execution, the sheriff shall deliver it to the plaintiff. In every other case he shall retain the property in his possession for two (2) days, unless the bond mentioned in 18-60-816 shall be sooner executed.

Ark. Code Ann. § 16-60-815

15 Redelivery bond.

Within two (2) days after the taking of the property by the sheriff, in the case in which the property was not taken under an execution, the defendant or anyone for him may cause a bond to be executed to the plaintiff in the presence of the sheriff, by one (1) or more sufficient sureties, in double the value of the property, to the effect that the defendant shall perform the judgment of the court in the actions. Thereupon the sheriff shall restore the property to the defendant or to the person in whose possession it was found. If the bond is not executed within the time above limited, the sheriff shall deliver the property to the plaintiff. He shall return the bonds with the order.

Ark. Code Ann. § 16-60-816

16 Appraisement of property before taking bond.

Before taking any bond, the sheriff, upon the suggestion of either party that the value of the property is not truly stated in the order for its delivery and where the suggestion is on the part of the defendant, on his producing the property to the sheriff, shall select three (3) disinterested housekeepers to appraise the property under oath, to be administered by him. Their appraisement, endorsed upon the order, shall be regarded as the value of the property in taking the bonds.

Ark. Code Ann. § 16-60-817

17 Claim of third party to property.

If another person than the defendant or his agent claims the property taken by the sheriff and delivers to the sheriff his affidavit that he is entitled to the possession thereof, the sheriff shall not be bound to keep it or deliver it to the plaintiff unless he shall, within two (2) days after the delivery to him or to his agent or attorney, by the sheriff, of a copy of the affidavit, indemnify the sheriff against the claim by a bond, executed by one (1) or more sufficient sureties, in double the value of the property. No claim to the property by any other person than the defendant or his agent shall be valid against the sheriff unless so made.

He shall return the affidavit of the claimant, with his proceedings thereon, to the clerk's office.

Ark. Code Ann. § 16-60-818

18 Arrest and discharge of defendant.

(a) If the property described in the order shall have been removed or concealed so that the officer cannot make delivery thereof, when the order contains a capias clause, he shall arrest the body of the defendant and hold him in custody in the same manner as on a capias ad respondendum in a personal action until the defendant shall execute the bond prescribed in subsection (b) of this section or be otherwise legally discharged.

(b) The defendant shall be entitled to be discharged from arrest at any time before final judgment had in the cause upon executing to the officer who shall have made the arrest, with the addition of his name of office, a bond in a penalty of at least double the value of the property described as sworn to in the affidavit, with such security as shall be approved by the officer, conditioned that the defendant shall abide the order and judgment of the court in the action and that he will cause special bail to be put in, if it is required.

Ark. Code Ann. § 16-60-819

19 Judgments generally.

(a) In an action to recover the possession of personal property, judgment for the plaintiff may be for the delivery of the property, or for the value thereof in case a delivery cannot be had, and damages for the detention.

(b) Where the property has been delivered to the plaintiff and the defendant claims a return thereof, judgment for the defendant may be for the return of the property, or its value, in case a return cannot be had, and damages for the taking and withholding of the property.

Ark. Code Ann. § 16-60-820

20 Judgment against sureties.

(a) In all actions for the recovery of personal property, where the defendant has given a delivery bond as provided for by 18-60-816, the court or jury trying the cause may render judgment, against the defendant for the recovery of the property, or its value, together with all damages sustained by the detention thereof. The court or jury may also, upon motion of the plaintiff, render judgment against the sureties upon his delivery bond for the value of the

property and also for damages as they may be found and determined by the court or jury trying the cause.

(b) If, upon the trial of any replevin cause, judgment is given for the defendant in the action, the court or jury trying the cause may render judgment, not only against the plaintiff for the value of the property taken under the order of delivery in the case, provided it has not been surrendered to the defendant, upon bond, as provided for in 18-60-816, together with all damages sustained by the defendant in the action, but may, upon motion of the defendant, also render judgment against the sureties upon the bond of the plaintiff, for the value of the property and all damages sustained by the defendant in the action.

Ark. Code Ann. § 16-60-821

E Uniform Enforcement of Foreign Judgments Act.

1 Definition.

"Foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.

Ark. Code Ann. § 16-66-601

2 Filing and status of foreign judgments.

A copy of any foreign judgment authenticated in accordance with the act of Congress or the statutes of this state may be filed in the office of the clerk of any court of this state having jurisdiction of such an action. The clerk shall treat the foreign judgment in the same manner as a judgment of a court in this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of a court of this state and may be enforced or satisfied in like manner.

Ark. Code Ann. § 16-66-602

3 Notice of filing.

(a) At the time of the filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the clerk of court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor.
(b) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment

creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(c) No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until ten (10) days after the date the judgment is filed.

Ark. Code Ann. § 16-66-603

4 Stay.

(a) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the court any ground upon which enforcement of a judgment of a court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.

Ark. Code Ann. § 16-66-604

5 Fees.

Any person filing a foreign judgment shall pay to the clerk of court the same filing fee that would be paid for the filing of a civil action. Fees for docketing, transcription, or other enforcement proceedings shall be as provided in other civil proceedings in the courts of this state.

Ark. Code Ann. § 16-66-605

6 Optional procedure.

The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this subchapter remains unimpaired.

Ark. Code Ann. § 16-66-606

IV PLEAS AND SENTENCING

A Taking Pleas

1 Defendant is not required to plead until counsel is retained, appointed or assistance of counsel is waived.

Ark. R. Crim. P. 24.2

See Relevant Form

2 Plea of guilty or nolo contendere received only from defendant in open court, except:

(a) By counsel or on behalf of defendant in misdemeanor cases, where fine is imposed; or

(b) From counsel or corporate officer where defendant is a corporation.

Ark. R. Crim. P. 24.3(a)

3 With the approval of the court and the consent of the prosecuting attorney, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right, on appeal from the judgment, to review of an adverse determination of a pretrial motion to suppress evidence or a custodial statement or a pretrial motion to dismiss a charge because not brought to trial within the time provided in Rule 28.1 (b) or (c). If the defendant prevails on appeal, he shall be allowed to withdraw the conditional plea.

Ark. R. Crim. P. 24.3(b)

4 A defendant may plead nolo contendere only with the consent of the court. The court shall not accept a plea of nolo contendere unless it is satisfied, after due consideration of the views of the parties, that the interest of the public in the effective administration of justice would thereby be served.

Ark. R. Crim. P. 24.3(c)

5 No plea of guilty or nolo contendere shall be accepted by the court unless the prosecuting attorney of the governmental unit in which the offense occurred is given opportunity to be heard at the time the plea is tendered. In any criminal cause in which trial by jury is a right, a court shall not accept a plea of guilty or nolo contendere unless the prosecuting attorney has assented to the waiver of trial by jury.

Ark. R. Crim. P. 24.3(d)

There is no constitutional or statutory right to enter a guilty plea. **Numan v. State, 291 Ark. 22, 722 S.W.2d 276 (1987)**

6 Court shall not accept plea of guilty or nolo contendere without addressing defendant to see if he/she understands:

(a) Nature of charge;

(b) Mandatory minimum sentence;

(c) Maximum possible sentence;

(d) Possible different or additional punishment because of previous convictions;

(e) Plea of guilty or nolo contendere waives the trial and right to confront witnesses.

Ark. R. Crim. P. 24.4

7 Court must determine if plea is voluntary.

Ark. R. Crim. P. 24.5

8 Court must determine if there is factual basis for plea.

Ark. R. Crim. P. 24.6

9 Verbatim record of plea of guilty or nolo contendere must be made.

Ark. R. Crim. P. 24.7

10 A defendant, who pleads guilty, nolo contendere or is found guilty of one offense, may request permission to plead guilty or nolo contendere to other offenses. The court must insure that all of the conditions of the rule are satisfied.

Ark. R. Crim. P. 24.8

11 Prosecutor may plea bargain.

Ark. R. Crim. P. 25.1

12 Defense counsel must have consent of defendant to conclude plea agreement.

Ark. R. Crim. P. 25.2

13 The judge shall not participate in plea discussions, except:

(a) The judge may receive information about and concur in the plea agreement;

(b) If concurrence of judge not sought or not indicated, judge must advise defendant that plea agreement is not binding on court and disposition may be different than contemplated.

Ark. R. Crim. P. 25.3

14 With limited exceptions, evidence of discussion between parties, statements by a defendant or the fact of plea discussion are not admissible.

Ark. R. Crim. P. 25.4

15 A defendant may withdraw a plea of guilty or nolo contendere as a matter of right before it has been accepted by the court.

(a) After acceptance and before entry of judgment, the court in its discretion may allow a plea withdrawal upon proof that it is necessary to correct a manifest injustice.

(b) After entry of the written judgment, the plea may not be withdrawn under this rule.

(c) Paragraph (b) of the rule sets out the circumstances under which the plea is "necessary to correct injustice."

Ark. R. Crim. P. 26.1

B Waiver of Appearance and Entry of Plea in Criminal and Traffic Cases

Notwithstanding any rule of criminal procedure to the contrary:

1 A person who is charged in district court or city court with committing an offense, excluding a violation of the Omnibus DWI Act, § 5-65-101 et seq., or the Underage DUI law, § 5-65-301 et seq., or any other offense for which a court appearance is mandatory, may waive appearance and trial and plead guilty or nolo contendere by a signed statement;

2 The person shall pay the fine and court costs in an amount as established, within the limits prescribed by law, by the district court or city court with the signed statement. Fines and court costs shall be paid to the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in the district courts and city courts of this state;

3 The court shall accept the signed statement accompanied by the fine and court costs assessed as a plea of guilty or nolo contendere and shall proceed accordingly; and

4 Submitting payment through a website constitutes an agreement to be bound by an electronic record under the Arkansas Electronic Records and Signatures Act § 25-31-104 and complies in all respects with the requirements of this section.

Ark. Code Ann. § 16-17-136

C Pre-sentence Investigations

1 DWI cases

(a) Mandatory upon finding of guilt, or pleas of guilty or nolo contendere.

(b) The Bureau of Alcohol & Drug Abuse Prevention provides within 30 days of request. The court shall not pronounce sentence until the report is received.

(c) After entry of a plea of guilty, nolo contendere, or a finding of guilt, if the sentencing of the defendant is delayed by the defendant, the clerk shall notify the defendant by first class mail to the defendant's last known address that the defendant has fifteen (15) days to appear and show cause for failing to appear for sentencing.

(d) After expiration of the fifteen (15) days, the court may proceed with sentencing even in the absence of the defendant.

Ark. Code Ann. § 5-65-109

See Relevant Form

2 All other cases. If punishment is fixed by the court, the court may order a pre-sentence investigation to be conducted by the officer or other court designee.

Ark. Code Ann. § 5-4-102

D Sentencing

1 Authorized Sentences. Generally the court has available the following sentencing alternatives:

(a) Imprisonment;

(b) Pay a fine;

(c) Make restitution;

(d) All of the above;

(e) Suspend imposition of sentence (the court may not suspend execution of sentence); or

(f) Probation.

Ark. Code Ann. § 5-4-104

2 Additional Authorized Sentence.

(a) Additional Conditions – High School Diploma or GED or Employment Training.

(b) As an additional requirement for suspension of sentence or probation, the court shall may require any person who is convicted sentenced for of a felony or a Class A misdemeanor to make a good faith effort toward completion of a high school diploma or a general education development certificate unless the person has already achieved the diploma or certificate.

(c) Such requirement shall be implemented only after the appropriate school or adult education program has received notice from the court at least ten (10) working days prior to the person's making application to enroll so as to allow school or program officials to review the person's educational records and only upon the acceptance of the person by the administrative head of the school or adult education program.

(d) If no appropriate school or adult education program can be found, the requirement is of no effect.

(e) In the alternative, the court may allow the defendant to pursue a prescribed course of study or vocational training, approved by the court that is designed to equip him or her for suitable employment.

(f) The court, after consultation with the school or the adult education program, shall determine the appropriate documentation for those individuals participating under the provisions of this section and shall report all documentation of school or adult education program participation on a quarterly basis to the Administrative Office of the Courts, which shall then report to the Department of Career Education.

(g) The court shall not revoke a suspension of sentence or probation because of the person's inability to achieve the degree or certificate but shall revoke a suspension of sentence or probation if the person fails to make a good faith effort to achieve the degree or certificate. As an additional requirement for

suspension of sentence or probation, the court may require any person sentenced for a felony or a Class A misdemeanor to make a good faith effort toward obtaining gainful employment by participating in an appropriate employment training program, unless the person is employed or has a skill that will facilitate immediate employment.

(h) The requirement shall be implemented by the person reporting to the local workforce center for registration, intake, and employability skills assessment.

(i) If the person is on probation, this requirement shall be accomplished in conjunction with the probation officer.

(j) In addition to the skills assessment, the person shall register for employment with the center, and upon obtaining employment, shall communicate the event to the court if on suspension of sentence or to the probation of officer if on probation.

Ark. Code Ann. § 5-4-323

See Relevant Form

One of the conditions of probation was that appellant make a good faith effort to obtain his high school diploma or GED. The trial court properly found that the appellant violated this condition by being truant once, tardy twice and suspended for ten days from school, all within a period of less than a month. **Ramsey v. State, 60 Ark. App. 206, 959 S.W.2d 765 (1998)**

3 Imprisonment - Misdemeanor Range of Sentence

(a) Class A - not to exceed one year
(b) Class B - not to exceed 90 days
(c) Class C - not to exceed 30 days
(d) Unclassified - sentence in accordance with limitations of statute defining misdemeanor.

Ark. Code Ann. § 5-4-401
See Op. Att'y Gen. # 99-179 *Re: What comprises "one day" when an individual is sentenced to serve a term of days for DWI and non-DWI misdemeanor convictions.*

3.1 Multiple sentences - consecutive terms.

The aggregate of consecutive terms for misdemeanors shall not exceed one (1) year.

Ark. Code Ann. § 5-4-403(c)(2)

4 Probation, Suspended Imposition of Sentence

5-4-101. Definitions. As used in this chapter:

(1) (A) "Imprisonment" means:

(i) Incarceration in a detention facility operated by the state or any of its political subdivisions; or

(ii) Home detention as described in § 16-93-708.

(B) "Imprisonment" may mean incarceration in a privately operated detention facility under contract to the state or any of its political subdivisions;

(2) "Probation" or "place on probation" means a procedure in which a defendant who pleads or is found guilty of an offense is released by the court without pronouncement of sentence but subject to the supervision of a probation officer;

(3) "Probation officer" means a salaried officer attached to the court pursuant to § 16-93-402 or a reputable person designated by the court to supervise a defendant who is placed on probation;

(4) (A) "Restitution" means the act of making good or giving equivalent value for any loss, damage, or injury.

(B) "Restitution" may also include in the event of an injury or loss that the offender has special capacity to restore or repair a sentence to perform that reparation; and

(5) "Suspension" or "suspend imposition of sentence" means a procedure in which a defendant who pleads or is found guilty of an offense is released by the court without pronouncement of sentence and without supervision.

(a) In all criminal actions in which the district court maintains jurisdiction to sentence a defendant, except DWI, the court may suspend imposition of sentence (SIS) or place defendant on probation. In making determination the court shall consider whether:

(1) There is undue risk that during the period of a suspension or probation the defendant will commit another offense; or

(2) The defendant is in need of correctional treatment that can be provided most effectively by his/her commitment to an institution; or

(3) Suspension or probation will discount the seriousness of the defendant's offense; or

(4) The defendant has the means available or is so gainfully employed that restitution or compensation to the victim of his/her offense will not cause an unreasonable financial hardship and will be beneficial to the rehabilitation of the defendant.

(b) The following grounds, while not controlling the discretion of the court, shall be accorded weight in favor of SIS or probation:

(1) The defendant's conduct neither caused nor threatened serious harm; The defendant did not contemplate that his/her conduct would cause to threaten serious harm;

(2) The defendant acted under strong provocation;

(3) There were substantial grounds tending to excuse or justify the defendant's conduct, though failing to establish a defense;

(4) The victim of the offense induced or facilitated its commission;

(5) The defendant has compensated or will compensate the victim of the offense for the damage or injury sustained;

(6) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before commission of the present offense;

(7) The defendant's conduct was the result of circumstances unlikely to recur;

(8) The character and attitudes of the defendant indicate that he/she is unlikely to commit another offense;

(9) The defendant is particularly likely to respond affirmatively to suspension or probation;

(10) The imprisonment of defendant would entail excessive hardship to him or his/her dependents;

(11) The defendant is elderly or in poor health;

(12) The defendant cooperated with law enforcement authorities in his/her own prosecution or in bringing other offenders to justice.

(c) When the court suspends the imposition of a sentence on a defendant or places him/her on probation, the court shall enter a judgment of conviction only if:

(1) It sentences the defendant to pay a fine and suspends imposition of sentence as to imprisonment or places defendant on probation; or

(2) It sentences the defendant to a term of imprisonment and suspends imposition of sentence as to an additional term of imprisonment.

McGee v. State, 271 Ark. 611, 609 S.W.2d 73 (1980); Culpepper v. State, 268 Ark. 263, 595 S.W.2d 220 (1980)

(3) The entry of a judgment of conviction shall not preclude the modification of the original order suspending the imposition of sentence on a defendant or placing a defendant on probation following a revocation hearing held pursuant to Ark. Code Ann. § 16-93-307 and modifications set within the limits of Ark. Code Ann. §§ 16-93-309 and 16-93-312.

Ark. Code Ann. § 5-4-301 et. seq.

(d) The court shall attach such conditions as are reasonably necessary to assist the defendant in leading a law-abiding life. The court shall provide as an express condition of every suspension or probation that defendant not commit an offense punishable by imprisonment during the period of suspension or probation.

Ark. Code Ann. § 5-4-303

(e) If the court suspends imposition of sentence on a defendant or places him/her on probation, it may, as a condition of its order, require that the defendant:

(1) Support his/her dependents and meet his/her family responsibilities;

(2) Work faithfully at suitable employment;

(3) Pursue a prescribed secular course of vocational training designed to equip him/her for suitable employment;

(4) Undergo available medical or psychiatric treatment, and enter and remain in a specified institution, when required for that purpose;

(5) Participate in a community-based rehabilitative program or work release program which uses practices proven to reduce recidivism and for which the court may impose reasonable fees or assessments on the defendant to be used in support of said programs;

(6) Refrain from frequenting unlawful or designated places or consorting with designated persons;

(7) Have no firearms in his/her possession;

(8) Make restitution or reparation to aggrieved parties in an amount he/she can afford to pay, for the actual loss or damage caused by his/her offense;

(9) Post a bond, with or without surety, conditioned on the performance of prescribed conditions;

(10) Satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his/her liberty or incompatible with his/her freedom of conscience.

Ark. Code Ann. § 5-4-303

(f) If the court places a defendant on probation, it may as a condition of its order, require that the defendant:

(1) Report as directed to the court or probation officer and permit the probation officer to visit him/her at his/her office or elsewhere;

(2) Remain within the jurisdiction of the court unless granted permission to leave by the court or the probation officer;

(3) Answer all reasonable inquiries by the court or the probation officer and promptly notify the court or probation officer of any change in address or employment;

Ark. Code Ann. § 5-4-303

(g) If the court suspends the imposition of sentence on a defendant or places him/her on probation, the defendant shall be given a written statement explicitly setting forth the conditions under which he/she is being released.

Ark. Code Ann. § 5-4-303

Where appellant at the time of his parole, signed a form acknowledging that he was subject to a warrantless search of his person or property under his control by a parole officer when the parole officer had reasonable grounds for investigating whether appellant was in violation of the terms of his parole, the consent in advance was valid since the supervision of parolees is a special need of the state. ***Freeman v. State, 34 Ark. App. 63, 806 S.W.2d 12 (1991).***

4.1 Time period generally

If a court suspends imposition of sentence on a defendant or places him or her on probation, the period of suspension or probation shall be for a

definite period of time not to exceed the maximum jail or prison sentence allowable for the offense charged.

Ark. Code Ann. § 5-4-306

5 Fee Authorized

See X
Ark. Code Ann. § 5-4-322

Note: See Ark. Code Ann. § 5-65-108(c)(2) "Notwithstanding the provisions of § 5-4-322, in addition to the mandatory penalties required for a violation of § 5-65-103 a district or city judge may utilize probationary supervision solely for the purpose of monitoring compliance with his or her orders, and require an offender to pay a reasonable fee in an amount to be established by the judge.

6 Restitution

If the court suspends the imposition of sentence on a defendant or places him/her on probation conditioned upon his/her making restitution or reparation, the court shall, by concurrence of the victim defendant, and the prosecuting attorney, determine the amount to be paid as restitution. The court shall further, after considering the assets, financial condition and occupation of the defendant, determine whether restitution shall be total or partial, the amounts to be paid if by periodic payments, and if personal services are contemplated, the reasonable value and rate of compensation for services rendered to the victim.

Ark. Code Ann. § 5-4-303

7 Public Defender Attorney's Fee

(a) In cases where counsel has been appointed to represent a defendant due to his indigency and if the court suspends the imposition of sentence or places a defendant on probation at the time of disposition, the court shall revisit the issue of defendant's indigency where appropriate, and where the defendant is financially able to do so, the court may assess an attorney's fee to be paid by the defendant as part of his suspended or probated sentence. The amount of the fee assessed should be commensurate with the defendant's ability to pay. The fee assessed shall be paid to the state. In no event shall failure to pay the assessed attorney's fees, standing alone, be grounds for the revocation of the suspended or probated sentence.

Ark. Code Ann. § 5-4-303

(b) The court may order, as a condition of SIS or probation, that the defendant spend a period of confinement in a county or city jail or other authorized

local detention, correctional or rehabilitative facility, up to 120 days for a felony and 30 days for a misdemeanor.

Ark. Code Ann. § 5-4-304

(c) An order that the defendant serve a period of confinement as a condition of suspension or probation shall not be deemed a sentence to a term of imprisonment and the court need not enter a judgment of conviction before imposing such a condition.

Ark. Code Ann. § 5-4-304

8 Civil Penalty

(a) All courts of record, district courts and city courts shall have the authority to suspend the imposition of sentences, or the imposition of fines, or both, in all criminal cases pending before the courts, unless specifically prohibited by law.

(b) At any time before a court has entered a judgment of conviction against a criminal defendant, the court may dismiss the case, and in that instance, any fine imposed against the defendant shall be considered a civil penalty. The court, however, shall assess and disburse the appropriate court costs pursuant to Ark. Code Ann. § 16-10-305, et seq.

Ark. Code Ann. § 16-90-115

9 Deferment of Sentence – Restrictions/Commercial Driver License

No district court judge may utilize the provisions of §§ 5-4-321, 16-90-115, 16-93-301 – 16-90-303, § 16-93-314 or 27-50-701 or any other program to defer imposition of sentence in instances where the defendant holds a commercial driver license and is charged with violating any state or local traffic law other than a parking violation.

Ark. Code Ann. § 27-23-128

10 Revocation of Probation

(a) At any time before expiration of a period of suspension or probation:

(1) The court may summon or issue a warrant of arrest for probationer;

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

(b) A law enforcement officer may arrest a probationer if the officer has reasonable cause to believe the probationer is violating a condition of the suspension or probation.

(c) Any probationer so arrested shall be taken immediately before the court which suspended sentence or the court supervising probation.

(d) When a probationer is arrested for a violation of suspended sentence or conditions of probation, the probationer shall, as soon as practicable, have a preliminary hearing. In such cases:

(e) The defendant shall be given prior written notice of:

(1) The time and place of the preliminary hearing;

(2) The purpose of the preliminary hearing;

(3) The condition alleged to have been violated.

(f) The preliminary hearing can be held before any court having original criminal jurisdiction and located reasonably near the place of the alleged violation or arrest.

(g) The defendant shall be allowed:

(1) To offer evidence in his/her own behalf;

(2) To hear and controvert relevant (but not necessarily admissible under rules of evidence) evidence against him; and

(3) Unless the court specifically finds good cause otherwise, to confront and cross-examine adverse witnesses.

(4) The hearing court shall furnish the court that suspended sentence on or probated defendant a summary of the hearing including the responses of the defendant and the substance of the evidence in support of revocation.

(5) If the hearing court finds reasonable cause to revoke; it shall order defendant held for revocation hearing before the original court.

(6) If the hearing court does not find reasonable cause to revoke, it shall order the defendant released from custody.

(h) A preliminary hearing is not required if:

(1) The defendant waives a preliminary hearing; or

(2) The revocation is based on the defendant's commission of an offense for which he has been tried and found guilty in an independent criminal proceeding; or

(3) The revocation hearing is held promptly after the arrest and reasonably near the place where the alleged violation occurred or where the defendant was arrested.

(i) The court granting a suspended sentence or probation shall hold a hearing within 60 days after arrest of defendant.

(j) The defendant shall be given prior written notice of the:

(1) Time and place of the hearing;

(2) Purpose of the hearing;

(3) Condition alleged to have been violated.

(k) The defendant shall be allowed:

(1) To offer evidence in his/her own behalf;

(2) To hear and controvert relevant (but not necessarily admissible under rules of evidence) evidence against him;

(3) Unless the court specifically finds good cause otherwise, to confront and cross-examine adverse witnesses;

(4) To be represented by counsel.

(l) If suspension or probation is revoked, the court shall prepare and furnish to the defendant a written statement of the:

(1) Evidence relied upon;

(2) Reasons for revoking.

(m) If the court finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a condition of suspension or probation, it may revoke the suspension or probation:

(1) At any time prior to the expiration of the period of suspension or probation; or

(2) Subsequent to the expiration of the period of suspension or probation if the defendant was arrested or the warrant of arrest issued prior to the

expiration, or a petition to revoke the defendant's suspension or probation has been filed and a warrant is issued for the defendant's arrest within thirty (30) days of the date of the filing of the petition; or

(3) The defendant has been issued a citation in lieu of arrest under Rule 5 of the Arkansas Rules of Criminal Procedure for violation of suspension of probation or served a summons under Rule 6 of the Arkansas Rules of Criminal Procedure for violation of suspension or probation; and

(4) Enter judgment of conviction and impose any sentence that may have originally been imposed. However, any sentence to pay a fine or of imprisonment imposed for the same offense, shall not exceed the limits of §§ 5-4-201, 5-4-401, or if applicable, 5-4-501.

(5) A finding of failure to comply with a condition of suspension or probation may be punished as contempt under § 16-10-108.

(n) The term "any sentence" includes the extension of a period of suspension or probation. If upon revocation, an extension of suspension or probation is made, the court is not deprived of the ability to revoke such suspension or probation again, should the defendant's conduct so warrant.

(o) (1) A court shall not revoke a suspension of sentence or probation because of a person's inability to achieve a high school diploma, general education development certificate, or gainful employment.

(2)(A) However, the court may revoke a suspension of sentence or probation if the person fails to make a good faith effort to achieve a high school diploma, general education development certificate, or gainful employment.

(B) As used in this section a "good faith effort" means a person:

(i) Has been enrolled in a program of instruction leading to a high school diploma or a general education development certificate and is attending a school or an adult education course; or

(ii) Is registered for employment and enrolled and participating in an employment-training program with the purpose of obtaining gainful employment.

Ark. Code Ann. §§ 16-93-307-308

11 Revocation hearing – Sentence alternatives

(a) Following a revocation hearing held under § 16-93-307 and in which a defendant has been found guilty or has entered a plea of guilty or nolo contendere, the court may:

(1) Continue the period of suspension of imposition of sentence or continue the period of probation;

(2) Lengthen the period of suspension or the period of probation within the limits set by § 5-4-306;

(3) Increase the fine within the limits set by § 5-4-201;

(4) Impose a period of confinement to be served during the period of suspension of imposition of sentence or period of probation; or

(5) Impose any conditions that could have been imposed upon conviction of the original offense.

(b) The court, following a revocation hearing at which the defendant is continued on probation or suspension, upon finding the defendant guilty at a subsequent revocation hearing, to:

(1) Revoke the suspension or probation; and

(2) Sentence the defendant to incarceration in the Department of Correction. (Must be an "eligible offender" under § 16-93-1201)

Ark. Code Ann. § 16-93-309

12 Restitution

If the court has suspended imposition of sentence or placed a defendant on probation conditioned upon the defendant's making restitution and the defendant has not satisfactorily made all of his or her payments when the probation period has ended, the court may:

(1) Continue to assert the court's jurisdiction over the recalcitrant defendant; and

(2) Either extend the probation period as the court deems necessary or revoke the defendant's suspended sentence.

Ark. Code Ann. § 16-93-311

13 Modification

(a) During a period of suspension or probation, upon petition of a probation officer or a defendant or upon the court's own motion, a court may:

(1) Modify a condition imposed on the defendant;

(2) Impose an additional condition authorized by § 5-4-303;

(3) Impose an additional fine authorized by §§ 5-4-201 and 5-4-303; or

(4) Impose a period of confinement authorized by § 5-4-304.

Ark. Code Ann. § 16-93-312

14 Transfer of jurisdiction

(a) If a defendant during a period of probation goes from a county where he or she is being supervised to another county, jurisdiction over the defendant may be transferred in the discretion of the supervising court to a court of comparable jurisdiction in the other county if the court in the other county concurs.

(b) If jurisdiction over a defendant is transferred, the court in the county to which jurisdiction is transferred has any power with respect to the defendant previously possessed by the transferring court.

(c) The procedure may be repeated if a defendant goes from the county where he or she is being supervised to another county during the period of his or her probation.

Ark. Code Ann. § 16-93-313

15 Discharge

(a)(1) The court may discharge the defendant from probation at any time; or

(2) If a judgment of conviction was not entered by the court at the time of suspension or probation and the defendant fully complies with the conditions of suspension or probation for the period of suspension or probation, the court shall discharge the defendant and dismiss any proceedings against him or her.

(b)(1) Subject to the provisions of §§ 5-4-501-504, a person against whom proceedings are discharged or dismissed may seek to have the criminal record sealed, consistent with the procedures established in § 16-90-901 et seq.

(2) This subsection does not apply if:

(A) The person applying for discharge has been convicted of a sexual offense as defined by § 5-14-101 et seq.; and

(B) The victim was under eighteen (18) years of age.

16 Fines

(a) Range of Fines

(1) Class A misdemeanor - not to exceed $2,500.

(2) Class B misdemeanor - not to exceed $1,000.

(3) Class C misdemeanor - not to exceed $500.

(4) Unclassified - in accordance with statute defining the misdemeanor.

(5) Violations - generally not to exceed $100

Ark. Code Ann. § 5-4-201

(b)(1)When a motor vehicle operator is stopped by a law enforcement officer and the officer notes that the seat belt law has not been violated, any fine levied for a moving traffic violation against the operator shall be reduced by $10.00.

(2) This shall not apply to fines levied for traffic offenses classified as misdemeanors.

Ark. Code Ann. § 27-37-705

17 Alternative Sentence Prohibited - Time of Payment

(a) Court cannot sentence defendant to pay a fine or costs and at the same time impose an alternative sentence to be served if fine or costs are not paid.

(b) Court shall determine consequences of non-payment only after fine or costs have not been paid.

(c) Court may grant permission for payment to be made within specified time period or in specified installments; if not payment due immediately.

Ark. Code Ann. § 5-4-202

18 Enforcement of Fines.

(a) The procedures established by this subchapter shall apply to the assessment of all monetary fines, however designated, imposed by district courts or city courts for criminal convictions, traffic convictions, and civil violations, and shall be utilized to obtain prompt and full payment of all such fines.

(b) For purposes of this subchapter, the term "fine" or "fines" means all monetary penalties imposed by the courts of this state, which include fines,

court costs, restitution, probation fees, and public service work supervisory fees.

Ark. Code Ann. § 16-13-701

19 Immediate payment.

(a) When a court has imposed a fine, as described in § 16-13-701, the imposition of such a fine constitutes an order to pay the full amount of the fine in accordance with this subchapter.

(b) Following imposition of the fine, the court shall inform the defendant that full payment of the fine is due immediately and shall inquire of the defendant what arrangements he has made to comply with the court's order to pay the fine.

(c) Without utilizing the provisions of § 16-13-704, the court may allow the defendant a period of time, not to extend beyond the time of the close of the clerk's office on the following day, within which to return to the court and tender payment of the fine.

(d) If the defendant fails to appear as directed, the court shall issue an order of arrest.

(e) The arrest order shall be carried out by the sheriff.

(f) The court may also, upon the defendant's failure to appear, utilize any of the enforcement mechanisms authorized by this subchapter.

(g) If the defendant claims an inability to pay the fine, the court shall inquire into the defendant's ability to pay and shall make a determination of the defendant's financial ability to pay the fine.

(h) If the court finds that the defendant has the financial ability to make immediate payment of the fine in full, the court shall order him to pay the fine.

(i) Failure or refusal to pay as ordered by the court shall subject the defendant to imprisonment, as provided in § 16-13-703.

(j) When a corporation is sentenced to pay a fine or costs, it is the duty of the person authorized to make disbursement from the assets of the corporation to pay the fine or costs.

(k) If such disbursements require approval of the board of directors, it is the duty of the board to authorize disbursements to pay the fine or costs.

(l) Failure to comply with the duties imposed by this subsection shall render the person or directors subject to imprisonment under § 16-13-703.

Ark. Code Ann. § 16-13-702

20 Imprisonment.

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

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

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

(d) The period of imprisonment shall not exceed one (1) day for each forty dollars ($40.00) of the fine or costs, thirty (30) days if the fine or costs were imposed upon conviction of a misdemeanor, or one (1) year if the fine or costs were imposed upon conviction of a felony, whichever is the shorter period.

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

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

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

Ark. Code Ann. § 16-13-703

See Relevant Form

21 Installment payments.

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

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

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

(d) In addition to the fine and any other assessments authorized by this subchapter, an installment fee of five dollars ($5.00) per month shall be assessed on the first day of each month on each person who is authorized to pay a fine on an installment basis. This fee shall be collected in full each month in which a defendant makes an installment payment. This fee shall accrue each month that a defendant does not make an installment payment and the fine has not been paid in full.

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

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

Ark. Code Ann. § 16-13-704

22 Personal checks.

(a) The court shall accept personal checks drawn in the favor of a designated official, as provided in § 16-13-709, in payment of any fine or associated charge assessed by the court if the person issuing the check furnishes satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check,

not to exceed the actual costs incurred by the court or designated agency, may be imposed to recover processing and collection costs.

(c) This charge may be added to, and become part of, any underlying obligation.

(d) The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the court to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

Ark. Code Ann. § 16-13 705

23 Credit card payments.

(a) The court or the agency designated under § 16-13-709 or § 16-92-118 may accept payment of fines and associated costs by an approved credit card or debit card.

(b) The court or designated agency is authorized to enter into contracts with credit card companies and to pay those companies fees normally charged by those companies for allowing the court to accept their credit cards in payment as authorized by subsection (a) of this section.

(c) Where the offender pays fines or court costs by an approved credit card or debit card, the court may assess the offender a transaction fee.

(d)(1) All courts are authorized to enroll for services with and accept payments from a third-party entity for the acceptance and collection of fines and associated costs with an approved credit card for which the third-party entity may charge the offender a transaction fee.

(2) The State of Arkansas or any of its political subdivisions shall not charge a transaction fee for electronic payments of a court-ordered fine paid through a third-party entity.

Ark. Code Ann. § 16-13-706

24 Lien on property.

(a) When a defendant sentenced to pay a fine, defaults in the payment thereof or of any installment, the fine may be collected by any means authorized for the enforcement of money judgments in civil actions.

(b) A judgment that the defendant pay a fine shall constitute a lien on the real and personal property of the defendant in the same manner and to the same extent as a money judgment in a civil action.

(c) A judgment entered by a district court shall not become a lien against real property unless a certified copy of the judgment, showing the name of the judgment debtor and the date and amount thereof, shall be filed in the office of the circuit clerk of the county in which the land is situated.

Ark. Code Ann. § 16-13-707

25 Revocation of registration or license.

(a) The court may certify in writing to the Department of Finance and Administration that a debtor has failed to make satisfactory arrangements for the payment of fines and request the department to revoke, suspend, or refuse to renew the debtor's motor vehicle registration or driver's license.

(b) For driver's license revocation, the court must provide the department with the debtor's full name, social security number, and last known address.

(c) For motor vehicle registration revocation, the court must provide the department with the debtor's full name and the license plate number or vehicle identification number of the debtor's vehicle.

Ark. Code Ann. § 16-13-708

See Relevant Form for non- resident's failure to comply with terms of citation

26 Form of orders.

When an order assessing a fine or penalty is entered, information on the order shall include, but is not limited to, the defendant's name, current address, social security number, driver's license number, name and address of employment, amount of fine, and the agreed upon payment terms and conditions.

Ark. Code Ann. § 16-13-711

Court retains jurisdiction until fine and costs paid. ***Basura v. City of Springdale,*** **47 Ark. App. 66, 884 S.W.2d 629 (1994)**

27 Restitution

(a) A defendant who is found guilty or who enters a plea of guilty or nolo contendere may be ordered to pay restitution. If the court decides not to order restitution or orders restitution of only a portion of the loss suffered by the victim, it shall state on the record in detail the reasons therefor.

(b) The sentencing authority, whether the trial court or a jury, shall make a determination of actual economic loss caused to a victim by the crime.

(c) When an offense has resulted in bodily injury to a victim, a restitution order entered may require that the defendant:

(1) Pay the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including non-medical care and treatment rendered in accordance with a recognized method of healing;

(2) Pay the cost of necessary physical and occupational therapy and rehabilitation;

(3) Reimburse the victim for income lost by the victim as a result of the offense. The maximum that a victim may recover for lost income is $50,000; and

(4) When an offense has not resulted in bodily injury to a victim, a restitution order may require that the defendant reimburse the victim for income lost by the victim as a result of the offense.

(5) The determination of the amount of loss is a factual question to be decided by the preponderance of the evidence presented to the sentencing authority during the sentencing phase of trial.

(6) The amount may be decided by agreement between a defendant and the victim represented by the prosecuting attorney.

(d) If any of the items listed in subdivision above have been paid by the Crime Victims Reparations Board and the court orders restitution, the restitution order shall provide that the Crime Victims Reparation Board is to be reimbursed by the defendant.

(e) As used in this section and in any provision of law relating to restitution "victim" means each person, corporation or governmental entity or agency who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode, and also includes the victim(s estate, if the victim is deceased, and the victim(s next of kin if the victim is deceased as a result of the offense.

(f) A record of a defendant shall not be expunged under Ark. Code Ann. §§ 16-90-901 through 16-90-906 until all court ordered restitution has been paid.

(g) Restitution shall be made immediately, unless prior to the imposition of sentence the court determines that the defendant should be given a specified time to pay or should be allowed to pay in specified installments. A district court may order installment payments of restitution to be collected first in

lieu of the procedure under § 16-10-209(5)(F). In determining the method of payment the court shall take into account:

(1) the financial resources of the defendant and the burden that payment of restitution will impose, with regard to the other obligations of the defendant;

(2) the ability of the defendant to pay restitution on an installment basis or on other conditions to be fixed by the court;

(3) the rehabilitation effect on the defendant of the payment of restitution and the method of payment.

(h) If the defendant is placed on probation or any form of conditional release, any restitution ordered under this section shall be a condition of the suspended imposition of sentence, probation, parole, or transfer. The court may revoke probation and any agency establishing conditions of release may revoke such release if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or conditional release, the court or releasing authority shall consider the defendant's employment status, earning ability, financial resources, and the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.

(i) The court shall enter a judgment against the defendant for the amount determined under the above subsection. The judgment may be enforced by the State or a beneficiary of the judgment in the same manner as a judgment for money in a civil action. A judgment under this section may be discharged by a settlement between the defendant and the beneficiary of the judgment.

(j) If more than one defendant is convicted of the crime for which there is a judgment under this section, the defendants are jointly and severally liable for the judgment unless the court determines otherwise.

(k) A judgment shall require payment to the Department of Community Punishment which shall provide for supervision and disbursement of those funds by the department's authorized economic sanction officers. The court shall determine priority among multiple beneficiaries on the basis of the seriousness of the harm each suffered, their other resources, and other equitable factors.

(l) A judgment under this section does not bar a remedy available in a civil action under other law. A payment under this section must be credited against a money judgment obtained by the beneficiary of the payment in a civil action. A determination under this section and the fact that payment was

or was not ordered or made are not admissible in evidence in a civil action and do not affect the merits of the civil action.

(m) Any restitution type program currently being operated by a prosecuting attorney or a circuit court may continue and the Department of Community Punishment shall assist such program whenever possible.

Ark. Code Ann. § 5-4-205

(n) There is some question as to the jurisdiction of the district court to award restitution. The court should consider the following:

(1) Is the district court a "trial court" as specified in Ark. Code Ann. § 5-4-205(a)?

(2) Does the district court have jurisdiction under Constitutional Amendment 64 to award damages for restitution for personal injury? (Act 961 of 1993 deleted language which purports to give district courts jurisdiction in personal injury claims.)

(3) Does the amount of restitution recommended exceed the district courts maximum civil jurisdiction of $5,000 or $25,000 for state district court?

***Townsend v. State*, 292 Ark. 157, 728 S.W.2d 516 (1987)**

28 Crime Victims Reparations

See Ark. Code Ann. § 16-90-701 et. seq. See also Ark. Code Ann. § 5-4-303.

29 Community Service Work

Ark. Code Ann. §§ 5-4-801 - 805

(a) Allows court to suspend imposition of the offender's sentence for a period not to exceed the maximum penalty for the offense upon conviction if

(1) the defendant is incarcerated in a county jail or regional jail (or under (16-93-1102(b)) resides at his/her principal residence under the supervision of a probation officer); and

(2) agrees to participate in a community work project.

(b) Offenders must work under the supervision of governmental agencies on projects on public lands, buildings, roads, parks and public rights-of-way.

(c) Offenders eligible to be sentenced include persons who:

(1) plead guilty, nolo contendere, or are convicted of a misdemeanor or felony, except:

a capital felonies;

b 1st or 2nd degree murder or negligent homicide;

c Manslaughter;

d rape;

e kidnapping;

f aggravated robbery;

g driving while intoxicated (second or subsequent offenses);

h trafficking a controlled substance;

i any felony involving violence;

j Have consented to participate; and

k Space must be available in the county jail or regional jail as certified by the county sheriff to the court.

But see Ark. Code Ann. § 5-65-111

(d) Offenders who successfully perform community service work shall be eligible for work incentive credit equal to up to three days credit for each day of service (Ark. Code Ann. § 5-4-801).

(e) The length of the community service and incarceration shall not exceed eighteen months for a felony offense or the maximum length provided for the misdemeanor offense, reduced by the work incentive credit.

(f) Offenders who withdrew consent to participate shall, after a hearing, be remanded to the Arkansas Department of Correction or the sheriff of the county wherein the offense was committed.

Ark. Code Ann. § 5-4-803

(g) Offenders whose conduct is unsatisfactory shall receive a hearing, upon petition of the prosecuting attorney, to determine if the offender should continue to participate.

Ark. Code Ann. § 5-4-803

(h) State is liable for medical treatment and other liability incurred in implementing these provisions for eligible felony offenders.

Ark. Code Ann. § 5-4-804

(i) The court may impose reasonable fees or assessments on the defendant to be used in the support of said programs.

Ark. Code Ann. § 5-4-303

A county or city may purchase liability or accident insurance to cover persons who are assigned to community service. The county or city does not risk losing their tort immunity. A county or city normally cannot be held liable for the actions of an individual who has no employment or other agency relationship with the county or city. ***Op. Att'y Gen. # 99-225***

30 Postponement of Judgment

(a) In traffic misdemeanor cases, other than cases involving DWI, the judge has authority to postpone judgment for not more than one year.

(b) During this time the defendant shall be in probationary status, supervised or unsupervised, and shall remain so until judgment is entered.

Ark. Code Ann. § 27-50-701

(c) At the request of defendant, parent of minor defendant or counsel, judgment shall be entered as quickly as feasible and not more than 10 days following such request.

Ark. Code Ann. § 27-50-702

E Psychiatric Exam of Defendant

1 District court may order the psychiatric treatment or commitment of a defendant if the court suspends imposition of sentence or places the defendant on probation.

2 District court also has the authority to order psychiatric treatment or commitment of a defendant if the judge has reason to believe that mental disease or defect of the defendant will or has become an issue in the cause of the following Class A misdemeanors:

(a) Harassment **(Ark. Code Ann. § 5-71-208);**

(b) Harassing communications **(Ark. Code Ann. § 5-71-209);**

(c) Terroristic threatening in the second degree **(Ark. Code Ann. § 5-13-301(b)).**

3 The court may enter such orders as are consistent with Ark. Code Ann. § 5-2-305.

See Relevant Form

F No Contact Orders

1 As used in this section, a "no contact order" is an order issued by a court to a defendant at or after arraignment on charges that prohibits the defendant from contacting directly or indirectly a person in any manner or from being within a certain distance of the person's home or place of employment.

2(i) A court may issue a no contact order under this section in addition to any other condition of release from custody that is imposed by the court if it appears that there exists a danger that a defendant will commit a serious crime, seek to intimidate a witness, or otherwise unlawfully interfere with the orderly administration of justice.

(ii) The no contact order issued under this section shall be in effect until it is modified or terminated by the court.

(iii) A no contact order issued under this section may contain, without limitation, the following:

(A) The reasons the court issued the no contact order in specific terms and description in reasonable detail of the purpose of the order;

(B)(i) A prohibition against the defendant's approaching or communicating with a particular person or class of persons, either through a third party or by telephone, electronic communication, or in writing.

(ii) A no contact order issued under this section shall not be deemed to prohibit any lawful or ethical activity of defendant's counsel;

(C) A prohibition against the defendant's going to certain described geographical areas or premises, including an imposition of a restriction that the defendant stay at least one thousand five hundred feet (1,500') from a person's location;

(D) A prohibition against the defendant's possessing a dangerous weapon or engaging in certain described activities, including the ingestion of alcohol or certain drugs; and

(E) A requirement that the defendant report regularly to and remain under the supervision of an officer of the court.

3 When a no contact order is issued under this section, the court shall inform the defendant of the penalties for failure to comply with the conditions or terms of the order.

4 All terms of a no contact order issued under this section shall be reduced to writing and a copy shall be given to the defendant.

5(A) If a defendant violates a no contact order issued under this section, the court shall issue a warrant directing that the defendant be arrested and immediately taken before any court having jurisdiction.

(B) The court shall then have authority to detain the defendant for a period of time not to exceed twenty-four (24) hours, unless the violation occurs on a Friday or a holiday, in which case the time period shall be forty-eight (48) hours, during which time the prosecuting attorney shall file a petition to revoke the defendant's appearance bond or modify the conditions of the defendant's release, alleging the following:

(i) That the defendant has knowingly violated the terms of a no contact order issued under this section;

(ii) That relevant information has become known to the prosecuting attorney warranting the modification of or revocation of the defendant's appearance bond; and

(iii) That a law enforcement officer had reasonable grounds to believe that the defendant violated the terms of a no contact order issued under this section and that it was impracticable to secure an arrest warrant at the time of arrest.

C(i) The defendant shall be entitled to a hearing on the petition to modify or revoke the defendant's appearance bond within forty-eight (48) hours of the defendant's appearance before the court, unless the violation occurs on a Friday or a holiday, in which case the hearing shall be within seventy-two (72) hours.

(ii) If after a hearing the court finds that the defendant knowingly violated the terms of a no contact order issued under this section, the court may impose different or additional conditions of release or revoke his or her appearance bond.

6(A) A court may set the duration of a no contact order issued under this section for an additional period of time after the adjudication of the offense for which the defendant was originally charged if it determines the additional period of time is necessary to protect the safety of a person, persons residing with the person, or members of the person's immediate family.

(B) The duration or extension of the no contact order shall not be for more than one (1) year from the date of issuance or, if the original charge is adjudicated with a finding of the defendant's guilt, from the date of sentencing.

7 Upon conviction, violation of a no contact order issued under this section is a Class A misdemeanor.

Ark. Code Ann. § 16-85-714
See Relevant Form

G The "Sex and Child Offender Registration Act" and the "State Convicted Offender DNA Database Act."

1 These acts impose a duty on certain sex offenders to register as such and mandate that these sex offenders and certain violent offenders submit DNA samples upon conviction.

Ark. Code Ann. §§ 12-12-901-920; Ark. Code Ann. §§ 12-12-1101-1120

2 To help fund the implementation of these programs, each act imposes a mandatory fine of $250.00 on any person who is required to register or provide a DNA sample. All fine money collected pursuant to these acts is to be remitted monthly to the Dept. of Finance & Admin. Justice Fund Section. The sex offender fine money is credited to ACIC and the DNA fine money is credited to the State Crime Lab.

Ark. Code Ann. § 12-12-910; Ark. Code Ann. § 12-12-1118

3 Most of the sex offenses for which an offender must register and have the fine imposed are felonies, but two misdemeanors are also listed:

(a) Sexual assault in the fourth degree

Ark. Code Ann. § 5-14-127, Ark. Code Ann. § 12-12-903 and;

(b) False imprisonment in the second degree when the victim is a minor and the offender is not the parent of the victim.

Ark. Code Ann. § 5-11-104, Ark. Code Ann. § 12-12-903

4 The sentencing court shall require an offender, at the time of the offender(s adjudication of guilt, to complete the Sex Offender Registration Form in the format prepared by ACIC.

5 When registering an offender, the sentencing court shall inform the offender of his duty to register, duty regarding address changes, and other duties under the

act and shall also obtain fingerprints and a photo of the offender from the arresting law enforcement agency.

See Relevant Form

6 Most of the sex and violent offenses for which an offender must submit a DNA sample and have the fine imposed are felonies, but two misdemeanors are listed:

(a) Sexual assault in the fourth degree

Ark. Code Ann. § 5-14-127, Ark. Code Ann. § 12-12-1103 and;

(b) False imprisonment in the second degree when the victim is a minor and the offender is not the parent of the victim.

Ark. Code Ann. § 5-11-104, Ark. Code Ann. § 12-12-1103

(c) Also included is "Repeat offense" which means a second or subsequent adjudication of guilt in a separate criminal action for the commission of any misdemeanor or felony offense involving violence as set forth in Arkansas law, the law of another state, federal law, or military law.

7 Unless otherwise ordered by the court, the agency supervising the convicted offender shall determine the time and collection of the DNA sample.

See Relevant Form

H Testing for HIV for Certain Sex Offenders

1 Any person arrested and charged with violating § 5-14-127 may be required by the court having jurisdiction of the criminal prosecution, upon a finding of reasonable cause to believe that the person committed the offense and subject to constitutional limitations, to be tested for the presence of HIV or any antibody to HIV, unless the court determines that testing the defendant would be inappropriate and documents the reasons for that determination in the court record.

2 The test shall be confidentially administered by a licensed physician, the Department of Health, or a local health department.

Ark. Code Ann. § 16-82-101

V TRAFFIC CASES

A Venue/Traffic Citations

1 All traffic citations issued within the boundaries of a municipality of this state shall be placed on the docket of the district or city court of that municipality, unless the presiding judge of that court authorizes a transfer to another court exercising jurisdiction over the area in which the citation was issued.

2 If a municipality has more than one court exercising subject matter jurisdiction over traffic citations issued within the boundaries of that municipality, then all traffic citations issued within the boundaries of that municipality shall be placed on the docket of the municipality's district or city court in the closest proximity to where the offense occurred.

Ark. Code Ann. § 16-88-116

B Speeding (Radar)

1 Traffic offenses are conducted subject to the criminal standard of proof; the state must prove each element of the offense beyond a reasonable doubt.

Judicial notice may be taken of radar's accuracy and practicality as a speed control device. Expert testimony is not required as to the theory behind the operation of the device. **Everight v. City of Little Rock, 230 Ark. 695, 326 S.W.2d 796 (1959)**

2 Possible issues which may raise reasonable doubt:

(a) Identity issues. When relying on radar readout to support prosecution for speeding, the arresting officer must show beyond reasonable doubt that the radar reading was obtained from the defendants' vehicle.

(1) "Group" radar readings are inherently less reliable, but may still be the basis of conviction for speeding if the officer's testimony as to the "cohesion" of the traffic group is strong.

(2) The more traffic present, the more difficult it is to prove identity of the vehicle for which the radar reading is obtained.

(b) Accuracy issues. Each radar machine should be tested frequently to ensure its accuracy. Unless the unit is properly tested regularly and records are maintained showing such testing, questions concerning accuracy of the unit may be raised to show reasonable doubt.

(c) Administrative regulations. Arkansas law does not provide regulations for testing or certifying the radar machine. However, most law enforcement

agencies have in-house regulations regarding testing to which the officer may testify.

(d) Officer training. In all cases involving radar surveillance, the prosecution should offer evidence showing that the officer operating the radar unit was properly trained to use radar.

(1) Arkansas law requires officers to be trained in the use of radar under a training program administered by the Arkansas Commission on Law Enforcement Standards and Training.

Ark. Code Ann. § 12-9-403

(2) Failure to gain certification by the Standards Commission as a police traffic radar operator invalidates "any official action as a police traffic radar operator."

Ark. Code Ann. § 12-9-404

Failure to be certified as a radar operator invalidates action as a radar operator but does not remove other powers of a law enforcement officer. **Helms v. State, 297 Ark. 44, 759 S.W.2d 546 (1988)**

(3) "Police traffic radar means any speed measurement device utilizing the Doppler principle or an infrared light system to measure the speed of motor vehicles."

Ark. Code Ann. § 12-9-401

3 The "Arkansas Speed Trap Law", authorizes the State Police to determine if certain municipalities are abusing police power on any highway which is part of the state highway system.

Ark. Code Ann. § 12-8-401 et. seq.

4 Aircraft Surveillance. This method of detecting speeding involves timing a vehicle's travel between markers, visible from the air, which are a known distance apart and calculating speed from the figures. Possible issues are:

(a) Hearsay. These cases cannot rest on hearsay testimony of the officer on the ground that actually makes the stop and issues the citation, unless that officer has independent personal knowledge of the vehicle's speed.

(1) The state should present as witnesses, at least, the arresting officer and the aircraft observer.

(2) These speeding cases involve calculations observed from the air and the state should produce the aircraft witness to show that the vehicle involved was in fact speeding.

(b) Accuracy of Timing Device. In order to strengthen a speeding case based on aircraft observation, the state should offer evidence showing the accuracy of the timing device used to make speed calculations.

(c) Distance. The state should offer testimony establishing the distance between marks used to calculate the individual's speed.

(d) Continuity of Observation. The state should offer clear testimony that the vehicle observed from the air to be speeding was actually the vehicle stopped by the officer on the ground.

C Speeding (Non-Radar)

Speeding may also be proven by testimony from a law enforcement officer as to:

1 Estimate of the vehicle's speed. The observing officer should give testimony as to experience and ability to estimate speed, as well as actual observations in the given case.

2 Speedometer readings obtained while "pacing" the vehicle. There should be testimony as to the accuracy of the speedometer in the law enforcement officer's vehicle.

D Moving and Non-Moving Violations

The following list of moving and non-moving violations is thorough, but exemplary only. There are other motor vehicle ordinances passed by the various municipalities' governing bodies which are not included in this list. Only the citation to the relevant code section is provided.

1 Any moving traffic law violation not enumerated in Ark. Code Ann. §§ 27-50-302-310 shall be known as a violation as defined in the Arkansas Criminal Code, Ark. Code Ann. §§ 5-1-105 and 5-1-108 and shall be punishable as provided under Ark. Code Ann. § 5-4-201.

2 District judges should consult both the state statute and the city or county ordinance, if any, relevant to the violation when determining the fine to assess.

Ark. Code Ann. § 27-50-301
See McKinney v. City of El Dorado, 308 Ark. 284, 824 S.W.2d 826 (1992)

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E Classification of Traffic Violations

1 The following traffic law violations shall be known as offenses and classified as follows:

(a) Racing on a highway - Class A misdemeanor.

(b) Reckless driving - Class B misdemeanor.

(c) Driving with lights off to avoid detection, identification or apprehension - Class B misdemeanor.

(d) Hazardous driving - Class C misdemeanor.

(e) Leaving the scene of an accident involving property damage only - Class C misdemeanor.

(f) Wrong way on one way - Class C misdemeanor.

(g) Speeding in excess of 15 MPH over posted speed limit - Class C misdemeanor.

(h) More than three violations in a 12 month period - Class C misdemeanor.

Ark. Code Ann. § 27-50-302

2 Careless and prohibited driving.

(a) It shall be unlawful for any person to drive or operate any vehicle in such a careless manner as to evidence a failure to keep a proper lookout for other traffic, vehicular or otherwise, or in such a manner as to evidence a failure to maintain proper control on the public thoroughfares or private property in the State of Arkansas.

(b) It shall be unlawful for any person to operate or drive any vehicle on the public thoroughfares or private property in the State of Arkansas in violation of the following prohibited acts:

(1) Improper or unsafe lane changes on public roadways

(2) Driving onto or across private property to avoid intersections, stop signs, traffic control devices, or traffic lights

(3) Driving in such a manner, or at such a speed, so as to cause a skidding, spinning, or sliding of tires or a sliding of the vehicle

(4) Driving too close to, or colliding with, parked or stopped vehicles, fixtures, persons, or objects adjacent to the public thoroughfares

(5) Driving a vehicle which has any part thereof, or any object, extended in such fashion as to endanger persons or property

(6) To operate any vehicle in such a manner which would cause a failure to maintain control

(7) To operate or drive a vehicle wherein or whereon passengers are located in such a manner as to be dangerous to the welfare of such passengers; or

(8) To operate a vehicle in any manner, when the driver is inattentive, and such inattention is not reasonable and prudent in maintaining vehicular control.

(c) A person who violates this section shall be subject to a fine not to exceed one hundred dollars ($100).

Ark. Code Ann. § 27-51-104.

3 Fines for moving traffic violations in a highway work zone.

(a) As used in this section, unless the context otherwise requires:

(1) 'Construction personnel" means employees of the Arkansas State Highway and Transportation Department or the counties or the municipalities of this state, or any contractors of the State Highway Commission or the counties or municipalities

(2) "Conviction" means a person who is charged with a violation of law and who pleads guilty or nolo contendere, is found guilty, or forfeits a bond in lieu of a plea or trial

(3) "Department" means the Arkansas State Highway and Transportation Department; and

(4) "Highway work zone" means any area upon or adjacent to any highway, road, or street of this state where construction, reconstruction, maintenance, or any other type of work is being performed or is in progress by employees of the Arkansas State Highway and Transportation Department, the counties or the municipalities of this state, or any contractors of the State Highway Commission or the counties or municipalities

(b) In addition to all fines otherwise provided by law, after the conviction of any person for any moving traffic violation committed while the person is driving through a highway work zone in this state and if construction personnel were present in the highway work zone when the offense occurred, the trial judge shall assess an additional fine equivalent to the fine imposed by law upon that person for committing a moving traffic violation in the highway work zone. Equivalent additional court costs pursuant to § 16-10-305 shall not be assessed.

(c) Any bond posted pursuant to a charge of committing any moving traffic violation while in a highway work zone in this state shall include the additional equivalent fine in the amount of the bond otherwise required.

(d) All fines collected by any court in this state as a result of this section shall be paid over by the court clerk or the collecting official to the county treasurer or city treasurer.

(e) All such amounts collected in county cases shall be remitted to the county treasurer, and all such amounts collected in city cases shall be remitted to the city treasurer.

(f) Amounts received by the county treasurer may be used for general county purposes, and amounts received by the city treasurer may be used for general city purposes.

(g) The additional fine shall not be assessed unless signs, either permanent or temporary, were present at the time of the violation in advance of the highway work zone warning the traveling public that fines are double in highway work zones.

(h) The signs shall be located no greater than one (1) mile nor less than one thousand five hundred feet (1,500') in advance of the highway work zone.

(i) Furthermore, the additional fine for speeding shall not be assessed unless signs, either permanent or temporary, are posted in advance of the highway work zone indicating the maximum speed limit to be obeyed while traveling through the highway work zone.

(j) All signs authorized by this section shall conform with the Manual on Uniform Traffic Control Devices.

(k) The counties and municipalities, prior to utilizing any such signs, shall seek the advice of the Arkansas State Highway and Transportation Department in order that such signs shall be uniform throughout the state.

(l) The Arkansas State Highway and Transportation Department is authorized to develop guidelines for the counties and municipalities to achieve uniformity.

(m) Nothing contained in this section shall be construed to abrogate any of the provisions of § 12-8-106 regarding the powers of the Department of Arkansas State Police.

(n) For purposes of this act, "moving traffic violation" shall include, but not be limited to:

(1) Careless or prohibited driving

(2) Driving while intoxicated

(3) Underage driving under the influence

(4) Refusal to submit

(5) Leaving the scene of an accident

(6) Driving with lights off

(7) Driving on an expired, suspended or revoked license

(8) Improper use of lighting equipment

(9) Failure to obey traffic control devices and signs

(10) Failure to operate vehicle in accordance with "Rules of the Road"

(11) Failure to stop and render aid

(12) Following too closely

(13) Driving the wrong way on a one way

(14) Hazardous driving

(15) Impeding the flow of traffic

(16) Improper backing

(17) Improper lane change

(18) Improper entrance or exit to avoid intersection

(19) Improper towing

(20) Improper turning

(21) Passing stopped school bus

(22) Racing on the highway

(23) Reckless driving; and

(24) Exceeding the speed limit.

Ark. Code Ann. § 27-50-408

4 The following non-moving traffic law violations shall be classified as follows:

(a) Possession of a counterfeit driver's license or a deliberately altered drivers license - Class A misdemeanor.

(b) Making a false statement to the Director of DF&A to obtain drivers license - Class A misdemeanor as defined under Ark. Code Ann. § 5-53-103.

Ark. Code Ann. § 27-50-303

5 Every person convicted of a misdemeanor for violating Ark. Code Ann. §§ 27-50-302-303, for which another penalty is not provided, shall:

(a) For a first conviction, be punished by a fine of not more than $100 or by imprisonment for not more than 10 days

(b) For a second conviction within one year thereafter, be punished by a fine of not more than $200 or by imprisonment for not more than 20 days, or by both fine and imprisonment; and

(c) Upon a third conviction within one year after the first conviction, be punished by a fine of not more than $500 or by imprisonment for not more than six months, or by fine and imprisonment.

Ark. Code Ann. § 27-50-304

6 In addition to the penalties provided by law, after the conviction of any person for any moving traffic violation, the judge may, in disposition and assessing penalty, consider the previous traffic conviction record and impose the following penalties, or combination of penalties:

(a) Suspend the driver's license for any period not to exceed one year; or

(b) Suspend the driver's license for any period not to exceed one year, but grant a conditional permit to drive during the suspension by imposing conditions and restrictions, defining circumstances under which the violator will be allowed to drive while under suspension; or

(c) Require the attendance of the violator at a drivers training school; or

(d) Require the violator to retake the drivers test, or furnish proof of adequate sight or hearing necessary for driving, or produce proof of physical or mental capacity and ability to drive; or

(e) Require minors to write themes or essays on safe driving; or

(f) Place a minor under probationary conditions, as determined by the court in its reasonable discretion, designed as a reasonable and suitable preventative and educational safeguard to prevent future traffic violations by the minor.

Ark. Code Ann. § 27-50-306

There is no authority for a district police department to suspend a person's driver's license for a violation of the "Arkansas Hot Check Law". Generally, only a court and the Office of Driver Services are authorized to suspend a person's driver's license. **Op. Att'y Gen. # 98-013**

Ark. Code Ann. § 5-65-104 provides that any administrative supervision by DF&A will be in addition to those ordered by courts of competent jurisdiction for offenses under sections 5-64-710, 5-65-116 and 27-16-914, or any other traffic or criminal offense wherein a suspension or revocation of the driver's license is a penalty for the violation. Section 27-50-306 provides the trial judge with authority to assess additional penalties for a moving traffic violation, including suspension of a driver's license for one year. Here, appellant was not only convicted of DWI, first offense, but was also convicted of speeding. The circuit court assessed suspension of the driver's license as a penalty for both convictions. Under Sec. 27-50-306 appellant's conviction for a moving traffic violation, speeding, was sufficient in and of itself to warrant a suspension of his driver's license. **Cook v. State, 333 Ark. 22, 968 S.W.2d 589 (1998)**

F Traffic Ticket Reporting Records/Driver's License Suspension

1 Uniform traffic tickets. Court clerk forwards yellow copy to Office of Driver Services of the Revenue Division of DF&A:

(a) Only upon conviction or bond forfeiture; and

(b) Within 5 business days after conviction.

(c) A court using the case management system provided by the Administrative Office of the Courts is not required to submit the yellow copy to the Office of Driver Services but must enter the disposition or judgment of conviction into the case management system within the time required in this section:

Ark. Code Ann. § 16-10-205

2 Abstract of DWI violations

(a) Court must keep record of every DWI violation.

(b) Within 30 days after sentencing, court prepares and forwards abstract to Office of Driver Services.

(c) Form for abstract furnished by Office of Driver Services.

Ark. Code Ann. § 5-65-110

3 Upon disposition of each case, the court is to remit one copy of citation and resulting disposition to the Office of Driver Services of the Revenue Division of DF&A.

Ark. Code Ann. § 27-50-504

4 The Office of Driver Services shall not include in the traffic violation report of any person any conviction arising out of a violation of the seat belt law.

Ark. Code Ann. § 27-37-707

5 DF&A Office of Driver Services, Court Order, Minors

(a) Whenever a person less than 18 years of age pleads guilty, nolo contendere or is found guilty of violating the Omnibus DWI Act or any criminal offense in this state or any other state, the court shall prepare and transmit to DF&A within 24 hours after the plea or finding an order of denial of driving privileges.

(b) In cases of extreme and unusual hardship, the order may provide for issuance of a restricted driving permit to allow driving to and from a place of employment or driving to and from school.

Ark. Code Ann. § 5-64-710
Ark. Code Ann. § 5-65-116

6 Revocation of operator's license.

(a) Whenever the operator of any motorcycle, motor-driven cycle or motorized bicycle in this state shall have been convicted of three or more moving traffic violations in any 12 month period, any license issued to that person shall be suspended for not less than six months.

(b) Upon receipt of the order, DF&A shall suspend any license in accordance with the code.

Ark. Code Ann. § 27-20-113

7 Suspend Driver's License/Fail to Appear

(a) A person required to appear before a district court in this state, having been served with any form of notice to appear for any criminal offense, traffic violation, or misdemeanor charge, shall appear at the time and place designated in the notice.

(b) If a person fails to appear as required in subsection (a), the presiding judge may suspend the person's driver's license.

(c) The license shall be suspended until the person appears and completes the sentence ordered by the court.

(d) After the person satisfies all the requirements of the sentence, the Department of Finance and Administration shall assess the current fees for reinstatement of a driver's license.

Ark. Code Ann. § 16-17-131

8 Revocation of registration or license/Fail to pay

(a) The court may certify in writing to the Department of Finance and Administration that a debtor has failed to make satisfactory arrangements for the payment of fines and request the department to revoke, suspend, or refuse to renew the debtor's motor vehicle registration or driver's license.

(b) For driver's license revocation, the court must provide the department with the debtor's full name, social security number, and last known address.

(c) For motor vehicle registration revocation, the court must provide the department with the debtor's full name and the license plate number or vehicle identification number of the debtor's vehicle.

Ark. Code Ann. § 16-13-708

9 Driver's License Penalties Generally

(a) It is a misdemeanor for any person to violate any of the provisions of this act unless the violation is by this act or other law of this state declared to be a felony.

(b) Unless another penalty is provided, every person convicted of a misdemeanor for the violation of any provision of this act shall be punished by a fine of not more that $500 or by imprisonment of not more than 90 days.

Ark. Code Ann. § 27-16-301 et seq.

10 Driving While License Canceled, Suspended or Revoked

(a) Any person whose driver's license or driving privilege as a resident or new resident has been canceled, suspended or revoked as provided by this act and who drives any motor vehicle upon the highways of this state while the license is canceled, suspended or revoked is guilty of a misdemeanor.

(b) Upon conviction, an offender shall be punished by imprisonment for not less than two (2) days nor more than six (6) months and there may be imposed in addition a fine of not more than $500.

Ark. Code Ann. § 27-16-303

G Waiver of Appearance and Entry of Plea to Traffic Violations

Notwithstanding any rule of criminal procedure to the contrary:

1 A person who is charged in district court or city court with committing an offense, excluding a violation of the Omnibus DWI Act, § 5-65-101 et seq., or the Underage DUI law, § 5-65-301 et seq., or any other offense for which a court appearance is mandatory, may waive appearance and trial and plead guilty or nolo contendere by a signed statement;

2 The person shall pay the fine and court costs in an amount as established, within the limits prescribed by law, by the district court or city court with the signed statement. Fines and court costs shall be paid to the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in the district courts and city courts of this state;

3 The court shall accept the signed statement accompanied by the fine and court costs assessed as a plea of guilty or nolo contendere and shall proceed accordingly; and

4 Submitting payment through a website constitutes an agreement to be bound by an electronic record under the Arkansas Electronic Records and

Signatures Act § 25-31-104 and complies in all respects with the requirements of this section.

Ark. Code Ann. § 16-17-136

VI CRIMINAL CASES

A Cases Originated by Law Enforcement Officers

1 Authority to Arrest without a Warrant

(a) A law enforcement officer may arrest a person without a warrant if he/she has reasonable cause to believe the person has committed:

(1) a felony

(2) a traffic offense involving:

a death or physical injury to a person; or

b damage to property; or

c DWI

(3) any violation of law in the officer's presence

(4) acts which constitute a crime under the laws of this state and which constitute domestic abuse as defined by law against a family or household member and which occurred within four (4) hours preceding the arrest.

(b) Arrest is not invalid if officer is unable to determine particular offense committed.

(c) Arrest is valid if based on collective possession of knowledge sufficient to constitute reasonable cause.

(d) A person arrested without a warrant shall not be held in custody unless a judicial officer determines, from affidavit, recorded testimony, or other information, that there is reasonable cause to believe that the person has committed an offense. Such reasonable cause determination shall be made promptly, but in no event longer than forty-eight (48) hours from the time of arrest, unless the prosecuting attorney demonstrates that a bona fide emergency or other extraordinary circumstance justifies a delay longer than forty-eight (48) hours. Such reasonable cause determination may be made at the first appearance of the arrested person pursuant to Rule 8.1.

Ark. R. Crim. P. 4.1

The U.S. Constitution and the Arkansas Rules of Criminal Procedure require a probable cause determination in warrantless arrest cases to be based on sworn evidence. A police report will not suffice. **Op. Att'y. Gen. # 98-180**

(e) Domestic Abuse.

(1) Violation of an order of protection

a A law enforcement officer may arrest and take into custody without a warrant any person who the law enforcement officer has probable cause to believe is subject to an order of protection issued pursuant to the laws of this state or; is subject to an order of protection issued pursuant to the laws or rules of another state, a federally recognized Indian tribe, or a territory and who the officer has probable cause to believe has violated the terms of the order.

b The arrest may be made even if the violation did not take place in the presence of the law enforcement officer.

Ark. Code Ann. § 5-53-134

(2) Crime of Domestic Abuse

a When a law enforcement officer has probable cause to believe a person has committed acts which constitute domestic abuse as defined by law against a family or household member, the officer may arrest the person without a warrant if;

b The law enforcement officer has probable cause to believe this person, within the preceding four (4) hours, twelve (12) hours for cases involving physical injury, as defined in 5-1-102 has committed such acts, even if the incident did not take place in the presence of the law enforcement officer.

Ark. Code Ann. § 16-81-113

c Persons abused in domestic violence shall not be required to bear any costs associated with filing or prosecution of criminal charges against the offender.

Ark. Code Ann. §§ 5-26-310 and 9-15-202

2 Authority to Arrest with Warrant

(a) Any law enforcement officer may arrest a person pursuant to a warrant in any county of the state.

Ark. R. Crim. P. 4.2

(b) Officer need not have a warrant in his/her possession to make arrest, but must inform accused it has been issued and show it to accused as soon as possible.

Ark. R. Crim. P. 4.3

(c) Upon making arrest the officer must:

(1) Identify himself/herself

(2) Inform arrested person he/she is under arrest

(3) Inform arrested person of cause of arrest as promptly as is reasonable.

Ark. R. Crim. P. 4.4

(d) Law enforcement officer cannot question arrested person if the person indicates he/she does not want to be questioned or wants to consult counsel.

Ark. R. Crim. P. 4.5

(e) Any person arrested, if not released pursuant to the rules of criminal procedure, shall be brought promptly to a jail, police station or other similar place.

Ark. R. Crim. P. 4.6

3 Authority to Issue Citations

(a) Law enforcement officer in field may issue citation in lieu of misdemeanor arrest.

(b) Ranking officer at place of detention may issue citation in lieu of continued custody in misdemeanor arrest.

(c) Ranking officer at place of detention may issue citation in lieu of continued custody in felony arrest if prosecutor so recommends.

(d) To determine continued custody or citation officer should inquire of accused as to:

(1) place and length of residence

(2) family relationships

(3) references

(4) present and past employment

(5) criminal record; and

(6) other relevant facts.

Ark. R. Crim. P. 5.2

(e) Every citation shall:

(1) be in writing

(2) be signed by the issuing officer with the title of his/her office

(3) state the date of issuance and municipality or county where issued

(4) specify name of accused and offense alleged

(5) designate time, place and court for appearance of accused

(6) provide space for signature of accused acknowledging his/her promise to appear

(7) inform accused that failure to appear at stated time, place and court may result in arrest and constitute a separate offense for which he/she may be prosecuted

Ark. R. Crim. P. 5.3

See Relevant Form

Citations, which fulfill the requirements of Arkansas law, are legal charging documents for misdemeanor offenses and they are not required to be in affidavit form. **Op. Att'y. Gen. # 98-297**

Game & Fish Commission has legal authority to issue a citation summoning an individual to a court of law for a violation of a rule or regulation promulgated by the commission, even though the violation of the commission rule is not a violation of any Arkansas state law. **Whitaker v. State, 37 Ark. App. 112, 825 S.W.2d 827 (1992)**

4 Procedure for issuing citations

(a) Officer delivers one copy to accused.

(b) Officer releases accused or if needed takes him/her to appropriate medical facility.

(c) As soon as practical, one copy is delivered to prosecuting attorney

Ark. R. Crim. P. 5.4

5 Uniform traffic tickets

Each municipal police department, city or town marshal, and county sheriffs office shall maintain and issue uniform written or electronic traffic ticket books, sometimes called citation books, summons books, or ticket books, for violation of all municipal and state laws.

Ark. Code Ann. § 16-10-205

See Relevant Form

B Cases Originated by Affidavit

1 A judicial officer may issue a warrant for the arrest of a person if, from affidavit, recorded testimony, or other information, it appears there is reasonable cause to believe an offense has been committed and the person committed it.

Ark. R. Crim. P. 7.1(b)

2 A judicial officer who has determined in accordance with Rule 7.1(b) that an arrest warrant should be issued may authorize the clerk of the court or his/her deputy to issue the warrant.

Ark. R. Crim. P. 7.1(c)

3 Misdemeanors and violations of city ordinances need not be charged by information or indictment; pursuant to Ark. R. Crim. P. Article III, these lesser charges may be charged by the issuance of a warrant, citation, or summons to command an accused to court.

Ark. R. Crim. P. 5
Ark. R. Crim. P. 6

Archer v. Benton County Circuit Court, 316 Ark. 477, 872 S.W.2d 397 (1994)

See Relevant Forms

C Arrest Reports to State

1 Arkansas Crime Information Center. Case data must be furnished to ACIC in the manner prescribed by the supervisory board. These include:

(a) Violation of Uniform Controlled Substances Act; Ark. Code Ann. § 5-64-709

(b) Report to ACIC of first offender probations; Ark. Code Ann. § 16-93-304

Ark. Code Ann. § 12-12-201 et seq.

2 DF&A Office of Driver Services, Court Order, Minors

(a) Whenever a person less than 18 years of age pleads guilty, nolo contendere or is found guilty of violating the Omnibus DWI Act or any criminal offense involving the illegal possession or use of controlled substances, or any drug offense in this state or any other state, the court shall prepare and transmit to DF&A within 24 hours after the plea or finding an order of denial of driving privileges.

(b) In cases of extreme and unusual hardship, the order may provide for issuance of a restricted driving permit to allow driving to and from a place of employment or driving to and from school.

Ark. Code Ann. § 5-64-710
Ark. Code Ann. § 5-65-116

See Relevant Form

3 DF&A Office of Driver Services, Court Order, controlled substance violation

(a) Whenever a person pleads guilty, nolo contendere or is found guilty of any criminal offense involving the illegal possession or use of controlled substances under Ark. Code Ann. § 5-64-101 et seq., or of any drug offense in this state or any other state, the court shall prepare and transmit to DF&A within 24 hours after the plea or finding an order to suspend the driving privileges for the person for 6 months.

(b) Any such order regarding a person who is a holder of a commercial driver's license in this state or under the laws of any other state, shall include the suspension of the driving privileges of that person to drive any commercial motor vehicle.

(c) In cases of extreme and unusual hardship, the order may provide for the issuance of a restricting driving permit to allow driving to and from a place of employment or to and from any scheduled sessions or meetings of support organizations, counseling, education or treatment for persons who have addition or abuse problems related to controlled substances.

Ark. Code Ann. § 27-16-915

See Relevant Form

The usable quantity rule "possession of less than a useable amount of a controlled substance is not what legislators have in mind when they criminalize possession..." **Harbison v. State, 302 Ark. 315, 790 S.W.2d 146 (1990)**

"Where the appellant was charged with delivery of a controlled substance, it was not necessary for the state to prove that appellant sold the detective a useable amount; useable amount is merely one factor to be considered where the accused is charged with possession of a controlled substance." **Gregory v. State, 37 Ark. App. 135, 825 S.W.2d 269 (1992)**

4 Suspension of the drivers license of any minor possessing a weapon on school property

Whenever a person who is less than 19 years of age at the time of the commission of the offense pleads guilty or nolo contendere and the plea is accepted by the court or is found guilty under Chapter 73 of Title 5 of the Arkansas Code, (Ark. Code Ann. § 5-73-101 et seq.), provided that the state proves that the offense was committed upon the property of the public schools or in or upon any school bus, or is found by a juvenile court to have committed such an offense, the court shall prepare and transmit to DF&A within 24 hours after the plea or finding an order of denial of driving privileges for the person. In cases of extreme and unusual hardship, the order may provide for the issuance of a restricted driving permit to allow driving to and from a place of employment or driving to and from school.

Ark. Code Ann. § 5-73-128

5 Suspend Driver's License/Fail to Appear

(a) A person required to appear before a district court in this state, having been served with any form of notice to appear for any criminal offense, traffic violation, or misdemeanor charge, shall appear at the time and place designated in the notice.

(b) If a person fails to appear as required in subsection (a), the presiding judge may suspend the person's driver's license.

(c) The license shall be suspended until the person appears and completes the sentence ordered by the court.

(d) After the person satisfies all the requirements of the sentence, the Department of Finance and Administration shall assess the current fees for reinstatement of a driver's license.

Ark. Code Ann. § 16-17-131

6 Theft of Motor Fuel

(a) person commits the offense of theft of motor fuel if the person knowingly operates an automobile or other related vehicle after placing motor fuel in the automobile or vehicle at a service station, filling station, garage, or other business where motor fuel is offered for sale at retail, so as to cause the automobile or vehicle to leave the premises of the service station, filling station garage, or any other business where motor fuel is offered for sale at retail, with the intent of depriving the owner of the motor fuel, and not making payment for the motor fuel.

(b) Theft of motor fuel is a Class A misdemeanor.

(c) In addition to the penalties in subsection (b) of this section, a person who pleads guilty, nolo contendere, or is found guilty of theft of motor fuel shall have his or her driver(s license suspended by the court under § 27-16-907(a) for a period of not more than six (6) months unless the person(s license has previously been suspended for theft of motor fuel, in which case the court shall suspend the person(s license for not less than one (1) year. The court shall immediately take possession of any suspended license and forward it to the Office of Drivers Services. The Office of Drivers Services shall notify the licensee of the suspension and an opportunity to request a hearing to determine if a restricted permit should be issued during the time of suspension.

Ark. Code Ann. § 5-36-120

D Criminal History Information Act

1 Definitions. As used in this act:

(a) "Administration of criminal justice" means performing functions of investigation, apprehension, detention, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice also includes criminal identification activities and the collection, maintenance, and dissemination of criminal justice information.

(b) "Arrest Tracking Number" means a unique number assigned to an arrestee at the time of each arrest which is used to link that arrest to the final disposition of that charge.

(c) "Central Repository" means the Arkansas Crime Information Center, which is authorized to collect, maintain and disseminate criminal history information.

(d) "CODIS" means the Federal Bureau of Investigation Laboratory's Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal forensic laboratories, state forensic laboratories, and local forensic laboratories;

(e) "Conviction information" means criminal history information disclosing that a person has plead guilty, nolo contendere, or was found guilty of a criminal offense in a court of law, together with sentencing information.

(f) "Criminal history information" means a record compiled by a central repository or identification bureau on an individual consisting of name(s) and identification data, notations of arrests, detentions, indictments, information, or other formal criminal charges. This record also includes any dispositions of these charges, as well as notations on correctional supervision and release. This term does not include fingerprint records on individuals not involved in the criminal justice system, or driver history records.

(g) "Criminal history information system" means the equipment, procedures, agreements, and organizations thereof, for the compilation, processing, preservation and dissemination of criminal history information.

(h) "Criminal justice agency" means a government agency, or any submit thereof, which is authorized by law to perform the administration of criminal justice, and which allocates more than half its annual budget to the administration of criminal justice.

(i) "Criminal justice official" means an employee of a criminal justice agency, performing the administration of criminal justice.

(j) "Disposition" means information describing the outcome of any criminal charges, including notations that law enforcement officials have elected not to refer the matter to a prosecutor, that a prosecutor has elected not to commence criminal proceedings, or that proceedings have been indefinitely postponed. Dispositions also include acquittals, dismissals, probations, charges pending due to mental disease or defect, guilty pleas, nolle prosequi, nolo contendere pleas, findings of guilt, youthful offender determinations, first offender programs, pardons, commuted sentences, mistrials - defendant discharged, executive clemencies, paroles, releases from correctional supervision, or deaths.

(k) "Dissemination" means disclosing criminal history information or the absence of criminal history information to any person or organization outside the agency possessing the information.

(l) "DNA" means deoxyribonucleic acid that is located in the cells of an individual, provides an individual's personal genetic blueprint, and encodes

genetic information that is the basis of human heredity and forensic identification;

(m) (A) "DNA record" means DNA identification information stored in the State DNA Data Base or CODIS for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results.
(B) The DNA record is the result obtained from the DNA typing tests.
(C) The DNA record is composed of the characteristics of a DNA sample that are of value in establishing the identity of individuals.
(D) The results of all DNA identification tests on an individual's DNA sample also are collectively referred to as the DNA profile of an individual;

(n) "DNA sample" means a blood, saliva, or tissue sample provided by any individual as required by this subchapter or submitted to the State Crime Laboratory for analysis or storage, or both;

(o) "Expunged record" means a record that was expunged under Section 16-90-901 et seq.;

(p) "Identification Bureau" means the Arkansas State Police Identification Bureau, which is authorized to maintain fingerprint card files and other identification information of individuals.

(q) "Non-conviction information" means arrest information without disposition if an interval of one year has elapsed from the date of arrest and no active prosecution of the charge is pending, as well as all acquittals and all dismissals.

(r) "Pending information" means criminal history information in some stage of active prosecution or processing.

(s) "Juvenile aftercare and custody information" means information maintained by the Division of Youth Services regarding the status of a juvenile committed or otherwise placed in the custody of the Division of Youth Services from the date of commitment until the juvenile is released from aftercare or custody, whichever is later. Juvenile aftercare and custody information may include the name, address, and phone number of a contact person or entity responsible for the juvenile.

Ark. Code Ann. § 12-12-1001

2 Penalties

(a) Upon conviction, any criminal justice agency or official subject to fingerprinting or reporting requirements under this act that knowingly fails to comply with such reporting requirements is guilty of a Class B misdemeanor.

(b) A person is guilty of a Class A misdemeanor upon conviction if the person:

(1) Knowingly accesses information or willfully obtains information collected and maintained under this subchapter for a purpose not specified by this subchapter; or

(2) Knowingly releases or discloses information maintained under this subchapter to another person who lacks authority to receive the information.

(c) A person is guilty of a Class D felony upon conviction if the person violates subsection (a) for the purpose of;

(1) Furthering the commission of a misdemeanor offense or felony offense by the person or another person;

(2) Enhancing or assisting a person's position in a legal proceeding in this state or influencing the outcome of a legal proceeding in this state for the benefit of the person or a member of the person's family;

(3) Causing a pecuniary or professional gain for the person or a member of the person's family; or

(4) Political purposes for the person or a member of the person's family.

(d) A person convicted of violating subsection (c) of this section is subject to an additional fine of not more than five hundred thousand dollars ($500,000).

Ark. Code Ann. § 12-12-1002

3 Scope

(a) This act governs the:

(1) Collection, maintenance, and dissemination of criminal history information on identifiable individuals charged or pleading guilty or nolo contendere to, or being found guilty of, criminal offenses under the laws of the State of Arkansas; and

(2) The dissemination of juvenile aftercare and custody information.

(b) Except as provided in (c) the Arkansas Crime Information Center may issue rules and implement the provisions of this act.

(c) The State Crime Laboratory may promulgate rules to implement the provisions of this subchapter relating to the collection, maintenance, dissemination, removal, or destruction of DNA samples or DNA records.

(d) The reporting requirements in this act apply to law enforcement officials, prosecuting attorneys, judges and court officials, probation, correction and parole officials, within the limits defined in Sections 5 and 6.

(e) This act does not apply to records of traffic offenses, including misdemeanor offenses of driving while intoxicated, maintained by the Department of Finance and Administration.

(f) Criminal history information collected and maintained by the Arkansas Crime Information Center is not considered public record information within the intent and meaning of the Arkansas Freedom of Information Act, Ark. Code Ann. 25-19-101 et seq.

Ark. Code Ann. § 12-12-1003

4 Completeness and Accuracy

(a) The Arkansas Crime Information Center and the State Crime Laboratory shall implement procedures that will, to the maximum extent feasible, ensure the completeness and accuracy of all criminal history information in this state.

(b) All criminal justice agencies and criminal justice officials shall maintain complete and accurate records, as may be appropriate to their area of operation, and shall report information from such records as required in Sections 5 and 6.

(c) The center shall maintain all information reported under this act in a complete and permanent manner to ensure that records are not altered, unlawfully purged or otherwise lost.

(d) The State Crime Laboratory shall maintain all DNA samples or DNA records obtained under this subchapter in a complete and permanent manner to ensure that DNA samples or DNA records are not altered, unlawfully purged, or lost.

Ark. Code Ann. § 12-12-1004

5 Identification Bureau

(a) The Identification Bureau shall collect and maintain fingerprint identification records required to be reported by this act.

(b) The Identification Bureau shall provide arrest and identification information for inclusion in the computerized criminal history file, as specified by the Arkansas Crime Information Center.

(c) Arkansas shall be a single source state for the submission of fingerprint cards or images to the FBI. All fingerprint cards or images, under this subchapter, shall be submitted by Arkansas law enforcement agencies to the state Identification Bureau.

Ark. Code Ann. § 12-12-1005(c)

6 Fingerprinting, DNA Sample Collection, and photographing

(a) (1)Immediately following an arrest for an offense, a law enforcement official at the receiving criminal detention facility shall take, or cause to be taken, the fingerprints and a photograph of the arrested person if the offense is a felony or a class A misdemeanor.

(2) In addition to the requirements of subdivision (a)(1) of this section, a law enforcement official at the receiving criminal detention facility shall take, or cause to be taken, a DNA sample of a person arrested for:

(A) Capital murder, Section 5-10-101;

(B) Murder in the first degree, Section 5-10-102;

(C) Kidnapping, Section 5-11-102;

(D) Sexual assault in the first degree, Section 5-14-124; or

(E) Sexual assault in the second degree, Section 5-14-125.

(b) (1) When the first appearance of a defendant in court is caused by a citation or summons for an offense, a law enforcement official at the receiving criminal detention facility shall take, or cause to be taken, the fingerprints and a photograph of the arrested person when the offense is a felony or a class A misdemeanor.

(2) In addition to the requirements of subdivision (b)(1) of this section, if the first appearance of a defendant in court is caused by a citation or summons for a felony offense enumerated in subdivision (a)(2) of this section, the court immediately shall order and a law enforcement officer shall take or cause to be taken a DNA sample of the arrested person.

(c) (1) When felony or class A misdemeanor charges are brought against a person already in the custody of a law enforcement agency or correctional agency and such charges are separate from the charges for which the person was previously arrested or confined, the law enforcement agency or the correctional agency shall again take the fingerprints and a photograph of the person in connection with the new charges.

(2) In addition to the requirements of subdivision (c)(1) of this section, when a felony charge enumerated in subdivision (a)(2) of this section is brought against a person already in the custody of a law enforcement agency or a correctional agency and the felony charge is separate from the charge or charges for which the person was previously arrested or confined, the law enforcement agency or the correctional agency shall take or cause to be taken a DNA sample of the person in connection with the new felony charge unless the law enforcement agency or the correctional agency can verify that the person's DNA record is stored in the State DNA Data Base or CODIS.

(d) (1) When a defendant pleads guilty, nolo contendere or is found guilty of any felony or class A misdemeanor charge, the court shall order that the defendant be immediately fingerprinted and photographed by the appropriate law enforcement official.

(2) In addition to the requirements of subdivision (d)(1) of this section, if a defendant pleads guilty or nolo contendere to or is found guilty of a felony charge enumerated in subdivision (a)(2) of this section, the court shall order that the defendant provide a DNA sample to the appropriate law enforcement official unless the appropriate law enforcement official can verify that the defendant's DNA record is stored in the State DNA Data Base or CODIS.

(e) Fingerprints or photographs taken after arrest or court appearance under to subsections (a) and (b), or taken from persons already in custody under subsection (c), shall be forwarded to the Identification Bureau within forty-eight (48) hours after such arrest or court appearance. Fingerprints or photographs taken under subsection (d) shall be forwarded to the Identification Bureau by the fingerprinting official within five (5) working days after such plea or finding of guilt.

(f) Fingerprint cards or images may be retained by the Identification Bureau and criminal history information may be retained by the Central Repository, for any criminal offense.

(g) (1) A DNA sample provided under this section shall be delivered to the State Crime Laboratory by a law enforcement officer at the law enforcement agency that took the sample in accordance with rules promulgated by the State Crime Laboratory.

(2) A DNA sample taken under this section shall be retained in the State DNA Data Bank established under Section 12-12-1106.

(h) A DNA sample provided under this section shall be taken in accordance with rules promulgated by the State Crime Laboratory in consultation with the Department of Arkansas State Police and the Department of Health.

(i) Refusal to be fingerprinted or photographed or refusal to provide a DNA sample as required by this act is a Class B misdemeanor.

(j) (1) A person authorized by this section to take a DNA sample is not criminally liable for taking a DNA sample under this subchapter if he or she takes the DNA sample in good faith and uses reasonable force.

(2) A person authorized by this section to take a DNA sample is not civilly liable for taking a DNA sample if the person acted in good faith, in a reasonable manner, using reasonable force, and according to generally accepted medical and other professional practices.

(k) (1)An authorized law enforcement agency or an authorized correctional agency may employ reasonable force if an individual refuses to submit to a taking of a DNA sample authorized under this subchapter.

(2) An employee of an authorized law enforcement agency or an authorized correctional agency is not criminally or civilly liable for the use of reasonable force described in subdivision (k)(1) of this section.

(l) A person less than eighteen (18) years of age is exempt from all provisions of this section regarding the collection of a DNA sample unless that person is charged by the prosecuting attorney as an adult in circuit court or pleads guilty or nolo contendere to or is found guilty of a felony offense in circuit court.

Ark. Code Ann. § 12-12-1006

7 Reporting Requirements

(a) Certain events occurring during the course of criminal prosecution must be reported for inclusion in a criminal history record. The following events shall be reportable events:

(1) an arrest

(2) the release of a person after arrest without filing of a charge

(3) a decision by a prosecutor not to commence criminal proceedings or to defer or indefinitely postpone prosecution

(4) an indictment or criminal information or other statement of charges

(5) the dismissal of an indictment or criminal information, or any of the charges set out in such indictment or criminal information

(6) an acquittal, finding of guilt or other court disposition at or following trial, including dispositions of probationary status

(7) the terms and conditions of a sentence

(8) a commitment to a state or local correctional facility

(9) a commitment to a hospital or other facility as not being criminally responsible or as incompetent to stand trial

(10) the entry of an appeal to an appellate court

(11) the judgment of an appellate court

(12) a pardon, reprieve, commutation or other change in sentence

(13) other events occurring during the course of the criminal proceedings determined to be reportable.

(b) Reportable events specified in subsection (a) shall be reported by those criminal justice officials or agencies directly responsible for the reportable action, event or decision.

(c) The form and content of reported information and the method of reporting shall be specified by the Arkansas Crime Information Center and the Administrative Office of the Courts

(d) Criminal justice agencies shall report criminal history information, whether directly or indirectly, manually or by means of an automated system, in accordance with the following provisions:

(1) Information pertaining to the release of a person arrested without the filing of charges as required in subsection (a)(2), or to a decision by the prosecutor not to commence criminal proceedings or to defer or postpone prosecution indefinitely as required by subsection (a)(3) shall be reported within five (5) working days

(2) Information pertaining to any other reportable events specified in subsections (a) (4) through (a)(13) shall be reported at least monthly.

(e) It shall be the duty of law enforcement officials, prosecuting attorneys, court clerks and judges to report the arrest tracking number of each defendant in accordance with procedures established by ACIC.

(1) The arrest tracking number shall be filed with the court clerk at the time of an indictment, information, or charge is filed. In cases in which the defendant has not been arrested at the time of an indictment,

information, or charge, the arrest tracking number shall be filed with the court clerk immediately after there is an arrest.

(2) The arrest tracking number shall be in the court case file before a trial commences or a judgment is entered.

Ark. Code Ann. § 12-12-1007

8 Dissemination for Criminal Justice Purposes

(a) Pending, conviction and non-conviction information available through the Arkansas Crime Information Center, plus information obtained through the Interstate Identification Index or from another state's record system, and juvenile aftercare and custody information shall be disseminated to criminal justice agencies and officials for the administration of criminal justice.

(b) Criminal justice agencies shall query the Arkansas Crime Information Center to obtain the latest updated information prior to disseminating criminal history information, unless the agency knows that the Arkansas Crime Information Center does not maintain the information or is incapable of responding within the necessary time period.

(c) If a criminal justice agency disseminates criminal history information received from the Arkansas Crime Information Center to another criminal justice agency, the disseminating agency shall maintain, for at least one year, a dissemination log recording the identity of the record subject, the agencies or persons to whom the criminal history information was disseminated, and the date it was provided.

(d) Expunged records will be made available to criminal justice agencies for criminal justice purposes as other laws permit.

(e) A DNA sample or DNA record obtained under this subchapter shall be disseminated only to criminal justice agencies and criminal justice officials for the administration of criminal justice.

Ark. Code Ann. § 12-12-1008

9 Dissemination of Conviction Information for Non-Criminal Justice Purposes

(a) Conviction information shall be made available for the following non-criminal justice purposes:

(1) To any local, state, or federal governmental agency that requests the information for the enforcement of a local, state or federal law

(2) To any entity authorized either by the record subject in writing or by state law to receive such information

(3) To any federal agency or central repository in another state requesting the information for purposes authorized by law.

(b) Conviction information disseminated for non-criminal justice purposes under this act shall only be used for the purposes for which it was made available and may not be re-disseminated.

(c) Non-conviction information shall not be available under the provisions of this act for non-criminal justice purposes.

(d) No agency or individual shall confirm the existence or nonexistence of criminal history information to any person or organization that would not be eligible to receive the information pursuant to this act.

(e) Local agencies may release their own agency records according to their own policies.

(f) A DNA sample or DNA record obtained under this subchapter is not available under this subchapter for noncriminal justice purposes.

Ark. Code Ann. § 12-12-1009

10 Dissemination for Other Purposes

(a) Criminal history information shall be made available to the office of the governor for purposes of carrying out the governor's constitutional authority involving pardons, executive clemencies, extraditions, or other duties specifically authorized by law.

(b) Criminal history information may be made available to persons performing research related to the administration of criminal justice, subject to conditions approved by the Central Repository or Identification Bureau to assure the security of the information and the privacy of individuals to whom the information relates.

(c) Criminal history information shall be made available according to the provisions of the Interstate Compact on the exchange of criminal history records for non-criminal justice purposes following the adoption of such compact by the Arkansas General Assembly.

Ark. Code Ann. § 12-12-1010

11 Dissemination Limited

(a) Release of criminal history information for non-criminal justice purposes shall only be made by the Identification Bureau or Central Repository, under the limitations contained in section 8, and such compiled records will not be released or disclosed for non-criminal justice purposes by other agencies in the state.

(b) Intelligence and investigative files maintained by law enforcement agencies shall be kept separated from criminal history information and shall not be subject to dissemination under the provisions of this act.

Ark. Code Ann. § 12-12-1011

12 Fees for Non-Criminal Justice Record Searches

(a) A fee may be charged for providing criminal history information for non-criminal justice purposes. The amount of the fee for electronic Internet submission will be determined jointly by the Identification Bureau and the Central Repository and shall not exceed twenty dollars ($20.00), exclusive of any third-party electronic processing fee charges.

(b) Effective July 1, 2005, the amount of the fee for providing information by means other than the Internet shall be determined jointly by the bureau and the central repository and shall not exceed thirty dollars ($30.00).

Ark. Code Ann. § 12-12-1012

13 Right of Review and Challenge

(a) A person, upon positive verification of his or her identity, may review criminal history information pertaining to such person compiled and maintained by the Identification Bureau or the Central Repository, and may challenge the completeness or accuracy of such information.

(b) The criminal history information may be reviewed only by the person, or the person's attorney or other designee authorized in writing by the subject. A copy of criminal history information maintained in the Arkansas Crime Information Center on the person may be made available to the person or the person's attorney or other designee authorized in writing by the person. A request for a copy of any criminal history information maintained in the National Crime Information Center shall be addressed to the FBI.

(c) If the person, after appropriate review, believes that the criminal history information is incorrect or incomplete in any way, he or she may request an examination and correction of the criminal history information by the agency responsible for the criminal history information.

(d) If it is determined as a result of the challenge that the criminal history information is inaccurate, incomplete or improperly maintained, the criminal history information shall be appropriately corrected. Immediately after correction, the agency responsible for the criminal history information shall notify every agency or person known to have received the criminal history information within the previous one year period and provide them with corrected criminal history information. A person whose criminal history information has been corrected may be entitled to ascertain the names of those agencies or individuals known to have received the previously incorrect criminal history information.

(e) Criminal history information which was recorded before to the effective date of this act is subject to the right of review and challenge in accordance with this section. However, the duty of an agency in searching for criminal history information is to make a reasonable search for such criminal history information. An agency does not have a duty to provide access to that segment of criminal history information that cannot be located after a reasonable search.

(f) The right of a person to review his or her criminal history information shall not be used by a prospective employer or another person as a means to circumvent procedures or fees for accessing records for non-criminal justice purposes.

Ark. Code Ann. § 12-12-1013

14 Security of Criminal History Information

(a) The Arkansas Crime Information Center shall be authorized to develop standards and implement procedures that will, to the maximum extent feasible, ensure the security and confidentiality of criminal history records.

(b) The Arkansas Crime Information Center shall be authorized to inspect the criminal history records maintained by criminal justice agencies; to evaluate security procedures; and the issue reports on compliance with security standards.

Ark. Code Ann. § 12-12-1014

15 Audit of Criminal History Records

The Arkansas Crime Information Center shall be authorized to develop standards and implement a program of audits of all criminal justice agencies that establish, maintain, report or disseminate criminal history records, to ensure compliance with all provisions of this act. Audit procedures pertaining to the courts shall be coordinated and implemented through the Administrative Office of the Courts.

Ark. Code Ann. § 12-12-1015

VII DWI AND DUI

Driving Motor Vehicles, Commercial Vehicles, Operation of Aircraft, Operation of Motorboats While Intoxicated, Underage Boating Under the Influence, Underage Driving Under the Influence and Hunting/Involvement in a Shooting Accident-Implied Consent.

A Overview of DWI and DUI Law

1 Arkansas law provides penalties for operating motor vehicles, commercial vehicles, aircraft and motorboats while intoxicated. Act 1983 of 2005 institutes an implied consent to a chemical test requirement for hunters involved in shooting accidents. There are also penalties that apply only to persons under the age of twenty-one years old who operate a motor vehicle while under the influence of an alcoholic beverage or similar intoxicant.

2 The language in these laws is often repeated and it appears in different code sections. Rather than repeat the language in this bench book, as in the code, The Omnibus DWI Law will be used as a guide. In the sections that follow, only the language for the separate offenses that differs from the general principles of the Omnibus DWI Law will be stated.

B Omnibus DWI Act

Ark. Code Ann. § 5-65-101 et. seq.

1 Definitions - as used in this act, unless the context otherwise requires:

(a) "Intoxicated" means influenced or affected by the ingestion of alcohol, a controlled substance, any intoxicant, or any combination thereof, to such a degree that the driver's reactions, motor skills, and judgment are substantially altered and the driver, therefore, constitutes a clear and substantial danger of physical injury or death to himself and other motorists or pedestrians

(b) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI. The fact that any person charged with a violation of this act is or has been entitled to use that drug or controlled substance under the laws of this state shall not constitute a defense against any charge of violating this act

(c) "Victim impact statement" means a voluntary written or oral statement of a victim, or relative of a victim, who has sustained serious injury due to a violation of this act.

(d) "Sworn Report" means a signed, written statement of a certified law enforcement officer, under penalty of perjury, on a form provided by DFA.

Ark. Code Ann. § 5-65-102

2 Unlawful acts.

(a) It is unlawful and punishable as provided in this act for any person who is intoxicated to operate or be in actual physical control of a motor vehicle.

(b) It is unlawful and punishable as provided in this act for any person to operate or be in actual physical control of a motor vehicle if at that time the alcohol concentration in the person's breath or blood was eight-hundredths (0.08) or more based upon the definition of breath, blood and urine concentration in Ark. Code Ann. § 5-65-204.

Ark. Code Ann. § 5-65-103

3 Seizure, Suspension and Revocation of License – Temporary Permits

(a) Arkansas law provides for administrative revocation of drivers licenses in cases of driving while intoxicated or refusing to submit to a chemical test. This is done without the necessity of court participation.

(b) At the time of arrest, arresting officer seizes the operator's license and issues a dated receipt which shall be recognized as a license and shall authorize the arrested person to operate a motor vehicle for a period not to exceed 30 days.

(c) This receipt constitutes notice of suspension or revocation of driving privileges by the Office of Driver Services, effective in 30 days, notice of the right to a hearing within 20 days and notice that if a hearing is desired, it must be requested within 7 days. The receipt also has information on how to request a hearing.

(d) The signed license and a copy of the receipt is attached to the sworn report of the arresting officer and sent to Driver Services within 7 days of the issuance of the receipt. The failure of the officer to timely file this report does not affect the authority of Driver Services to suspend or revoke driving privileges.

(e) Any decision involved at an administrative hearing shall have no effect on any criminal case arising from any violation of Ark. Code Ann. §§ 5-65-103 or 5-65-202.

(f) Any decision rendered by the court for a criminal case arising from any violation of Ark. Code Ann. §§ 5-65-103 or 5-65-202 shall affect the administrative suspension or revocation of the drivers license as follows:

(g) A plea of guilty or nolo contendere or a finding of guilt by the court will have no effect on any administrative hearing

(h) An acquittal on the charges or a dismissal of charges will serve to reverse the suspension or revocation.

(i) If a person is acquitted on the charges of violating Ark. Code Ann. §§ 5-65-103 or 5-65-202, or if the charges are dismissed, the Office of Driver Services shall reinstate the license at no cost and the charges shall not be used to determine the number of previous offenses when administratively suspending or revoking the driving privilege of any arrested person in the future.

(j) Any person whose privilege to drive has been denied, suspended or revoked shall remain under such denial, suspension or revocation until such time that person applies to and is granted by the Office of Driver Services for reinstatement of such privilege to drive and remains subject to penalties as provided in Ark. Code Ann. § 5-65-105 or until he is acquitted of violating § 5-65-103.

Ark. Code Ann. §§ 5-65-104 & 5-65-401 -403

See Leathers v. Cotton, 332 Ark. 49, 961 S.W.2d 32 (1998)

(k) The administrative suspension or revocation shall be supplementary to and in addition to the suspension or revocation of drivers licenses which are ordered by a court for offenses under Ark. Code Ann. §§ 5-64-710, 5-65-116 and 27-16-914, or any other traffic or criminal offense wherein a suspension or revocation of the drivers license is a penalty for the violation.

See Pyron v. State, 330 Ark. 88, 953 S.W.2d 874 (1997); and Cook v. State, 333 Ark. 22, 968 S.W.2d 589 (1998)

4 Operation of motor vehicle during period of license suspension or revocation.

Any person whose privilege to operate a motor vehicle has been suspended or revoked under the provisions of this act, who shall, during the period of such suspension or revocation, operate a motor vehicle in this state, shall be imprisoned for ten (10) days and may be assessed a fine of not more than one thousand dollars ($1,000).

Ark. Code Ann. § 5-65-105

5 Impoundment of license plate.

(a) When any law enforcement officer arrests a person for operating a motor vehicle while that person's operator's license or permit has been suspended

or revoked under the laws of any state due to such person having previously been found guilty or having pleaded guilty or nolo contendere to violating Ark. Code Ann. § 5-65-103, and if the motor vehicle operated by the person is owned in whole or part by the person, the motor vehicle license plate shall be impounded by the law enforcement officer for no less than ninety (90) days.

(b) If the court determines it is in the best interest of dependents of the offender, the court shall instruct the department to issue a temporary substitute license plate to that vehicle, and the license plate shall indicate that the original plate has been impounded.

Ark. Code Ann. § 5-65-106

6 Persons arrested to be tried on charges - No charges reduced - Filing citations.

(a) Persons arrested violating Ark. Code Ann. § 5-65-103 shall be tried on those charges or plead to such charges, and no such charges shall be reduced.

(b) Furthermore, when a law enforcement officer issues a citation for violating Ark. Code Ann. § 5-65-103, the citation shall be filed with the court as soon as possible.

Ark. Code Ann. § 5-65-107

7 No probation prior to adjudication of guilt.

Ark. Code Ann. § 5-65-108

See Section X

8 Pre-sentence report.

(a) Upon finding of guilt or a plea of guilty or nolo contendere for violating Ark. Code Ann. § 5-65-103 or § 5-65-303 the court shall immediately request and the Office of Alcohol and Drug Abuse Prevention or its designee shall provide a pre-sentence screening and assessment report of the defendant.

Note: This report remains mandatory in district court.

(b) The pre-sentence report shall be provided within thirty (30) days of the request, and the court shall not pronounce sentence until receipt of the pre-sentence report.

(c) After entry of a plea of guilty, nolo contendere, or a finding of guilt, if the sentencing of the defendant is delayed by the defendant, the clerk shall notify the defendant by first class mail to the defendant's last known address that

the defendant has fifteen (15) days to appear and show cause for failing to appear for sentencing.

(d) After expiration of the fifteen (15) days, the court may proceed with sentencing even in the absence of the defendant.

(e) The report shall include, but not be limited to, the offender's driving record, an alcohol problem assessment, and a victim impact statement where applicable.

Ark. Code Ann. § 5-65-109

9 Record of violations and court actions - Abstract.

(a) Within thirty (30) days after sentencing a person who has been found guilty, or pleaded guilty or nolo contendere on a charge of violating any provision of this act, every magistrate of the court or clerk of the court shall prepare and immediately forward to the Office of Driver Services an abstract of the record of the court covering the case in which the person was found guilty, or pleaded guilty or nolo contendere, which abstract shall be certified by the person so required to prepare it to be true and correct.

(b) The abstract shall be made upon a form furnished by the Office of Driver Services and shall include:

(1) The name and address of the party charged

(2) The number, if any, of the operator's or chauffeur's license of the party charged

(3) The registration number of the vehicle involved

(4) The date of hearing

(5) The plea

(6) The judgment; and

(7) The amount of the fine and jail sentence, as the case may be.

Ark. Code Ann. § 5-65-110

10 Prison terms - Exception.

(a) Any person who pleads guilty, nolo contendere, or is found guilty of violating § 5-65-103 may, for a first offense, be imprisoned for no less than twenty-four (24) hours and no more than one (1) year, except that the court

may order public service in lieu of jail, and, in that instance, the court shall include the reasons therefor in its written order or judgment.

(b) However, if a passenger under sixteen (16) years of age was in the vehicle at the time of the offense, a person who pleads guilty or nolo contendere to, or is found guilty of, violating § 5-65-103 may, for a first offense, be imprisoned for no fewer than seven (7) days and no more than one (1) year, except that the court may order public service in lieu of jail, and, in that instance, the court shall include the reasons therefore in its written order or judgment.

See Op. Att'y. Gen. # 99-179 *Re: What comprises "one day" when an individual is sentenced to serve a term of days for DWI and non-DWI misdemeanor convictions.*

(c) Any person who pleads guilty, nolo contendere, or is found guilty of violating § 5-65-103 or any other equivalent penal law of another state or foreign jurisdiction shall be imprisoned or shall be ordered to perform public service in lieu of jail as follows:

(1) For no less than seven (7) days and no more than one (1) year for the second offense occurring within five (5) years of the first offense or not less than thirty (30) days of community service

(2) However, if a person under sixteen (16) years of age was in the vehicle at the time of the offense, for no fewer than thirty (30) days but no more than one (1) year for the second offense occurring within five (5) years of the first offense or no fewer than sixty (60) days of community service.

(3) If the court orders community service, the court shall clearly set forth in written findings the reasons for the order of community service

(d) For no less than ninety (90) days nor more than one (1) year for the third offense occurring within five (5) years of the first offense or not less than ninety (90) days of community service

(1) If a person under sixteen (16) years of age was in the vehicle at the time of the offense, for no fewer than one hundred twenty days (120) days but no more than one (1) year for the third offense occurring within five (5) years of the first offense or no fewer than one hundred twenty (120) days of community service.

(2) If the court orders community service, the court shall clearly set forth in written findings the reasons for the order of community service

(e) For at least one (1) year but no more than six (6) years for the fourth or subsequent offense occurring within five (5) years of the first offense or not less than one (1) year of community service and shall be guilty of a felony; and

(1) However, if a person under sixteen (16) years of age was in the vehicle at the time of the offense, for at least two (2) years but no more than six (6) years for the fourth offense occurring within five (5) years of the first offense or not less than two (2) years of community service and shall be guilty of a felony.

(2) If the court orders community service, the court shall clearly set forth in written findings the reasons for the order of community service; and

(f) For at least two (2) years, but not more than ten (10) years, for the fifth or subsequent offense, occurring within five (5) years of the first offense or not less than two (2) years of community service and shall be guilty of a felony.

(1) However, if a person under sixteen (16) years of age was in the vehicle at the time of the offense, for at least three (3) years but no more than ten (10) years for the fifth offense occurring within five (5) years of the first offense or not less than three (3) years of community service and shall be guilty of a felony.

(2) If the court orders community service, the court shall clearly set forth in written findings the reasons for the order of community service.

(3) For all arrests or offenses occurring before July 30, 1999, but which have not reached a final disposition as to judgment in court, the offenses shall be decided under the law in effect at the time the offense occurred, and any defendant shall be subject to the penalty provisions in effect at that time and not under the provisions of this section.

The legislature did not intend for DUI convictions under Act 863 of 1993 to be used to enhance punishment for subsequent convictions under the Omnibus DWI Act. **Op. Att'y. Gen. # 93-381**

(4) It is an affirmative defense to prosecution under subdivisions (a)(2), (b)(1)(B), (b)(2)(B), (b)(3)(B), and (b)(4)(b) of this section that the person operating or in actual physical control of the motor vehicle was not more than two (2) years older than the passenger.

Ark. Code Ann. § 5-65-111

11 Fines

Any person who pleads guilty, nolo contendere, or is found guilty of violating Ark. Code Ann. § 5-65-103 shall be fined:

(a) No less than one hundred fifty dollars ($150) nor more than one thousand dollars ($1,000) for the first offense

(b) No less than four hundred dollars ($400) nor more than three thousand dollars ($3,000) for the second offense occurring within five (5) years of the first offense

(c) No less than nine hundred dollars ($900) nor more than five thousand dollars ($5,000) for the third or subsequent offense occurring within five (5) years of the first offense.

Ark. Code Ann. § 5-65-112

12 Additional Court Costs

(a) $300.00.

(b) See Section XV.

Ark. Code Ann. § 16-10-305

13 Inability to pay - Alternative public service work

In the event it is determined that any individual against whom fines, fees, or court costs are levied for driving while intoxicated or driving while impaired is financially unable to pay the fines, fees, or costs, the court levying the fines, fees, or costs shall order the individual to perform public service work of such type and for such duration as deemed appropriate by the court.

Ark. Code Ann. § 5-65-114

14 Alcohol treatment or education program

(a) A person whose driving privileges are suspended or revoked for violating Ark. Code Ann. § 5-65-103, § 5-65-303, § 5-65-310, or § 3-3-203 shall, in addition to other penalties, be required to complete an alcohol education program as provided by a contractor with the Office of Alcohol and Drug Abuse Prevention or an alcoholism treatment program licensed by the Office of Alcohol and Drug Abuse Prevention of the Department of Health. These programs may charge additional fees of up to $125.00.

(b) A person whose license is suspended or revoked for violating Ark. Code Ann. § 5-65-103 shall furnish proof of attendance at, and completion of, the alcoholism treatment or education program before reinstatement of his/her suspended or revoked drivers license and shall pay any fee for reinstatement required under Ark. Code Ann. §§ 5-65-119 or 5-65-304, or shall furnish proof of dismissal or acquittal of the charge on which the suspension or revocation is based. Application for reinstatement shall be made to Driver Services.

(c) Even if a person has filed a de novo petition for review pursuant to Ark. Code Ann. § 5-65-402, the person shall be entitled to reinstatement of driving privileges upon complying with this subsection and shall not be required to postpone reinstatement until the disposition of the de novo review in circuit court has occurred.

(d) A person suspended under this act may enroll in an alcohol education program prior to disposition of the offense by the district or circuit court, but shall not be entitled to any refund of fees paid if the charges are dismissed or if the person is acquitted of the charges.

Ark. Code Ann. § 5-65-115

(e) If during the period of suspension or revocation the person commits additional violations of § 5-65-103, the person shall also be required to complete an approved alcohol education program or alcohol treatment program for each additional violation, unless the additional charges are dismissed or the person is acquitted of the additional charges. Proof of attendance at and completion of any additional programs shall be furnished before reinstatement of the suspended license.

Ark. Code Ann. § 5-65-104(b)

14.1 Victim Impact Panel Attendance - Fee

(a) A person whose driving privileges are suspended or revoked for violating § 5-65-103, § 5-65-205, § 5-65-303, § 5-65-310, or § 3-3-203 shall attend a victim impact panel sponsored by an organization approved by the Office of Alcohol and Drug Abuse Prevention of the Department of Human Services.

(b) The organization selected by the office shall be an organization that provides state-wide services to victims of drunk driving.

(c) The organization approved by the office may collect a program fee of $10.00 per enrollee to offset program costs to be remitted to the organization.

Ark. Code Ann. § 5-65-121

15 Denial of driving privileges for minor - Restricted permit.

(a) As used in this section, the term "drug offense" shall have the same meaning ascribed to that term as provided in Ark. Code Ann. § 5-64-710(a)(1).

(b) Whenever a person who is less than eighteen (18) years of age pleads guilty or nolo contendere to, or is found guilty of, driving while intoxicated under

Ark. Code Ann. § 5-65-101 et seq., or of any criminal offense involving the illegal possession or use of controlled substances, or of any drug offense, in this state or any other state, or is found by a juvenile court to have committed such an offense, the court having jurisdiction of such matter, including any federal court, shall prepare and transmit to the Department of Finance and Administration an order of denial of driving privileges for the minor.

(c) Courts within the State of Arkansas shall prepare and transmit all such orders within twenty-four (24) hours after the plea or finding to the department.

(d) Courts outside Arkansas having jurisdiction over any such person holding driving privileges issued by the State of Arkansas shall prepare and transmit such orders pursuant to agreements or arrangements entered into between that state and the Director of the Department of Finance and Administration.

(e) Such arrangements or agreements may also provide for the forwarding by the department of orders issued by courts within this state to the state wherein any such person holds driving privileges issued by that state.

(f) For any such person holding driving privileges issued by the State of Arkansas, courts within this state in cases of extreme and unusual hardship may provide in an order for the issuance of a restricted driving permit to allow driving to and from a place of employment or driving to and from school.

(g) Penalties prescribed in this section and Ark. Code Ann. § 27-16-914 shall be in addition to all other penalties prescribed by law for the offenses covered by this section and Ark. Code Ann. § 27-16-914.

(h) In regard to any offense involving illegal possession under this section, it shall be a defense if the controlled substance is the property of an adult who owns the vehicle.

Ark. Code Ann. § 5-65-116

16 Additional penalties - Ignition interlock devices.

(a) Arkansas law provides for administrative issuance of an ignition interlock restricted drivers licenses in cases of driving while intoxicated or refusing to submit to a chemical test. This is done without the necessity of court participation.

(b) In addition to the other penalties authorized for violations of this chapter, the Office of Driver Services of the Revenue Division of the Department of Finance and Administration may, in its discretion, upon an arrest for

violating § 5-65-103, for a first or second offense restrict the person to operate only a motor vehicle which is equipped with a functioning ignition interlock device, and this restriction may continue for a period of up to one (1) year after such person's license is no longer suspended or restricted under the provisions of § 5-65-104.

(c) Upon a finding that a person is financially able to afford an ignition interlock device and upon an arrest for a violation of § 5-65-103 for a third or subsequent offense, the Office of Driver Services may order the offender to operate only motor vehicles which are equipped with a functioning ignition interlock device for up to one (1) year after the person's license is no longer suspended or restricted under § 5-65-104

(d) The Office of Driver Services may issue a restricted license in accordance with § 5-64-104 to the person only after the person has verified installation of a functioning ignition interlock device to the office in any motor vehicle the person intends to operate, except for exemptions allowed under law.

Ark. Code Ann. § 5-65-118

17 Implied consent.

(a) Any person who operates a motor vehicle or is in actual physical control of a motor vehicle in this state shall be deemed to have given consent, subject to the provisions of § 5-65-203, to one or more chemical tests of his or her blood, breath, or urine for the purpose of determining the alcohol or controlled substance content of his or her breath or blood if:

(1) The driver is arrested for any offense arising out of acts alleged to have been committed while the person was driving while intoxicated or driving while there was an alcohol concentration of eight-hundredths (0.08) or more of alcohol in the person's breath or blood; or

(2) The person is involved in an accident while operating or in actual physical control of a motor vehicle; or

(3) At the time the person is arrested for driving while intoxicated, the law enforcement officer has reasonable cause to believe that the person, while operating or in actual physical control of a motor vehicle, is intoxicated or has an alcohol concentration of eight-hundredths (0.08) or more in the person(s breath or blood.

(b) Any person who is dead, unconscious or otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided by subsection (a) of this section, and the tests may be administered subject to the provisions of Ark. Code Ann. § 5-65-203.

Ark. Code Ann. § 5-65-202

The intent of the Arkansas General Assembly in passing the implied consent law was to mandate alcohol testing for a person stopped by a law enforcement officer when that officer had reasonable cause to believe the driver was drunk; the statute does not expressly require that the officer develop a reasonable belief of intoxication before the stop is made. **Parsons v. State, 313 Ark. 224, 853 S.W.2d 276 (1993)**

18 Administration.

(a) One or more chemical tests authorized in § 5-65-202 shall be administered at the direction of a law enforcement officer having reasonable cause to believe the person to have been operating or in actual physical control of a motor vehicle while intoxicated or while there was an alcohol concentration of eight-hundredths (0.08) or more in the person's breath or blood.

(b) The law enforcement agency by which that officer is employed shall designate which of the aforesaid tests shall be administered, and the agency shall be responsible for paying all expenses incurred in conducting the tests.

(1) If the person tested requests that additional tests be made, as authorized in § 5-65-204(e), the cost of the additional tests shall be borne by the person tested unless the person is found not guilty, in which case the arresting law enforcement agency shall reimburse the person for the cost of the additional tests.

(2) If any person shall object to the taking of his blood for a test, as authorized herein, the breath or urine of the person may be used to make the analysis.

Ark. Code Ann. § 5-65-203

Under Ark. Code Ann. §§ 5-65-201-207, the agency is responsible for repaying any expenses involved if that particular law enforcement agency designates that chemical tests be administered, but if it is the accused who requests the tests (in addition to those taken at the behest of the agency), he/she shall bear the expense; nowhere in the act is there any indication that a law enforcement agency that does not intend to rely on chemical analysis of bodily substance must nevertheless provide such analysis for an accused. **Ballew v. State, 305 Ark. 542, 809 S.W.2d 374 (1991)**

19 Validity - Approved methods.

(a) Alcohol concentration shall mean either:

(1) Grams of alcohol per one hundred (100) milliliters, or cubic centimeters, of blood; or

(2) Grams of alcohol per two hundred ten (210) liters of breath.

(b) The alcohol concentration of other bodily substances shall be based upon grams of alcohol per one hundred (100) milliliters, or cubic centimeters, of blood, the same being percent weight per volume or percent alcohol concentration.

(c) Chemical analyses made to determine the presence and amount of alcohol of a person's blood, urine, or breath to be considered valid under the provisions of this act shall have been performed according to methods approved by the Arkansas State Department of Health or by an individual possessing a valid permit issued by the State Department of Health for this purpose. The State Department of Health is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the State Department of Health.

(d) However, a method of analysis of a person's blood, urine, or other bodily substance made by the State Crime Laboratory for determining the presence of one (1) or more controlled substances or any intoxicant shall be exempt from approval by the Department of Health or State Board of Health.

(e) Chemical analyses of the person's blood, urine, breath, or other bodily substance for determining the alcohol content of the blood, to be considered valid under the provisions of this section, shall have been performed according to methods approved by the Arkansas State Board of Health.

(f) When a person shall submit to a blood test at the request of a law enforcement officer under the provisions of this section, blood may be drawn by a physician or a person acting under the direction and supervision of a physician.

(1) This limitation shall not apply to the taking of breath or urine specimens.

(2) No person, institution, or office in this state who withdraws blood for the purpose of determining alcohol or controlled substance content thereof at the request of a law enforcement officer under the provisions of this subchapter shall be held liable for violating any of the criminal laws of this state in connection therewith, nor shall any physician, institution, or person acting under the direction or supervision of a physician be held liable in tort for the withdrawal of such blood unless such persons are negligent in connection therewith, or the blood is taken over the objections of the subject.

(g) The person tested may have a physician or a qualified technician, registered nurse, or other qualified person of his own choice administer a complete chemical test in addition to any test administered at the direction of a law enforcement officer.

Where appellant refused to take a breathalyzer test there was no requirement that an independent chemical test be afforded him/her. **Calnan v. State, 310 Ark. 744, 841 S.W.2d 593 (1992)**

(1) The law enforcement officer shall advise the person in writing of this right and that if the person chooses to have an additional test and the person is found not guilty, the arresting law enforcement agency will reimburse the person for the cost of the additional tests.

The trial court erred in admitting the results of a portable breath test (not certified by the Department of Health) performed at the scene of the traffic stop. The officer did advise the appellant at the police station that he could have another test at his own expense; however, the officer did not advise the appellant that the cost of the additional test would be reimbursed if the appellant was found not guilty. The officer did not comply with Ark. Code Ann. § 5-65-204, and the trial court erred in admitting the results of the certified breathalyzer administered at the police station. The evidence presented at trial was not so overwhelming as to render the trial court's errors harmless, and the case was reversed and remanded for a new trial. **Daniels v. State 84 Ark. App. 263, 139 S. W. 3d 140 (2003)**

(2) The refusal or failure of a law enforcement officer to advise such person of this right and to permit and assist the person to obtain such test shall preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

Appellant's request to exclude evidence was not based upon an allegation that the evidence was illegally obtained. Thus, the appellant's request was a motion in limine rather than a motion to suppress. Because the DWI/DUI statement of rights form that the appellant signed failed to comply with 5-65-204, the trial court erred in admitting the results from the breathalyzer test into evidence. **Mhoon v. State, 369 Ark. 134, 251 S.W.3d 244 (2007)**

(h) Upon the request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test shall be made available to him or his attorney.

Ark. Code Ann. § 5-65-204

20 Refusal to submit.

(a) If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency, as provided in § 5-65-202, none shall be given, and the person's motor vehicle operator(s license shall be seized by the law enforcement officer, and the officer shall immediately deliver to the person from whom the license was seized a temporary driving permit, as provided by § 5-65-402.

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

(c) The Office of Driver Services shall then proceed to suspend or revoke the driving privilege of the arrested person, as provided in § 5-65-402.

Ark. Code Ann. § 5-65-205

21 Evidence in prosecution.

(a) In any criminal prosecution of a person charged with the offense of driving while intoxicated, the amount of alcohol in the defendant's breath or blood at the time or within four (4) hours of the alleged offense, as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance shall give rise to the following:

(1) If there was at that time an alcohol concentration of four-hundredths (0.04) or less in the defendant's blood, urine, breath, or other bodily substance, it shall be presumed that the defendant was not under the influence of intoxicating liquor;

Evidence that the appellant was in a one vehicle wreck, combined with evidence of the appellant's blood-alcohol level (0.09%) and the strong odor of intoxicants was substantial evidence of intoxication. The trial court did not err in resolving the conflicting evidence (a second blood alcohol test showing a 0.05% result) in favor of the State where appellant had been given fluids prior to the second blood alcohol test. The appellant was not entitled to a presumption that he was not intoxicated, under Ark. Code Ann. § 5-65-206(a)(1), as a result of the second blood alcohol test showing a 0.05% result. **Porter v. State, 356 Ark. 17, 145 S.W.2d 376 (2004)**

(2) If there was at the time an alcohol concentration in excess of four-hundredths (0.04) but less than eight-hundredths (0.08) by weight of alcohol in the defendant's bother bodily substance, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but this fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

Evidence of the refusal to submit to a chemical test can properly be admitted as circumstantial evidence showing a consciousness of guilt. Once admitted, the weight of this evidence is a question to be resolved by the trier of fact, who may also consider the circumstances surrounding the refusal and any explanation given for deciding to take the test. **Spicer v. State, 32 Ark. App. 209, 799 S.W.2d 562 (1990)**

(b) The foregoing provisions shall not be construed as limiting the introduction of any other relevant evidence bearing upon the question whether or not the defendant was intoxicated.

(c) The chemical analysis referred to in this section shall be made by a method approved by the State Board of Health.

(d) Except as provided in (e) below, the records and reports of certifications, rules, evidence analysis, or other documents pertaining to work performed by the blood alcohol program of the Office of Alcohol Testing of the Department of Health under the authority of this chapter shall be received as competent evidence as to the matters contained therein in the courts of this state subject to the applicable rules of criminal procedure when duly attested to by the program director or his or her assistant, in the form of an original signature or by certification of a copy. These documents shall be self-authenticating.

(1) However, the instrument performing the chemical analysis shall have been duly certified at least once in the last three (3) months preceding arrest and the operator thereof shall have been properly trained and certified.

(2) Nothing in this section shall be deemed to abrogate a defendant's right of cross-examination of the person who performs the calibration test, or check on the instrument, the operator of the instrument, or a representative of the Office of Alcohol Testing of the Department of Health.

(3) The testimony of the appropriate analyst or official may be compelled by the issuance of a proper subpoena given ten (10) days prior to the date of hearing or trial, in which case, the records and reports shall be admissible through the analyst or official, who shall be subject to cross-examination by the defendant or his counsel.

(e) When a chemical analysis of a defendant's blood, urine, or other bodily substance is made by the State Crime Laboratory for the purpose of ascertaining the presence of one (1) or more controlled substances or any intoxicant, other than alcohol, in any criminal prosecution under § 5-65-103, § 5-65-303, or § 5-10-105, the provisions of § 12-12-313 shall govern the admissibility of the analysis into evidence rather than the provisions of this section.

Ark. Code Ann. § 5-65-206

The person subject to cross-examination may be either the person who actually calibrated the machine or the senior operator who checks the machine on a regular basis. **Peters v. State, 321 Ark. 276, 902 S.W.2d 757 (1995)**

(f) The records and reports of autopsies, evidence analyses, drug analyses, and any investigations made by the State Crime Laboratory under the authority of this subchapter shall be received as competent evidence as to the matters contained therein in the courts of this state subject to the applicable rules of criminal procedure when duly attested to by the Executive Director of the State Crime Laboratory or his or her assistants, associates, or deputies.

(g) Nothing in this section shall be deemed to abrogate a defendant's right of cross-examination if notice of intention to cross-examine is given prior to the date of a hearing or trial pursuant to the applicable rules of criminal procedure.

(h) The testimony of the appropriate analyst may be compelled by the issuance of a proper subpoena, in which case the records and reports shall be admissible through the analyst who shall be subject to cross-examination by the defendant or his or her counsel, either in person or via two-way closed-circuit or satellite-transmitted television pursuant to subsection (e) of this section.

(i)(1) All records and reports of an evidence analysis of the laboratory shall be received as competent evidence as to the facts in any court or other proceeding when duly attested to by the analyst who performed the analysis.

(2) The defendant shall give at least ten (10) days' notice prior to the proceedings that he or she requests the presence of the analyst of the laboratory who performed the analysis for the purpose of cross-examination.

(3) Nothing in this subsection shall be construed to abrogate the defendant's right to cross-examine.

(j) Except trials in which the defendant is charged with capital murder, § 5-10-101, or murder in the first degree, § 5-10-102, in all criminal trials upon motion of the prosecutor the court may allow the prosecutor to present the testimony of the appropriate analyst by contemporaneous transmission from a laboratory facility via two-way closed-circuit or satellite-transmitted television which shall allow the examination and cross-examination of the analyst to proceed as though the analyst were testifying in the courtroom:

(1) After notice to the defendant;

(2) Upon proper showing of good cause and sufficient safeguards to satisfy all state and federal constitutional requirements of oath, confrontation, cross-examination, and observation of the witness's demeanor and testimony by the defendant, the court, and the jury; and

(3) Absent a showing of prejudice by the defendant.

Ark. Code Ann. § 12-12-313

22 Alcohol testing devices.

(a) Every instrument used to determine the alcohol content of the breath for the purpose of determining if the person was operating a motor vehicle while intoxicated or with an alcohol concentration of eight-hundredths (0.08) or more shall be so constructed that the analysis is made automatically when a sample of the person's breath is placed in the instrument, and without any adjustment or other action of the person administering the analysis, and the instrument shall be so constructed that the blood alcohol content is shown by visible digital display on the instrument and on an automatic readout.

(b) Any such breath analysis made by or through the use of an instrument that does not conform to the requirements prescribed herein shall be inadmissible in any criminal or civil proceeding.

(c) The State Board of Health is authorized to adopt appropriate rules and regulations to carry out the intent and purposes of this section, and only instruments approved by the board as meeting the requirements of this section and regulations of the board shall be used for making the breath analysis for determining alcohol concentration. The State Department of Health is specifically authorized to limit by its rules the types or models of testing devices which may be approved for use in Arkansas for the purposes set forth in this section. The approved types or models will be specified by manufacturer's name and model.

Ark. Code Ann. § 5-65-207

C Underage DUI Law

Ark. Code Ann. § 5-65-301

1 Definitions.

(a) "Influence" means being controlled or affected by the ingestion of an alcoholic beverage or similar intoxicant, or any combination thereof, to such a degree that the driver's reactions, motor skills and judgment are altered or

diminished, even to the slightest scale, and the underage driver, therefore, due to inexperience and lack of skill, constitutes a danger of physical injury or death to himself/herself and other motorists or pedestrians

(b) "Underage" means any person who is under the age of twenty-one (21) years old and therefore may not legally consume alcoholic beverages in Arkansas.

Ark. Code Ann. § 5-65-302

Under Ark. Code Ann. § 5-65-107, a prosecuting attorney or judge is not permitted to reduce the charge of anyone accused of violating Ark. Code Ann. § 5-65-103 (DWI). However, in the opinion of the Attorney General, neither Ark. Code Ann. § 5-65-107 nor a similar restriction applies to Ark. Code Ann. § 5-65-301 et. seq. (DUI); therefore, a prosecutor may recommend and a judge may reduce an underage DUI charge to a lesser charge. **Op. Att'y. Gen. # 97-167**

2 Unlawful Acts

(a) It is unlawful and punishable as provided in this act for any underage person to operate or be in actual physical control of a motor vehicle while under the influence of an alcoholic beverage or similar intoxicant.

(b) It is unlawful and punishable as provided in this act for any underage person to operate or be in actual physical control of a motor vehicle if at that time there was an alcohol concentration of two-hundredths (0.02) but less than eight-hundredths (0.08) in his breath or blood.

Ark. Code Ann. § 5-65-303

DUI is not a lesser included offense of DWI. It requires a different element of proof (less than 21 years of age) and a different level of intoxication (0.02% blood alcohol content). The municipal court erred and prejudiced appellant when it changed the charge from DWI to DUI on its own motion. The circuit court erred likewise in trying and convicting appellant of the uncharged offense of DUI. The DWI law provides that an offender "shall be tried on those charges or plead to such charges and no such charges shall be reduced." The case was remanded to circuit court so that appellant may be tried for the offense of DWI. **McElhanon v. State, 329 Ark. 261, 948 S.W.2d 89 (1997)**

3 Seizure, suspension, and revocation of license - Temporary permits.

(a) At the time of arrest for violating § 5-65-303, the arresting officer shall seize the motor vehicle operator's license of the underage person arrested and issue to such person a temporary driving permit, as provided by § 5-65-402.

(b) The Office of Driver Services shall suspend or revoke the driving privileges of the arrested person under the provisions of § 5-65-402 and the arrested

person shall have the same right to hearing and judicial review as provided under § 5-65-402.

(c) The court no longer issues temporary permits nor transfers the license to Driver Services.

Ark. Code Ann. § 5-65-304

4 Fines.

(a) Any person who pleads guilty, nolo contendere, or is found guilty of violating §§ 5-65-303 or 5-65-310 shall be fined:

(1) No less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense

(2) No less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) for the second offense occurring underage

(3) No less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for the third or subsequent offense occurring underage.

(b) For the purpose of determining an underage person's fines under this act, an underage person who has one (1) or more previous convictions or suspensions for a violation of § 5-65-103 or § 5-65-205 shall be deemed to have a conviction for a violation of this act for each conviction for DWI.

Ark. Code Ann. § 5-65-305

5 Additional Court Costs

(a) $300.00.

(b) See Section XV.

Ark. Code Ann. § 16-10-305

6 Public service work.

(a) Any underage person who pleads guilty, nolo contendere, or is found guilty of violating § 5-65-303 or § 5-65-310 shall be ordered by the court to perform public service work of the type and for the duration as deemed appropriate by the court.

(b) The period of community service shall be for no less than thirty (30) days for a second offense of violating § 5-65-303 and no less than sixty (60) days for a third or subsequent offense of violating § 5-65-303.

Ark. Code Ann. § 5-65-306

A jail sentence for violating § 5-65-303 is illegal on its face because the trial court lacked authority to impose it. **Roberts v. State, 324 Ark. 68, 919 S.W.2d 192 (1996).**

7 Alcohol and driving education program

(a) Any person who has their driving privileges revoked or denied for violating § 3-3-203, § 5-65-310, or § 5-65-303 shall, in addition to other penalties provided herein, be required to complete an alcohol and driving education program for underage drivers as prescribed and approved by the Office of Alcohol and Drug Abuse Prevention of the Division of Behavioral Health Services or alcoholism treatment program licensed by the Office of Alcohol and Drug Abuse Prevention, or both. These programs may charge additional fees of up to $125.00.

(b) The Office of Alcohol and Drug Abuse Prevention shall approve only those programs in alcohol and driving education which are targeted at the underage driving group and are intended to intervene and prevent repeat occurrences of driving under the influence or DWI.

(c) Prior to reinstatement of a driver's license suspended or revoked under this act, the driver shall furnish proof of attendance at and completion of the alcohol and driving education program and at a victim impact panel as provided in § 5-65-121.

Ark. Code Ann. § 5-65-307

See also Ark. Code Ann. § 5-65-115 and § 5-65-402. DWI and DUI have the same rules regarding Alcohol and Driving Education programs and Victim Impact Panels.

8 No probation prior to adjudication of guilt.

(a) No circuit judge or district judge may utilize the provisions of Ark. Code Ann. § 16-93-301 et seq. in instances where an underage person is charged with violating Section 3 of this act.

The court may not suspend imposition of sentence or order probation for a person who is convicted of DUI pursuant to Ark. Code Ann. § 5-65-303. **Op. Att'y Gen. # 97-029**

(b) Within thirty (30) days after sentencing a person who has been found guilty, or pleaded guilty or nolo contendere on a charge of violating any provision of this act, every magistrate of the court or clerk of the court shall prepare and immediately forward to the office of Driver Services an abstract of the record of the court covering the case in which the person was found guilty, or pleaded guilty or nolo contendere, which abstract shall be certified by the person so required to prepare it to be true and correct.

(c) The abstract shall be made upon a form furnished by the Office of Driver Services and shall include:

(1) The name and address of the party charged

(2) The number, if any, of the driver(s license of the party charges

(3) The registration number of the vehicle involved

(4) The date of hearing

(5) The plea

(6) The judgment; and

(7) The amount of the fine and other sentence, as the case may be.

Ark. Code Ann. § 5-65-308

9 Implied consent.

Subjects the underage person to the same provisions of the Omnibus DWI Act with only the alcohol concentration of 0.02 but less than 0.08 being different.

Ark. Code Ann. § 5-65-309

10 Refusal to submit.

(a)The court no longer issues temporary permits. Arresting officer issues temporary permit as provided in § 5-65-402. Suspension is handled by Office of Driver Services.

(b) Refusal to submit is a strict liability offense and is a violation pursuant to § 5-1-108.

Ark. Code Ann. § 5-65-310

11 Relationship to other laws.

(a) Penalties prescribed in this act for underage driving under the influence shall be in addition to all other penalties prescribed by law for the offenses under other laws of the State of Arkansas.

(b) For the purposes of this act, there is no presumption, as there is found in Arkansas Code § 5-65-206, that a person is not under the influence of an intoxicating substance, such as alcohol or similar intoxicant, if the person's alcohol concentration is four hundredths (0.04) of one percent or less.

(c) The administration of the chemical tests for breath or blood alcohol, the machines and instruments used to administer those tests, the procedures used to calibrate and maintain those instruments, and the use of the test results as evidence shall be the same as for those tests and instruments and used for testing breath or blood alcohol concentrations under the Omnibus DWI Act, § 5-65-101 et seq.

(d) If there is evidence of an alcohol concentration of more than four-hundredths (0.04) but less than eight-hundredths (0.08) in a person's blood, breath, or other bodily substances, this fact shall not preclude a person under twenty- one (21) years of age from being prosecuted for driving while intoxicated under § 5-65-101 et seq.

Ark. Code Ann. § 5-65-311

D Youth Accident Prevention Program

1 The quorum courts of the counties of Arkansas are hereby authorized by ordinance to establish a Youth Accident Prevention Program designed to educate junior and senior high school students about DWI, seat belt safety and injuries resulting from drinking and driving and not being belted. These programs may be conducted up to 4 days in length and the cost of salaries, equipment, supplies and other items relating to the operation of the program shall be paid by the county.

2 The district courts of Arkansas are authorized to allocate up to $5.00 of every fine, penalty and forfeiture imposed and collected from every person convicted of a moving traffic offense for any Youth Accident Prevention Education Program created, and the same allocation shall pertain to any bond which is forfeited for any such offense. These funds are to be remitted to the county treasurer and deposited into a special fund to be used only for the purpose of this Act.

Ark. Code Ann. § 14-20-116

E Operation of Aircraft While Intoxicated

Ark. Code Ann. §§ 5-75-101-107

1 Definitions

(a) "Intoxicated" - adds navigator as the person intoxicated.

(b) "Controlled substance" - same as DWI.

(c) "Aircraft" means any contrivance invented, used, or designed for the navigation of or flight in the air and which is required to be registered under the laws of the United States.

Ark. Code Ann. § 5-75-101

2 Unlawful acts.

(a) Adds - unlawful to navigate any aircraft or be a person at an airport to perform duties as a member of the flight crew of an aircraft if that person presents himself or herself at the security checkpoint at the airport, at the security identification area, or at an aircraft ramp; or plans and accepts flight documents at the ticket counter or gate while intoxicated.

(b) Unlawful to navigate any aircraft or be a person at an airport to perform duties as a member of the flight crew of an aircraft if that person presents himself or herself at the security checkpoint at the airport, at the security identification area, or at an aircraft ramp; or plans and accepts flight documents at the ticket counter or gate with an alcohol concentration of four-hundredths (0.04) or more in the person(s breath or blood.

(c) Any person who pleads guilty, nolo contendere, or is found guilty of violating subsection (a) or (b) of this section shall be guilty of a Class A misdemeanor.

(d) If a person under arrest for violating subsection (a) or (b) of this section refuses upon the request of a law enforcement officer to submit to a chemical test as provided in Section 3 of this act, none shall be given. However, any person who refuses to submit to a chemical test as provided for in Section 3 of this act shall be guilty of a Class A misdemeanor.

(e) A complete report of all arrests and convictions made under the provisions of this act shall be forwarded to the Federal Aviation Administration or any other agency responsible for the licensing of pilots or navigators.

Ark. Code Ann. § 5-75-102

3 Additional Court Costs

(a) $300.00.

(b) See Section XV.

Ark. Code Ann. § 16-10-305

4 Implied consent.

(a) Navigation of aircraft gives implied consent to blood test if:

(1) Navigator is arrested while navigating aircraft with an alcohol concentration of four-hundredths (0.04); or

(2) Person navigating aircraft is involved in an accident; or

(3) Law enforcement officer has reasonable cause to believe person is navigating aircraft with an alcohol concentration of four-hundredths (0.04).

(b) Dead or unconscious person - no withdrawal of consent.

Ark. Code Ann. § 5-75-103

5 Administration.

Same as DWI except for an alcohol concentration of (0.04)

Ark. Code Ann. § 5-75-104

6 Validity - Approved methods.

Same as DWI except for State Crime Lab involvement in method of analysis

Ark. Code Ann. § 5-75-105

7 Evidence in prosecution.

Same as DWI except for navigate aircraft, alcohol concentration of (0.04) and State Crime Lab involvement in testimony

Ark. Code Ann. § 5-75-106

8 Blood alcohol testing devices.

Same as DWI except for navigate aircraft and blood alcohol level of .04%.

Ark. Code Ann. § 5-75-106

F Operation of Motorboats While Intoxicated

Ark. Code Ann. §§ 5-76-101-106

1 Definitions.

(a) "Controlled Substance" - same as DWI.

(b) "Intoxicated" - same as DWI.

(c) "Motorboat" means any vessel operated upon water and which is propelled by machinery, whether or not the machinery is the principal source of propulsion

(d) "Motorboat" includes personal watercraft as defined in Section 27-101-103(10);

(e) "Operator" means a person who is controlling the speed and direction of a motorboat or a person who is in direct physical control of the motorboat;

(f) "Underage" means any person who is under the age of twenty-one (21) years old and therefore may not legally consume alcoholic beverages in Arkansas; and

(g) "Waters" means any public waters within the territorial limits of the State of Arkansas.

Ark. Code Ann. § 5-76-101

2 Unlawful acts.

(a) No person shall operate any motorboat on the waters of this state while:

(1) Intoxicated; or

(2) There is an alcohol concentration in the person(s breath or blood of eight-hundredths (0.08) or more based on the definition of breath, blood and urine concentration in § 5-65-204.

(b) In the case of a motorboat or device, only where the certified law enforcement officer has probable cause to believe that the operator of the motorboat is operating while intoxicated or operating while there is an alcohol concentration of eight-hundredths (0.08) in the person's breath or blood, the law enforcement officer is authorized to administer and may test the operator, at the scene, by using a portable breath testing instrument or

other approved method to determine if the operator may be operating a motorboat or device in violation of this section.

(c) The consumption of alcohol or the possession of open containers aboard a vessel shall not in and of itself constitute probable cause.

(d) For a first offense, a person violating this section shall be punished by imprisonment in the county or district jail for not more than one (1) year or by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or by both fine and imprisonment.

(e) In addition, the court shall order the person not to operate a motorboat for a period of ninety (90) days.

(f) For a second offense within a three-year period, a person violating this section shall be punished by a fine of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) and by imprisonment in the county or district jail for not more than one (1) year.

(g) The sentence shall include a mandatory sentence which is not subject to suspension or probation of imprisonment in the county or district jail for not less than forty-eight (48) consecutive hours or community service for not less than twenty (20) days.

(h) In addition, the court shall order the person not to operate a motorboat for a period of one (1) year.

(i) For a third or subsequent offense within a three-year period, a person violating this section shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) and by imprisonment in the county or district jail for not less than sixty (60) days nor more than one (1) year, to include a minimum of sixty (60) days which shall be served in the county or district jail and which cannot be probated or suspended.

(j) In addition, the court shall order the person not to operate a motorboat for a period of three (3) years.

(k) Any person who operates a motorboat on the waters of this state in violation of a court order shall be imprisoned for ten (10) days.

(l) Evidence in prosecution - same as DWI except for State Crime Lab involvement.

(m) Disposition of fines.

(1) All fines for violations of this chapter shall be remitted to the issuing law enforcement office to be used by that office for the administration and enforcement of this chapter.

(2) Neither reckless operation of a motorboat nor any other boating or water safety infraction is a lesser included offense under a charge in violation of this section.

Ark. Code Ann. § 5-76-102

3 Additional Court Costs

(a) $300.00.

(b) See Section XV.

Ark. Code Ann. § 16-10-305

4 Alcohol Education Program - same as DWI

Ark. Code Ann. § 5-76-103

5 Implied Consent - same as DWI

(a) Refusal to submit - If a court determines that a law enforcement officer had reasonable cause to believe an arrested person had been operating a motorboat or is in actual physical control of a motorboat in violation of § 5-76-102(a) and the person refused to submit to the test upon request of the law enforcement officer, the court shall levy a fine of not less than $1,000 and not to exceed $2,500 and suspend the operating privileges of the person for a period of six (6) months, in addition to any other suspension imposed for violating § 5-76-102(a).

(b) If a person operating a motorboat was involved in an accident resulting in loss of human life and the person refused to submit to a test upon the request of the law enforcement officer, the court shall levy a fine of not less than $2,500 and not to exceed $5,000 and suspend the operating privileges of the person for a period of 2 years, in addition to any other suspension imposed for violating Ark. Code Ann. § 5-76-102(a).

(c) Administration - same as DWI

Ark. Code Ann. § 5-76-104

6 Chemical Analysis - same as DWI except for State Crime Lab involvement

Ark. Code Ann. § 5-76-105

7 Unlawful acts by underage operator

(a) No underage person shall operate any motorboat on the waters of this state while:

1 Intoxicated; or

2 There is an alcohol concentration in the underage person's breath or blood of two-hundredths (0.02) but less than eight-hundredths (0.08) based upon the definition of breath, blood, and urine concentration in § 5-65-204.

(b) A certified law enforcement officer may test the underage operator of a motorboat using a portable breath-testing instrument or other approved method to determine if the underage operator may be operating a motorboat or device in violation of this section only if the officer has probable cause to believe that:

1 The underage person is operating the motorboat while intoxicated; or

2 The underage person is operating the motorboat while there is an alcohol concentration of two-hundredths (0.02) but less than eight-hundredths (0.08) in the underage person's breath or blood.

(c) The consumption of alcohol or the possession of an open container of an alcoholic beverage aboard a vessel shall not alone constitute probable cause.

Ark. Code Ann. § 5-76-107

(d) Any person who pleads guilty or nolo contendere to or is found guilty of violating § 5-76-107 shall be fined:

1 No less than one hundred dollars ($100) and not more than five hundred dollars ($500) for the first offense;

2 No less than two hundred dollars ($200) and not more than one thousand dollars ($1,000) for the second offense; and

3 No less than five hundred dollars ($500) and not more than two thousand dollars ($2,000) for the third and subsequent offense.

(e) For the purpose of determining the amount of fine under this section, an underage person who has one (1) or more previous convictions for a violation of § 5-76-102 shall be deemed to have a conviction for a violation of § 5-76-107 for each conviction for a violation of § 5-76-102.

Ark. Code Ann. § 5-76-108

G Driving Commercial Vehicles While Intoxicated

1 It is unlawful to operate a commercial vehicle while intoxicated.

(a) Same as DWI except blood alcohol level is .04%. No presumption that person is not intoxicated if blood alcohol level is below .05%.

(b) Refusal to submit to chemical test will result in disqualification to drive a commercial vehicle.

(c) Any person convicted of a violation of driving a commercial motor vehicle while intoxicated, driving a commercial motor vehicle while the person's blood alcohol concentration is four hundredths of one percent (0.04%) or more, leaving the scene of an accident involving a commercial motor vehicle driven by the person, or using a commercial motor vehicle in the commission of any felony shall be deemed guilty of a Class B misdemeanor and shall be disqualified from driving a commercial motor vehicle as specified in § 27-23-112.

(d) A law enforcement officer having reasonable cause to believe the person to have been driving a commercial motor vehicle while intoxicated or driving a commercial motor vehicle while the person's blood alcohol concentration was four hundredths of one percent (0.04%) or more shall have the authority to administer or have administered a chemical test to determine the person's blood alcohol concentration. The chemical test authorized shall be identical to and under the same standards of the test given to persons under the Omnibus DWI, § 5-65-101 et seq.

(e) At the time of arrest for violating this section, the law enforcement officer shall seize the drivers license of the arrested person as provided by § 5-65-402 and Driver Services shall disqualify the driving privileges by § 27-23-112, under the procedure in § 5-65-402.

(f) Every magistrate or judge of a court shall keep a record of every violation of this section presented to the court and shall keep a record of every official action taken by the court.

(g) Within thirty (30) days after a person has been found guilty, or pleaded guilty or nolo contendere on a charge of violating any provision of this section, every magistrate of the court or clerk of the court shall prepare and immediately forward to the Office of Driver Services an abstract, which shall be certified as true and correct, of the record of the court covering the case where a person was found guilty, or pleaded guilty or nolo contendere;

(h) The abstract shall be made on a form furnished by the Office of Driver Services and shall include all items that they shall determine as necessary.

(i) Any violation of the offenses found in subsection (a)of this section and the penalties and suspensions imposed for those violations shall be cumulative and in addition to the penalties and suspensions for any other offense or violation under a similar Arkansas motor vehicle traffic or criminal law.

(j) The court, upon determining that the driver has violated (a)(1) or (a)(2) of this section previously or has been previously convicted of violating §§ 5-65-103 or 5-65-303, shall order an assessment of the driver(s degree of repeated alcohol abuse and shall order treatment for alcohol abuse as a condition of sentencing, if appropriate.

(k) The court, upon determining that the driver has violated (a)(1) or (a)(2) of this section previously or has been previously convicted of violating §§ 5-65-103 or 5-65-303, may order the driver to perform no less than thirty (30) days of community service in lieu of imprisonment for a second offense, or no less than sixty (60) days of community service in lieu of imprisonment for a third or subsequent offense.

Ark. Code Ann. § 27-23-114

2 Additional Court Costs

(a) $300.00.

(b) See Section XV.

Ark. Code Ann. § 16-10-305

3 Implied consent requirements for commercial motor vehicle drivers.

a) Refusal to submit to a chemical test will result in disqualification from operating a commercial vehicle.

b) If the person is under arrest and refuses testing, none shall be given, and the person's commercial driver license shall be seized by the law enforcement officer, and the officer shall immediately deliver to the person whose license was seized a temporary commercial driving permit as provided by § 5-65-402 shall cite the person for their refusal to submit to the test.

c) The arresting officer shall remit the seized commercial driver license to the Office of Driver Services as provided by § 5-65-402.

d) The judge no longer orders suspension. The Office of Driver Services disqualifies the person.

Ark. Code Ann. § 27-23-115

H Hunting/Involvement in a Shooting Accident – Implied Consent

1 Any person who purchases a hunting license for use in Arkansas or engages in hunting privileges in Arkansas shall be deemed to have given consent to a chemical test or tests of his or her blood, breath, or urine for the purpose of determining the alcohol or controlled substance content of his or her blood, breath, or urine if the person is involved in a shooting accident while hunting.

2 Any person who is dead, unconscious, or otherwise in a condition rendering the person incapable of refusal to submit to a test of his or her blood, breath, or urine shall be deemed not to have withdrawn consent and the test may be administered.

3 When a person who is hunting in Arkansas is involved in a shooting accident resulting in loss of human life or serious bodily injury, a law enforcement officer shall request and the person or persons shall submit to a chemical test or tests of the person's blood, breath, or urine for the purpose of determining the alcohol or controlled substance content of his or her blood, breath, or urine.

4 The law enforcement officer shall cause the test or tests to be administered to the person or persons injured by the shooting and a person who caused the injury by shooting another person.

5 If a person who is hunting is involved in a shooting accident resulting in loss of human life or serious bodily injury and the person refuses to submit to a chemical test upon the request of the law enforcement officer, the person shall be guilty of a violation for refusal to submit and upon conviction:

a) A court shall levy a fine of not less than two thousand five hundred dollars ($2,500) and not greater than five thousand dollars ($5,000); and
b) The Arkansas State Game and Fish Commission may suspend or revoke the person's hunting privileges or eligibility to purchase a hunting license for life.

6 The chemical tests shall be administered at the direction of a law enforcement officer having reasonable cause to believe the person to have been hunting while under the influence of alcohol or a controlled substance.

7 The law enforcement agency by which the officer is employed shall designate which of the tests authorized will be administered, and the agency shall be responsible for paying all expenses incurred in conducting the tests.

a) If a person tested requests that additional tests be made, the cost of the additional tests shall be borne by the person tested.
b) If any person objects to the taking of his or her blood for a test, the breath or urine of the person may be used to make the analysis.

8 The chemical analyses must be performed according to methods approved by the State Board of Health.

9 When a person submits to a blood test, blood may be drawn by a physician or by a person acting under the supervision of a physician.

10 Upon the request of a person who submits to a chemical test, full information concerning the test shall be made to the person or the person's attorney.

11 A person tested may have a physician, qualified technician, registered nurse, or other qualified person of his or her choice administer a complete chemical test in addition to any test administered at the direction of a law enforcement officer.

a) The law enforcement officer shall advise the person of this right.
b) If a law enforcement officer refuses or fails to advise the person of this right and to permit and assist the person to obtain the test, then the results of the test or tests taken at the direction of the law enforcement officer shall not be admissible into evidence.

Ark. Code Ann. § 15-42-127

12 Additional Court Costs

(a) $300.00.

(b) See Section XV.

Ark. Code Ann. § 16-10-305

I Necessity of Counsel or Waiver of Counsel

Prior convictions cannot be used collaterally to impose enhanced punishment unless the misdemeanant was represented by counsel or validly waived counsel. **Lovell v. State, 283 Ark. 425, 681 S.W.2d 395 (1984)**

1 Determination of Waiver

The municipal judge determines whether defendant was represented by or entered a valid waiver of counsel in the previous convictions alleged. **Wright v. State, 17 Ark. App. 24, 702 S.W.2d 811 (1986)**

2 Relevant cases.

A certified copy of a municipal docket sheet reflecting that the defendant charged with DWI had "changed plea to guilty - waived counsel" was sufficient proof that the defendant knowingly and intelligently waived his/her right to counsel. **Folkner v. State, Ark. App. NDFP (11/4/87)**

A docket notation of "Atty. O'Brien" in the "Arresting Officer" column is too ambiguous to be relied upon for proof of a valid waiver of counsel. **Tims v. State, 26 Ark. App. 102, 760 S.W.2d 78 (1988)**

A conviction document stamped with words indicating that defendant had waived his/her right to counsel, together with testimony by the municipal clerk that it was the judge's policy to ask a defendant if he/she wished to be represented by an attorney, was not sufficient evidence of a prior conviction for enhancement purposes. **Steel v. State, 284 Ark. 340, 681 S.W.2d 354 (1984)**

A docket notation that the defendant charged with DWI "knowingly and intelligently" waived his/her rights is not necessary to show that defendant was advised of his/her rights. **Neble v. State, 26 Ark. App. 163, 762 S.W.2d 393 (1988)**

A waiver is not ineffective because the defendant was unaware a guilty plea could be used to enhance punishment for a later conviction. **Id.**

3 Voluntariness.

Although the defendant had a blood-alcohol level of 0.28%, he/she was not too drunk to have voluntarily waived his/her rights. **Bryant v. State, 16 Ark. App. 45, 696 S.W.2d 773 (1985)**

4 Before breathalyzer.

There is no constitutional right to counsel before a breathalyzer test is given **Carroll v. State, 35 Ark. App. 141, 814 S.W.2d 913 (1991); Wells v. State, 285 Ark. 9, 684 S.W.2d 248 (1985)**

J Probable Cause for the Arrest

Probable cause to arrest does not require the quantum of proof necessary to support a conviction, and in assessing the existence of probable cause, the appellate court's review is liberal rather than strict. **Hilton v. State, 80 Ark. App. 401, 96 S.W.3d 757 (2003)**

A police officer may conduct a traffic stop and detain a motorist only where the officer has probable cause to believe that a traffic violation has occurred; the relevant inquiry is whether the officer had probable cause to believe that a traffic violation was being committed or had occurred. **Barrientos v. State, 72 Ark. App. 376, 39 S.W.3d 17 (2001)**

A law enforcement officer may arrest a person without a warrant if the officer has reasonable cause to believe that such person has committed the offense of driving a vehicle while under the influence of any intoxicating liquor or drug. **Ark. R. Crim. P. 4.1(a); Hill v. State, 315 Ark. 297, 868 S.W.2d 44 (1993)**

A DWI offense can be committed on private property. **Fitch v. State, 313 Ark. 122, 853 S.W.2d 874 (1993)**

Based on a citizen's information regarding erratic driving, the police approached appellant's home, was admitted by appellant's visiting mother-in-law and followed her to appellant's bedroom where field sobriety tests were administered and appellant was arrested for first offense DWI. It was held that the police had no authority to enter appellant's home to make a warrantless arrest for first offense DWI. In the statutory scheme of criminal offenses, the seriousness of DWI first offense does not rise to the level that would warrant violation of the Fourth Amendment(s special protection afforded to the individual in his home. Also, the warrantless home arrest cannot be upheld simply because evidence of the offender(s blood alcohol level might have dissipated while the police obtained a warrant. It was also held that the mother-in-law only consented to the officers' entry in the front door; no consent was given for the officer to follow her to the appellant's bedroom. **Norris v. State, 338 Ark. 397, 993 S.W.2d 918 (1999)**

A radio dispatcher advised the officer that the driver of a jeep was shooting fireworks out of the window and was possibly DWI, with potential damages to persons or property. The officer verified the license number of the jeep as matching the one broadcast and observed the jeep pulling out of a parking lot slowly despite the lack of traffic, proceeding slowly and weaving occasionally. The officer had specific, particularized and articulable reasons indicating that the driver or vehicle may have been involved in criminal activity, and under the totality of the circumstances, the investigatory stop was reasonable and warranted. **Reeves v. State, 20 Ark. App. 17, 722 S.W.2d 880 (1987)**

An officer answered a radio dispatch to look for a "black Ford pickup with one white male" which was involved in a parking lot brawl. While following the pickup the officer noticed the erratic manner of driving and pulled over the truck. The court stated there was a reasonable suspicion of intoxication. **Miller v. State, 21 Ark. App. 10, 727 S.W.2d 393 (1987)**

Officer had reasonable cause for the arrest where he/she had personally observed the defendant and believed he/she was intoxicated and had information from a deputy sheriff that defendant was operating a motor vehicle while intoxicated. **Wright v. State, 17 Ark. App. 24, 702 S.W.2d 811 (1986)**

A stopped car on the paved or main traveled part of the road provides a reason for police to suspect that a misdemeanor involving injury to persons or property is being committed. Therefore, officers had reasonable cause to stop defendant, and the results of his/her breathalyzer test need not be suppressed. **Dacus v. State, 16 Ark. App. 222, 699 S.W.2d 417 (1985)**

The defendant, arrested for DWI, was stopped initially because he/she attempted to avoid a police roadblock. The officer testified he/she did not observe erratic driving nor did he/she suspect the

defendant of criminal activity; however, probable cause to arrest was apparent after he/she approached the vehicle. **Coffman v. State, 26 Ark. App. 45, 759 S.W.2d 573 (1988)**

Police officer did not have reasonable cause to stop the defendant when the only information he/she received was anonymous and gave extremely general information about a "loud party" and a "brown jeep". **Van Patten v. State, 16 Ark. App. 83, 697 S.W.2d 919 (1985)**

K Field Sobriety Tests

An officer's testimony of performance of field tests may be the sole basis of conviction, chemical testing not being necessary, if the evidence is strong. **Wilson v. State, 285 Ark. 257, 685 S.W.2d 811 (1985)**

1 Although there are many varieties of field tests, there is currently a program administered by the Arkansas Highway and Transportation Department in which people will travel anywhere in the state to train law enforcement officers in three standardized field sobriety tests, which are:

(a) Walk and turn

(b) One leg stand test; and

(c) Horizontal Gaze Nystagmus.

2 Other tests. The administration of field tests is not yet standardized in Arkansas and many tests and varieties of the three previous mentioned tests are still used, e.g., ABCs, finger-to-nose, etc.

The officers testimony regarding his/her training that dealt with the horizontal gaze nystagmus test was sufficient to establish him as an expert witness qualified to discuss the details and results of the test. When the officer was allowed only to testify that the test results indicated that the driver had ingested substances that would make him/her an unsatisfactory driver, there was no error in the admission of the testimony. **Brown v. State, 38 Ark. App. 18, 827 S.W.2d 174 (1992**

3 Portable Breath Tests (PBTs).

PBT results may form reasonable cause for arrest, but may not be the basis for conviction of DWI. Results of PBT tests are admissible if they have a tendency to exculpate a defendant. **Patrick v. State, 295 Ark. 473, 750 S.W.2d 391 (1988)**

L Arkansas Case Law Regarding Blood and Breathalyzer Tests

1 Blood Tests

Blood tests ordered by an emergency room physician for his own information do not have to be shown to be performed pursuant to Ark. Code Ann. § 5-65-204, which requires the test to be

conducted according to methods approved by the State Department of Health. The statute is limited to those tests ordered either by a police officer or a defendant in connection with a criminal charge relating to sobriety. **Weaver v. State, 290 Ark. 556, 720 S.W.2d 905 (1986)**

There is substantial compliance with Ark. Code Ann. § 5-65-204(d) in that the blood test was done by a qualified medical technologist working under the general supervision of a physician. It was not necessary that the doctor actually be present at the procedure in question. **Blake v. State, Ark. App. NDFP (2/25/87)**

Over defendant's objections, evidence of the results of a blood alcohol test performed on the defendant in the hospital emergency room was entered under the Hospital Records Act (Ark. Code Ann. § 16-46-301). The defendant argued the act does not apply to criminal proceedings. The court held that strict compliance with the act is required and that confidential medical records cannot be used in a criminal case against one who has not waived his/her privilege of confidentiality and objects at trial. There is no implied consent to a blood, breath or urine test unless one of the conditions in Ark. Code Ann. § 5-65-202(a) is present. **Mosely v. State, 22 Ark. App. 29, 732 S.W.2d 861 (1987)**

2 Breathalyzer Tests

The court could take judicial notice of the fact that Health Department regulations do not specify where solutions for calibrating can be obtained. **Hughes v. State, 17 Ark. App. 34, 702 S.W.2d 817 (1986)**

The officer who calibrated the breathalyzer testified he/she did not know whether the test used had been obtained from the Health Department or a private pharmaceutical company, did not know when the solution was purchased or how long it had been in the Sheriff's office, did not know whose possession the solution had been in before the breathalyzer test, who had access to the bottle after the seal was broken, or how many calibrations had been made using the same solution. In rejecting the defendant's chain of custody argument, the court stated that the alcohol content of a calibrating solution (unlike the content of a blood sample) is known before the test. Therefore, when the calibrating solution is tested with results as expected, this tends to prove the integrity of the solution and the machine. **Id.**

See also State v. Massery, 302 Ark. 447, 790 S.W.2d 175 (1990). *(Trial court found that the officer operating the breathalyzer machine did not have adequate knowledge to state that the simulator he/she used to calibrate the breathalyzer was approved. Therefore, the officer's testimony lacked a proper foundation and the court excluded the results of the test and the testimony.)*

The closest calibration of the breathalyzer was only within 24 hours and 12 minutes, but the court held that this was substantial compliance. **Tharp v. State, 294 Ark. 615, 745 S.W.2d 612 (1988)**

Defendant argued that the officer who administered the breathalyzer test did not observe the defendant for a 20 minute period preceding the test and that the officer testified he/she could not

recall whether the defendant belched or ingested fluid or food during that time. The court noted that recent Arkansas Supreme Court holdings indicated that an officer is not required to "stare fixedly" at the arrested person for twenty minutes. The officer's testimony that he/she had observed the defendant for the required time and that he/she would have been aware if the defendant put anything in his/her mouth presented a prima facie showing of compliance. Therefore, the defendant's argument went to the weight of the evidence, not its admissibility. **Almobarak v. State, 22 Ark. App. 69, 733 S.W.2d 422 (1987)**

Health Department regulations do not require that a breathalyzer be reset if the first test attempt does not provide enough breath to be analyzed. The defendant had to blow into the machine three times before the machine received an adequate volume of air to register any results. **Riggins v. State, 17 Ark. App. 68, 703 S.W.2d 463 (1986)**

Defendant argued that the breath test results were inadmissible because a monthly proficiency report had not been filed for the month of June (when his/her arrest occurred). Monthly reports were filed for April and May. The machine was certified from April to July and a spot check was made on the date of the arrest. The court held this to be substantial compliance. **Marx v. State, 291 Ark. 325, 724 S.W.2d 456 (1987)**

Evidence that a breathalyzer machine was defective at or near the time of testing, or that Department of Health procedures were not followed goes to the weight of the evidence and does not require suppression of the results. **McKim v. State, 25 Ark. App. 176, 753 S.W.2d 295 (1988)**

If a breath test is administered more than two (2) hours after an accident, no presumption of intoxication is applicable; however, the results of the test are still admissible into evidence. **Elam v. State, 286 Ark. 174, 690 S.W.2d 352 (1985)**

For a charge of driving while intoxicated (as opposed to driving with blood alcohol content of 0.10% or more), it is permissible but not mandatory to introduce a chemical test. **Wilson v. State, 285 Ark. 257, 685 S.W.2d 811 (1985); Yacono v. State, 285 Ark. 130, 685 S.W.2d 500 (1985)**

An intoxilyzer satisfies the statutory requirement of being a "chemical analysis." **Dollar v. State, 287 Ark. 153, 697 S.W.2d 93 (1985)**

Ark. Code Ann. § 5-65-206 does not require proof of an installation certificate or a senior operator's testimony before test results are admissible. The senior operator and the person who operates the machine must be made available for cross-examination by the defense upon reasonable notice to the prosecutor. **Johnson v. State, 17 Ark. App. 82, 703 S.W.2d 475 (1986)**

The DWI law does not require the state to produce in court the Arkansas State Health Department official who certifies the breathalyzer machine. **Wells v. State, 285 Ark. 9, 684 S.W.2d 248 (1985)**

Introduction of a certificate to perform breathalyzer tests is not necessary where the operator testifies as to his/her training and certification. **Adcock v. State, Ark. Ct. App. NDFP (3/9/88)**

Where the State conceded that appellant requested that those persons responsible for calibrating the machine be made available for cross-examination and that the State had not done so, it was clear that the trial court erred in admitting a trooper's testimony regarding the results of appellant's breathalyzer test. **White v. State, 73 Ark. App. 264, 42 S.W. 2d 584 (2001)**

3 Additional Tests

Officers are required to assist an accused in obtaining a second breathalyzer test but are not required to "initiate" a request for additional tests. **Spicer v. City of Fayetteville, 284 Ark. 315, 681 S.W.2d 369 (1984)**

A law enforcement officer must provide reasonable assistance to the defendant in obtaining an additional blood or breathalyzer test. **Williford v. State, 284 Ark. 449, 683 S.W.2d 228 (1985)**

The provision for assistance in obtaining an additional blood or urine test does not extend to transporting the accused to another locale when there is no showing that facilities at the place of arrest are inadequate to perform the necessary tests. **Weatherford v. State, 286 Ark. 376, 692 S.W.2d 605 (1985)**

The trial court admitted evidence of the defendant's breathalyzer test results over the objection of the defendant that he/she had not signed a written "waiver of rights." The court reviewed Ark. Code Ann. § 5-65-204 and held that although a person is required to be advised of his/her rights to a second test, it does not dictate that a written waiver be obtained. **Robertson v. State, 12 Ark. App. 243, 674 S.W.2d 947 (1984)**

A written statement advising defendant that he/she has a right to a blood or urine test in addition to the one administered by the police is not totally defective because it failed to mention an additional breath test. **Hegler v. State, 286 Ark. 215, 691 S.W.2d 129 (1985)**

Ark. Code Ann. § 5-65-204(e)(1) does not specify when a law enforcement officer must advise the person of the right to an alternative test. The physician taking the blood sample advised defendant of his/her right to an additional test before the blood was taken and the officer advised defendant of his/her right shortly after the blood test was taken. The court held there was substantial compliance with the statute. **McCoy v. State, Ark. Ct. App. NDFP (1/29/86)**

The Arkansas Supreme Court has consistently stated that substantial compliance with Ark. Code Ann. § 5-65-204(e)(1) (advising defendant of the right to additional tests) is all that is needed. **Spicer v. City of Fayetteville, 284 Ark. 315, 681 S.W.2d 369 (1984); and Sparrow v. State, 284 Ark. 396, 683 S.W.2d 218 (1985)**

Defendant was advised that he had the right to an additional blood or urine test but was not advised that he/she had the right to an additional breath test. The court stated that there was substantial compliance with Ark. Code Ann. § 5-65-204(e)(1) and that is all that is required. This case clears up a controversy raised by the Court of Appeals' previous decision in Mitchell v. City of North Little Rock, 15 Ark. App. 331, 642 S.W.2d 624 (1985). The court stated: "To the extent that our decision in Mitchell might infer that a defendant is entitled to be informed of the full range of additional tests available, such a holding would be in conflict with the Supreme Court's ruling in Hegler v. State, 286 Ark. 215, 691 S.W.2d 129 (1985)." **Qualls v. City of Clarksville, 19 Ark. App. 251, 719 S.W.2d 702 (1986)**

M "Control of Vehicle" Questions

Ark. Code Ann. § 5-65-103

1 Relevant Cases.

The defendant was not in actual control under the facts of this case. The defendant was found asleep in his/her car, which was parked in a driveway of a business located near a highway. The motor was not running and the keys were in the seat of the car. The court, in dicta, stated that it would be difficult to prove actual control since the defendant might not have driven to the location or, if he/she had driven there, might not have become intoxicated until later. **Dowell v. State, 283 Ark. 161, 671 S.W.2d 740 (1984)**

No evidence showing that the appellant operated or was in actual physical control of the vehicle. **Cook v. State, 37 Ark. App. 27, 823 S.W.2d 916 (1992) See also Stephenson v. City of Fort Smith, 71 Ark. App. 190, 36 S.W. 3d 754 (2000)**

The defendant was in actual physical control of the vehicle. He/she was found asleep behind the steering wheel, the keys were in the ignition and, when he/she awoke, he/she attempted to start the vehicle. **Wiyott v. State, 284 Ark. 399, 683 S.W.2d 220 (1985)**

The defendant was found to be in actual physical control of the vehicle. The defendant contended that he did not drink anything until after he ran the truck into a ditch so that he was never in control of his truck while he was drunk. **Altes v. State, 286 Ark. 94, 689 S.W.2d 541 (1985)**

Defendant was found asleep behind the wheel of a car which was lodged against a building in a parking lot. The ignition key was turned on, the gear shift lever was in the "drive" position but the engine was not running. The defendant was found to be in actual physical control. **Roberts v. State, 287 Ark. 451, 701 S.W.2d 112 (1985)**

Defendant was found outside his/her vehicle with the motor turned off, and the location of the keys was uncertain. The court affirmed the conviction primarily on the basis of the defendant's statement to the officer that he/she had just come from Jonesboro and that he/she was the only person around the vehicle. **Azbill v. State, 285 Ark. 98, 685 S.W.2d 162 (1985)**

Physical control was shown where the defendant was found asleep in his/her truck on the parking lot of a nightclub at 3:00 a.m. with the motor running and the lights on. **Blakemore v. State, 25 Ark. App. 335, 758 S.W.2d 425 (1988); Wetherington v. State, 319 Ark. 37, 889 S.W.2d 34 (1994)**

The defendants were found to be in actual physical control where, in one case, the defendant was found passed out in a ditch near his wrecked car and, in another case, the defendant was found asleep in his/her wrecked car. **Neble v. State, 26 Ark. App. 163, 762 S.W.2d 393 (1988); Deshazier v. State, 26 Ark. App. 193, 761 S.W.2d 952 (1988)**

2 Motor Vehicle

(a) A definition for "motor vehicle" is not provided in the Omnibus DWI Act; however, the term would generally encompass automobiles, trucks and motorcycles.

Citing Ark. Code Ann. § 27-16-207, which defines motor vehicle as "every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wire but not operated on rails," the Attorney General's office has concluded that the DWI provisions apply to moped operators. **Op. Att'y. Gen. # 84-146**

An all-terrain vehicle (ATV) is a motor vehicle for purposes of the Omnibus DWI Act. **Fitch v. State, 313 Ark. 122, 853 S.W.2d 874 (1993)**

(b) Inclusion of other vehicles depends upon judicial interpretation of the code.

VIII ARREST WARRANTS

A Form of Warrant

1 Every arrest warrant shall:

(a) be signed in name of the state

(b) be directed to any law enforcement officer

(c) be signed by a judicial officer

(d) set forth judge's office and date of issuance

(e) identify or describe accused with reasonable certainty

(f) be attached to information if filed, if not filed, then to affidavit supporting issuance

(g) name or describe offense committed and county where

(h) command that accused be arrested.

2 A warrant may specify the manner of execution, terms of release and requirements for appearance.

Ark. R. Crim. P. 7.2

See Relevant Forms

See Fairchild v. Lockhart, 675 F. Supp. 469 (E.D. Ark. 1987); Abbott v. State, 307 Ark. 278, 819 S.W.2d 694 (1991).

An illegal arrest, without more, is not a bar to a subsequent prosecution, nor does it invalidate a conviction; an invalid arrest may call for the suppression of a confession or other evidence but it does not entitle the defendant to be discharged from responsibility for the offense. **State v. Fore, 46 Ark. App. 27, 876 S.W.2d 278 (1994)**

B Basis for Issuance

1 Neutral and detached judicial officer may issue arrest warrant:

(a) if person fails to respond to summons or citation; or

(b) from affidavit, recorded testimony or other information reasonable cause exists to believe an offense has been committed and person has committed it.

(c) If the offense is a misdemeanor a summons should issue unless:

(1) For a misdemeanor involving violence to a person or risk or threat of serious bodily injury; or where it appears person won't respond to a summons, some factors to be considered are:

(a) the nature and circumstances of the offense charged

(b) the weight of the evidence against the person

(c) person's place and length of residence

(d) person's present and past employment

(e) person's family relationship

(f) person's financial circumstances

(g) person's apparent mental condition

(h) person's past criminal record

(i) previous record of appearance at court proceeding

(j) any other relevant information.

2 A judicial officer who has determined in accordance with Rule 7.1(b) that an arrest warrant should be issued may authorize the clerk or his/her deputy to issue the warrant.

Ark. R. Crim. P. 7.1

Order dismissing state arrest warrants

See Relevant Form

C Arrest with Warrant

1 Any law enforcement officer may arrest a person pursuant to a warrant in any Arkansas county.

Ark. R. Crim. P. 4.2

2 Officer need not have warrant in his/her possession at time of arrest.

Ark. R. Crim. P. 4.3

3 Officer shall:

(a) if not apparent, identify himself/herself

(b) tell person he/she is under arrest; and

(c) reasonably promptly tell person cause of arrest.

Ark. R. Crim. P. 4.4

4 Officer may not:

(a) question person if person indicates that he/she doesn't want to be questioned

(b) question person if person states he/she first wants to confer with counsel.

Ark. R. Crim. P. 4.5

See also, Miranda v. Arizona, 384 U.S. 436 (1966)

5 Procedure on arrest: prompt taking to police station

Any person arrested, if not released pursuant to these rules, shall be brought promptly to a jail, police station, or other similar place. The arresting officer may, however, first take the person to some other place, if:

(a) the person so requests; or

(b) such action is reasonably necessary for the purpose of having the person identified:

(c) by a person who is otherwise unlikely to be able to make the identification; or

(d) by a person near the place of arrest or near the scene of a recently committed offense.

Ark. R. Crim. P. 4.6

D Issuance of Summons in Lieu of Arrest Warrant

1 Authority to Issue Summons.

(a) All officials having the authority to issue an arrest warrant may issue a criminal summons in lieu thereof in all cases in which a complaint,

information, or indictment is filed or returned against a person not already in custody.

(b) The clerk of a court may issue a summons only upon the filing of an information or upon affidavit sworn to by the complainant and approved and endorsed by a prosecuting attorney as provided in Rule 7.1(c).

Ark. R. Crim. P. 6.1

2 Form of summons.

(a) A summons shall:

(1) be in writing

(2) be signed by the officer issuing it with the title of office

(3) state the date of issuance and the municipality or county where issued

(4) specify the name of the accused and the offense alleged

(5) designate a time, place and court for the appearance of the accused; and

(6) have attached a copy of the information, complaint or indictment.

(b) Every summons shall inform the accused that failure to appear at the stated time, place, and court may result in arrest and shall constitute a separate offense for which prosecution may result.

Ark. R. Crim. P. 6.2

IX SEARCH WARRANTS

A Authority and Grounds to Issue

1 A search warrant may be issued by any judicial officer of this state only upon affidavit sworn to before a judicial officer which establishes the grounds for its issuance.

2 A warrant may be issued to search for and seize any property

(a) Stolen or embezzled in violation of the laws of this state; or

(b) Designed or intended for use or which has been used as a means of committing a criminal offense; or

(c) Which is held or possessed by any person in violation of the laws of this state; or

(d) That constitutes evidence of a criminal offense or is of evidentiary value in any criminal prosecution.

3 Upon complaint being made on oath before any officer authorized to issue process for the apprehension of offenders that any personal property has been stolen or embezzled and that the complainant suspects that the property is concealed in any particular house or place, if the officer shall be satisfied that there is reasonable ground for the suspicion, he/she shall issue a warrant to search for the property.

Ark. Code Ann. § 16-82-201

B Warrant upon Oral Testimony

1 If the circumstances make it reasonable to dispense with a written affidavit, any judicial officer of this state may issue a warrant based upon sworn oral testimony communicated by telephone or other appropriate means.

2 The person who is requesting the warrant shall prepare a document, in a form approved by the Arkansas Judicial Council, to be known as a duplicate original warrant and shall read such duplicate original warrant, verbatim, to the judicial officer. The judicial officer shall enter, verbatim, what is read to such magistrate on a document to be known as the original warrant. The judicial officer may direct that the warrant be modified.

3 If the judicial officer is satisfied that the circumstances are such as to make it reasonable to dispense with a written affidavit and that grounds for the application exist or that there is probable cause to believe that they exist, the

judicial officer shall order the issuance of a warrant by directing the person requesting the warrant to sign the judicial officer's name on the duplicate original warrant. The judicial officer shall immediately sign the original warrant and enter on the face of the original warrant the exact time when the warrant was ordered to be issued. The finding of probable cause for a warrant upon oral testimony may be based on the same kind of evidence as is sufficient for a warrant upon affidavit.

4 When a caller informs the judicial officer that the purpose of the call is to request a warrant, the judicial officer shall immediately place under oath each person whose testimony forms a basis of the application and each person applying for that warrant. If a voice recording device is available, the judicial officer shall record by means of such device all of the call after the caller informs the judicial officer that the purpose of the call is to request a warrant. Otherwise a stenographic or longhand verbatim record shall be made immediately. If a voice recording device is used or stenographic record made, the judicial officer shall have the record transcribed, shall certify the accuracy of the transcription, and shall file a copy of the original record and the transcription with the court. If a longhand verbatim record is made, the judicial officer shall file a signed copy with the court.

5 The contents of a warrant upon oral testimony shall be the same as the contents of a warrant upon affidavit.

6 The person who executes the warrant shall enter the exact time of execution on the face of the duplicate original warrant.

7 Absent a finding of bad faith, evidence obtained pursuant to a warrant issued under this paragraph is not subject to a motion to suppress on the ground that the circumstances were not such as to make it reasonable to dispense with a written affidavit.

Ark. Code Ann. § 16-82-201

C Issuance Problems

1 Sufficiency of Application.

The person or place to be searched must be particularly described.

Ark. R. Crim. P. 13.1
Ark. Code Ann. § 16-82-201

(a) The facts and circumstances set forth should tend to make a reasonable person believe that the person or thing to be searched is in the place described.

See State v. Mosley, 313 Ark. 616, 856 S.W.2d 623 (1993)

(b) If the application is based on hearsay, facts bearing on informant's reliability must be disclosed.

Ark. R. Crim. P. 13.1(b); Illinois v. Gates, 462 U.S. 213 (1983)

(c) If the application is based on hearsay, the means by which the information was obtained shall be disclosed if practicable.

Ark. R. Crim. P. 13.1(b)

(d) Failure to establish veracity or bases of knowledge of informant shall not require denial of application, if the affidavit or testimony as a whole "provides a substantial basis for a finding of reasonable cause to believe that things subject to seizure will be found in a particular place."

Ark. R. Crim. P. 13.1(b)

(e) Application must be supported by affidavit or recorded testimony given under oath before a judicial officer.

Ark. R. Crim. P. 13.1(b)

(f) Application must be signed.

Ark. R. Crim. P. 13.1(b)

The officer making application for the search warrant failed to disclose to the judge that the affidavit was based on hearsay. The trial court erred when it applied Rule 13.1(b) and Leon v. U.S. analysis and invalidated the search warrant. The trial court should have applied a Franks v. Osborne analysis, which is the proper analysis for determining whether false, misleading information or omissions render an affidavit in support of a search warrant fatally defective, where the defendant failed to show by a preponderance of the evidence (1) that the affiant made a false statement knowingly and intentionally, or with reckless disregard for the truth, and (2) that with the affiant's false material set to one side, the affiant's remaining content was insufficient to establish probable cause, the trial court erred in invalidating the search warrant. **State v. Rufus, 338 Ark. 305, 993 S.W.2d 490 (1999)**

<u>See Relevant Form</u>

2 Sufficiency of Warrant

(a) Search warrant may be issued only by a judicial officer.

(b) Identity and title of the issuing judicial officer must be stated.

(c) Date of application and place of application must be stated.

(d) Judicial officer's finding of reasonable cause for issuance shall be set forth.

(e) The identity of the person to be searched shall be stated or described with particularity.

(f) The location and designation of the place to be searched shall be stated or described with particularity.

(g) The persons or things constituting the object of the search shall be stated.

(h) The time within which the warrant must be returned shall be stated.

(i) The warrant shall be addressed to any law enforcement officer.

(j) The warrant shall provide that the search is to be executed between the hours of 6:00 a.m. and 8:00 p.m.; or

(k) If the search is to be conducted at night, the judicial officer must find that there is reasonable cause to believe that:

(1) The place to be searched is difficult of speedy access

(2) The property is in danger of imminent removal; or

(3) The warrant can be safely or successfully executed only at night or under unpredictable circumstances.

(l) If the warrant authorizes the seizure of documents, Ark. R. Civ. P 13.5 requires that:

(1) The executing officer shall endeavor to identify documents not covered by warrant without examining contents of documents; unless

(2) The documents are impounded because specified and unspecified documents must be examined.

While certainly the better practice would be for the judicial officer to insert in the warrant a specific finding justifying a nighttime search where the search warrant specifically authorized a nighttime search, the judicial officer's failure to insert in the warrant a specific finding justifying a nighttime search did not require suppression of

evidence seized pursuant to the search warrant. **Anhalt v. State, 70 Ark. App. 10, 13 S.W.3d 603 (2000)**

The failure to justify a nighttime search with sufficient factual information was a substantial violation of the Arkansas Rules of Criminal Procedure and appellants rights to warrant suppression of the evidence obtained. **Garner v. State, 307 Ark. 353, 820 S.W.2d 446 (1991)**

The search warrant was facially deficient and the nighttime search defective, where the warrant noted reasonable justification for a nighttime search but failed to authorize a nighttime search. **Carpenter v. State, 36 Ark. App. 211, 821 S.W.2d 51 (1991).**

Ark. R. Crim. P. 13.1 and 13.2

See also, Fairchild v. Lockhart, 675 F. Supp. 469 (E.D. Ark. 1987) and Thompson v. State, 280 Ark. 265, 658 S.W.2d 350 (1983).

See Relevant Form

D Execution

1 A search warrant may be executed by any officer. The officer charged with its execution may be accompanied by such other officers or persons as may be reasonably necessary for the successful execution of the warrant with all practicable safety.

2 Prior to entering a dwelling to execute a search warrant, the executing officer shall make known the officer's presence and authority for entering the dwelling and shall wait a period of time that is reasonable under the circumstances before forcing entry into the dwelling. The officer may force entry into a dwelling without prior announcement if the officer reasonably suspects that making known the officer's presence would, under the circumstances, be dangerous or futile or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence. For purposes of this rule, a "dwelling" means a vehicle, building, or other structure (i) where any person lives or (ii) which is customarily used for overnight accommodation of persons whether or not a person is actually present. Each unit of a structure divided into separately occupied units is itself a dwelling.

3 In the course of any search or seizure pursuant to the warrant, the executing officer shall give a copy of the warrant to the person to be searched or the person in apparent control of the premises to be searched. The copy shall be furnished before undertaking the search or seizure unless the officer has reasonable cause to believe that such action would endanger the successful execution of the warrant with all practicable safety, in which case he shall, as

soon as is practicable, state his authority and purpose and furnish a copy of the warrant. If the premises are unoccupied by anyone in apparent and responsible control, the officer shall leave a copy of the warrant suitably affixed to the premises.

4 The scope of search shall be only such as is authorized by the warrant and is reasonably necessary to discover the persons or things specified therein. Upon discovery of the persons or things so specified, the officer shall take possession or custody of them and search no further under authority of the warrant. If in the course of such search, the officer discovers things not specified in the warrant which he reasonably believes to be subject to seizure, he may also take possession of the things so discovered.

5 Upon completion of the search, the officer shall make and deliver a receipt fairly describing the things seized to the person from whose possession they are taken or the person in apparent control of the premises from which they are taken. If practicable, the list shall be prepared in the presence of the person to whom the receipt is to be delivered. If the premises are unoccupied by anyone in apparent and responsible control, the executing officer shall leave the receipt suitably affixed to the premises.

6 The executing officer, and other officers accompanying and assisting him, may use such degree of force, short of deadly force, against persons, or to effect an entry or to open containers as is reasonably necessary for the successful execution of the search warrant with all practicable safety. The use of deadly force in the execution of a search warrant, other than in self-defense or defense of others, is justifiable only if the executing officer reasonably believes that there is a substantial risk that the persons or things to be seized will suffer, cause, or be used to cause death or serious bodily harm if their seizure is delayed, and that the force employed creates no unnecessary risk of injury to other persons.

Ark. R. Crim. P. 13.3

Evidence seized under a defective search warrant is admissible so long as it is shown that officer acted in good faith in procuring the warrant and executing it. **United States v. Leon, 468 U.S. 897 (1984); Lincoln v. State, 285 Ark. 107, 685 S.W.2d 166 (1985)**

E Return of a Search Warrant

1 If a search warrant is not executed, the officer shall return the warrant to the issuing judicial officer within a reasonable time, not to exceed sixty (60) days from the date of issuance, together with a report of the reasons why it was not executed.

2 An officer who has executed a search warrant or, if such officer is unavailable, another officer acting in his behalf, shall, as soon as possible and not later than

the date specified in the warrant, return the warrant to the issuing judicial officer together with a verified report of the facts and circumstances of execution, including a list of things seized.

3 Subject to the provisions of subsection (d), the issuing judicial officer shall file the warrant, report, and list returned to him with the record of the proceedings on the application for the warrant. In any event, the judicial officer shall cause the list to be given such public notice as he may deem appropriate.

4 If the issuing judicial officer does not have jurisdiction to try the offense in respect to which the warrant was issued or the offense apparently disclosed by the things seized, he may transmit the warrant and the record of proceedings for its issuance, together with the documents submitted on the return, to an appropriate court having jurisdiction to try the offense disclosed.

Ark. R. Crim. P. 13.4

F Trial Problems

1 Searches without Warrants

(a) By Consent

(1) An officer may conduct searches and make seizures without a search warrant or other color of authority if consent is given to the search or seizure.

Ark. R. Crim. P. 11.1

(2) Search of person, person must consent.

Ark. R. Crim. P. 11.2

(3) Search of person under 14 years old, person and parent, guardian or a person in loco parentis must consent.

Ark. R. Crim. P. 11.2

(4) Search of vehicle, registered owner or person in apparent control must consent.

Ark. R. Crim. P. 11.2

(5) Search of premises, person with apparent entitlement must consent.

Ark. R. Crim. P. 11.2

(6) Search may not exceed scope of consent given and the consent may be withdrawn or limited at any time prior to completion of the search.

Ark. R. Crim. P. 11.3
Ark. R. Crim. P. 11.5

The failure of Drug Task Force agents in the case to advise one of the appellants that she had the right to refuse consent to the search of her home violated her right and the right of the other appellant against warrantless intrusions into the home, as guaranteed by the Arkansas Constitution. The trial court correctly suppressed the evidence seized as a result of the unconstitutional search. **State v. Brown & Williams (SCCR 03-914; op. del. 03/25/04)**

(b) Stop and Frisk

(1) An officer may stop and detain any person he suspects has committed, is committing or is about to commit a felony or misdemeanor involving injury to persons or damage to property.

Ark. R. Crim. P. 3.1
See Rabun v. State, 36 Ark. App. 237, 821 S.W.2d 62, (1991); and Lambert v. State, 34 Ark. App. 227, 808 S.W.2d 788 (1991).

(2) If the officer reasonably suspects the person is armed and presently dangerous, the officer can search the person's outer clothing and immediate surroundings.

Ark. R. Crim. P. 3.4

(c) Incidental to Arrest--Permissible Purposes

(1) An officer making a lawful arrest may search the person or property of the accused:

a to protect the officer, the accused or others

b to prevent the escape of the accused

c to obtain evidence of the commission of the offense for which accused was arrested

d to seize contraband, the fruits of crime, or things criminally possessed or used in conjunction with the offense

e to furnish appropriate custodial care if the accused is jailed.

Ark. R. Crim. P. 12.1

(2) At the place of detention a search may be made of the accused's:

a garments and personal effects

b body surface

c immediate area of control.

Ark. R. Crim. P. 12.2

(d) Search of Body Cavities of Accused

(1) Accused's blood stream, body cavities and subcutaneous tissues may be searched following an arrest but only:

a if conducted by a physician or licensed nurse;

b if there is a strong probability that it will disclose seizable evidence related to the offense for which the accused was arrested

c if a delay to procure a warrant would probably result in loss or destruction of object sought

d if it reasonably appears that search is reasonable under the circumstances.

Ark. R. Crim. P. 12.3

(e) Search of Vehicle

(1) If the accused is in a vehicle or in the immediate vicinity of a vehicle, which is in his/her apparent control, the vehicle may be searched if:

a the arresting officer has reasonable cause to believe that the vehicle contains things connected with the offense for which the arrest was made

b the search is made at the time of the arrest or as soon after as is reasonably practicable.

Ark. R. Crim. P. 12.4

(2) A vehicle impounded following person's arrest or retained for good cause may be inventoried for safe-keeping of vehicle and contents.

Ark. R. Crim. P. 12.6(b)
South Dakota v. Opperman, 428 U.S. 364 (1976)

(f) Search of Premises

(1) Premises may be searched without a warrant if:

a made at time of accused's arrest

b accused has apparent possessory interest in all or part of the premises

c officer entered premises for purpose of arresting accused.

d Officer must have reason to believe that premises contain things which are connected with offense and are likely to be removed or destroyed before warrant is served.

Ark. R. Crim. P. 12.5

(g) Plain View Doctrine

(1) The Arkansas Supreme Court has not clearly articulated whether evidence seized in plain view constitutes a search.

Kelley v. State, 261 Ark 31, 545 S.W.2d 919 (1977)

(2) Case law tends to support permissible seizure if:

a police were legitimately on premises

b evidence was inadvertently discovered

c evidence was recognized immediately as contraband; and

d exigent circumstances existed.

At a minimum, the officers reasonably could have foreseen that their decision to approach the appellant's residence without a warrant immediately after completing a controlled mail delivery of methamphetamine would likely result in an attempt to destroy the evidence. The particular exigent circumstance (a fear that evidence would be destroyed) was effectively created by the police's chosen strategy in the case. The police had probable cause to obtain an anticipatory search warrant conditioned on the delivery of the package containing drugs. The police

also had the opportunity to obtain a search warrant for the home after the delivery. The State failed to meet its burden, and the trial court erred in concluding that the warrantless entry was reasonable. **Mann v. State (SCCR 03-1460 op. del. 04-29-04)**

Enzor v. State, 262 Ark 545, 559 S.W.2d 148 (1977); Johnson v. State, 291 Ark. 260, 724 S.W.2d 160 (1987).

See also Washington v. State, 42 Ark. App. 188, 856 S.W.2d 631 (1993)

(h) Emergency Searches

(1) It is generally recognized that a police officer can conduct a search with reasonable cause but without a warrant in "emergency" situations when the officer believes that premises contain:

a individuals in imminent danger of serious bodily harm or death; or

b things likely to cause serious bodily harm, death, or substantial destruction of property

c things subject to seizure which will cause serious bodily injury or death if their seizure is delayed.

(2) This principle also applies to vehicle searches.

Ark. R. Crim. P. 14.3

G Testing for HIV – Discretionary

1 A person with AIDS or who tests positive for the presence of HIV antigen or antibodies is infectious to others through the exchange of body fluids during sexual intercourse and through the parental transfer of blood or blood products and under these circumstances is a danger to the public.

2 Any person arrested and charged with violating Ark. Code Ann. §§ 5-14-103, 5-14-110, 5-14 124, 5-14-125, 5-14-126, 5-14-127, 5-26-202 and 5-70-102 may be required by the court having jurisdiction of the criminal prosecution, upon a finding of reasonable cause to believe that the person committed the offense and subject to constitutional limitations, to be tested for the presence of HIV or any antibody to HIV, unless the court determines that testing the defendant would be inappropriate and documents the reasons for that determination in the court record.

3 The test shall be confidentially administered by a licensed physician, the Department of Health, or a local health department.

4 If the victim or person with whom the defendant engaged in sexual penetration during the course of the crime consents, the court shall provide the person or agency administering the test with the name, address and telephone number of the victim or the person with whom the defendant engaged in sexual penetration during the course of the crime. After the defendant is tested as to the presence of HIV or an antibody to HIV, the person or agency administering the test shall immediately provide the test results to the victim or person with whom the defendant engaged in sexual penetration during the course of the crime, and shall refer the victim or other person for appropriate counseling.

Ark. Code Ann. § 16-82-101

H Testing for HIV – Mandatory

1 It shall be mandatory that upon request of the victim, and the conviction of the defendant, a court of competent jurisdiction shall order the convicted person to submit to testing to detect in defendant the presence of the etiologic agent for AIDS or HIV.

(a) Convicted includes adjudicated under juvenile proceeding; and

(b) Sexual offense shall mean those offenses enumerated in subsection G.2. above.

2 The testing of a person convicted of a sexual offense as enumerated herein shall be conducted by the Arkansas Department of Health upon an order of a circuit court.

Note: *The code requires a circuit court order but a number of the enumerated sexual offenses are misdemeanors and therefore district court has jurisdiction.*

3 The results of any test(s) performed pursuant to this subchapter shall immediately be released to the victim and the defendant; otherwise, the results of any tests performed shall be confidential and not subject to disclosure as public information with the Freedom of Information Act.

4 Any victim of a sexual offense as enumerated herein shall, upon request of the victim, receive:

(a) Appropriate counseling

(b) HIV testing; and

(c) Referral or delivery for appropriate health care and support services.

Ark. Code Ann. § 16-82-101

X PROBATION, EXPUNGEMENT AND SEALING OF RECORDS, PROBATION OFFICERS

A Probation - First Offenders

1 Definition

As used in §§ 16-93-301-16-93-303, "Expungement" means the procedure and effect as defined in § 16-90-901(a).

Ark. Code Ann. § 16-93-301

2 Penalties

(a) No person may avail himself of the provisions of § 16-93-301-303 on more than one (1) occasion.

(b) Any person seeking to avail himself of the benefits of §§ 16-93-301-303 who shall falsely testify, swear, or affirm to the court that he has not previously availed himself of the benefits of §§ 16-93-301-303 shall be deemed guilty of a felony and shall, upon conviction, be punished by a fine of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500), or by imprisonment in the state penitentiary for not less than one (1) year nor more than five (5) years, or by both the fine and imprisonment.

(c) Any person charged under the provisions of §§ 16-93-301-303 with keeping the confidential records of first offenders, as provided in § 16-93-301, who shall divulge any information contained in the records to any person or agency other than a law enforcement officer or judicial officer shall be guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than five hundred dollars ($500).

(d) Each violation shall be considered a separate offense.

Ark. Code Ann. § 16-93-302

Probation files that are being held by a private contractor who is working for a district judge are subject to release under the FOIA, unless they are records that are subject to expungement under Ark. Code Ann. § 16-93-301 et. seq. **Op. Att'y Gen. # 99-350**

3 First time offenders - Procedure

(a)(i) Whenever an accused enters a plea of guilty or nolo contendere prior to an adjudication of guilt, the judge of the circuit or district court, in the case of a defendant who has not been previously convicted of a felony, without making a finding of guilt or entering a judgment of guilt and with the consent of the defendant, may defer further proceedings and place the

defendant on probation for a period of not less than one (1) year, under such terms and conditions as may be set by the court.

(ii) A sentence of a fine not exceeding three thousand five hundred dollars or an assessment of court costs against a defendant does not negate the benefits provided by this section or cause the probation placed on the defendant under this section to constitute a conviction for misdemeanor defendants in district court.

(a) Provided, however, that no person who pleads guilty or nolo contendere to, or is found guilty of, a sexual offense as defined by §§ 5-14-101 et seq., through 5-14-127, 5-26-202, 5-27-602, 5-27-603, and 5-27-605 in which the victim was under eighteen (18) years of age shall be eligible for expungement of the record under this subchapter.

See Relevant Form

(b) Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided.

(c) Nothing in this subsection shall require or compel any court of this state to establish first offender procedures as provided in §§ 16-93-301-303, nor shall any defendant be availed the benefit of §§ 16-93-301-303 as a matter of right.

(d) Upon fulfillment of the terms and conditions of probation or upon release by the court prior to the termination period thereof, the defendant shall be discharged without court adjudication of guilt, whereupon the court shall enter an appropriate order which shall effectively dismiss the case, discharge the defendant, and expunge the record, if consistent with the procedures established in § 16-90-901 et seq.

Ark. Code Ann. § 16-93-303

See Relevant Form

4 Arkansas Crime Information Center

(a) All district court judges and circuit court judges shall immediately report to the Arkansas Crime Information Center, in the form prescribed by the Arkansas Crime Information Center, all probations of criminal defendants under § 16-93-301-303.

See Relevant Form

(b) Prior to granting probation to a criminal defendant under §§ 16-93-301-303, the court shall query the Arkansas Crime Information Center to determine

whether the criminal defendant has previously been granted probation under the provisions of §§ 16-93-301-303.

See Relevant Form

(c) If the Arkansas Crime Information Center determines that an individual has utilized §§ 16-93-301-303 more than once, the center shall notify the last sentencing judge of that fact.

Ark. Code Ann. § 16-93-304

5 Sex offender may not reside with minor victim.

(a) Whenever an accused, who enters a plea of guilty or nolo contendere prior to an adjudication of guilt for any sexual offense defined in § 5-14-101 et seq. or incest as defined by § 5-26-202, and the sexual offense or incest was perpetrated against a minor, is eligible for probation under procedures defined in § 16-93-303 or any other provision of law, the court shall prohibit, as a condition of granting probation, the accused, upon release, from residing in a residence with any minor, unless the court makes a specific finding that the accused poses no danger to the minors residing in the residence.

(b) Upon violation of this condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

Ark. Code Ann. § 16-93-305

B Expungement and Sealing of Records

1 Definition

(a) As used in §§ 5-64-407, 16-90-601, 16-90-602, 16-90-605, 16-93-301 - 303, 16-93-314 and 16-93-1207, "expunge" shall mean that the record or records in question shall be sealed, sequestered, and treated as confidential in accordance with the procedures established by this subchapter.

(b) Unless otherwise provided by this subchapter, "expunge" shall not mean the physical destruction of any records.

(c) No person who pleads guilty or nolo contendere to, or is found guilty of, a sexual offense as defined in this section and in which the victim was under the age of eighteen (18) years shall be eligible to have the offense expunged under the procedures set forth in this subchapter.

(d) For purposes of this subchapter, "sexual offense" shall be defined as conduct prohibited by §§ 5-14-101 through 5-14-127, 5-26-202, 5-27-602, 5-27-603,

5-27-605, 16-93-303(a)(1)(B), and any other subsequently enacted criminal law prohibiting sexual conduct with a child.

Ark. Code Ann. § 16-90-901

Note: *A record of a defendant shall not be expunged under §§ 16-90-901 through 16-90-906 until all court ordered restitution has been paid.*

Ark. Code Ann. § 5-4-205

2 Effect of expungement

(a) An individual whose record has been expunged in accordance with the procedures established by this subchapter shall have all privileges and rights restored, shall be completely exonerated, and the record which has been expunged shall not affect any of his civil rights or liberties, unless otherwise specifically provided for by law.

(b) Upon the entry of the uniform order to seal records of an individual, the individual's underlying conduct shall be deemed as a matter of law never to have occurred, and the individual may state that no such conduct ever occurred and that no such records exist.

Ark. Code Ann. § 16-90-902

3 Release of sealed records

(a) The custodian of the records shall not disclose the existence of such records or release such records except when requested by:

(1) The individual whose records were sealed or the individual's attorney, authorized in writing by the individual

(2) A criminal justice agency, as defined in § 12-12-1001, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency by the individual whose record has been sealed

(3) A court, upon a showing of a subsequent adjudication of guilt of the individual whose record has been sealed

(4) A prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with the prosecution of an offense

(5) The Arkansas Crime Information Center.

(b) The custodian and access

(1) As used in this section, "custodian" shall not mean the Arkansas Crime Information Center.

(2) Access to data maintained by the Arkansas Crime Information Center shall continue to be governed by 12-12-1001 et seq.

Ark. Code Ann. § 16-90-903

4 Procedure for sealing of records

(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, with the district court in the county where the crime 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 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 court shall expunge all misdemeanor convictions 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)(i) The offenses listed in subdivision (a)(2)(A) of this section may be expunged after a period of five (5) years has elapsed since the completion of his or her sentence for those convictions; and

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

See Relevant Form

(b) A copy of the uniform petition for sealing of the record shall be served upon the prosecuting authority for the county in which the petition is filed, the arresting agency; and any city court or district court where the individual appeared before the transfer of the case to circuit court. It shall not be necessary to make any agency a party to the action.

(1) Opposition

a Any person desiring to oppose the sealing of the record shall file a notice of opposition with the court setting forth reasons within thirty (30) days after receipt of the uniform petition or after the uniform petition is filed, whichever is the later date.

b If no opposition is filed, the court may grant the petition.

c If notice of opposition is filed, the court shall set the matter for a hearing.

(c) If the court determines that the record should be sealed, the uniform order, as described in § 16-90-905, shall be entered and filed with the clerk of the court.

(d) The clerk of the court shall certify copies of the uniform order to the prosecuting attorney who filed the underlying charges, the arresting agency, any city court or district court where the individual appeared before the transfer of the case to circuit court, the Administrative Office of the Courts, and the Arkansas Crime Information Center.

(e) The clerk of any city court or district court where the individual appeared before the transfer of the case to circuit court shall remove all petitions, orders, docket sheets, and documents relating to the case, place them in a file, and sequester them in a separate and confidential holding area within the clerk's office.

(1) A docket sheet shall be prepared to replace the sealed docket sheet.

(2) The replacement docket sheet shall contain the docket number, a statement that the case has been sealed, and the date that the order to seal the record was issued.

(3) All indices to the file of the individual with a sealed record shall be maintained in a manner to prevent general access to the identification of the individual.

(f) Upon notification of an order to seal records, all clerks, arresting agencies, and other criminal justice agencies maintaining such conviction records in a

computer-generated database shall either segregate the entire record into a separate file or by other electronic means ensure that the sealed record shall not be available for general access unless otherwise authorized by law

Ark. Code Ann. § 16-90-904

5 Uniform petition and order to seal records

(a) The Arkansas Crime Information Center shall adopt and provide a uniform petition and order to seal records which shall be used by all petitioners and by all circuit and district courts in this state.

See Relevant Forms

(1) No order to seal or expunge records covered by this subchapter shall be effective unless the uniform order is entered.

(2) The petition shall include a statement, verified under oath, indicating whether or not the petitioner has felony charges pending in any state or federal court and the status of those charges. The petition shall also include a statement that the information contained in the petition is true and correct to the best of the petitioner's knowledge, and the order shall, at a minimum, contain the following data elements:

a The person's full name, race, sex, and date of birth

b The person's full name at the time of arrest and adjudication of guilt, if different than the person's current name

c The crimes for which the person was adjudicated guilty, and the date of the disposition

d The identity of the court

e The provision under which the individual was sentenced that provides for sealing or expungement of the record; and

f The specific records to be sealed.

(b) If no record exists in the state central repository of the arrest for the charges in the petition, such record shall be established before the uniform order to seal becomes effective.

(c) When no record exists in the state central repository, it shall be the duty of the petitioner and the original arresting agency to submit fingerprint cards on the petitioner, according to 12-12-1006 and procedures established by the Arkansas Crime Information Center.

Ark. Code Ann. § 16-90-905

5 When no guilty verdict

Any individual who has been charged and arrested for any criminal offense and the charges are subsequently nolle prossed, dismissed, or the individual is acquitted at trial is eligible to have all arrest records, petitions, orders, docket sheets, and any other documents relating to the case expunged in accordance with the procedures defined by this subchapter, and upon entry of an order of expungement may state that no charge, arrest and the resulting trial ever occurred.

Ark. Code Ann. § 16-90-906

6 Governor's pardon - Court order - Exclusions.

(a) Upon issuing a pardon, the Governor shall notify the sentencing court, and the court shall issue an order expunging the records relating to the conviction of the person pardoned.

(b) The records relating to the conviction of a person pardoned prior to July 15, 1991, shall be expunged upon a copy of the pardon being filed with the sentencing court by the person.

(c) This section shall not apply to a pardon issued for:

(1) Any offense where the victim is a person under the age of eighteen (18)

(2) Any sex offense; or

(3) An offense resulting in death or serious physical injury.

(d) The procedure, effect, and definition of "expungement" for the purposes of this section shall be in accordance with that established in § 16-90-901 et seq.

Ark. Code Ann. § 16-90-605

C Probation and Suspended Imposition of Sentence-Generally

1 In all criminal actions in which the district court maintains jurisdiction to sentence a defendant, except DWI, the court may suspend imposition of sentence or place the defendant on probation.

2 When the court suspends the imposition of sentence on a defendant or places him/her on probation, the court shall enter a judgment of conviction only if:

(a) It sentences the defendant to pay a fine and suspends imposition of sentence as to imprisonment or places defendant on probation; or

(b) It sentences the defendant to a term of imprisonment and suspends imposition of sentence as to an additional term of imprisonment.

Ark. Code Ann. § 5-4-301 et seq.

McGee v. State, 271 Ark. 611, 609 S.W.2d 73 (1980); Culpepper v. State, 268 Ark. 263, 595 S.W.2d 220 (1980).

D Discharge and Dismissal

1 If a judgment of conviction was not entered by the court at the time of suspension or probation and the defendant fully complies with the conditions of suspension or probation for the period of suspension or probation, the court shall discharge the defendant and dismiss all proceedings against him/her.

2 Subject to the provisions of § 5-4-501-505 (Habitual Offender), a person against whom such proceedings are discharged or dismissed may seek to have the criminal records sealed, consistent with the procedures established in § 16-90-901, et seq.

3 This subsection does not apply if the person applying for discharge has been convicted of a sexual offense as defined by § 5-14-101 et seq. and the victim was under eighteen (18) years of age.

Ark. Code Ann. § 16-93-314

E DWI & DUI

1 No court may suspend the imposition of sentence nor place the defendant on probation for the offense of driving while intoxicated.

Ark. Code Ann. § 5-4-301
Ark. Code Ann. § 5-4-104

2 No district judge may place a first offender on probation pursuant to § 16-93-301 et seq. in instances where the defendant is charged with violating § 5-65-103 (DWI) or § 5-65-303 (DUI).

Ark. Code Ann. § 5-65-108
Ark. Code Ann. § 5-65-308

3 Notwithstanding the provisions of § 5-4-301, § 5-4-322, or subdivision (c) (1) of § 5-65-108, in addition to the mandatory penalties required for a violation of § 5-65-103 a district judge may utilize probationary supervision solely for the

purpose of monitoring compliance with the court's orders, and require an offender to pay a reasonable fee in an amount to be established by the judge.

Ark. Code Ann. § 5-65-308(a)(2)(B)

F Deferment of Sentence – Restrictions/Commercial Driver License

No district court judge may utilize the provisions of §§ 5-4-321, 16-90-115, 16-93-301 – 16-90-303, 16-93-314 or 27-50-701 or any other program to defer imposition of sentence in instances where the defendant holds a commercial driver license and is charged with violating any state or local traffic law other than a parking violation.

Ark. Code Ann. § 27-23-128

G Controlled Substances

Probation - Discharge and dismissal. Whenever any person who has not previously pleaded guilty or been found guilty of any offense under subchapters 1-6 of this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under § 5-64-401, with the exception of a conviction for possession of a substance listed under Schedule I, the court, without entering a judgment of guilt and with the consent of the accused may defer further proceedings and place him on probation for a period of not less than one (1) year, under such terms and conditions as may be set by the court. The court may require as a condition for probation that the defendant undergo an evaluative examination by a physician or medical facility approved by the court and, if warranted, undergo in-patient or out-patient treatment and rehabilitation for drug abuse. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for a second or subsequent conviction under § 5-64-410 [repealed]. There may be only one (1) discharge and dismissal under this section with respect to any person. A person against whom such proceedings are discharged or dismissed may seek to have the criminal records sealed, consistent with the procedures established in § 16-90-901 et seq. A person who has been placed on probation under this section for a misdemeanor offense shall have his or her record expunged under the procedures established in § 16-90-901 et seq.

Ark. Code Ann. § 5-64-413
See Ark. Code Ann. § 27-16-915 re: Drivers License suspension for drug offenses.

H Traffic Misdemeanors - Postponement of Judgment

1 In traffic misdemeanor cases, other than cases involving driving under the influence of alcohol or drugs, the judge shall have authority to postpone judgment for not more than one (1) year, during which period the defendant shall be in a probationary status, supervised or unsupervised, and shall remain in probationary status until judgment is entered.

Ark. Code Ann. § 27-50-701

2 At the request of the defendant, parent of a minor defendant, or counsel for the defense, judgment shall be entered as quickly as feasible and not more than ten (10) days following such request.

3 At the request of the defendant, parent of a minor defendant, or the defense, probation may be continued and judgment for more than one (1) year.

Ark. Code Ann. § 27-50-702
See also Ark. Code Ann. § 5-4-321

I Probation Officers

1 "Probation" or "place on probation" means a procedure whereby a defendant who pleads or is found guilty of an offense is released by the court without pronouncement of sentence but subject to the supervision of a probation officer.

2 "Probation officer" means a salaried official attached to the court or a reputable person designated by the court to supervise a defendant who is placed on probation.

Ark. Code Ann. § 5-4-101

3 Authority of officers to make arrests and carry firearms.

District court probation officers who are currently certified law enforcement officers may execute, serve and return all lawful warrants of arrest issued by the State of Arkansas or any political subdivision thereof and are otherwise authorized to make lawful arrests as is any law enforcement officer of the State of Arkansas.

(a) All such probation officers are further authorized to carry firearms during all hours in which they are actively pursuing the obligations and duties of the office to which they are appointed or employed, pursuant to the selection and training requirements under Ark. Code Ann. §§ 12-9-104, 106 and 107.

(b) All such probation officers are further authorized to carry non-state-issued firearms during all hours in which they are not actively pursuing their

obligations and duties of the office to which they are appointed or employed, pursuant to the restrictions in Ark. Code Ann. § 5-73-306.

Ark. Code Ann. § 16-93-103

J Contract Services

1 Upon request of a district court judge or city court judge, the governing body in which a district court or city court is located or, if applicable each governing body of a political subdivision which contributes to the expenses of a district court may contract with a person who has registered with the Secretary of State and filed a surety bond or certificate of deposit with the Secretary of State to provide any of the following services:

(a) Probation services;

(b) Pretrial supervised release programs;

(c) Alternative sentencing programs;

(d) The collection and enforcement of delinquent fines and costs;

2 A district court or city court may require a defendant to pay reasonable fees, in an amount to be established by the court, relating to private contractors providing probation services, pretrial supervised release programs, or alternate sentencing programs authorized by law.

Ark. Code Ann. § 16-17-127
See also Sections I F and XV F

K Fee Authorized

1 A district court or city court may place a person on probation or sentence him or her to public service work, and, as a condition of its order, may require the defendant to pay a fine in one (1) or several sums, and in addition may require the person to pay a probation fee or pay a public service work supervisory fee in an amount to be established by the court.

2 The broad objective of probation shall be to educate and rehabilitate persons placed on probation. The conditions of probation shall bear a reasonable relationship to the crime committed or to future criminality and be reasonably necessary to assist the defendant in leading a law abiding life.

3 The conditions of probation shall be closely monitored and supervised by the court or by a probation officer. The court shall determine if the conditions of probation are in compliance with the provisions of section 2 above.

4 This section regarding probation and probation fees shall not apply in instances where the defendant is charged with violating the Omnibus DWI Act, § 5-65-101 et seq., or the Underage DUI law, § 5-65-301 et seq.

5 In instances where the defendant is charged with violating the Omnibus DWI Act, § 5-65-101 et seq., the court may require the defendant to pay a public service work supervisory fee in an amount to be established by the court if the court orders public service in lieu of jail pursuant to § 5-65-111.

6 In instances in which the defendant is charged with violating the Underage DUI law, § 5-65-301 et seq., the court may require the defendant to pay a public service work supervisory fee in an amount to be established by the court for any public service work ordered by the court.

7 This section is supplemental to all other laws allowing a district court or city court to attach conditions on an order of probation.

8 Except as provided in subsection (11) of this section, no court may impose probation fees in any case in which the only sentence available is a monetary fine, court costs or, if applicable, restitution.

9 In those cases, a defendant may be given time to make those payments and the installment payment fee in § 16-13-704 shall be the only fee authorized for administering those accounts.

10 If the sentence available includes incarceration, probation and probation fees may be ordered in lieu of incarceration.

11 If a fine is an authorized sentence, the fine may be suspended and probation and probation fees may be ordered in lieu of the fine.

12 Probation fees shall be collected in full for each month in which a defendant is on probation. The fees shall accrue each month that a defendant does not make a payment and the defendant remains on probation as ordered by the court.

Ark. Code Ann. § 5-4-322

But, see E 3 **above regarding limited authority for probation fees in DWI cases.**
See also Ark. Code Ann. § 5-65-306 which mandates public service work for DUI.

13 Fee Authorized

This code section also provides that on a condition of suspended imposition of sentence or probation, the court may require that the defendant participate in a community-based rehabilitation program or work-release program which meets

the minimum state standards for certification and for which the court may impose reasonable fees or assessments on the defendant to be used in support of said programs.

Ark. Code Ann. § 5-4-303

14 Amount of fee

The amount of the fee should be in the court's judgment order. Some courts just order the defendant to pay probation fees and the amount is in the contract with the provider. There is no guidance as to a one-time fee or a monthly fee. See Ark. Code Ann. §§ 16-13-326 and 9-27-330 authorizing juvenile courts to assess a probation fee not to exceed $20 per month and § 16-93-104 authorizing the Department of Community Correction to assess a monthly fee of $35.

Ark. Code Ann. § 5-4-303

XI JUVENILES

A Jurisdiction of District Court

1 Traffic Offenses

The Arkansas Supreme Court held that DWI is a traffic offense. Therefore, the juvenile division of chancery court does not have jurisdiction of DWI offenses. **Robinson v. Sutterfield, 302 Ark. 7, 786 S.W.2d 572 (1990)**

Because the juvenile court has no subject matter jurisdiction of DWI cases, the juvenile division court was without jurisdiction to dismiss the case on speedy trial grounds. Further, the court had no statutory authority to transfer the case to district court. Juvenile court was without authority to take any action in the case. **State v. J.B., 309 Ark. 70, 827 S.W.2d 144 (1992)**

Ark. Code Ann. § 9-27-303(14)(A)

2 Game & Fish Violations

Ark. Code Ann. § 9-27-303(14)(A)

3 Curfew Violations

District court has concurrent jurisdiction with the juvenile division of circuit court for juvenile curfew violations. The prosecuting authority may file a family in need of services (FINS) petition in the juvenile division of court or a citation in district court.

Ark. Code Ann. § 9-27-306(c)

B Jurisdiction of District Court to Incarcerate Juveniles

1 District courts have jurisdiction of juvenile defendants for violation of local codes or ordinances, game and fish violations and traffic offenses. Juveniles charged with these offenses are subject to the same penalties as adults unless otherwise provided herein.

2 Juvenile subject to the jurisdiction of a district court shall not be incarcerated unless the juvenile commits a second offense for which the court has jurisdiction within one year of the first offense, willfully violates probation, or willfully fails to pay a fine, perform community service work or other sanction properly ordered by the court.

3 As an alternative to incarceration on a first offense or otherwise the district court may place a juvenile on a residential detention, which may be supervised by electronic monitoring for up to 30 days

4 For a juvenile to be found in contempt for violating a court order the order must have been in writing and served on the juvenile and the juvenile(s parent or guardian. If a juvenile is found in contempt of court the court may:

(a) Order that the juvenile be committed for a period not to exceed 10 days; or

(b) Place the juvenile on residential detention, which may be supervised by electronic monitoring for up to 30 days.

5 Any juvenile incarcerated under this act shall be separated from individuals 18 years of age or older. Where space is available a juvenile who pleads guilty or nolo contendere to, or is found guilty of an offense under the act may be placed in a juvenile detention facility rather than the county jail. Juveniles being detained on allegations of delinquency or who have been adjudicated delinquent shall have priority for juvenile detention over juveniles sentenced in district court.

6 A district court may also order the juvenile, juvenile's parent, both parents, or the guardian of any juvenile punishable as provided for herein to be liable for the cost of the incarceration or electronic monitoring. Prior to ordering such payment a district court shall take into account:

(a) The financial ability of the parent, both parents, or the guardian to pay for the detention or electronic monitoring

(b) The past efforts of the parent, both parents, or the guardian to correct or prevent the juvenile's misconduct

(c) If the parent is a non-custodial parent, the opportunity the parent had to correct the delinquent juvenile's misconduct; and

(d) Any other factors the court deems relevant.

Ark. Code Ann. § 16-17-133

XII PRELIMINARY HEARINGS AND BONDS

A District Court Authority

A district court may issue arrest warrants and search warrants and may perform other pretrial functions, as authorized by the Arkansas Rules of Criminal Procedure, in the prosecution of a person for an offense within the exclusive jurisdiction of the circuit court.

Ark. Code Ann. § 16-88-101(c)

B Criminal Magistrates

1 See II C re: appointment

2 A criminal magistrate may perform the following duties with respect to an investigation or prosecution of an offense lying within the exclusive jurisdiction of the circuit court:

(a) Issue a search warrant pursuant to Rule 13.1.
(b) Issue an arrest warrant pursuant to Rule 7.1 or Arkansas Code § 16-81-104, or issue a summons pursuant to Rule 6.1.
(c) Make a reasonable cause determination pursuant to Rule 4.1(e).
(d) Conduct a first appearance pursuant to Rule 8.1, at which the criminal magistrate may appoint counsel pursuant to Rule 8.2; inform a defendant pursuant to Rule 8.3; accept a plea of "not guilty" or "not guilty by reason of insanity"; conduct a pretrial release inquiry pursuant to Rules 8.4 and 8.5; or release a defendant from custody pursuant to Rules 9.1, 9.2, and 9.3.
(e) Conduct a preliminary hearing as provided in Ark. Code Ann. § 5-4-310(a).

3 If a person is charged with the commission of an offense lying within the exclusive jurisdiction of the circuit court, a criminal magistrate designated pursuant to this rule may not accept or approve a plea of guilty or *nolo contendere* to the offense charged or to a lesser included offense.

4 Nothing in this order shall affect the authority of a district court judge to perform the duties described in this rule as otherwise permitted by these Rules or other law.

5 Nothing in this rule shall impair or render ineffectual any proceeding or procedural matters which occurred before the effective date of this rule.

Ark. R. Crim. P. 1.8

C First Appearance Hearing Requirements

1 Arrested persons not released by citation or other lawful manner shall be taken before a judicial officer without unnecessary delay.

The Due Process Clause forbids an extended detention without a first appearance, following arrest by warrant and an extended pretrial detention without an initial appearance substantially impinges upon and threatens all of those specific rights guaranteed a criminal defendant by the Fifth, Sixth, and Eighth Amendments and, thus, the ultimate effect of the denial of a pretrial detainee's right to a prompt appearance in court is a denial of substantive due process. **Hayes v. Faulkner County, 285 F.Supp.2d 1132 (E.D.,Ark., Oct. 29, 2004)**

Where the defendant was arrested on Thursday and not arraigned until Monday, there was no showing of unnecessary delay because the municipal court did not sit on Fridays and the defendant's Arrest and Disposition Report, was missing, preventing his being arraigned sooner; the trial court's determination that there was no deliberate action by the police to delay the proceeding was not against the preponderance of the evidence. **Johnson v. State, 307 Ark. 525, 823 S.W.2d 440 (1992)**

When there has been a delay between the time of a person's arrest and the time he/she is brought before a judicial officer, and there's a question about the admissibility of evidence procured during the delay, three criteria must be met before the evidence obtained from a statement voluntarily made will be ruled inadmissible: (1) the delay must be unnecessary; (2) the evidence must be prejudicial; and (3) the evidence must be reasonably related to the delay. **Ryan v. State, 303 Ark. 595, 798 S.W.2d 679 (1990).**

Ark. R. Crim. P. 8.1

2 A person arrested without a warrant shall not be held in custody unless a judicial officer determines, from affidavit, recorded testimony, or other information, that there is reasonable cause to believe that the person has committed an offense. Such reasonable cause determination shall be made promptly, but in no event longer than forty-eight (48) hours from the time of arrest, unless the prosecuting attorney demonstrates that a bona fide emergency or other extraordinary circumstance justifies a delay longer than forty-eight (48) hours. Such reasonable cause determination may be made at the first appearance of the arrested person pursuant to Rule 8.1.

Ark. R. Crim. P. 4.1(e)

3 Any judicial officer authorized to conduct probable cause hearings may conduct the hearings by accepting oral statements under oath, which shall be recorded by the judicial officer and may be communicated to the judicial officer by telephone. The oral statement shall be transcribed within 72 hours. The recording of the oral statement and the transcribed statement shall be certified by the judicial

officer receiving it and shall be retained as a part of the record of the proceedings.

Ark. Code Ann. § 16-85-212

4 The judicial officer, if unable to dispose of case at first appearance, shall proceed to decide question of pre-trial release.

Ark. R. Crim. P. 8.3

[A] jurisdiction that chooses to combine probable cause determination with other pretrial proceedings must do so as soon as is reasonably feasible, but in no event later than 48 hours after arrest. **County of Riverside v. McLaughlin, 500 U.S. 44 (1991)**

5 An accused's desire for, and ability to retain, counsel should be determined by a judicial officer before the first appearance, whenever practicable.

Ark. R. Crim. P. 8.2

6 Judicial officer must decide if there is probable cause for detaining person, using same standard as governs arrest warrants.

Ark. R. Crim. P. 8.3

7 Requirement of pre-trial inquiry

(a) Inquiry into relevant facts might affect pre-trial release decision shall be made:

(1) in all cases where maximum penalty exceeds one year and prosecutor does not stipulate to release on own recognizance

(2) in cases where maximum penalty is less than one year and law enforcement officer gives notice he/she will oppose release on defendant's own recognizance.

(b) In all other cases the judicial officer may release defendant on his/her own recognizance or on order to appear without conducting a pre-trial release inquiry.

Ark. R. Crim. P. 8.4

8 Procedure for pre-trial release inquiry

(a) Pre-trial release inquiry shall be conducted prior to or at first appearance.

(b) Inquiry should assess such factors as:

(1) defendant's employment status and financial condition

(2) nature and extent of family relationships

(3) past and present residence

(4) character and reputation

(5) persons agreeing to assist defendant in attending court

(6) nature of current charge and mitigating or aggravating factors

(7) prior criminal record, and if previously released pending trial, whether he/she appeared

(8) facts indicating possible law violations if defendant released without restrictions

(9) any other facts indicating defendant has strong community ties and is not likely to flee.

(c) Prosecutor should make recommendations regarding:

(1) advisability and appropriateness of pre-trial release

(2) amount and type of bail bond

(3) conditions, if any, to be imposed on defendant's release.

Ark. R. Crim. P. 8.5

See Relevant Forms

See also Ark. Code Ann. § 16-81-113 "An Act to Authorize Warrantless Arrest for Domestic Abuse"

9 Time for Filing Formal Charge

(a) If the defendant is continued in custody subsequent to the first appearance, the prosecuting attorney shall file an indictment or information in a court of competent jurisdiction within sixty days of the defendant's arrest. Failure to file an indictment or information within sixty days shall not be grounds for dismissal of the case against the defendant, but shall, upon motion of the defendant, result in the defendant(s release from custody unless the prosecuting attorney establishes good cause for the delay. If good cause is shown, the court shall reconsider bail for the defendant.

Ark. R. Crim. P. 8.6

(b) This rule is intended to address the problem identified in **State v. Pulaski County Circuit Court, 326 Ark. 886, 934 S.W.2d 915 (1996)**, modified on rehearing, **327 Ark. 287, 938 S.W.2d 815 (1997)**.

(c) The sixty day period shall commence on July 1, 1999. If a person is in custody on July 1, 1999, the prosecuting attorney should file charges within sixty days of that date.

In Re: Rules of Criminal Procedure, New Rule 8.6 338 Ark. Appx.

10 Money Bail

(a) Judge shall set money bail only after determining that no other conditions will reasonably ensure defendant's appearance.

(b) If money bail determined, judge shall require one of the following:

(1) execution of unsecured bond in amount specified by judge either signed by other persons or not;

(2) execution of unsecured bond in amount set by judge, accompanied by deposit of cash or securities equal to 10% of face amount of bond. 90% of deposit will be returned at conclusion of proceedings if no default in conditions; or

(3) execution of bond secured by deposit of full amount in cash, or other property, or by obligation of qualified securities.

(c) In setting amount of bail judge should consider:

(1) length and character of defendant's residence in community

(2) employment status, history and financial condition

(3) family ties and relationships

(4) reputation, character and mental condition

(5) past history of response to legal process

(6) prior criminal record

(7) identity of responsible members of community who vouch for defendant's reliability

(8) nature of current charge, probability of conviction and likely sentence as they relate to risk of non-appearance; and

(9) any other factors indicating defendant's roots in community.

(d) Nothing prohibits judge from allowing misdemeanor defendant to post specified sum of money which may be forfeited or applied to fine and costs in lieu of any court appearance.

(e) Appearance bond or security deposit set under these rules shall guarantee all subsequent appearances of defendant on same charge or other charges arising out of same conduct before any court, including appeals and remands.

(f) If defendant has to appear before a court other than the one ordering release, the order of release together with appearance bond and any security deposit shall be transmitted to that court.

Ark. R. Crim. P. 9.2

See also "Bail Generally", Ark. Code Ann. § 16-84-101 et seq.

See Relevant Form

11 If judge determines there is danger that defendant will commit a serious crime, intimidate witnesses or otherwise unlawfully interfere with administration of justice, upon release of defendant the judge may enter an order:

(a) prohibiting defendant from approaching or communicating with particular persons or classes of persons

(b) prohibiting defendant from going to certain described geographical areas or premises.

(c) prohibiting defendant from possessing any dangerous weapon, engaging in certain described activities or indulging in intoxicating liquors or drugs

(d) requiring defendant to report regularly to and remain under supervision of an officer of the court

Ark. R. Crim. P. 9.3

12 Judge must inform defendant of penalties for failure to comply with conditions of release.

Ark. R. Crim. P. 9.4

13 All conditions of release must be recorded in writing and a copy given to defendant.

Ark. R. Crim. P. 9.4

14 Judge to issue arrest warrant if prosecutor submits verified allegation that:

(a) defendant has willfully violated conditions of release

(b) information meriting revocation of defendant's release becomes known to prosecutor.

Ark. R. Crim. P. 9.5

15 A law enforcement officer who reasonably believes defendant has violated conditions of release may arrest defendant and take him/her to court when it is impracticable to obtain a warrant.

Ark. R. Crim. P. 9.5

16 After a hearing, if court finds defendant violated conditions of release, court may impose different or additional conditions or revoke the release.

Ark. R. Crim. P. 9.5

17 Court may revoke release upon reasonable cause to believe defendant committed a felony while released.

Ark. R. Crim. P. 9.6

D Own Recognizance and No-Bond Releases

1 Judge may release defendant at first appearance on his/her personal recognizance or upon order to appear.

See Relevant Form

2 If conditions of release are necessary, judge should impose one or more of the following:

(a) place defendant under care of qualified person or organization

(b) place defendant under supervision of probation officer or other appropriate public official

(c) impose reasonable restrictions on activities, movements, associations and residences of defendant

(d) release defendant during working hours but require him/her to return to custody at specified times; or

(e) impose any other reasonable restrictions

Ark. R. Crim. P. 9.1

With regard to in-state motorists who possess a drivers license issued by a jurisdiction which is not a party to the Non-resident Violator Compact, if they are arrested for a violation of a traffic law punishable as a misdemeanor (like the speeding offense that appears in § 27-50-302(1)) and are not permitted to appear for trial on their own recognizance, they may, in lieu of posting bond, be admitted to bail upon depositing their drivers license, which will be returned by the clerk of the court before which they are to appear. **Op. Att'y Gen. # 94-035**

E Appeal Bonds. See Section XIII

F Forfeiture

1 If the defendant fails to appear for trial or judgment, or at any other time when his/her presence in court may be lawfully required, or to surrender himself/herself in execution of judgment, the court may direct the fact to be entered on the minutes, and shall promptly issue an order requiring the surety to appear, on a date set by the court not more than 120 days from the date notice is sent by certified mail to the surety at the address shown on the bond, whether or not it is received by the surety, to show cause why the sum specified in the bail bond or the money deposited in lieu of bail should not be forfeited.

<u>See Relevant Forms</u>

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

(a) the surety is a bail bondsman; or

(b) the officer accepted cash in the amount of bail

3 The appropriate law enforcement agencies shall make every reasonable effort to apprehend the defendant.

4 If the defendant is surrendered, arrested, or good cause is shown for his/her failure to appear before judgment is entered against the surety, the court shall exonerate a reasonable amount of the surety's liability under the bail bond.

Notification to surety was not given "promptly" as required by statute when 18 months elapse between defendant's first failure to appear and the statutory notice to the surety to show cause why the bond should not be forfeited. Also, the notification was improper because the court failed to give the form of notice required. The summons was directed to surety's street address rather than the post office box address stated on the bond. **See M&M Bonding Co. v. State, 59 Ark. App. 228, 955 S.W.2d 521 (1997)**

5 If the surety causes the apprehension of the defendant or the defendant is apprehended within 120 days from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, a judgment or forfeiture of the bond may not be entered against the surety except; if the defendant is located in another state and the location is known within one hundred twenty (120) days from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, the appropriate law enforcement officers shall cause the arrest of the defendant and the surety shall be liable for the cost of returning the defendant to the court in an amount not to exceed the face value of the bail bond.

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

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

8 To be considered by the court, information concerning expenses incurred in attempting to locate the defendant should be submitted to the court by the surety no later than the one hundred twentieth (120th) day from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety.

9 Notwithstanding any law to the contrary, a district court may suspend a bail bond company's or agent's ability to issue bail bonds in its court if the bail bond company or agent fails to comply with an order of the district court or fails to pay forfeited bonds in accordance with a district court's order.

Ark. Code Ann. § 16-84-201

10 No forfeiture of any appearance or bail bond shall be rendered in any case where:

(a) A sworn statement of a licensed court appointed physician is furnished the court showing that the principal in the bond is prevented from attending by some physical or mental disability; or

(b) A sworn affidavit of the jailer, warden or other responsible officer of a jail or penitentiary or any officer in charge is furnished the court showing that the principal in the bond is prevented from attending due the fact that he/she is being detained by a force claiming to act under the authority of the federal government which neither the state nor the surety could control.

11 The appearance or bail bond shall remain in full force and effect until the principal is physically or mentally able to appear or until a detainer against the principal is filed with the detaining authority.

Ark. Code Ann. § 16-84-203

G Pretrial Release Alternative Administration Fee

1 An administrative fee may be levied and collected in district court or city court from each pretrial detainee charged with either a felony or misdemeanor who is placed under the supervision of the court pending trial.

2 The administrative fee authorized by this section may be levied only by the district court or city court which places a pretrial detainee under the supervision of the court pending trial.

3 A district judge may impose such administrative fee for supervision if the judge finds it necessary to impose conditions of release requiring supervision of a criminal defendant pending trial, and the judge does not require the posting of any bail that requires the defendant to pay a bondsman or post any form of cash or security.

4 Such supervised pretrial release program is optional for both the court and the defendant and is an alternative to continued incarceration pending trial or to posting bond set by the court. The court shall be solely responsible for determining which defendants may be placed on the program. The defendant must agree to be placed on the program as an alternative to continued incarceration pending trial or to posting bond set by the court.

5 All funds derived from the collection of such administrative fee shall be used by the municipality solely for the administration of justice.

6 The administrative fee may be reduced or waived based on indigency.

Ark. Code Ann. § 16-17-125
See Relevant Form

XIII MISDEMEANOR APPEALS

A Arkansas Rules of Criminal Procedure - Rule 36

1 Right to Appeal.

A person convicted of a criminal offense in a district court, including a person convicted upon a plea of guilty, may appeal the judgment of conviction to the circuit court for the judicial district in which the conviction occurred. The state shall have no right to appeal from a judgment of a district court.

Ark. R. Crim. P. 36(a)

2 Time for Taking Appeal.

An appeal from a district court to the circuit court shall be filed in the office of the clerk of the circuit court having jurisdiction of the appeal within thirty (30) days from the date of the entry of the judgment in the district court. The 30 day period is not extended by the filing of a post-trial motion under A.R.Crim.P. 33.3.

Ark. R. Crim. P. 36(b)

3 How Taken.

An appeal from a district court to circuit court shall be taken by filing with the clerk of the circuit court a certified record of the proceedings in the district court. Neither a notice of appeal nor an order granting an appeal shall be required. The record of proceedings in the district court shall include, at a minimum, a copy of the district court docket sheet and any bond or other security filed by the defendant to guarantee the defendant's appearance before the circuit court. It shall be the duty of the clerk of the district court to prepare and certify such record when the defendant files a written request to that effect with the clerk of the district court and pays any fees of the district court authorized by law therefore. The defendant shall serve a copy of the written request on the prosecuting attorney for the judicial district and shall file a certificate of such service with the district court. The defendant shall have the responsibility of filing the certified record in the office of the circuit clerk. Except as provided in subsection (d) of this rule, the circuit court shall acquire jurisdiction of the appeal upon the filing of the certified record in the office of the circuit clerk.

Ark. R. Crim. P. 36(c)

4 Failure of clerk to file record.

If the clerk of the district court does not prepare and certify a record for filing in the circuit court in a timely manner, the defendant may take an appeal by filing an affidavit in the office of the circuit clerk, within forty (40) days from the date of the entry of the judgment in the district court, showing(i) that the defendant has requested the clerk of the district court to prepare and certify the record for purposes of appeal and (ii) that the clerk has not done so within thirty (30) days from the date of the entry of the judgment in the district court. The defendant shall promptly serve a copy of such affidavit upon the clerk of the district court and upon the prosecuting attorney. The circuit court shall acquire jurisdiction of the appeal upon the filing of the affidavit. On motion of the defendant or the prosecuting attorney, the circuit court may order the clerk of the district court to prepare, certify, and file a record in the circuit court.

Ark. R. Crim. P. 36(d)

5 Bond.

When an appeal is taken from a district court to circuit court, the district court may require the defendant to post a bond or other security to guarantee the appearance of the defendant before the circuit court, provided that an appearance bond originally posted with the district court to guarantee the appearance of the defendant before that court shall serve to guarantee the appearance of the defendant before the circuit court on appeal. The approval of the bond or other security to guarantee the appearance of the defendant before the circuit court shall stay the imposition of the judgment imposed by the district court. The clerk of the district court shall transmit any bond or other security to the circuit court. The failure of the defendant to post a bond or other security with the district court shall not prevent the circuit court from acquiring jurisdiction of the appeal. After acquiring jurisdiction of the appeal, the circuit court may modify the bond or other security.

Ark. R. Crim. P. 36(e)

6 Notice.

When the record of the proceeding in the district court is filed in the office of the circuit clerk, the circuit clerk shall promptly give written notice thereof to the prosecuting attorney and to the circuit judge to whom the appeal is assigned.

Ark. R. Crim. P. 36(f)

7 Trial De Novo.

An Appeal from a judgment of conviction in a district court shall be tried *de novo* in the circuit court as if no judgment had been rendered in the district court.

Ark. R. Crim. P. 36(g)

8 Default Judgment

The circuit court may affirm the judgment of the district court if (i) the defendant fails to appear in circuit court when the case is set for trial; or (ii) the clerk of the district court fails to prepare and certify a record for filing in the circuit court as provided in subsection (c) of this rule and the defendant fails to move the circuit court for an order to compel the filing of the record within thirty (30) days after filing the affidavit provided in subsection (d) of this rule.

Ark. R. Crim. P. 36(h)

9 District court without clerk.

If a district court has no clerk, any reference in this rule to the clerk of a district court shall be deemed to refer to the judge of the district court.

Ark. R. Crim. P. 36(i)

B Fees

1 The filing fee to appeal to circuit court is $150 because the case is heard de novo and is thus considered a newly opened case.

Ark. Code Ann. § 21-6-403
Neeley v. Barber, 288 Ark. 384, 706 S.W.2d 358 (1986)

2 Technology fees – For initiating a cause of action in the civil, domestic relations, or probate division of circuit court, including appeals……15.00

3 The fee for preparation of the transcript is $5.00.

Ark. Code Ann. § 16-17-124

4 The district clerk shall prepare and certify the record when requested by the appellant and upon payment of any fees authorized by law.

Ark. R. Crim. P. 36(c)

5 Combining multiple district court convictions.

If a person who has been convicted of more than one (1) related misdemeanor offense in district court, district court, city court or police court shall present otherwise lawfully sufficient documents to the circuit clerk for an appeal of the related convictions, accompanied by an affidavit of the person or his attorney stating that the convictions arise out of the same set of facts and circumstances, the circuit clerk shall

(a) Combine the convictions; and

(b) Prepare and file the appeal as one (1) case; and

(c) Charge only one (1) filing fee for the appeal.

Ark. Code Ann. § 16-17-802

C Disposition of Fines and Costs upon Appeal to Circuit Court

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

1 If the appeal proceeds to a de novo bench trial or jury trial, the fines, penalties, forfeitures and costs imposed by the circuit court shall be collected under § 16-13-709 and paid to the county treasurer

2 If the defendant pleads guilty or nolo contendere or the circuit court dismisses the appeal, including dismissals under Arkansas Rules of Criminal Procedure 36(h), the judgment of the court from which the appeal originated shall be affirmed

3 The circuit court clerk shall, within thirty days, of the affirmance or dismissal, notify in writing the court from which the appeal originated, of the affirmance or dismissal and shall return any bond or other security which has been transmitted to the circuit court.

4 Upon receipt of affirmance or dismissal and the bond or other security, the court from which the appeal originated shall collect and disburse the fines, penalties, forfeitures and costs under §§ 16-10-209, 16-10-308, 16-17-707, 16-18-104, 14-44-108 and 14-45-106.

5 Nothing in this act shall affect the right of a court of limited jurisdiction to require the defendant to post a or other security bond to guarantee the appearance of the defendant before the circuit court or the ability of these courts

to collect any fine, penalty, forfeiture or costs imposed in the absence of the bond or other security.

Ark. Code Ann. § 16-96-403

D District Court Appeal/Notice of Hearing in Circuit Court

Whenever any person appeals any civil or criminal judgment rendered in district court and requests a trial de novo in circuit court, no hearing shall be held or trial shall commence in circuit court without 10 days written notice being given to the parties, to the defendant or to the attorneys of record, whichever is applicable, by the clerk of the court or by the case coordinator. In the event that the defense requests a continuance because of this act, the time which the trial is delayed is excludable for purposes of speedy trial.

Ark. Code Ann. § 16-17-801

XIV EXTRADITION

A Uniform Criminal Extradition Act

A written demand (application for requisition) for return of a person is made to the governor of the state where a fugitive has taken refuge (the "asylum" state) by a state seeking return of the fugitive (the "demanding" state).

Ark. Code Ann. § 16-94-201 et seq.

B Two Basic Types of Written Application for a Requisition

1 Fugitive had been charged with a crime, has not yet been convicted, and has fled. Application must include:

(a) Name of person charged

(b) The crime charged (to include statutory reference and summary of time, place and circumstances of crime)

(c) The state and present location within the state in which the fugitive is believed to be

(d) Certification by prosecuting attorney making application that ends of justice require return of accused to demanding state for trial and that proceeding is not instituted for private claim

(e) Application must be verified by affidavit, executed in duplicate, be accompanied by indictment returned or by information with supporting affidavit or by affidavit made to a magistrate with a warrant issued thereupon

(f) Designation of duly authorized agent to return the fugitive.

2 Fugitive has been convicted of a crime in demanding state and has either skipped bail, broken terms of probation or parole or has escaped from confinement. Application must include:

(a) Name of fugitive

(b) Crime of which convicted

(c) Circumstances of escape from confinement or breach of terms of bail, probation or parole

(d) The state and present location within the state in which the fugitive is believed to be

(e) Application must be in duplicate and accompanied by:

(1) certified copies of judgment and sentence or record of conviction

(2) certified copies of original charging document

(3) warrant for violation of probation or parole (if applicable)

(4) further affidavits of prosecuting attorney, parole board, warden or sheriff explaining bail-jumping, escape or violation of terms of bail, probation or parole, as deemed necessary

(f) Designation of duly authorized agent to whom fugitive will be returned.

Ark. Code Ann. § 16-94-223

C Overview of Extradition Process

1 Crime committed

2 Charge filed

3 Warrant issued in demanding state

4 NCIC notified

5 Suspect located in asylum state

6 Authorities in demanding state notified

7 Authorities in demanding state request that suspect be arrested

8 Suspect arrested on fugitive complaint/warrant issued pursuant to § 16-94-213 by asylum state (warrant may be issued by district court)

9 Arraignment before a magistrate (may be district court)

(a) Court informs fugitive of charges and rights under extradition procedures; and

(b) Fugitive signs waiver of extradition, is remanded without bond; or

(c) Fugitive contests extradition.

(1) Judge commits fugitive to jail for 30 days; or

(2) Judge releases fugitive on bond (fugitive warrant should be removed from law enforcement's computers after bond is granted).

10 Demanding state notified

(a) Fugitive waived

(1) Pick-up deadline

(2) Status of local charges.

(b) Fugitive fighting extradition

(1) Begin process for Governor's warrant; 30-day deadline

(2) Request certified copy of warrant, picture, prints.

11 Prosecutor in demanding state prepares "application for requisition" and sends papers to governor in demanding state; governor's counsel (usually attorney general) examines paperwork for deficiencies; governor in demanding state signs "requisition for rendition."

12 Requisition sent to governor in asylum state; Governor's counsel in asylum state (usually attorney general) examines paperwork for deficiencies

13 Possible governor's investigation and/or hearing, only to determine identity - not guilt or innocence

14 Governor issues warrant of rendition ("Governor's warrant")

15 Fugitive rearrested on Governor's warrant

16 Fugitive brought before the court

(a) Not a bondable warrant

(b) Fugitive remanded to custody on Governor's warrant.

(c) Fugitive signs waiver after arrest on Governor's warrant; demanding agency notified.

(d) Fugitive continues to contest extradition

(1) court remands fugitive

(2) court explains rights

(3) court gives reasonable time to apply for writ of habeas corpus if fugitive or counsel so desire

17 Possible habeas corpus hearing

(a) Circuit court hearing

(b) Purposes:

(1) to establish identity of accused

(2) to establish legal sufficiency of documents

(3) to determine whether he/she is a fugitive.

(c) If relief under habeas corpus is denied, no bond; court orders remand; demanding state notified to pick up subject. Order is appealable; stay pending appeal is granted and notice of appeal is filed.

18 Authorities in demanding state notified by Governor's office that fugitive is available for return

19 Agents arrive to take custody of fugitive

20 Fugitive returned to demanding state

21 Fugitive available for first step in regular criminal justice process

See Cadle v. Cauthron, 266 Ark. 419, 584 S.W.2d 6 (1979)

D Procedure Prior to Requisition

1 Whenever any person within this state shall be charged on the oath of any credible person before any judge or other magistrate of this state with the commission of a crime in any other state, and, except in cases arising under § 16-94-206, with having fled from justice; or whenever complaint shall have been made before any judge or other magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and except in cases arising under § 16-94-206, has fled therefrom and is believed to have been found in this state, the judge or magistrate shall issue a warrant directed to the sheriff of the county in which the oath or complaint is filed directing him to apprehend the person charged, wherever he may be found in this state, and bring him before the same or any other judge, court, or magistrate who may be convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit;

and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

Ark. Code Ann. § 16-94-213

2 If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and that he probably committed the crime, and, except in cases arising under § 16-94-206, that he has fled from justice, the judge or magistrate must commit him to jail by a warrant reciting the accusation for such a time specified in the warrant as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused gives bail as provided in the next section, or until he shall be legally discharged.

Ark. Code Ann. § 16-94-215

XV FEES, COSTS AND FINES
(Accounting and Collection)

A An Act to Provide For Uniform Filing Fees and Court Costs

1 This act eliminated the previous system of collecting and assessing a large number of individual court costs and filing fees, replaced it with a uniform cost and filing fee which is applied statewide, and prohibited the implementation of new costs and fees for specific programs in the future.

Act 1256 of 1995 as amended by Act 13 of the 1st Extraordinary Session of 1995
See also Act 1341 of 1997
See generally Ark. Code Ann. § 16-10-301 et seq.

2 Nothing in Act 1256 of 1995 prohibits district or city courts from assessing reasonable probation or community service fees.

B Civil Cases – Filing Fees

1 For initiating a cause of action in the civil division of district court ……....$65.00

Ark. Code Ann. § 16-17-705

2 For initiating a cause of action in the small claims division of district court ...……$50.00

Ark. Code Ann. § 16-17-705

3 Technology fees – For initiating a cause of action in the civil or small claims division of district court ……...…15.00

Ark. Code Ann. § 21-6-416

4 For initiating a civil cause of action in city courts……... $25.00.

Ark. Code Ann. § 16-10-303
Note: This statute is still in effect but, under Amendment 80, city courts no longer have any civil jurisdiction.

5 Prosecuting attorneys filing actions on behalf of the state, with the exception of child support cases, shall be exempt from paying filing fees.

Ark. Code Ann. § 16-10-304

6 No portion of the filing fee shall be refunded.

Ark. Code Ann. § 16-17-705
Ark. Code Ann. § 16-10-303

7 No municipality or city shall authorize, and no district or city court clerk shall assess or collect, any other filing fees than those authorized by Act 1256 of 1995, unless specifically provided by state law.

Ark. Code Ann. § 16-10-303
Ark. Code Ann. § 16-17-705

C **Criminal, Traffic and DWI Cases - Court Costs**

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

(a) In circuit court, $150.00 for misdemeanor or felony violations of state law, excluding violations of:
- i The Omnibus DWI Act, § 5-65-101 et seq.;
- ii The Underage DUI Law, § 5-65-301 et seq.;
- iii Section 5-75-101 et seq.;
- iv Section 5-76-101 et seq.;
- v Section 27-23-114; or
- vi Section 15-42-127;

(b) In district court, $100.00 for offenses that are misdemeanors or violations of state law, excluding violations of:
- i The Omnibus DWI Act, § 5-65-101 et seq.;
- ii The Underage DUI Law, § 5-65-301 et seq.;
- iii Section 5-75-101 et seq.;
- iv Section 5-76-101 et seq.;
- v Section 27-23-114; or
- vi Section 15-42-127;

(c) In circuit court or district court, $75.00 for traffic offenses that are misdemeanors or violations under state law or local ordinance, excluding violations of:

i The Omnibus DWI Act, § 5-65-101 et seq.;
ii The Underage DUI Law, § 5-65-301 et seq.;
iii Section 5-75-101 et seq.;
iv Section 5-76-101 et seq.;
v Section 27-23-114; or
vi Section 15-42-127;

(d) For non-traffic offenses that are misdemeanors or violations under local ordinance in district or city court, $25.00;

(e) In circuit court, district court or city court, $300.00 for violations of:

i The Omnibus DWI Act, § 5-65-101 et seq.;
ii The Underage DUI Law, § 5-65-301 et seq.;
iii Section 5-75-101 et seq.;
iv Section 5-76-101 et seq.;
v Section 27-23-114; or
vi Section 15-42-127;

(f) In city court, $75.00 for offenses that are misdemeanors or violations under state law, excluding violations of:

i The Omnibus DWI Act, § 5-65-101 et seq.;
ii The Underage DUI Law, § 5-65-301 et seq.;
iii Section 5-75-101 et seq.;
iv Section 5-76-101 et seq.;
v Section 27-23-114; or
vi Section 15-42-127;

(g) In city court, $50.00 for traffic offenses that are misdemeanors or violations under state law or local ordinance, excluding:

i The Omnibus DWI Act, § 5-65-101 et seq.;
ii The Underage DUI Law, § 5-65-301 et seq.;
iii Section 5-75-101 et seq.;
iv Section 5-76-101 et seq.;
v Section 27-23-114; or
vi Section 15-42-127; and

(h)(i) For knowingly possessing less than four ounces (4 oz.) of a Schedule VI controlled substance in circuit, district, or city court, $300.00.

(ii) $150.00 of the court costs collected under this subdivision 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.

2 The costs set forth in this section shall be imposed at the conclusion of any criminal case that does not end in acquittal, dismissal or, with the consent of the prosecution, a nolle prosequi.

3 They shall be imposed at the conclusion of cases involving a suspended or probated sentence even though that sentence may be expunged or otherwise removed from the defendant's record.

4 No county, municipality, or town shall be liable for the payment of the costs taxed under this section in any instance where they are not collected, or in any case in which the defendant pays the costs by serving time in a jail, on a county farm, or at any other official place of detention or work.

5 No municipality or county shall authorize and no city court, district court or circuit court shall assess or collect any other court costs other than those authorized by this act, unless specifically provided by state law.

Ark. Code Ann. § 16-10-305

A court may not find a defendant guilty of two or more charges included on the same citation, "merge" one or more of such charges into another charge, and therefore assess only one of the amounts set forth in Ark. Code Ann. § 16-10-305. This Act unequivocally requires the collection of court costs from defendants "upon each conviction, each plea of nolo contendere, or forfeiture of bond..." Even leaving aside the question of the nature and source of a court(s authority somehow to convert two or more convictions into one (and the Attorney General knows of no such authority), a court's consolidation of convictions and resulting imposition of only one charge for costs under the act would be in clear violation of the act's mandate to impose costs "upon each conviction..." **Op. Att'y Gen. # 95-364**

D District and City Court Accounting Law

1 Bank accounts for court funds

(a) (1) Each municipal police department and each city or town marshal shall maintain court funds separately in depositories approved for such purposes by law

(2) Court funds must be deposited into an account styled "(Name of Municipality) Police Department Bond and Fine Account", and the funds shall be disbursed only on the signature of the chief of police or marshal of the municipality and the signature of one (1) other authorized person

(b) (1) Each office of county sheriff shall maintain court funds separately in depositories approved for these specific purposes by law

(2) Court funds must be deposited into an account styled "(Name of County) County Sheriff's Bond and Fine Account", and the funds shall be disbursed only on the signature of the sheriff of the county and the signature of one (1) other authorized person

(c) (1) Each court shall maintain court funds separately in depositories approved for those specific purposes by law

(2) Court funds must be deposited into an account styled "(Name of Court) Court Account", and the funds shall be disbursed only upon the signature of the court clerk and the signature of one (1) other person to be authorized by the court's presiding judge

(d) All disbursements from the accounts in this section must be evidenced by prenumbered check.

(e) Subsections (a) and (b) of this section do not apply if the court clerk has been designated to be primarily responsible for the collection of fines under § 16-13-709

Ark. Code Ann. § 16-10-204

2 Uniform traffic tickets

(a) Each municipal police department, city or town marshal, and county sheriffs office shall maintain and issue uniform written citations or electronic citations for violation of all municipal and state laws

(b) (1) All uniform written citation books must be pre-numbered by the printer and a printer's certificate shall be furnished to the police department, marshal's office, or sheriff's office and the certificate shall be made available for inspection

(2) The certificate must state the printing date, the numerical sequence of citations printed, and the printer's name

(c) All void or spoiled written citations must be accounted for by attaching all copies to the hard copy in the uniform citation book

(d) (1) All written citations must have at least an original and three (3) copies used and distributed as follows

(A) Hard copy: Violator's copy

(B) White copy: Police department, marshals office, or sheriffs office copy

(C)(i) Yellow copy: Court clerk's copy, to be forwarded to the Office of Driver Services of the Department of Finance and Administration as provided in this subdivision (d)(1)(C)

(ii) Within five (5) business days after a conviction or forfeiture of bail of a person charged with a violation of any law regulating the operation of vehicles on a highway, § 3-3-203(a) or § 5-27-503(a)(3), the clerk shall

forward the yellow copy covering the case in which the person was convicted or forfeited bail

(iii) The yellow copy shall be certified by the person required to prepare it and shall include the name and address of the party charged, the registration number of the vehicle involved, the nature of the offense, the date of the hearing, the plea, the judgment or whether bail was forfeited, and the amount of the fine or forfeiture

(iv) Within five (5) business days after the disposition of any case, the clerk shall forward the yellow copy of the citation and the resulting disposition of the case

(v) A court using the case management system provided by the Administrative Office of the Courts or the electronic reporting system of the Office of Driver Services is not required to submit the yellow copy to the Office of Driver Services but must enter the disposition or judgment of conviction into the case management system or the electronic reporting system within the time required in this section; and

(D) Pink copy: Remains in uniform citation book

(2) The citations shall be given to the police department, marshal's office, sheriff's office, or court clerk at least seven (7) business days before the court date

(e) If an electronic citation is used

(1) A printed copy of the electronic citation must be given to the violator

(2) A copy of the electronic citation shall be maintained by the issuing police department, marshal's office, or sheriff's office; and

(3)(A) A copy of the electronic citation must be forwarded to the court clerk in either electronic or written format, as designated by the court clerk, at least seven (7) days before the court date

(B) The court clerk's copy shall be forwarded to the Office of Driver Services as provided in subdivision (d)(1)(C) of this section

(f) If an electronic citation system is used, the system must be in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee

(g) Controls for citations

(1) A list of all uniform written citations books and the corresponding range of citations in each book shall be kept in the police department, office of the city or town marshal, or sheriff's office

(2) The chief of police, marshal, or sheriff shall issue the uniform written citation books, unless the chief of police, marshal, or sheriff designates in writing another person to perform this duty

(3) The chief of police, marshal, or sheriff shall ensure that all citations issued are entered on the arrest report or in the electronic case management system

(4) Upon completion, each uniform written citation book shall immediately be filed with the court clerk and made available for inspection

(5) Upon case adjudication, the police department, office of city or town marshal, or sheriff's office shall file its copy of the citation either alphabetically or numerically

Ark. Code Ann. § 16-10-205

3 Court docket

(a) All violations shall be docketed and all judgments shall be rendered by the court's presiding judge

(b) The court docket sheet shall reflect the complete history of the violation and the disposition of each case, and shall contain the following information

(1) The citation number

(2) The date and nature of the violation

(3)The date the court convened to hear the case

(4)The names of arresting officers and witnesses, if any

(5) The judgment rendered by the court

(6) The signature or initials of the judge

(7) The total amount of the fine and costs

(8) The receipt number and dollar amount evidencing payment of fine and costs

(9) If applicable, the check number and dollar amount evidencing authorized bond refund. The check itself will indicate the docket number evidencing authorization.

(c) The docket shall be numbered by the court clerk in accordance with the Rules of the Supreme Court of Arkansas.

(d) (1) For manual dockets, the docket pages shall be prenumbered by the printer, and a printer's certificate or other evidence shall be furnished to the court's clerk which shall be made available for inspection.

(2) Docket pages must be either bound or loose-leaf, provided that accountability and control are maintained over loose-leaf docket pages

(e) For manual or electronic dockets, the docket pages shall be numbered independently of court docket numbers assigned by the court clerk

(f) The court clerk shall keep separate court dockets, one (1) for city cases and one (1) for county cases

Ark. Code Ann. § 16-10-206

4 Police department and marshal's and sheriff's office - Activities and clerical duties required.

The following activities and clerical duties relating to court functions shall be required of all police departments, city or town marshals, and sheriff's offices

(1) Preparation and Submission of Arrest Report

(A) Separate arrest reports shall be prepared for city cases and county cases.

(B) The arrest report shall contain the following information

(i) Citation number

(ii) Violator's name

(iii) Nature of the offense

(iv) Name of the arresting officer

(v) Receipt number, if applicable

(vi) Fine and costs collected, if applicable; and

(vii) Any other additional information deemed appropriate or necessary

(C) Before the court date, the arrest report shall be prepared from the citations accumulated in the court date file in the police department office, marshal's office, or sheriff's office

(D) If applicable, the fine and costs collected shall be totaled, and a check shall be drawn payable to the court fund that represents moneys collected and receipts issued by the police department, marshal's office, or sheriff's office for those citations contained on the arrest report

(E) A completed copy of the arrest report accompanied by the police department's, marshal's office, or sheriff's office check, if applicable, shall be delivered to the court clerk at least seven (7) business days before the court date

(2) Collection, Receipt, and Deposit Procedures

(A) This subdivision (2) does not apply if the court clerk has been designated to be primarily responsible for the collection of fines under § 16-13-709

(B) A prenumbered receipt must be issued for all moneys collected

(C) Prenumbered manual receipts must meet the following minimum standards

(i) All receipt books must be prenumbered by the printer, and a printer's certificate shall be furnished to the police department, marshal's office, or sheriff's office, which shall be made available for inspection

(ii) The certificate must state the printing date, the numerical sequence of receipts printed, and the printer's name; and

(iii) All void or spoiled receipts must be accounted for by attaching the original copy of the receipt to the duplicate copy of the receipt in the receipt book, with the reason for the void or spoiled receipt documented and retained for audit purposes

(D) If an electronic receipting system is used, the system must be in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee

(E) The receipt shall be issued in the name of the violator regardless of who paid the bond or fine or who collected the bond or fine and must indicate the method of payment, such as cash, check, money order, or credit card.

(F) (i) Receipts shall be deposited intact daily into the bank account maintained by the police department, marshal's office, or sheriff's office

(ii) All receipt numbers shall be entered on the arrest report by the police department, marshal's office, or sheriff's office

(G) The police department, marshal's office, or sheriff's office may maintain separate bank accounts for city cases and county cases

(H) (i) The bank deposit slips prepared by the police department, marshal's office, or sheriff's office shall contain the range of receipt numbers evidencing such collections

(ii) In addition, the receipts issued shall be reconciled with the monthly bank deposits

(I) A bank reconciliation shall be made at the end of each month, and any balance remaining in the bank account shall be identified with receipts issued but not yet entered on the arrest report

(J) (i) A cash receipts journal or electronic receipts listing shall be established

(ii) The receipts journal or electronic receipts listing must indicate the receipt number, receipt date, violator's name, amount of the receipt, and classification of the receipt

(iii) The receipts journal or electronic receipts listing shall be properly balanced and totaled monthly and on a year-to-date basis

(iv) The receipts journal or electronic receipts listing shall be reconciled monthly to total bank deposits as shown on the bank statements

(K) (i) A cash disbursements journal or electronic check register shall be established

(ii) The disbursements journal or electronic check register must indicate the date, payee, check number, amount for each check written, and the classification of the disbursement

(iii) The disbursements journal or electronic check register shall be properly balanced and totaled monthly and on a year-to-date basis

(iv) The disbursements journal or electronic check register shall be reconciled monthly to total bank disbursements as indicated on the bank statements

Ark. Code Ann. § 16-10-207

5 Court clerk or court administrator - Eligibility

The court clerk or court administrator shall not be a member of the police department, marshal's office, or sheriff's office

Ark. Code Ann. § 16-10-208

6 Court clerk - Activities and clerical duties

The following activities and clerical duties relating to court functions shall be required of all court clerks

(1) Collection, receipt, and deposit procedures

(A) A prenumbered receipt must be issued for all moneys collected.

(B) Prenumbered manual receipts must meet the following minimum standards

(i) All receipt books must be prenumbered by the printer, and a printer's certificate shall be furnished to the court clerk, which shall be made available for inspection

(ii) The certificate must state the printing date, the numerical sequence of receipts printed, and the printer's name; and

(iii) All void or spoiled receipts must be accounted for by attaching the original copy of the receipt to the duplicate copy of the receipt in the receipt book, with the reason for the void or spoiled receipt documented and retained for audit purposes

(C) If an electronic receipting system is used, the system must be in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee

(D)(i) For those checks forwarded with the arrest reports, the receipt shall be issued in the name of the police department, marshal's office, or sheriff's office

(ii) For those receipts issued at court date, the court clerk shall issue such receipts in the name of the defendant, regardless of who paid the bond or fine or who collected the bond or fine, indicating on the receipt the method of payment, such as cash, check, money order, or credit card

(E) Receipts shall be deposited intact daily into the separate bank account

maintained by the court clerk

(F)(i) The bank deposit slips prepared by the court clerk shall contain the range of receipt numbers evidencing such collections

(ii) Additionally, the receipts issued shall be reconciled with the monthly bank deposits

(G) A bank reconciliation shall be made at the end of each month, and any balance remaining in the bank account shall be identified with receipt numbers for cases not yet adjudicated and the payments made on all unpaid individual time accounts

(H) The court clerk may maintain separate bank accounts for city cases and for county cases

(2) Preparation and submission of distribution repor.

(A) The distribution report shall contain the following information

(i) The citation number

(ii) The defendant's name

(iii) The nature of the offense

(iv) The name of arresting officer

(v) The court docket number

(vi) The disposition or date continued

(vii) The receipt number

(viii) The total fine and costs collected

(ix) The fine

(x) The fees and costs itemized

(xi) The bond refund amount

(xii) The bond refund check number; and

(xiii) The installment payment amount

(B) The court clerk at each court date shall prepare the distribution report from the arrest report supplied by the police department, marshal's office, or sheriff's office

(C) At the end of each court date, the court clerk shall complete the distribution report for the court date and total the dollar amounts contained in the report

(D) The distribution reports prepared each court date shall be summarized at least monthly

(E) The court clerk shall make a direct monetary settlement on or before the tenth day of the next-following month with each of the following

(i) The city treasurer

(ii) The county treasurer

(iii) The Administration of Justice Funds Section of the Department of Finance and Administration; and

(iv) Any other state agency or entity which receives fines or fees assessed by the court and collected pursuant to law

(3) Minimum bookkeeping requirements

(A)(i) The court clerk shall maintain a cash receipts journal or electronic receipts listing

(ii) The court clerk may maintain separate cash receipts journals or electronic receipts listings for city cases and county cases

(iii) The receipts journal or electronic receipts listing must indicate the receipt number, receipt date, violator's or payor's name, amount of the receipt, and classification of the receipt

(iv) The receipts journal or electronic receipts listing shall be properly balanced and totaled monthly and on a year-to-date basis

(v) The receipts journal or electronic receipts listing shall be reconciled monthly to total bank deposits as shown on the bank statements

(B) (i) The court clerk shall maintain a cash disbursements journal or electronic check register

(ii) The court clerk may maintain separate cash disbursements journals or

electronic check registers for city cases and county cases

(iii) The disbursements journal or electronic check register must indicate the date, payee, check number, amount for each check written, and classification of the disbursement

(iv) The disbursements journal or electronic check register shall be properly balanced and totaled monthly and on a year-to-date basis

(v) The disbursements journal or electronic check register shall be reconciled monthly to total bank disbursements as indicated on the bank statements

(4) Bond refunds

(A) All bond refunds shall be made only upon the authorization of the presiding judge and shall be indicated as such on the court docket

(B) (i) All bond refunds shall be made only by a check drawn on the court's bank account

(ii) Additionally, the check shall indicate the court docket number for authorization

(C) The court clerk shall enter all bond refunds on the applicable distribution report

(5) Installment payments

(A) Installment payments shall be allowed only upon the authorization of the presiding judge and shall be indicated as such on the court docket

(B)(i) The court clerk shall establish and maintain individual installment payment account ledger records, with a duplicate copy of the ledger record being furnished to and maintained by the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts

(ii) The ledger records shall contain the following minimum information

(a) Name of the individual

(b) Court docket number and court date

(c) Nature of the violation

(d) Total fine and costs assessed

(e) Receipt number, date, and amount of payment; and

(f) Unpaid balance of fine, fees, and costs

(C) The county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts shall be responsible for collecting all installment payments and shall enter all collected installment payments on each applicable arrest or distribution report

(D)(i) The court clerk shall establish and maintain a control total for installment payments, which is a summary of all unpaid individual installment payment accounts

(ii) The control total shall be reconciled monthly with the individual installment payment accounts

(E)(i) The court clerk shall furnish the county or city official, agency, or department designated under § 16-13-709 as primarily responsible for the collection of fines assessed in district courts and the presiding judge monthly with a list of all unpaid installment payment accounts for which a payment has not been received within the past thirty (30) days

(ii) The presiding judge shall then take the necessary action deemed appropriate in the circumstances

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

(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

(6) Reconciliation of completed citation books

(A) The court clerk shall reconcile on a quarterly basis on or before the fifteenth day of the month following the end of the calendar quarter the individual citations in the completed citation book to the individual citations as reflected on the arrest reports or court dockets

(B) (i) For any discrepancies noted in the reconciliation in subdivision (6)(A) of this section, the court clerk shall prepare a list and present this list to the court's judge for his or her appropriate action

(ii) This list shall be maintained for audit purposes

(C) If the court clerk is designated under § 16-13-709 to be primarily responsible for the collection of fines, the reconciliation of completed citation books described in this subdivision (6) shall be performed by someone outside of the court clerk's office as determined by the court judge

Ark. Code Ann. § 16-10-209

7 Accounting systems above minimum

(a) Any official charged with the maintenance of accounting or bookkeeping records under the provisions of this subchapter whose system of bookkeeping is such that it does not strictly adhere to the provisions of this subchapter but, in that official's opinion, equals or exceeds the basic requirements prescribed by this subchapter, may request the court's presiding judge to request a review by the staff of the Legislative Joint Auditing Committee.

(b) Upon the committee's concurrence with the official's opinion regarding the capability of the existing system of bookkeeping, a letter shall be issued by the committee to the court's presiding judge stating that the official's accounting system is of a degree of sophistication such that the basic requirements of this subchapter are being met.

(c) After issuance of the letter by the committee under subsection (b) of this section, the official is exempt from the requirements of the particulars of the procedures prescribed by this subchapter provided the official's system of bookkeeping is not altered.

Ark. Code Ann. § 16-10-210

8 Record retention schedule

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

(1) Permanently maintain

(A) Case indices for all courts

(B) Case dockets for all courts

(C) Active warrants

(D) Waivers

(E) Expungement and sealed records

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

(G) Domestic battering files

(2) Maintain for a period of at least seven (7) years and in no event dispose of before being audited

(A) Complete case files and written exhibits for all courts

(B) Show cause orders

(C) Case information, including arrest reports and affidavits; and

(D) Files concerning cases resulting in a suspended imposition of sentence; and

(3) Maintain for a period of at least three (3) years and in no event dispose of before being audited

(A) Bank reconciliations

(B) Check book registers and check listings

(C) Cancelled checks

(D) Bank statements

(E) Receipts

(F) Deposit collection records

(G) Receipts listings

(H) Distribution reports

(I) Receipt and disbursement journals

(J) Time payment records

(K) Citation book logs

(L) Citation books from each police department and sheriff's office

(M) Served warrants

(N) Copies of citations

(O) Alternative service or community service time sheets

(P) Uniform filing fees collection remittance forms and fine report; and

(Q) Miscellaneous fee and fine collection reports

(b) After a town, city, or county has maintained records for the time periods required by subdivisions (a)(2) or (3) of this section and after the records described in subdivisions (a)(2) or (3) of this section have been audited, the records may be destroyed

(c) When records are destroyed under subsection (b) of this section, the town, city, or county shall document the destruction by the following procedure:

(1) An affidavit is to be prepared stating

(A) Which records are being destroyed and to which period of time the records apply; and

(B) The method of destruction; and

(2) The affidavit is to be signed by the town, city, or county employee performing the destruction and one (1) employee of the governing body or, if applicable, governing bodies that contribute to the expenses of the court

(d) In addition to the procedure described in subsection (c) of this section, the approval of the governing body or, if applicable, governing bodies that contribute to the expenses of the court shall be obtained before the destruction of district court records and an appropriate note of the approval indicated in the minutes of the governing body or bodies along with the destruction affidavit

Ark. Code Ann. § 16-10-211

E Enforcement of Fines

1 Scope.

(a) The procedures established by this subchapter shall apply to the assessment and collection of all monetary fines, however designated, imposed by circuit courts and district courts for criminal convictions, traffic convictions, civil violations, and juvenile delinquency adjudications and shall be utilized to obtain prompt and full payment of all such fines.

(b) For purposes of this subchapter, the term "fine" or "fines" means all monetary penalties imposed by the courts of this state, which include fines, court costs, restitution, probation fees, and public service work supervisory fees.

Ark. Code Ann. § 16-13-701

2 Immediate payment

(a) When a court has imposed a fine, as described in § 16-13-701, the imposition of such a fine constitutes an order to pay the full amount of the fine in accordance with this subchapter.

(b) Following imposition of the fine, the court shall inform the defendant that full payment of the fine is due immediately and shall inquire of the defendant what arrangements he has made to comply with the court's order to pay the fine.

(c) Without utilizing the provisions of § 16-13-704, the court may allow the defendant a period of time, not to extend beyond the time of the close of the clerk's office on the following day, within which to return to the court and tender payment of the fine.

(d) If the defendant fails to appear as directed, the court shall issue an order of arrest.

(i) The arrest order shall be carried out by the sheriff.

(e) The court may also, upon the defendant's failure to appear, utilize any of the enforcement mechanisms authorized by this subchapter.

(f) If the defendant claims an inability to pay the fine, the court shall inquire into the defendant's ability to pay and shall make a determination of the defendant's financial ability to pay the fine.

(g) If the court finds that the defendant has the financial ability to make immediate payment of the fine in full, the court shall order him to pay the fine.

(h) Failure or refusal to pay as ordered by the court shall subject the defendant to imprisonment, as provided in § 16-13-703.

(i) When a corporation is sentenced to pay a fine or costs, it is the duty of the person authorized to make disbursement from the assets of the corporation to pay the fine or costs.

(j) If such disbursements require approval of the board of directors, it is the duty of the board to authorize disbursements to pay the fine or costs.

(k) Failure to comply with the duties imposed by this subsection shall render the person or directors subject to imprisonment under § 16-13-703.

Ark. Code Ann. § 16-13-702

3 Imprisonment

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

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

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

(d) The period of imprisonment shall not exceed one (1) day for each forty dollars ($40.00) of the fine or costs, thirty (30) days if the fine or costs were was imposed upon conviction of a misdemeanor, or one (1) year if the fine or costs were was imposed upon conviction of a felony, whichever is the shorter period.

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

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

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

Ark. Code Ann. § 16-13-703

4 Installment payments

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

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

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

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

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

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

(2)(A) One-half (1/2) of the installment fee collected in district court shall be remitted by the tenth day of each month to the Administration of Justice Funds Section, on a form provided by that section, for deposit in the Judicial Fine Collection Enhancement Fund established by § 16-13-712.

(B) The other half of the installment fee collected in district court shall be remitted by the tenth day of each month to the city treasurer of the city in which the district court is located to be deposited in a fund entitled the district court

automation fund to be used solely for district court-related technology.

(C) In any district court which is funded solely by the county, the other half of this fee shall be remitted by the tenth day of each month to the county treasurer of the county in which the district court is located to be deposited in the district court automation fund to be used solely for district court-related technology.

(D)(i) Expenditures from the district court automation fund shall be approved by a district judge and shall be authorized and paid, under state laws governing the appropriation and payment of county or municipal expenditures, by the governing body or, if applicable, governing bodies that contribute to the expenses of a district court.

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

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

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

Ark. Code Ann. § 16-13-704

5 Personal checks

(a) The court shall accept personal checks drawn in the favor of a designated official, as provided in § 16-13-709, in payment of any fine or associated charge assessed by the court if the person issuing the check furnishes satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the court or designated agency, may be imposed to recover processing and collection costs.

(c) This charge may be added to, and become part of, any underlying obligation.

(d) The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the court to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

Ark. Code Ann. § 16-13-705

6 Credit card payments

(a) The court or the agency designated under § 16-13-709 or § 16-92-118 may accept payment of fines and associated costs by an approved credit card or debit card.

(b) The court or designated agency may enter into contracts with credit card companies and pay those companies fees normally charged by those companies for allowing the court to accept their credit cards in payment as authorized by subsection (a) of this section.

(c) When the offender pays fines or court costs by an approved credit card or debit card, the court may assess the offender a transaction fee.

(d) All courts are authorized to enroll for service with and accept payments from a third-party entity for the acceptance and collection of fines and associated costs with an approved credit card for which the third-party entity may charge the offender a transaction fee.

(e) The State of Arkansas or any of its political subdivisions shall not charge a transaction fee for electronic payments of a court-ordered fine paid through a third-party entity.

Ark. Code Ann. § 16-13-706

7 Lien on property

(a) When a defendant sentenced to pay a fine defaults in the payment thereof or of any installment, the fine may be collected by any means authorized for the enforcement of money judgments in civil actions.

(b) A judgment that the defendant pay a fine shall constitute a lien on the real and personal property of the defendant in the same manner and to the same extent as a money judgment in a civil action.

(c) A judgment entered by a district court shall not become a lien against real property unless a certified copy of the judgment, showing the name of the judgment debtor and the date and amount thereof, shall be filed in the office of the circuit clerk of the county in which the land is situated.

Ark. Code Ann. § 16-13-707

8 Revocation of registration or license

(a) The court may certify in writing to the Department of Finance and Administration that a debtor has failed to make satisfactory arrangements for the payment of fines and request the department to revoke, suspend, or refuse to renew the debtor's motor vehicle registration or driver's license.

(b) For driver's license revocation, the court must provide the department with the debtor's full name, social security number, and last known address.

(c) For motor vehicle registration revocation, the court must provide the department with the debtor's full name and the license plate number or vehicle identification number of the debtor's vehicle.

Ark. Code Ann. § 16-13-708

9 Responsibility for collection

(a) (1) (A) (i) The governing body or, if applicable, each governing body of a political subdivision which contributes to the expenses of a district court shall designate a county, town, or city official, agency, or department who shall be primarily responsible for the collection of fines assessed in the district courts of this state.

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

(B) The chief of police of the town or city in which a district court is located shall remain responsible for collecting bail or money deposited in lieu of bail on behalf of defendants discharged from incarceration pursuant to law in district court.

(C) (i) The governing body or, if applicable, each governing body of a political subdivision which contributes to the expenses of a district court may delegate the responsibility for the collection of delinquent fines assessed in district court to a private contractor.

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

(iii) The commission agreed to be received by the private contractor shall

be a portion of the total fine owed by a defendant.

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

(v) The private contractor shall remit the gross amount collected to the county, town, or city official, agency, or department designated under subdivision (a)(2)(A) of this section on a monthly basis.

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

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

(viii) The remainder of fines received shall be disbursed pro rata under this section and §§ 16-10-209, 16-10-308, and 16-17-707.

(3) "Delinquent" means any fines assessed in the circuit courts or district courts of this state which have not been paid as ordered for a period of ninety (90) days or three (3) payments, either consecutive or concurrent, since payment was ordered or since last partial payment was received.

(4) A copy of the ordinance making the designation shall be provided to the Administrative Office of the Courts.

(b) (1) If a private contractor is selected to collect delinquent fines, then to ensure the integrity of the court and to protect the county, town, or city, the contractor shall register with the Secretary of State and shall file with the Secretary of State a surety bond or certificate of deposit.

(2) The amount of the surety bond or certificate of deposit shall be fifty thousand dollars ($50,000).

(3) The county, town, city, or any person suffering damage by reason of the acts or omissions of the contractor may bring action on the bond for damages.

(4) A contractor shall be ineligible to provide such services if the owner, operator, partner, or employee has been convicted of a felony.

Ark. Code Ann. § 16-13-709

10 Automated collection procedures

The Administrative Office of the Courts shall have the responsibility to assist district courts, city courts, and police courts in the assessment and collection of fines and the management and reporting of fine revenue.

Ark. Code Ann. § 16-13-710

11 Form of orders

When an order assessing a fine or penalty is entered, information on the order shall include, but is not limited to, the defendant's name, current address, social security number, driver's license number, name and address of employment, amount of fine, and the agreed upon payment terms and conditions.

Ark. Code Ann. § 16-13-711

12 Separate accounting records of fines, etc. – Disbursements

(a) The district court clerk shall keep three (3) separate accounting records of all fines, penalties, forfeitures, fees, and costs received by the court for any of the officers of the town, city, state, or county, as provided in this subchapter:

(b) The first class of accounting records shall embrace all sums collected in the district court in all non-traffic cases which are misdemeanors or violations of the town or city ordinances and all cases which are misdemeanors or violations under state law or traffic offenses which are misdemeanors or violations under state law or town or city ordinance committed within the corporate limits of the town or city where the court sits, where the arresting officer was a police officer or other officer of the town or city, a Department of Arkansas State Police officer or other certified law enforcement officer of the state, or an officer of a private or public college or university located within the corporate limits of the town or city where the court sits.

(c) The second class of accounting records shall embrace all sums collected in the district court in all non-traffic cases which are misdemeanors or violations of county ordinances or are misdemeanors or violations any of the laws of the state where the arresting officer was the county sheriff or a deputy sheriff, or was not a police officer or other officer of the town or city where the court sits, and the offense was committed outside the corporate limits of the town or city, and in all other criminal or traffic proceedings not specifically enumerated in this section; and

(d) The third class of accounting records shall embrace all sums collected in the district court in all civil and small claims cases.

(i) The uniform filing fee collected under § 16-17-705 shall be remitted to the city administration of justice fund.

(ii) The uniform court costs collected under § 16-10-305 shall be remitted to the city administration of justice fund.

(iii) All other fees and interest earned on the court account shall be disbursed to the treasurers of the political subdivisions which contribute to the expenses of the district court in accordance with a written agreement between the political subdivisions.

(e) After deducting the fees due the police department, marshal's and sheriff's offices the district court shall pay into the town or city treasury all sums collected from the first class of accounting records, and the court shall pay all sums collected from the second class of accounting records into the county treasury.

(f) Any district court that is funded solely by the county shall pay all sums collected from the first or second class of accounting records into the county treasury and shall pay all uniform filing fees and court costs collected into the county administration of justice fund.

(g) A town or city that has a police department and does not operate a district court or city court shall receive only the prorated sums collected as provided in § 16-17-1203.

(h) Direct monetary settlements shall be made with state entities or agencies as provided by law.

(i) All disbursements from all three (3) classes of accounting records shall be pursuant to the provisions set forth in the Arkansas District Courts and City Courts Accounting Law, §§ 16-10-201 - 16-10-210.

Ark. Code Ann. § 16-17-707

13 Procedure for Expense Cost Sharing

(a)(1)(A) Any town or city that has a police department but does not have a district court or city court may contribute to the operational expenses of the nearest district court in the county where the town or city is located pursuant to a written agreement.

(B) A written agreement is mandatory and is to be entered into among the governing body of the town or city and the governing bodies of the political subdivisions that contribute to the operational expenses of the district court.

(2)(A) The contribution to the operational expenses of a district court described in subdivision (a)(1) of this section shall be a prorated amount based on the number of cases filed in the district court from each of the towns and cities and the county during the preceding calendar year.

(B) The prorated amount of operational expenses shall apply to all fines, fees, and costs not obligated under law that are collected pursuant to Section 16-13-701 et seq. in all:

(i) Nontraffic cases that are misdemeanors or violations of a town or city ordinance;

(ii) Cases that are misdemeanors or violations under state law; and

(iii) Traffic offenses that are misdemeanors or violations under state law or town or city ordinance committed within the corporate limits of a town or city that is a party to an agreement described in subdivision (a)(1) of this section.

(b) Apportionment of the costs of a district court shall be by order of the district court upon certification of the cases filed by the clerk of the district court.

(c) On and after the effective date of the agreement described in subdivision (a)(1) of this section, all fines, fees, penalties, and costs received by a town or city that is a party to the agreement shall be collected and distributed in the manner provided by laws affecting district courts.

Ark. Code Ann. § 16-17-1203

14 Fines – Collection and Deposit

(a)(1) Notwithstanding Section 16-13-709, the governing body or, if applicable and by mutual agreement, each governing body of a political subdivision that contributes to the expenses of a district court or the governing body of the city in which a city court is located may designate the responsibility for the electronic collection of fines assessed in that district court or that city court to the Administrative Office of the Courts or the Information Network of Arkansas.

(2) Fines collected in each district court or each department of district court by the Administrative Office of the Courts or the Information Network of Arkansas shall be remitted by the fifth working day of the following month to the county or city official, agency, or department designated under Section

16-13-709 as primarily responsible for the collection of fines assessed in that district court to be disbursed under Section 16-17-707.

(c) Fines collected in each city court by the Administrative Office of the Courts or the Information Network of Arkansas shall be disbursed by the fifth working day of the following month to the city official, agency, or department designated under Section 16-13-709 as primarily responsible for the collection of fines assessed in that city court to be disbursed to the general fund or other city fund, state agency, or state entity as provided by law.

(d)(1) The Administrative Office of the Courts or the Information Network of Arkansas shall be allowed to charge a transaction fee for any electronic payment of a court-ordered fine by an approved credit card or debit card.

(2) The fee provided for in subsection (d)(1) of this section collected by the Administrative Office of the Courts shall be deposited by the fifth day of each month in the Judicial Fine Collection Enhancement Fund established by Section 16-13-712.

(e)(1) This section does not prohibit the county or city official, agency, or department designated under Section 16-13-709 as primarily responsible for the collection of fines assessed in a district court, or city court of this state from the electronic collection of fines.

(2) The governing body or, if applicable and by mutual agreement, each governing body of a political subdivision that contributes to the expenses of a district court or the governing body of the city in which a city court is located, may establish a transaction fee to be charged by the city or county official, agency, or department designated under Section 16-13-709 as primarily responsible for the collection of fines assessed in that district court or city court for any electronic payment of a court-ordered fine by an approved credit card or debit card.

(3) The fee provided for in subdivision (e)(2) of this section collected by the designated county or city official, agency, or department shall be deposited by the tenth day of each month in the appropriate district court automation fund, or city court automation fund established under Section 16-73-704 to be used solely for the purposes stated in that section.

(f)(1) The procedures established by this section apply to the assessment and collection of all monetary fines, however designated, imposed by district courts or city courts for criminal convictions, traffic convictions, and civil violations and shall be used to obtain prompt and full payment of all such fines.

(2) For purposes of this section, the term "fine" or "fines" means all monetary penalties imposed by the courts of this state, which include fines, court costs, restitution, probation fees, and public service work supervisory fees.

Ark. Code Ann. § 16-92-118

F Private Contractor Collecting Probation Fees/Report Required

1 Notwithstanding §§ 16-13-701 - 16-13-712, a private contractor may only collect and retain the fees established by the court for probation services, pretrial supervised release programs or alternative sentencing programs provided pursuant to § 16-17-127(a).

2 When the order of the district court or city court requires a defendant to use the services or programs of a private contractor, the designated contractor shall report on or before the fifth day of each month all fees collected. This report shall be provided to the mayor and county judge of the political subdivision or subdivisions which contribute to the expenses of the district court or city court and to the district court clerk or city court clerk for inclusion in the court's monthly report as required by law.

3 The report of the private contractor, as required in this section, shall contain columns with the following information by defendant:

(a) Uniform traffic ticket number;

(b) Defendant's name;

(c) Court docket number;

(d) Receipt number;

(e) Amount collected; and

(f) Total of all fees collected.

4 A private contractor providing the collection of delinquent fines and court costs shall follow the procedures in §§ 16-13-701 - 16-13-712.

5 This section shall not apply to the alcohol treatment or education programs authorized by § 5-65-115 and § 5-65-307.

6 This section shall not apply to a company whose service is limited to the acceptance of credit card payments for fines, fees and costs and does not

engage in affirmative acts of collection and enforcement of delinquent fines and costs.

Ark. Code Ann. § 16-17-127

G Disposition of Fees, Costs and Fines

1 Court Costs and Filing Fees

Act 1256 of 1995, as amended, the "Uniform Court Cost and Filing Fee Act", has been successful in making filing fees and court costs uniform across the state. That act also governs the disposition of those filing fees and costs while prohibiting the enactment of additional filing fees or court costs. Cities and counties which operate a court report monthly to the state the amount of court costs and filing fees collected. These cities and counties retain an amount of money each month to help defray the local cost of the administration of justice and remit any amounts collected over that monthly share to the state administration of justice fund.

See Relevant Form

2 City and County General Funds

Generally, funds collected in district court must be turned over to the city or county general fund and budgeted and spent through the city or county. Funds collected in city court, generally, must be turned over to the city general fund and budgeted and spent through the city. Neither district nor city court has specific authority to maintain funds from fees, fines or costs in an operating account for its own use.

See Op. Att'y. Gen. # 92-017

3 Specific Fines and Other Fees

There are many particular statutory provisions which direct the transmission of collected fines to some specific fund or which allow the court to charge a specific fee. These fees and fines are too numerous to detail here but, the "District Court Monthly Settlement Report" in the appendix does list them and tell to which specific fund they are to be remitted.

See, District Court Monthly Settlement Report, appendix.

H Unclaimed Property Act

1 The "Unclaimed Property Act" includes customer overpayments to a court.

2 Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth as follows: it is held by the court for a period of one (1) year after the property becomes distributable.

3 A holder of property presumed abandoned make a report to the Auditor of State concerning the property.

4 The report must be verified and contain:

(a) a description of the property;
(b) an aggregated amount of items valued under fifty dollars ($50.00) each; and
(c) the date, if any, on which the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.

5 The report must be filed before November 1 of each year and cover the twelve (12) months next preceding July 1 of that year.

6 Written notice must be sent to the apparent owner not more than one hundred twenty (120) days or less than sixty (60) days before filing the report stating that the court is in possession of the property subject to this Act, if:

(a) you have an address of the apparent owner which your records do not show to be inaccurate;
(b) the claim of the apparent owner is not barred by a statute of limitations; and
(c) value of the property is fifty dollars ($50) or more.

7 The court shall file with the report an affidavit stating that the court has complied with the notice requirement.
Ark. Code Ann. § 18-28-201 et seq.

I Setoff against State Tax Refund

1 This section of Arkansas law establishes a policy that all claimant agencies and the Revenue Division of the Department of Finance and Administration shall cooperate in identifying debtors who:

(a) Qualify for refunds from the division; and
(b) Owe money to the state, or to an Arkansas county, city, or town through its various claimant agencies.

2 This section also establishes procedures for setting off against any such refund the sum of any debt owed to the state or to an Arkansas county, city or town.

3 "Claimant agencies" include Arkansas district and city courts.

4 "Debt" shall include all of the following that have been delinquent for more than six (6) months and that are not under appeal:

(a) Traffic fines;
(b) 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
(c) Restitution ordered by a district or city court related to the violation of any state law.

5 A claimant agency seeking to attempt collection of a debt through setoff shall notify, in writing, the division and supply the debtor's name, social security number, and any other information necessary to identify the debtor whose refund is sought to be set off.

6 Notification to the division and the furnishing of identifying information must occur on or before December 1 in the year preceding the calendar year during which the refund would be paid. Additionally, subject to the notification deadline specified, the notification shall be effective only to initiate setoff for claims against refunds that would be made in the calendar year subsequent to the year in which notification is made to the division.

7 The division shall determine whether the debtor to the claimant agency is entitled to a refund.

8 Upon determination by the division that a debtor specified by a claimant agency qualifies for such a refund and that a refund is pending, the division shall specify its sum and indicate the debtor's address as listed on the tax return.

9 Each claimant agency must submit all claims for any year for collection under this subchapter to the division at one (1) time.

10 Claims to be set off shall be submitted in a form compatible with the data processing equipment of the division, or the submitting agency shall pay the actual cost of converting their list of claims to a form which can be used by the division for effecting setoff.

11 Unless stayed by court order, the division shall, upon certification as provided in this subchapter, set off the certified debt against the refund to which the debtor would otherwise be entitled.

12 If the claimant agency is a district or city court, ten percent (10%) of the proceeds collected by the division through setoff shall represent the division's cost of effecting setoff and shall be charged to the respective district or city court as a collection assistance fee.

Ark. Code Ann. § 26-36-301 et seq.

XVI CONTEMPT OF COURT

A Committed in the Presence of the Court

1 Every court of record has power to punish as for criminal contempt certain acts:

(a) Disorderly behavior committed during courts sitting

(b) Any breach of the peace, noise or disturbance interrupting the proceedings

(c) Willful disobedience of process

(d) Willful resistance of a lawful court order

(e) Refusal to be sworn as a witness or refusal to answer questions once sworn.

2 Punishment for contempt is a Class C misdemeanor.

3 Contempt in presence of court may be punished summarily.

Ark. Code Ann. § 16-10-108

"§16-10-108 is not a limitation on the power of the court to impose punishment for disobedience of process" **Carle v. Burnett, 311 Ark. 477, 845 S.W.2nd 7 (1993)**

See also Ark. Dept. of Human Services v. Clark, 305 Ark. 561, 810 S.W.2d 331 (1991)

See Ark. Dept. of Human Services v. R.P., 333 Ark. 516, 970 S.W.2d 225 (1998) *Re: Judicial Bias*

Court has inherent power to punish for contempt. **Yarbrough v. Yarbrough, 295 Ark. 211, 748 S.W.2d 123 (1988)**

B Out-of-Court Contempt

1 General Assembly has power to regulate contempts not committed in presence of court.

Ark. Const. Art. 7 Sec. 26

2 Party charged with out-of-court contempt shall be notified of accusation and shall have reasonable time to make a defense.

Ark. Code Ann. § 16-10-108

Nelson v. Nelson, 20 Ark. App. 85, 723 S.W.2d 849 (1987); Ark. Dept. of Human Services v. Shipman, 25 Ark. App. 247, 756 S.W.2d 930 (1988).

But, see Finn v. State, 36 Ark. App. 89, 819 S.W.2d 25 (1991); and Ellis v. State, 36 Ark. App. 219, 821 S.W.2d 56 (1991).

See Relevant Form

C Juvenile Contempt

1 For a juvenile to be found in contempt for violating a court order the order must have been in writing and served on the juvenile and the juvenile(s parent or guardian. If a juvenile is found in contempt of court the court may:

(a) Order that the juvenile be committed for a period not to exceed 10 days; or

(b) Place the juvenile on residential detention, which may be supervised by electronic monitoring for up to 30 days.

Ark. Code Ann. § 16-17-133

See Section XI B

XVII JUDICIAL ETHICS

A Generally

As part-time judges, district court judges are bound both by The Model Rules of Professional Conduct (in their role as private attorneys) and the Code of Judicial Conduct (in their role as judges). Model Rules of Professional Conduct; Arkansas Code of Judicial Conduct

1 Attorney Misconduct. Ethical violations by attorneys are investigated and regulated by the Supreme Court Committee on Professional Conduct. In addition to insuring that their own activities as attorneys conform to the Rules, district judges also have a responsibility to report attorney misconduct which occurs in their courts.

Rules of the Court Regulating Professional Conduct of Attorneys at Law

2 Judicial Misconduct. Ethical violations by judges are investigated and regulated by the Arkansas Judicial Discipline and Disability Commission.

Ark. Code Ann. § 16-10-401 et seq.

In Re: Adoption of Amendments to Rules Of Procedure of the Arkansas Judicial Discipline and Disability Commission in Response to Arkansas Bar Association Petition, 373 Ark. Appx. (op. del. 3/13/2008)

B Arkansas Code of Judicial Conduct

See appendix

C Exceptions

District judges (who are part-time) are not required to comply with:

1 Rules 2.10(A) and 2.10(B) (Judicial Statements on Pending and Impending Cases), except while serving as judge; or

2 At any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business or Remunerative Activities), 3.14 (Reimbursement of Expenses and Waiver of Fees or Charges), 3.15 (Reporting Requirements), and;

3 Shall not practice law in the court on which the judge serves, shall not appear in any criminal matter in the county in which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

D Rule 3.15 Reporting Requirements

(a) A judge shall publicly report the amount or value of:

(1) compensation received for extrajudicial activities as permitted by Rule 3.12;

(2) gifts and other things of value as permitted by Rule 3.13(C), and

(3) reimbursement of expenses and waiver of fees or charges as permitted by Rule 3.14(A).

(b) The scope of reporting, the time for reporting, the manner of reporting, and other issues shall be as determined by state law.

The Judicial Ethics Advisory Committee says the intent of Rule 3.15(b) is clear that judges should report in the same way as other government officials, as required by the General Assembly; that judges only file one report; and that the reporting requirements for judges be in accord with applicable legislation. See E, below.

E Financial Statements

District judges are required to file each year, before January 31, a statement of financial interest with the city clerk of the municipality within which they serve.

Ark. Code Ann. § 21-8-701
Ark. Code Ann. § 21-8-703

See Relevant Form

This form may also be accessed at the Arkansas Ethics Commission's webpage http://www.arkansasethics.com

F Disqualification and Assignment – Administrative Order Number 16

1 AUTHORITY AND SCOPE

Pursuant to Ark. Const. Amend. 80, §§ 4, 12, and 13; Ark. Code Ann. §§ 16-10-101 (Repl. 1999), 16-13-214 (Repl. 1999), 16-13-312 (Repl. 1999), and this Court's inherent rule-making authority, the Court adopts and publishes Administrative Order Number 16: Procedures Regarding the Assignment of Circuit, District, and Retired Judges and Justices.

This Order authorizes the Chief Justice or designee to assign sitting state district court judges, with their consent, to serve temporarily in circuit court.

This Order also authorizes the Chief Justice or designee to assign sitting district court judges and sitting state district court judges, with their consent, to serve temporarily in a district court. Sitting district judges and sitting state district court judges are hereby authorized to sit on assignment in a city, county or district other than the one to which they are currently elected or appointed. Sitting circuit judges and retired circuit, chancery, circuit/chancery, and appellate judges are also authorized, with their consent, to sit temporarily in district courts, upon appointment by the Chief Justice or designee.

By adoption of this Order, the Court does not prohibit, and in fact, the Court encourages the use of Exchange Agreements by circuit judges or district judges pursuant to Ark. Const. amend. 80, §§ 6(C) and 7(E); Ark. Code Ann. § 16-13-402 & -403 (Repl. 1999); § 16-17-102 (Repl. 1999), and the use of "special judges" as provided by Ark. Const. amend. 80, § 13(C); Ark. Code Ann. § 16-17-210 (Repl. 1999); and Administrative Order Number 1.

2 BASES FOR ASSIGNMENT

(a) Disqualification pursuant to Arkansas Code of Judicial Conduct; [fn1] or

(b) Temporary inability to serve; [fn2] or

(c) Other need as determined by the Chief Justice.

3 REQUEST FOR ASSIGNMENT

Circuit Courts: A trial judge requesting that a judge be assigned shall write a letter to the Chief Justice asking that an assignment be made pursuant to one or more of the bases set forth in Section II. In cases of disqualification in judicial circuits with more than one judge, all judges in the circuit must disqualify before an assignment will be made. The last judge in the circuit to recuse in a matter is responsible for writing the letter of request, sufficient in detail to inform the Chief Justice of the following:

(a) the type of case involved

(b) the facts or law in dispute

(c) whether a temporary hearing is scheduled or necessary

(d) the estimated time to hear the matter

(e) the names of the attorneys representing the parties; and

(f) other pertinent information to assist the Chief Justice in making an assignment.

District Courts: A district court judge requesting that a judge be assigned shall follow the same procedure as set out for circuit courts above, including the requirement pertaining to the disqualification of all judges in multiple-judge circuits. A request shall include the same information pertinent to a case as set out above for circuit court cases.

Circuit or District Courts: A judge or judges recusing because of disqualification shall take no further action in a case after assignment, except that the judge requesting an assignment shall direct his or her staff to notify the attorneys or pro se litigants of the assignment and to accommodate, to the extent possible, an assigned judge regarding facilities and staff, when necessary, to carry out the assignment.

4 CONSIDERATIONS IN MAKING ASSIGNMENTS

Issues which will be considered in selecting a judge to be assigned include, but are not limited to:

(a) the type and complexity of the case

(b) the amount of time estimated for the assignment

(c) the geographic location of the case and the proximity of the assigned judge; and

(d) the consent of the sitting judge or retired judge or justice selected.

(e) Under no circumstances shall a judge, a lawyer, or a party seek to influence the decision of the Chief Justice in making an assignment.

5 ASSIGNED JUDGES' POWER to SIGN DOCUMENTS

A judge assigned to a cause or matter may render or sign orders, judgments, documents, or other papers in that cause or matter in a geographic location other than the judicial circuit or district in which the cause or matter is pending. Such order, judgment, document, or other paper shall have the same effect, for all intents and purposes, as if signed in the judicial circuit or district in which the matter or cause is pending.

6 TERMINATIONS AND REASSIGNMENTS

An assignment, once made, will be terminated only for good cause at the request of the assigned judge or at the discretion of the Chief Justice.

District Courts: After termination of an assignment and notification to the clerk of the district court in which the case is filed, the district clerk shall notify the

district court of the termination of assignment. If the cause necessitating the assignment still exists, the process for assignment by the Chief Justice may begin anew with a letter from the district judge to the Chief Justice. Assignment shall be made in the same manner as set out herein.

7 REPORTS

All judges assigned to circuit court cases are subject to Administrative Order No. 3, which requires the reporting of cases that have been under advisement for more than ninety (90) days after final submission. For reporting such cases, a judge shall follow the process set out in Administrative Order No. 3(2)(A). A judge who has no cases that have been under submission for more than ninety (90) days is not required to file a report.

[fn1] Am. 80, Sec. 12; Canon 2 and Rule 2.11 of the Arkansas Code of Judicial Conduct.

[fn2] Am. 80, Sec. 13.

FORMS INDEX – DISTRICT COURT BENCHBOOK

Form names are located at the bottom of each form.

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FORM CR02 Affidavit for Contempt of Court

FORM CR03 Affidavit for Criminal Summons

FORM CR03 Affidavit for Criminal Summons - *Spanish*

FORM CR04 Affidavit for Search and Seizure Warrant

FORM CR05 Affidavit of Indigency

FORM CR05 Affidavit of Indigency - *Spanish*

FORM CR06 Appeal Bond

FORM CR07 Appeal Transcript

FORM CR08 Appearance Agreement Alternative Admin. Fee

FORM CR08 Appearance Agreement Alternative Admin. Fee - *Spanish*

FORM CR09 Appearance Agreement Unsecured Bond

FORM CR10 Arrest Warrant

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FORM CR11 Citation to Appear - Spanish

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FORM CR12 Comm. Punishment Criteria - *Spanish*

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FORM CR13 Conditions of Release - *Spanish*

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FORM CR14 Contract for Voluntary Work Program - *Spanish*

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FORM CR16 Installment Payment Agreement

FORM CR16 Installment Payment Agreement - *Spanish*

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FORM CR19 No Contact Order - Spanish

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FORM CR21 Notice to Nonresident of Failure to Comply - *Spanish*

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FORM CR23 Order Denial Driving Privileges of a Minor

FORM CR24 Order Denial of Driving Privilege Poss. Cont. Sub.

FORM CR25 Order Dismissing Stale Arrest Warrants

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FORM CR28 Order Extension of Time to Pay Fine

FORM CR28 Order Extension of Time to Pay Fine - *Spanish*

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FORM CR35 Order of Wage Assignment - *Spanish*

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FORM CV02 Appeal Transcript

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AOC REPORTING FORMS

FORM Report01 AOC District Court Monthly

IN THE DISTRICT COURT OF _____, ARKANSAS

AFFIDAVIT FOR WARRANT OF ARREST FOR THE FOLLOWING PERSON:

_____	_____	_____	Felony
Potential Defendant's Name	DOB & Race		
		_____	Misdemeanor
_____	_____		
Address	Phone Number	_____	Violation

Pursuant to Rule 7.1 of the Arkansas Rules of Criminal Procedure, the undersigned affiant(s), being duly sworn, deposes and says that he has reason to believe that the above-named person has committed the offense of violating Ark. Code Ann. § _____ on or about the _____ day of _____, 20___, committed by unlawfully

_____

_____

_____

(State statutory language)

in _____ County, Arkansas, against the peace and dignity of the State of Arkansas.

FACTS CONSTITUTING REASONABLE CAUSE

_____

_____

_____

_____

_____

I swear that the allegations contained herein are the truth, the whole truth, and nothing but the truth.

1. _____
Affiant's Signature
_____
Print Name
_____
Address
_____
Phone

2. _____
Affiant's Signature/Witness
_____
Print Name
_____
Address
_____
Phone

3. _____
Affiant's Signature/Witness
_____
Print Name
_____
Address
_____
Phone

4. _____
Affiant's Signature/Witness
_____
Print Name
_____
Address
_____
Phone

Subscribed and sworn to before me this _____ day of _____, 20___.

District Court Clerk By: _____, Deputy Clerk

_____DISTRICT COURT

AFFIDAVIT FOR CONTEMPT

Party Violating Court Order

Case No. _____
A.C.A. §16-10-108

_____ Name

_____ Telephone - home

_____ Address

_____ Telephone - work

_____ City, State, Zip

_____ Name of Employer

I _____, hereby state under oath that I believe _____
Affiant
_____ has violated this Court's order entered on _____ by doing the
(date of order)
following:_____

_____

_____

_____

_____

_____

_____

_____

_____

_____ Affiant's signature

_____ Witness' name

_____ Address

_____ Address

_____ Home phone Work phone

_____ Home phone Work phone

_____ Witness' name

_____ Witness' name

_____ Address

_____ Address

_____ Home phone Work phone

_____ Home phone Work phone

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20___.

_____ Court Clerk (Seal)

Terms of court order: _____

_____

_____

AFFIDAVIT FOR CRIMINAL SUMMONS

YOUR NAME:_____

RESIDENT ADDRESS:_____

HOME PHONE:_____ WORK PHONE:_____

DEFENDANT'S NAME:_____

RESIDENT ADDRESS:_____

HOME PHONE:_____ WORK PHONE:_____

YOUR RELATIONSHIP WITH DEFENDANT:_____

WHAT HAPPENED BASICALLY? DESCRIBE WHERE, WHEN, HOW, INCIDENT HAPPENED. DESCRIBE IN SUFFICIENT DETAIL THE IDENTITY OF DEFENDANT, THE FORCE USED, ETC. PRINT YOUR RESPONSE.

_____
_____
_____
_____
_____
_____

WITNESS:_____
_____
_____
_____

LOCATION OF INCIDENT:_____ DATE:_____

I, THE UNDERSIGNED, SWEAR THESE FACTS ARE TRUE AND CORRECT AND ASK THAT CRIMINAL CHARGED BE FILED.

_____
SIGNATURE

STATE OF ARKANSAS
COUNTY OF_____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20_____.

_____
Notary Public

My Commission expires:_____

APPOINTMENT DATE:_____ TIME: _____

DEPUTY PROSECUTING ATTORNEY:_____

DECLARACIÓN JURADA PARA CITACIÓN PENAL

SU NOMBRE:_____

DIRECCIÓN DE DOMICILIO:_____

TELÉFONO PARTICULAR:_____TEL. DEL TRABAJO:_____

NOMBRE DEL ACUSADO:_____

DIRECCIÓN DE DOMICILIO:_____

TELÉFONO PARTICULAR:_____TEL. DEL TRABAJO:_____

PARENTESCO CON EL ACUSADO:_____

BASICAMENTE, ¿QUÉ OCURRIÓ? DESCRIBA DÓNDE, CUÁNDO, Y CÓMO OCURRIÓ EL INCIDENTE. DESCRIBA CON DETALLE SUFICIENTE LA IDENTIDAD DEL ACUSADO, LA FUERZA UTILIZADA, ETC. ESCRIBA SU RESPUESTA CON LETRA DE MOLDE.

_____
_____
_____
_____
_____
_____

TESTIGO:_____
_____
_____
_____

LUGAR DEL INCIDENTE:_____ FECHA:_____

YO, EL SUSCRITO, JURO QUE ESTOS HECHOS SON CIERTOS Y VERDADEROS Y PIDO QUE SE PROMUEVA ACCIÓN PENAL.

_____
FIRMA

ESTADO DE ARKANSAS
CONDADO DE_____

SUSCRITO Y JURADO ante mí este día _____ de _____ de 20_____.

_____
Notario Público

Mi cargo caduca:_____

FECHA DE LA CITA:_____ HORA: _____

SUBFISCAL:_____

IN THE DISTRICT COURT OF _____, ARKANSAS

STATE OF ARKANSAS

COUNTY OF_____

AFFIDAVIT FOR SEARCH AND SEIZURE WARRANT

The undersigned,

being duly sworn, deposes and says that there is reasonable cause to believe that on the premises described as:

there is being concealed at this time certain property, to-wit:

tending to demonstrate that the criminal offense of _____ has been committed. As there exists reasonable cause to believe that the above facts and conditions do exist, a search and seizure warrant should issue.

FACTS CONSTITUTING REASONABLE CAUSE

Affiant states that he is _____ and that he is currently assigned to the _____ Division of _____ and further states the following facts as establishing reasonable cause to justify issuance of a Search and Seizure Warrant:

WHEREFORE, Affiant requests that a search and seizure warrant be issued, allowing a search during the daylight hours between 6:00 a.m. and 8:00 p.m.

_____
AFFIANT

SUBSCRIBED AND SWORN TO before me on this _____ day of _____, 20___

_____
JUDICIAL OFFICER

_____
COURT

I hereby find that this affidavit establishes reasonable cause to believe that the requested search will discover the above-named items at the above-named premises and do hereby authorize the issuance of a Search and Seizure Warrant.

_____
DISTRICT JUDGE

IN THE DISTRICT COURT OF _____, ARKANSAS

_____ Department

STATE OF ARKANSAS **PLAINTIFF**

V. **Case No. _____**

_____ **DEFENDANT**

AFFIDAVIT OF INDIGENCY

_____, the defendant in the above-captioned proceeding, being first duly sworn on oath, deposes and states:

A. PUBLIC DEFENDER INFORMATION

I have been evaluated by the office of the state public defender: ( ) Yes ( ) No
If yes, I have been found: ( ) Eligible ( ) Ineligible ( ) Partially eligible

B. PERSONAL INFORMATION

Date of Birth: _____
Marital Statues: ( ) Single ( ) Married ( ) Separated ( ) Divorced
Children and Ages: _____
Do these children live in the home? ( ) Yes ( ) No
Do any other persons live in your home? ( ) Yes ( ) No
If yes, explain: _____

C. EMPLOYMENT INFORMATION

Current employer:_____
Address and Telephone of Employer: _____
Supervisor:_____Net or take home pay:$_____per_____

If married and not separated
Spouse's Employer:_____
Address and Telephone of Employer: _____
Supervisor:_____Net of take home pay:$_____per_____

D. ASSETS (Include assets of spouse if married and not separated)

Cash	$_____	Stocks/Bonds	$_____
Savings	$_____	Cash Value Life Ins.	$_____
Checking	$_____	Other	$_____

E. NON-LIQUID ASSETS (Equity-value-money-owed) (Include assets of spouse if married)

Real Estate (House)	$_____
Vehicles (car, truck, cycle)	$_____
Other	$_____

F. LIABILITIES (Money owed, including that of your spouse if married and not separated)

Source	Reason	Total Amount	Monthly payment
1.			
2.			

3._____

G. AVERAGE MONTHLY BUDGET

House (rent, mortgage)	$_____	Utilities	$_____
Food:	$_____	Health/Vehicle Ins.	$_____
Transportation	$_____	Child Support	$_____
Day Care	$_____	Recurring Drug	$_____
Recurring Medical	$_____	Court Proceeding	$_____
Educational	$_____		

H. FAILED ATTEMPTS TO SECURE LEGAL COUNSEL

(List names and addresses of attorneys whom you have consulted)

_____

_____

_____

Defendant swears that the above statements are true and correct to the best of his/her knowledge and recollection, that she/he has not sold or disposed of any assets for less than their fair marked value prior to the commencement of the above-captioned proceeding in order to obtain appointed counsel, and that she/he understands that furnishing false information under oath may subject him/her to a criminal prosecution, with a possible punishment of up to 6 years in the Arkansas Department of Correction and a fine of up to $10,000. Further, defendant states that any change in his/her financial condition will be reported to both this Court and appointed counsel immediately.

_____
Defendant

Subscribed and sworn to before me this _____ day of _____, 20___

_____
State of Arkansas Notary Public

My Commission expires: _____

This defendant's financial status has been found, by this Court to be:

( ) Indigent ( ) Partially Indigent ( ) Not Indigent

Having found the defendant partially indigent, the Court finds the following to be a reasonable fee to be paid by the defendant to the Public Defender Attorney Fee Fund as provided by Act 1564 of 1991. $_____

_____ _____
District Judge Date

EN EL TRIBUNAL DE DISTRITO DE _____, ARKANSAS

Departamento de_____

ESTADO DE ARKANSAS **PARTE ACUSADORA**

Versus **No. de Caso _____**

_____ **ACUSADO**

DECLARACIÓN JURADA DE INDIGENCIA

_____, el acusado en el proceso de epígrafe, primeramente habiendo sido debidamente juramentado, depone y declara:

A. INFORMACIÓN PARA EL ABOGADO DE OFICIO

¿Me ha evaluado la oficina del abogado de oficio del estado?: ( ) Sí ( ) No

En caso afirmativo, decidieron que: ( )Tengo derecho ( )No tengo derecho ( )Tengo derecho de modo parcial

B. DATOS PERSONALES

Fecha de Nacimiento:_____

Estado Civil: ( ) Soltero ( ) Casado ( ) Separado ( ) Divorciado

Hijos y sus Edades: _____

¿Viven estos hijos en la casa? ( ) Sí ( ) No

¿Hay otras personas que viven en su hogar? ( ) Sí ( ) No

En caso afirmativo, explique: _____

C. DATOS DEL TRABAJO

Empleador Actual:_____

Dirección y Teléfono del Empleador:_____

Supervisor:_____Sueldo neto :$_____por_____

Si está casado y no están separados

Empleador del cónyuge:_____

Dirección y Teléfono del Empleador: _____

Supervisor:_____Sueldo neto:$_____por_____

D. ACTIVOS (Incluya los activos del cónyuge si está casado y no están separados)

Efectivo: $ _____

Ahorros: $ _____

Cuenta Corriente: $ _____

Acciones/Bonos: $ _____

Valor en efectivo del Seguro de Vida $ _____

Otro: $ _____

E. **ACTIVOS NO LIQUIDOS** (Capital = valor-deudas) (Incluya activos del cónyuge si está casado y no están separados)

Bienes Raíces (casa): $ _____

Vehículos (carro, camión/camioneta, motocicleta): $ _____

Otro: $ _____

F. PASIVOS (Deudas, incluyendo las del cónyuge si está casado y no están separados)

	Origen	Razón	Cantidad Total	Pago Mensual
1.				
2.				

3._____

G. PRESUPUESTO MENSUAL PROMEDIO

Casa (alquiler, hipoteca):	$_____	Servicios:	$_____
Comida:	$_____	Seguro de Salud/Auto	$_____
Transporte:	$_____	Pensión Alimenticia:	$_____
Guardería:	$_____	Fármaco Recurrente:	$_____
Médico recurrente:	$_____	Proceso judicial:	$_____
Educación:	$_____		

H. INTENTOS DE CONTRATAR ASESOR JURÍDICO SIN PODER LOGRARLO
(Haga una lista de los nombres y las direcciones de los abogados con quien usted ha consultado)

_____
_____
_____

El acusado jura que las declaraciones antes mencionadas son verdaderas y correctas hasta donde él/ella sepa y recuerde; que él/ella no ha vendido ni se ha deshecho de ningún activo por menos de su valor justo en el mercado antes del comienzo del proceso arriba mencionado, con el fin de obtener un abogado de oficio; y que él/ella entiende que al proporcionar información falsa bajo juramento puede estar sujeto a enjuiciamiento penal, con un castigo posible de hasta 6 años en el Departamento Correccional de Arkansas y una multa de hasta $10,000. Además, el acusado declara que cualquier cambio en su situación económica se le informará tanto a este Tribunal como al abogado de oficio inmediatamente.

_____
Acusado

Firmado y jurado ante mí este día _____ de _____ de 20_____.

_____
Notario Público del Estado de Arkansas

Mi cargo caduca: _____

Este Tribunal ha declarado que el estado financiero del acusado:
( ) Es indigente ( ) Es parcialmente indigente ( ) No es indigente

Habiendo declarado al acusado parcialmente indigente, el Tribunal determina que los siguientes honorarios son una cantidad razonable que el acusado debe pagar al Fondo de Honorarios del Defensor Público de conformidad con la Ley 154 de 1999: $_____.

_____ _____
Juez de Distrito Fecha

_____DISTRICT COURT
_____, Arkansas

APPEAL BOND

STATE OF ARKANSAS
CITY OF _____ No. _____

vs.

_____

Whereas, the above named defendant having appealed from a judgment rendered against him by a Judicial Officer of the _____ District Court, _____, Arkansas on the _____ day of _____, 20_____, for a fine of _____ Dollars and all costs, and _____ days in jail upon a charge of _____
_____
_____.

Now, therefore, we, _____ of_____ as Principal, and _____of_____ and_____ as sureties, jointly and severally, acknowledge ourselves indebted to the _____ in the sum of _____ Dollars conditioned, that the defendant,_____ shall promptly appear in the _____ District Court at the next regular term and submit himself to the jurisdiction thereof, and not depart therefrom without leave of said court and further conditioned that in the event the appeal is dismissed by the Circuit Court the defendant shall appear in person before the _____ _____ District Court at 9:00 a.m. on the Monday next following the dismissal of the appeal by Circuit Court.

Given under our hands this _____ day of_____, 20_____.

_____Principal
_____Surety
_____Surety

Approved

_____

_____ and _____ who sign as sureties on the above Bond, being duly and severally sworn, say that they are residents of the State of Arkansas, and each of them upon oath says that he has property liable to execution in said state equal to the sum set opposite his name hereto, and that he is worth double said sum beyond the amount of his debts.

_____qualifies to $_____
_____qualifies to $_____

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____
Clerk, District Court

By: _____
D. C.

Case No. _____ In _____ 20____Term

APPEAL TRANSCRIPT

In the _____ County District Court

STATE OF ARKANSAS
City of _____

Vs.

_____

On the _____ day of _____, 20_____, before a Judicial Officer of the _____ _____District Court, _____, Arkansas, came the defendant _____ _____ charged with the offense of_____ _____. Said defendant was then before the Court having been advised of his rights, the charges against him and having entered a plea of ____Guilty__Not Guilty. At the trial the witnesses were sworn and the Court proceeded with the trial. After hearing all the evidence for and against the said defendant, the Court found the said defendant: GUILTY AS CHARGED AND

1. Assessed against him a fine of _____ and cost of $_____ and _____ days confinement _____

_____

2. Entered the Order, a copy of which is attached hereto and incorporated herein.

Now, on this ____ day of _____, 20_____, within apt time comes the defendant, by his attorney _____ and prays an appeal to the Circuit Court, which is by the Court granted, and the appeal bond fixed at _____ Dollars.

The defendant having given the required bond with _____ and _____as sureties thereon, the defendant was ordered released from custody to await his case on appeal.

I, _____ Clerk of the _____ District Court, do hereby certify that the foregoing is a true transcript of the record of this Court in the above case.

_____
Clerk, District Court

By: _____
D. C.

Date: _____

IN THE DISTRICT COURT OF _____, ARKANSAS

STATE OF ARKANSAS
CITY OF_____ PLAINTIFF

Vs. No. CR _____

_____ DEFENDANT

APPEARANCE AGREEMENT
(Pretrial Release Alternative Administration Fee)

The _____ District Court, pursuant to A.C.A. § 16-17-125, finds it necessary to impose conditions of release requiring supervision of the defendant pending trial in lieu of posting any bail that requires the defendant to pay a bondsman or post any form of cash or security.

Upon payment of an administrative fee in the amount of $ _____ (amount may be reduced or waived based on indigency) and defendant's acceptance of conditions of release listed below, defendant will be released from pretrial custody in this case. Defendant's signature below signifies agreement to be placed in the court's supervised pretrial release program and acceptance of the conditions of release.

1. I will appear promptly on the _____ day of _____,20____, at ___M. And at all times directed by the court and I will keep the court informed of any change in my address or telephone number, if applicable.

2. I will not leave State of Arkansas without prior permission of the court.

3. I will report to the court's pretrial release program supervisor as ordered and comply with all program directives.

4. OTHER CONDITIONS: _____

_____

_____

5. I understand that my failure to observe any of the conditions set forth, or any other rule of good behavior, will entitle the court to revoke this release decision.

6. I further understand that the administrative fee herein referred to shall not be refunded under any condition.

7. I further understand that nothing in this document relieves me of any jeopardy of criminal prosecution, conviction or incarceration for failure to appear.

_____
Defendant

Attest: _____

_____
Address

Approved: _____

_____
Telephone Number

Date:_____

IT IS SO ORDERED

Approved this _____day of _____, 20___

_____
District Judge

EN EL TRIBUNAL DE DISTRITO DE _____, ARKANSAS

EL ESTADO DE ARKANSAS
LA CIUDAD DE_____ PARTE ACUSADORA

VERSUS No. CR _____

_____ ACUSADO

ACUERDO DE COMPARECENCIA
(Tarifa Administrativa por la Opción de Liberación Previa al Juicio)

El Tribunal de Distrito de _____, de conformidad con A.C.A. sección 16-17-125, considera necesario el imponer condiciones a la liberación, requiriendo la supervisión del acusado hasta el momento del juicio, en lugar de pagar una fianza que requiera un pago al fiador, o cualquier tipo de pago en efectivo o garantía por parte del acusado.

Al pagar una tarifa administrativa de la cantidad de $ _____ (la cantidad se puede reducir o perdonar basado en la indigencia) y a la aceptación del acusado de las condiciones de la liberación mencionadas en la lista a continuación, el acusado será liberado de la detención antes del juicio en este caso. El acusado firma abajo, indicando que está de acuerdo en participar en el programa judicial de liberación supervisada previa al juicio, y en aceptar las condiciones de la liberación.

1. Compareceré puntualmente el día ____ de _____de 20___a las___M. Y a toda hora indicada por el tribunal, y le informaré al tribunal de cualquier cambio de mi dirección o número de teléfono, en su caso.

2. Yo no me iré del estado de Arkansas sin previo permiso del tribunal.

3. Yo me comunicaré con el supervisor del programa judicial de liberación supervisada previa al juicio, tal y como se me ordene, y cumpliré con todas las directivas del programa.

4. OTRAS CONDICIONES: _____

_____

_____

5. Yo entiendo que mi falta de cumplir con cualquiera de las condiciones expuestas, o con cualquier otra regla de buen comportamiento, le dará derecho al tribunal a revocar esta decisión de liberación.

6. Además, yo entiendo que la tarifa administrativa aquí mencionada no será reembolsada bajo ninguna condición.

7. Además, yo entiendo que ninguna parte de este documento me libera de cualquier riesgo de enjuiciamiento penal, condena, o reclusión por falta de comparecencia.

_____
Acusado

Dar fe: _____

_____
Dirección

Aprobado: _____

_____
Número de Teléfono

Fecha:_____

SE ORDENA

Aprobado este día____ de _____ de 20___

_____
Juez de Distrito

IN THE _____ DISTRICT COURT

STATE OF ARKANSAS/CITY OF _____ PLAINTIFF

Vs. NO. CR _____

_____ DEFENDANT

APPEARANCE AGREEMENT (OR CASH)

The _____District Court, pursuant to provisions of Rule 9.2(b) of the Arkansas Rules of Criminal Procedure, grants permission for the execution of an unsecured bond in the amount of $ _____ to enable release from custody of the defendant in this case pending trial on the charge(s) herein.

Upon deposit of $ _____ in cash or securities (an amount equal to ten percent (10%) of amount of the unsecured bond herein referred to) and defendant's acceptance of conditions of release listed below, defendant will be released from pre-trial custody on this case. Defendant's signature below signified acceptance of these conditions.

1. I will appear promptly on the _____ day of _____, 20____, at ____ m. and at all times directed by the Court and I will keep the Court informed of any change in my address or telephone number, if applicable.
2. I will not leave State of Arkansas without prior permission of the Court.
3. OTHER CONDITIONS: _____

_____

4. I understand that my failure to observe any of the conditions set forth, or any other rule of good behavior, will entitle the Court to revoke this release decision
5. I further understand that my failure to appear in Court at any time so directed will cause the ten percent deposit herein referred to be immediately forfeited and that the full amount of said bond to be immediately due and payable.
6. I further understand that upon final disposition of this case and the fulfillment of all conditions herein set forth, that there will be refunded to me ninety percent (90%) of the cash of securities deposit herein made.
7. I further understand that nothing in this document relieves me of any jeopardy of criminal prosecution, conviction or incarceration for failure to appear.

ATTEST: _____ _____
DEFENDANT

APPROVED: _____ _____
DATE

DATE: _____ _____
TELEPHONE NUMBER

GUARANTEE
I hereby accept without reservation any and all potential financial liabilities and obligations imposed on the defendant in this appearance bond and agreement.

_____
_____
_____

IT IS SO ORDERED

Approved this _____ day of _____, 20____ _____
DISTRICT JUDGE

EN EL TRIBUNAL DE DISTRITO DE _____

ESTADO DE ARKANSAS/CIUDAD DE _____ PARTE ACUSADORA

VERSUS NO. DE CASO CR _____

_____ ACUSADO

ACUERDO DE COMPARECENCIA (O DINERO EN EFECTIVO)

El Tribunal de Distrito de _____, de conformidad con las disposiciones de la Ley 9.2(b) del Código de Procedimientos Penales de Arkansas, otorga el permiso para la ejecución de un bono sin garantía por la suma de $ _____ para posibilitar liberación del acusado en este caso, pendiente el juicio ante la acusación/las acusaciones mencionada/s en el presente.

Al pagar $ _____ en efectivo o valores (una suma igual al diez por ciento (10%) de la suma del bono sin garantía referido en el presente) y al aceptar las condiciones de la liberación mencionadas a continuación, el acusado será liberado antes del juicio en esta causa. La firma del acusado a continuación significa que acepta estas condiciones.

1. Compareceré puntualmente el día ____ de _____ de 20___, a las_____m. y en toda ocasión que me lo ordene el Juez, y mantendré al Juez informado de cualquier cambio en mi dirección o número telefónico, en su caso.
2. No me iré del Estado de Arkansas sin previo permiso del Juez.
3. OTRAS CONDICIONES: _____

_____

4. Entiendo que mi falta de cumplir con cualquiera de las condiciones expuestas, o con cualquier otra regla de buen comportamiento, le dará al Juez el derecho de revocar esta resolución de liberación.
5. Además, entiendo que mi falta de comparecer en el Tribunal, cuando así ordenado, tendrá el efecto de perder inmediatamente el derecho a recuperar el depósito del diez por ciento referido en el presente, y de que la suma total de dicha fianza sea inmediatamente vencida y pagadera.
6. Además, entiendo que a la disposición definitiva de este caso y al cumplir con todas las condiciones expuestas en el presente, se me reembolsará el noventa por ciento (90%) del dinero en efectivo del depósito de valores hecho en el presente.
7. Además, entiendo que ninguna parte de este documento me exonera de ningún riesgo de enjuiciamiento, condena, o reclusión penal por falta de comparecencia.

DOY FE: _____ _____

ACUSADO

APROBADO: _____ _____

FECHA

FECHA: _____ _____

NÚMERO DE TELÉFONO

GARANTÍA

Por el presente acepto sin reservas, todas y cada una de las responsabilidades y obligaciones financieras que posiblemente se le impongan al acusado en este acuerdo de (y fianza de) comparecencia.

_____

_____

_____

SE ORDENA

Aprobado este día _____de _____ de 20____ _____

JUEZ DE DISTRITO

IN THE DISTRICT COURT OF _____, ARKANSAS

WARRANT OF ARREST

Case No. _____
Bond $_____

The State of Arkansas, To Any Law Enforcement Officer in the State:

It appearing that there are reasonable grounds for believing that _____ has committed the offense of contempt of court, A.C.A. § 16-10-108 in the County of _____, you are hereby commanded to arrest _____ and bring _____ _____before the _____ District Court, to be dealt with according to law.

Given under my hand this _____ day of _____, 20___

_____
Judicial Officer

Summon as witnesses for the State:
_____
_____
_____

WARRANT SERVICE REPORT

STATE OF ARKANSAS vs. _____ Case No. _____

STATE OF ARKANSAS
County of _____
I have this ___ day of _____, 20___, duly served the within by arresting _____, the within named _____ and have _____ now in court as therein commanded.

_____
Arresting Officer and Agency

Filed this _____ day of _____, 20___

_____
Clerk/Deputy Clerk

POLICE DEPARTMENT INFORMATION Name: _____
Last First Middle

Warrant Number _____ Ticket Number _____NCIC Number _____
Race __ Sex __ DOB _____ Ht. _____ Wt. _____ Eyes _____Hair __Comp. _____
Scars/Marks _____ Drivers License #_____ Veh. Descrip. _____
New Address _____ Employment _____
Neighbors/Relatives Info _____
Chk. Of Post Office and Utilities _____ Records Clerk _____

REMARKS:

CITATION TO APPEAR

State of Arkansas
County of _____
City of _____

The accused herein:

_____ Aliases _____
Last First Middle

Address _____ City & State _____

Zip _____ Telephone _____ Age _____ DOB _____

Race _____ Sex _____ Height _____ Weight _____

Employer/School _____

Drivers Lic # & State _____ Incident # _____

Did unlawful commit the offense of _____
Statute/Ordinance #

on _____ at _____
Date & Time Location of Arrest

You are hereby ordered to appear in the District Court of _____

located at _____

on the _____ day of _____, 20___, at _____ _____m. to answer the above charge(s).

Issued in _____, Arkansas on this ____ day of _____, 20____

I promise to appear at the above stated time, place and court.

_____
Signature of Accused

_____
Signature of Parent or Guardian

_____
Signature: Title & Employee #

IMPORTANT NOTICE
Failure to appear at the stated time, place and court may result in your arrest and shall constitute a separate offense for which you may be prosecuted.

CITACIÓN PARA COMPARECER

El Estado de Arkansas
El Condado de _____
La Ciudad de _____

El aquí imputado:

_____ Alias: _____
Apellido Nombre 2do Nombre

Dirección _____ Ciudad y Estado_____

Código Postal _____No. de Tel. _____ Edad_____ Fecha de Nac. _____

Raza _____ Sexo _____ Estatura _____ Peso _____

Empleador/Escuela _____

No. de Licencia de manejar y Estado_____No. de Incidente: _____

Cometió, de manera ilícita, el delito de:_____
No. de Estatuto/Ordenanza

el _____ en _____
Fecha y Hora Lugar de Arresto

Por la presente, a Usted se le ordena comparecer ante el Tribunal de Distrito de _____

ubicado en _____

el día _____ de _____ de 20___, a las _____ _____m. para contestar al cargo/los cargos antes mencionado/s.

Emitido en _____, Arkansas el _____ día de _____ de 20____.

Yo prometo comparecer en el lugar y tribunal antes mencionados, a dicha hora.

_____
Firma del Acusado

_____
Firma del Padre o Tutor

_____
Firma: Tratamiento y No. de Empleado

AVISO IMPORTANTE
Una falta de comparecer en dicho lugar y tribunal, a dicha hora, podría resultar en su arresto y constituirá un delito distinto por el cual Usted puede ser enjuiciado.

ADMINISTRATIVE REGULATIONS
STATE OF ARKANSAS

BOARD OF CORRECTIONS

SUBJECT: COMMUNITY CORRECTIONS CENTER CRITERIA AND STANDARDS

1. Work projects on private property are prohibited. Work project agreements shall be with non-profit organizations, city, county and state governmental agencies, as approved by the Deputy Director of Residential Services. Projects shall be solicited in accordance with appropriate Ads and shall be restricted to the following projects, unless otherwise approved by the Director:

    1. Beautification on highways, roads, ditches and/or designated community areas;

    2. Landscaping;

    3. General maintenance/cleanup;

    4. Building renovation;

    5. Rebuilding and demolition projects.

2. Community work crew projects will be given priority as follows:

    1. State government;

    2. county government;

    3. city government;

    4. private, non-profit organizations/agencies; and

    5. Federal government.

3. Community work crew projects for pay are authorized upon approval of the Director and the Board of Corrections (BC).

4. Residents shall not be placed on community work assignments where any foreseeable danger (health and safety) is posed to the public, work site staff and/or residents.

REGLAMENTO ADMINISTRATIVO
EL ESTADO DE ARKANSAS

JUNTA DE CORRECIONES

REFERENCIA: CRITERIO Y NORMAS DEL CENTRO DE CORRECCIONES Y TRABAJOS EN BENEFICIO DE LA COMUNIDAD

1. Se prohíben los proyectos de trabajo en propiedad privada. Los acuerdos para los proyectos de trabajo se realizarán con organizaciones sin fines de lucro; o con agencias de la ciudad, el condado y el estado, siempre y cuando los apruebe el Subdirector de Servicios Residenciales (Deputy Director of Residential Services). Los proyectos se solicitarán de conformidad con los Anuncios adecuados, y se limitarán a los siguientes proyectos, salvo que el Director lo apruebe:

    1. Embellecer las carreteras, los caminos, las cunetas y/o las áreas comunitarias designadas;

    2. La jardinería ornamental;

    3. El mantenimiento general/la limpieza;

    4. La renovación de edificios;

    5. Los proyectos de demolición y reconstrucción.

2. A los proyectos de trabajo en beneficio de la comunidad, se les asignará la siguiente prioridad:

    1. Gobierno estatal;

    2. Gobierno del condado;

    3. Gobierno de la ciudad;

    4. Organizaciones/agencias privadas, sin fines de lucro;

    5. Gobierno federal.

3. Aquellos proyectos de trabajo en beneficio de la comunidad, que se realicen por remuneración, se autorizan previa aprobación del Director y la Junta de Correcciones (BC).

4. Los residentes no serán asignados a tareas de trabajo en beneficio de la comunidad, donde se represente cualquier peligro previsible (a la salud y la seguridad) para el público, el personal del sitio de trabajo, y/o los residentes.

IN THE _____COUNTY DISTRICT COURT

THE ITEMS MARKED BELOW ARE THE CONDITIONS OF YOUR RELEASE

☐ (1) You shall commit no offense against the laws of this State, any other State or the United States for which punishment upon conviction might be jail or imprisonment.

☐ (2) You shall indulge in no unlawful disorderly, injurious or vicious habits of conduct; you shall keep good company and reasonable hours.

☐ (3) Curfew: You shall be at your residence and remain there from _____p.m. to _____a.m.every day.

☐ (4) Alcohol/Drug treatment and/or education and conditions as follows:

(A) ☐ Attendance at _____ Alcoholics Anonymous or Narcotics Anonymous meetings per week;
(B) ☐ Attendance at Saturday night AA meeting every week;
(C) ☐ Attendance at the Arkansas Regional Health Center weekly session held on every _____ at ____p.m. at_____;
(D) ☐ Total abstinence from all beer, wine and alcoholic beverages and illegal drugs or prescription drugs not prescribed for you. You may not go to any bars or night clubs or any places where beer, wine or any alcoholic beverages or drugs are sold or consumed.
(E) ☐ Completion of the Substance Use Prevention and Education Resource Program (SUPER) sponsored by _____.
(F) ☐ You shall voluntarily submit to testing for alcohol or drugs of your blood, breath, or urine at any time when requested to do so by a law enforcement officer, the Court's Probation Officer, or the Court Representative from _____ Regional Health Center.
(G) ☐ You must satisfactorily complete all treatment programs designated by the Court Counselor from _____ Health Center.
(H) ☐ _____
_____

☐ (5) You shall maintain liability insurance on your vehicle at all times.

☐ (6) You shall make restitution to the victim, (Or arrangements to do so) by _____, 20____

☐ (7) Other conditions: _____

The above Conditions of Release shall remain in full fore and effect for a period of one (1) year from the date hereof unless amended or rescinded by a court of competent jurisdiction.

Defendant: _____

Case Nos. _____ Date: _____

_____
District Judge

EN EL TRIBUNAL DE DISTRITO DEL CONDADO DE _____

LOS PUNTOS INDICADOS ABAJO SON LAS CONDICIONES DE SU LIBERACIÓN

☐ (1) Usted no cometerá ningún delito contra las leyes de este Estado, ni de cualquier otro Estado, ni de los Estados Unidos, por el cual el castigo al ser condenado puede ser reclusión.

☐ (2) Usted no participará en ningún hábito de conducta ilegal, escandalosa, dañina, o maliciosa; usted se mantendrá en buena compañía y llevará un horario sensato.

☐ (3) Toque de Queda: Usted estará en su domicilio, y de ____p.m. hasta ____ a.m. permanecerá ahí todos los días.

☐ (4) Tratamiento por el Abuso de Drogas/Alcohol y/o enseñanza, y las condiciones siguientes:

(A) ☐ Asistencia a _____ reuniones de Alcohólicos Anónimos o Narcóticos Anónimos por semana;

(B) ☐ Asistencia a la reunión de AA del Sábado por la noche, cada semana;

(C) ☐ Asistencia a la sesión semanal del Centro de Salud Regional de Arkansas (Arkansas Regional Health Center) celebrada cada _____ a las ____p.m. en_____;

(D) ☐ Abstinencia total de toda cerveza, vino y bebidas alcohólicas y drogas ilícitas o medicamentos no recetados para usted. Usted no puede ir a ningún bar o club nocturno, ni a ningún lugar donde se vende o se consume la cerveza, el vino o cualquier bebida alcohólica.

(E) ☐ Cumplimiento con el Programa de Recursos para la Enseñaza sobre la Prevención del Uso de Substancias [Substance Use Prevention and Education Resource Program (SUPER)], patrocinado por _____.

(F) ☐ Usted se someterá voluntariamente a pruebas de su sangre, aliento u orina, para la detección de alcohol o drogas, en cualquier momento que se lo pida un agente del orden público, el oficial judicial de libertad condicional, o el Representante Judicial del Centro de Salud Regional de _____ (Regional Health Center).

(G) ☐ Usted debe terminar satisfactoriamente todos los programas de tratamiento ordenados por el Consejero del Tribunal del Centro de Salud de _____ _____ (Health Center).

(H) ☐ _____
_____

☐ (5) Usted mantendrá seguro de responsabilidad civil para su vehículo en todo momento.

☐ (6) Usted le pagará indemnización a la víctima, (O hará un acuerdo para pagársela) con fecha límite del _____ de 20___.

☐ (7) Otras condiciones: _____

Las Condiciones de Liberación antes mencionadas, estarán en pleno vigor por un plazo de un (1) año, a partir de la fecha del presente, a menos que se enmienden o se rescindan por un tribunal de la jurisdicción competente.

Acusado: _____

Nos. de Caso _____ Fecha: _____

_____
Juez de Distrito

CONTRACT FOR _____ COUNTY VOLUNTARY WORK PROGRAM

I, _____, do hereby volunteer to do public work with the _____ County Volunteer Work Program for a period of _____ days, subject to approval by the _____ _____ County Sheriff or his designee, and subject to terms and conditions of this Agreement.

1. I will cooperate with the officials in charge of the program at all times.

2. I will work at my assigned tasks in good sprit and willingness, and will do each job assigned to me to the best of my ability.

3. I will furnish my own clothing, gloves, and my own lunch, or the money to buy lunch, when actually engaged in work.

4. I will be safety conscious at all times, for my own safety and for the safety of others, and I will wear safety clothing furnished to me while engaged in the project to which I am assigned.

5. I will report for work on time and at the proper place, and unless otherwise notified, I will report at 8:00 a.m. each day during the project to the _____ County Detention Center.

6. I understand and agree that if I report for work but am not assigned to any project, I will not receive any credit for that day.

7. I understand and agree that my participation in the program may be terminated for any reason whatsoever by the _____ County Sheriff or his designee.

8. I will work toward the beautification of the County by picking up litter, paper, cans, bottles, and trash, cleaning up roadway and highway rights-of-way, public grounds and buildings. I may from time to time be assigned to work on ditches and drainage projects clearing culverts and/or any other hand work or hand labor which may be assigned to me.

9. In consideration for the opportunity to participate in this program, I agree to accept all responsibility for damage to public or private property that I may cause by my negligence or intentional misconduct, and will not hold the county responsible for any personal injury which I may sustain while on the crew.

10. I understand and agree that this contract will not become effective unless and until it has been accepted and approved by the _____ County Sheriff or his designee.

IN WITNESS WHEREOF, I have signed this agreement this ___ day of _____, 20__

ACCEPTED AND APPROVED: _____

_____
DATE

CONTRATO PARA EL PROGRAMA DE TRABAJO VOLUNTARIO DEL CONDADO DE_____

Por el presente, yo, _____, me ofrezco como voluntario del Condado de _____para hacer trabajo público con su Programa de Trabajo Voluntario, por un periodo de _____ días, sujeto a la aprobación del Alguacil del Condado de_____ o su representante, y sujeto a los plazos y condiciones del presente Acuerdo.

1. En todo momento, colaboraré con los oficiales encargados del programa.

2. Trabajaré en las tareas que me asignen, de buen ánimo y disposición, y haré lo mejor que pueda en cada tarea que me asignen.

3. Proporcionaré mis propios guantes, ropa y almuerzo, o el dinero para comprar el almuerzo, cuando estoy participando en el trabajo.

4. En todo momento, estaré consciente de la seguridad física, para mi propia seguridad y la de los demás. Usaré la ropa de seguridad que se me proporcione, mientras participo en el proyecto al cual me asignen.

5. Me presentaré para trabajar, a tiempo y en el lugar correcto. A menos que me avisen de lo contrario, me presentaré a las 8:00 a.m. en el Centro de Detención del Condado de _____ cada día durante la duración el proyecto.

6. Entiendo y acepto que si me presento para trabajar y no me asignan a ningún proyecto, que no recibiré ningún crédito por ese día.

7. Entiendo y acepto que el Alguacil del Condado de _____ o su representante puede terminar mi participación en el programa, por cualquier motivo que sea.

8. Trabajaré para embellecer el Condado a través de recoger desperdicios, papel, latas, botellas, y basura, limpiando el derecho de paso de la carretera y la vía pública, y en terrenos y edificios públicos. De vez en cuando me pueden asignar a trabajar en proyectos de alcantarillado o zanjas, desatascando las alcantarillas y/o cualquier otra labor manual que me puedan asignar.

9. Considerando la oportunidad de participar en este programa, yo acepto responsabilizarme totalmente de los daños a la propiedad pública o privada que yo pueda causar debido a mi descuido o mala conducta intencional. No responsabilizaré al condado, de cualquier lesión personal que yo pueda sufrir mientras que forme parte del equipo de trabajo.

10. Entiendo y acepto que este contrato no entra en vigor hasta que el Alguacil del Condado de _____, o su representante, lo haya aceptado y aprobado.

EN FE DE LO CUAL, he firmado este acuerdo este día _ de _____de 20 _____

ACEPTADO Y APROBADO: _____

_____
FECHA

Your court should receive the reply to this request before placing this subject under the authority of Act 346 of 1975

FIRST OFFENDER PROBATION REQUEST CHECK

For query to determine the use of "Act 346" probation as required by A.C.A. § 16-93-304

Please Type or Print Date _____

* Subject Name _____ _____ _____
Last First Middle

** Alias _____

** Address _____
Street or P.O. Box City State Zip

* Race _____ * Sex _____ * DOB _____ *Social Security No. _____

* Height _____ * Weight _____ *Hair _____ * Eyes _____

** Arrest Tracking No. _____ ** State Identification (SID) No. _____

** DL No. _____ ** DL State _____ ** Place of Birth _____

* Court Requesting Probation

_____ District Court _____ Department

_____ District Court _____ Department
County

* Presiding Judge _____

* Charge(s) _____ *Court Case No. _____

_____

* Information Requested By _____
Street or P. O. Box

* Telephone No. _____ * Address _____
Street or P. O. Box

* _____ * _____ * _____
City State Zip

** Required information.* *** Provide this information whenever possible for more complete identification of the defendant.*

Return this form to:

Arkansas Crime Information Center
One Capitol Mall
Little Rock, AR 72201
Telephone 682-2222
Fax 682-2269

For ACIC Use Only
Request Checked by _____ Date _____
Reply Forwarded by _____ Date _____

DISTRICT COURT OF _____ COUNTY, ARKANSAS

INSTALLMENT PAYMENT AGREEMENT

Name: _____
SSN: _____ DOB: _____ Race: _____ Sex:_____
Hair: _____ Eyes: _____ POB: _____
D.L.#: _____ Phone #: _____
Address: _____
City: _____ State: _____ Zip: _____
Place of Employment: _____
Employment Phone #: _____
Relative: _____
Address: _____
City: _____State: _____ Zip: _____
Docket #: _____ Offense: _____

I agree to pay to the County of _____ the following amounts:

Fines	**$ _____**
Costs:	**$ _____**
Restitution	**$ _____**
Installment Fee	**$ 5.00 (per month)**
Total	**$ _____**

My payments will be in the amount of $ _____ per month. The first payment will be due on the _____ day of _____, 20___ and monthly thereafter. Payments will be paid to the _____ County Sheriff's Department.

I understand that, **if I am unable to pay** the above amount, it is possible for me to do **Public Service Work** and receive credit toward my fines and costs. But, I understand that all restitution must be paid in cash. I understand that if I wish to do **Public Service Work** I must contact the District Court Probation Officer to make the necessary arrangements.

I also understand that failure to make these payments as agreed can result in my being **jailed for non-payment**.

_____
SIGNATURE

_____
DATE

TRIBUNAL DE DISTRITO DEL CONDADO DE _____ , ARKANSAS

ACUERDO PARA PAGAR A PLAZOS

Nombre:_____
No. de Seguro Social: _____ Fecha de Nacimiento: _____ Raza: _____ Sexo:_____
Color de Pelo: _____ Color de Ojos: _____ Lugar de Nacimiento: _____
No. De Licencia de Manejar: _____ No. de Tel.: _____
Dirección: _____
Ciudad:_____ Estado: _____ Código Postal: _____
_____
Lugar de Trabajo: _____
No. de Tel. del Trabajo: _____
Nombre de un Pariente: _____
Dirección: _____
Ciudad:_____ Estado: _____ Código Postal: _____
_____
No. en la Lista de Causas_____ Delito: _____

Yo acepto pagarle al Condado de _____ las sumas siguientes:

Multas	**$ _____**
Costas Judiciales:	**$ _____**
Indemnización	**$ _____**
Cuota por Pagar a Plazos	**$ 5.00 (por mes)**
Total	**$ _____**

Mis pagos serán en la suma de $ _____ por mes. El primer pago tiene fecha límite del día_____ de _____ de 20____ y cada mes después. Los pagos se realizarán a nombre del "_____County Sheriff's Department".

Yo entiendo que si no puedo pagar la suma antes mencionada, que me es posible hacer **Trabajo a beneficio de la comunidad** y recibir crédito para el pago de mis multas y costas judiciales. Pero, entiendo que toda indemnización se debe pagar en efectivo. Entiendo que si deseo hacer **Trabajo a beneficio de la comunidad,** debo comunicarme con el Agente de Libertad Condicional del Tribunal de Distrito para hacer los trámites necesarios.

También entiendo que, de no hacer estos pagos conforme al acuerdo, me pueden **encerrar por falta de pago**.

_____
FIRMA

_____
FECHA

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

STATE OF ARKANSAS PLAINTIFF

VS. NO. _____

_____ DEFENDANT

JUDGMENT

On this _____ day of _____, 20____, the defendant appeared before the Court with/without counsel, on a charge of _____ and having been informed of the nature of the charges against hm, and of his constitutional and legal rights, the Court made the following findings:

The defendant entered a plea of guilty/not guilty/nolo contendere.

The defendant was found guilty of the charge of _____

Thereupon, the defendant was sentenced as follows:

( ) A. _____ months/days in the county jail.

( ) B. _____ months/days of sentence to be suspended for _____ months on the conditions described hereinafter.

( ) C. Probation for _____ months subject to the following terms and conditions

( ) 1. _____ days imprisonment in the county jail.

( ) 2. Completion of _____ hours of public service work pursuant to written agreement with District Court probation officer.

( ) 3. Payment of the following amounts:

Fines $ _____

Court Costs $ _____

Restitution $ _____

( ) 4. Defendant, at defendant's own expense, shall complete the following:

_____ Theft-Aggression Counseling

_____ DWI School

_____ Out-Patient Counseling

_____ In-Patient treatment for a period of _____days

_____ Open AA meetings per week

_____ Domestic Violence Counseling

_____ High School equivalency/literacy program

( ) 5. Defendant shall be subject to the supervision of the District Court Probation Office for _____ months. Defendant shall pay all probation fees. Defendant shall comply with the terms of a written probation agreement.

( ) 6. Driver's License suspended for _____ months/years.

( ) 7. Install ignition interlock device on vehicle for _____ months.

( ) 8. To have no unauthorized contact with _____

( ) 9. Other _____

_____

DISTRICT JUDGE

I acknowledge receipt of a copy of this judgment.

_____

Defendant

(COURT LETTERHEAD)

DATE: _____

RE:
APPEARANCE BOND #

Please find enclosed a certified copy of the following:

_____ Show cause Order
_____ Appearance Bond
_____ Warrant

You have been given until _____ to present the defendant or to appear on this date at _____ _____.m. for a Hearing to Show cause.

If you have any further questions, please feel free to contact this office.

Yours very truly,

District Clerk

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

CITY OF _____ PLAINTIFF
STATE OF ARKANSAS

CASE NO. _____

VS.

_____ DEFENDANT

NO CONTACT ORDER

The defendant is hereby ordered to have no contact, either directly or indirectly, by person, telephone, mail or any other means, with _____or his/her immediate family.

Violation of this order subjects the defendant to immediately arrest and detention; and any law enforcement officer having reasonable cause to believe that this order has been violated is ordered to immediately detain the defendant to be brought before the Court within forty-eight (48) hours.

This order is in addition to any order issued pursuant to Ark. Code Ann. § 9-15-201 et seq.

This order is issued pursuant to Arkansas Rules of Criminal Procedure No. 9.3 and, if applicable, Ark. Code Ann. §§ 5-71-208 or 5-71-209 or 5-71-229 or 5-13-301.

IT IS SO ORDERED.

_____
DISTRICT JUDGE

_____
DATE

_____
Defendant

_____
Date Received

EN EL TRIBUNAL DE DISTRITO DEL CONDADO DE _____, ARKANSAS

LA CIUDAD DE _____ PARTE ACUSADORA
EL ESTADO DE ARKANSAS

NO. DE CASO _____

VERSUS

_____ ACUSADO

ORDEN DE NO CONTACTO

Por la presente, se le ordena al acusado que no tenga contacto, ni directo ni indirecto, en persona, por teléfono, por correo ni por ningún otro medio, con _____ ni con la familia directa de él/ella.

Al infringir esta orden, el acusado está sujeto al arresto y detención de forma inmediata; y a cualquier agente del orden público que tenga motivo fundado para creer que se ha infringido esta orden, se le ordena que detenga al acusado inmediatamente, para traerlo ante el Juez dentro de cuarenta y ocho (48) horas, a más tardar.

Esta orden es adicional a cualquier orden emitida de conformidad con el Código de Ark. con Comentarios § 9-15-201 *et seq*.

Se emite esta orden de conformidad con las Reglas del Procedimiento Penal de Arkansas, No. 9.3 y, en su caso, el Código de Ark. con Comentarios §§ 5-71-208 o 5-71-209 o 5-71-229 o 5-13-301.

SE ORDENA.

_____
JUEZ DE DISTRITO

_____
FECHA

_____
Acusado

_____
Fecha de Recepción

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

NAME: _____

DOCKET NO: _____

You are charged with the offense of non-payment under Ark. Code Ann. § 16-13-703. Upon conviction or a plea of guilty, the penalty for this charge is:

Jail - up to thirty (30) days in the _____ County Jail.

Costs assessed

Because the possible penalties involve jail time, you have the right to consult an attorney and to have him with you at any stage during the disposition of your case. You may waive the presence of an attorney and proceed without one. If you want an attorney to represent you, but you cannot afford to hire one, you may ask the judge to appoint a lawyer to represent you.

If you are found guilty or plead guilty, it will be up to the court to set punishment as set out above.

If you understand these rights, please sign below.

PLEASE CHECK ONE OF THE FOLLOWING:

_____ I am represented by _____, Attorney at Law.

_____ I want an attorney to represent me on this charge but I cannot afford to hire one. I request the Court to examine me to see if I qualify for a court-appointed attorney.

_____ I do <u>not</u> want an attorney to represent me on this charge and realizing that I may have one; I waive or give up the right to an attorney.

I UNDERSTAND THAT I HAVE BEEN CHARGED WITH NON-PAYMENT UNDER ARK. CODE ANN. § 16-13-703. I UNDERSTAND THAT IF I AM CONVICTED OF THIS OFFENSE, I WILL RECEIVE THE APPROPRIATE PUNISHMENT LISTED ABOVE. I ALSO UNDERSTAND THE ABOVE STATEMENTS CONCERNING MY RIGHTS TO AN ATTORNEY.

I HAVE READ AND UNDERSTAND THESE RIGHTS.

_____

DEFENDANT

_____

DATE

EN EL TRIBUNAL DE DISTRITO DEL CONDADO DE _____, ARKANSAS

NOMBRE: _____

NO. DE EXPEDIENTE: _____

A usted se le acusa del delito de impago, de acuerdo con el Código de Ark. con Comentarios § 16-13-703. En caso de ser condenado o declararse culpable, la pena que corresponde a este cargo es:

Encarcelamiento – hasta treinta (30) días en la cárcel del Condado de _____.

Costas impuestas

Debido a que las penas posibles incluyen el encarcelamiento, usted tiene el derecho de consultar con un abogado y que él le acompañe a usted en cualquier momento durante la disposición de su caso. Usted puede renunciar a la presencia de un abogado y proceder sin abogado. Si usted quiere que le represente un abogado, pero no cuenta con medios económicos suficientes para contratar un abogado, usted le puede pedir al juez que designe un abogado para representarlo.

Si usted es hallado culpable, o se declara culpable, dependerá del juez fijar su castigo así como se ha expuesto anteriormente.

Si usted entiende estos derechos, entonces por favor firme a continuación.
FAVOR DE MARCAR UNO DE LOS SIGUIENTES:

_____ Me está representando _____, Licenciado/a en Derecho.

_____ Quiero que un abogado me represente ante esta acusación, pero no cuento con los medios económicos suficientes para contratar sus servicios. Pido que el Juez revise mi situación para ver si reúno los requisitos para que me represente el abogado de oficio.

_____ No quiero que me represente ningún abogado ante esta acusación; y aunque me doy cuenta de que puedo tener un abogado, rindo o renuncio al derecho a un abogado.

ENTIENDO QUE ME HAN ACUSADO DE IMPAGO, DE ACUERDO CON EL CÓDIGO DE ARK. CON COMENTARIOS § 16-13-703. ENTIENDO QUE SI ME CONDENAN DE ESTE DELITO, RECIBIRÉ EL CASTIGO ADECUADO ARRIBA MENCIONADO. TAMBIÉN ENTIENDO LAS DECLARACIONES ANTERIORES ACERCA DE MI DERECHO A UN ABOGADO.

HE LEÍDO ESTOS DERECHOS Y LOS ENTIENDO.

_____
ACUSADO

_____
FECHA

_____ **DISTRICT COURT**

NOTICE TO NONRESIDENT OF FAILURE TO COMPLY WITH TERMS OF CITATION

Citation No. _____ Date of Violation: _____ Docket No. _____

Location of Violation: _____

Description of Violation: _____

Fine and Cost: _____Court Date: _____ Court ID No. _____

Drivers License No.: _____State: _____ DOB: _____

Race: _____ Sex: _____

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Vehicle Tag Number: _____ State: _____

Year: _____ Make: _____ Model: _____

Name of Court: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____

Judge/Clerk _____ Signature: _____

Date of Notice: _____

You have failed to respond to the citation described in this notice by not appearing in court or paying the fine and costs within the prescribed time limit. Failure to appear or to remit the fine and costs to the court within 20 days from the date of this notice will result in notifying the licensing authority in your state to suspend your drivers license in accordance with the Nonresident Violators Compact and under the Drivers License Laws of this State.

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

STATE OF ARKANSAS

COUNTY OF _____

PETITION
AND
AFFIDAVIT FOR PRETRIAL RELEASE

1. I, _____, of _____,

County, Arkansas, age _____ being duly sworn and upon oath to tell the truth state as follows:

(i) EMPLOYMENT STATUS, HISTORY AND FINANCIAL CONDITION:

(ii) FAMILY RELATIONSHIP:

(iii) PRESENT RESIDENCE, TELEPHONE NUMBER AND PREVIOUS RESIDENCES:

(iv) CHARACTER AND REPUTATION

(v) ASSISTANCE AND ATTENDING COURT:

(vi) MITIGATING OR AGGRAVATING FACTORS CONCERNING PRESENT CHARGE:

(vii) PRIOR CRIMINAL RECORD AND APPEARANCES AT PREVIOUS TRIALS OR HEARINGS:

(viii) POSSIBILITY THAT DEFENDANT WILL VIOLATE LAW IF RELEASED:

(ix) OTHER FACTS INDICATING STRONG TIES TO COMMUNITY AND NOT LIKELY TO FLEE:

2. This statement is given to assist the Prosecuting Attorney and the Court to know or have confidence that the Defendant has strong ties to the community and will not flee the jurisdiction.

3. The above statements are true and correct to the best of my knowledge, information and belief.

WITNESS my hand this _____ day of _____, 20___

(a) _____
Affiant - Defendant

(b) _____
Affiant - Supporting Person

_____
Address

_____
Phone

ACKNOWLEDGMENT

Sworn and subscribed to before me this _____ day of _____, 20___ by the Defendant and _____ who upon oath stated that the above and foregoing were true and correct statements of fact tot he best of their knowledge, information and belief.

WITNESS my hand this _____ day of _____, 20___

_____
Notary Public

My Commission expires:

_____

EN EL TRIBUNAL DE DISTRITO DEL CONDADO DE _____ , ARKANSAS

EL ESTADO DE ARKANSAS

EL CONDADO DE _____

PETICIÓN
Y
DECLARACIÓN JURADA PARA LA LIBERACIÓN ANTES DEL JUICIO

1. Yo, _____, del Condado de _____, Arkansas, de ____ años de edad, previa debida juramentación y bajo protesta de decir la verdad, declaro lo siguiente:

(i) SITUACIÓN DE TRABAJO E HISTORIAL LABORAL, Y SITUACIÓN ECONÓMICA:

(ii) RELACIÓN FAMILIAR:

(iii) DOMICILIO ACTUAL, NÚMERO DE TELÉFONO Y DOMICILIOS ANTERIORES:

(iv) CARÁCTER Y REPUTACIÓN

(v) AYUDA Y ASISTENCIA EN EL TRIBUNAL:

(vi) FACTORES ATENUANTES O AGRAVANTES RELACIONADAS CON LA ACUSACIÓN ACTUAL:

(vii) ANTECEDENTES PENALES ANTERIORES Y COMPARECENCIA EN JUICIOS O AUDIENCIAS ANTERIORES:

(viii) POSIBILIDAD DE QUE EL ACUSADO INFRINGIERA LA LEY SI ES LIBERADO:

(ix) OTROS HECHOS QUE INDICAN ALGÚN VÍNCULO FUERTE CON LA COMUNIDAD Y QUE NO ES PROBABLE QUE HUYA:

2. Se da esta declaración para darles al Fiscal y al Juez el conocimiento o confianza de que el Acusado tiene vínculos fuertes con la comunidad, y de que no huirá de la jurisdicción.

3. Las declaraciones anteriores son ciertas y correctas, a mi leal saber y entender.

CONSTE que aquí adhiero mi firma este día ____de _____de 20_____

(a) _____
Declarante - Acusado

(b) _____
Declarante – Persona de apoyo

_____
Dirección

_____
Teléfono

RECONOCIMIENTO

Suscrito y jurado ante mí este día ____ de _____ de 20___ por el Acusado y ___ _____ quienes, bajo juramento declararon que lo anterior son declaraciones de los hechos, ciertas y correctas, a su leal saber y entender.

CONSTE que adhiero mi firma este día _____ de _____ de 20____

_____
Notario Público

Caduca mi cargo:

_____

Pursuant to A.C.A. § 16-90-905, this Petition to Seal form has been adopted and provided by ACIC. Arkansas law mandates the use of this form by all petitioners and by all Circuit and District Courts in the state of Arkansas.

In the _____ Court of _____, Arkansas

_____ Division

State of Arkansas

vs. Case No. _____

_____
(first, middle, and last name)

Petition to Seal

(Part 1of 2)

Comes the Defendant and for his/her petition to seal the record states:

(***Please complete the appropriate section: A or B)***

Section A

1. Defendant was arrested on the _____ day of _____, _____, and charged with the offense(s) of _____, A.C.A. § _____; the defendant was **found guilty** of _____, A.C.A.§ _____, on the _____ day of _____, _____, and received a sentence of _____.

2. The Court further finds that the defendant was sentenced under the provisions of A.C.A. § _____, which provides for the sealing of a defendant's record.

3. Defendant has satisfactorily complied with the conditions and orders of this Court.

Section B

1. Defendant was arrested on the _____ day of _____, _____, and charged with the offense(s) of _____.
   A.C.A. § _____.
2. **Date of Final Disposition _____.**
   - ☐ **Nolle Prossed**
   - ☐ **Dismissed**
   - ☐ **Acquitted at Trial**
   - ☐ **Case Not Filed**
3. The Court now finds that under authority of A.C.A. § 16-90-906, which provides for the sealing of a defendants record, that the petition to seal the record of the offense(s) should be granted.

The following information is required for proper identification of the defendant in the state and national record systems:

Race _____ Arrest Tracking No. _____
Sex _____ SID No. _____ (if known)
DOB _____ FBI No. _____ (if known)

Petition to Seal

(Part 2 of 2)

Acknowledgement and Verification:

The requesting party, known by me to be the person identified, did appear before me this _____, day of _____, _____, to sign Petition to Seal and to verify under oath, pursuant to A.C.A. §16-90-905(a)(3), whether the requesting party:

☐ has pending felony charges in any state or federal court. The status of the charge(s):

_____

_____

(Charge) (Court)

☐ **does not** have pending felony charges in any state or federal court.

(SEAL) _____

(Signature of Notary Public)

_____ _____

(County) *(Expiration of Commission)*

The above information is true and correct to the best of my knowledge.

Dated this _____ day of _____, _____.

_____

Signature of Attorney for Defendant or Defendant

_____

Type or print name of the above

Certificate of Service

I, _____, do hereby certify that a true and correct copy of the foregoing Petition has been provided to the Prosecuting Attorney (for the county in which the petition is filed) and the arresting agency by U.S. Mail, postage pre-paid, or hand-delivered this

_____ day of _____, _____.

The following information is required for proper identification of the defendant in the state and national record systems:

Race _____ Arrest Tracking No. _____

Sex _____ SID No. _____ (if known)

DOB _____ FBI No. _____ (if known)

FROM: _____
Court

_____
Contact Person

_____
Address

_____
Phone

NO. CR- _____

TO: _____
Name of Provider

_____
Address

_____
Phone

PROBATION/SUSPENSION REFERRAL FORM

NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____ TELEPHONE: _____

SEX: _____ RACE: _____

EDUCATION: Highest grade completed: _____

Last date of attendance: _____

Name and Address of school: _____
_____

EMPLOYMENT STATUS: Employed: _____ YES _____ NO

Work Hours: From _____ To _____

Employer's Name and Address: _____
_____

_____
Telephone No.

INITIAL APPOINTMENT: _____
Date Time

_____
Location

_____
Contact Person

_____
Telephone No.

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

STATE OF ARKANSAS/CITY OF _____ PLAINTIFF

VS CR _____

_____ DEFENDANT

RECOGNIZANCE APPEARANCE AGREEMENT

The defendant having affixed his signature hereto, agrees as follows:

1. To appear on the _____ day of _____, 20___, or promptly at all times directed by the Court.

2. To keep the Court informed of any change of address and telephone number.

3. Not to leave the State of Arkansas without prior permission of the Court.

4. (OTHER CONDITIONS) _____
_____

5. I understand that my failure to observe any of the conditions set forth, or any other rules of good behavior, will entitle the Court to revoke this release decision and may result in penal sanctions as provided by Ark. Code Ann. §16-84-116 and Arkansas Rules of Criminal Procedure, Rule 9.

6. I, the undersigned, hereby acknowledge that I have this date received a copy of the foregoing Recognizance Appearance Agreement.

WITNESS: _____ _____
DEFENDANT

_____ _____
OFFICER ADDRESS

_____ _____
DATE TELEPHONE NUMBER

APPROVED: this ___ day of _____, 20___

_____
COURT CLERK

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

STATE OF ARKANSAS **PLAINTIFF**

VS. **DOCKET NO. _____**

_____ **DEFENDANT**

RECORD OF FIRST JUDICIAL APPEARANCE

1. _____, Judge of the District Court of _____ County, Arkansas, do hereby certify that on the ___ day of _____, 20_____, the above named Defendant did appear before me in compliance with Rule Eight (8) and Rule (9) of the Arkansas rules of Criminal Procedure. At said appearance, the following was completed:

1. The Defendant was questioned as to the following preliminary matters:
   A. Mailing Address _____

2, The Defendant was advised that he was charged in the Circuit Court of _____County, Arkansas, under an information filed by the Prosecuting Attorney's Office with the following offense(s) of _____

3. The Defendant was informed that he had the following rights:
   _____ A. That he was not required to say anything an that anything he said could and would be used against him.
   _____ B. That he had a right to Counsel and that if he were indigent, Counsel would be appointed to represent him.
      _____ 1. Inquiry was made into the Defendant's desire and ability to retain Counsel.
      _____ 2. The Defendant requested an indigency determination for the purpose of determining the possibility of receiving a court appointed attorney.
      _____ 3. The Defendant was determined not to be indigent.
      _____ 4. The Defendant was determined to be indigent.
      _____ 5. The Court appointed the Honorable _____ to represent the Defendant.
      _____ 6. The Court appointed the _____ County Public Defender to represent the Defendant.
   _____ C. That he had a right to communicate with his Counsel and/or family, and that reasonable means would be provided for him to do so.
      _____ 1. The Defendant requested the opportunity to discuss this case with his attorney and /or family and further proceedings were continued until _____.
      _____ 2. The Defendant waived the right to communicate with his attorney and/or his family and requested the Court to proceed with the determination of probable cause and the pre-trial release of the defendant;.
      _____ 3. The Defendant appeared with his attorney announced ready to proceed.
      _____ 4. Other _____.

4. That on the _____ day of _____, 20_____, after the Defendant had the opportunity to communicate with his attorney and/or family or after the defendant had waived the right to communicate with his attorney and/or family, an informal, non-adversary hearing was held pursuant to Rule 8.3 of Arkansas Rules of Criminal Procedure to determine the existence of probable cause to charge the Defendant with the aforementioned crime(s) and bind him over to Circuit Court for trial on the charge(s). After an examination by the Court of relevant facts and evidence in this case submitted to the Court by the Prosecuting Attorney, the Court finds as follows:
   _____ A. There is sufficient facts and evidence in this case to constitute probable cause as defined by Rule 8.3 of the Arkansas Rules of Criminal Procedure.
   _____ B. There are not sufficient facts and evidence present in this case to constitute probable cause as defined in Rule 8.3 of the Arkansas Rules of Criminal Procedure.
   _____ C. This case is hereby bound over to the Circuit Court of _____ County, Arkansas for further proceedings.
   _____ D. The Defendant is hereby ordered to re-appear in the Circuit Court of _____ County, Arkansas, Criminal Division on the _____ day of _____, 20_____.

5. After a determination of probable cause was made, an inquiry was made into the relevant facts which might affect a pretrial release decision. The Prosecuting Attorney did/did not stipulate that the Defendant may be released upon his own recognizance. In making a pretrial release decision, the following relevant factors were assessed:
   a. The Defendant's employment status, history and financial condition
   b. The nature and extent of his family relationships.
   c. His past and present residence.
   d. His character and reputation.
   e. The persons who agree to assist him in attending court at the proper time.
   f. The nature of the current charge and any mitigating or aggravating factors that may bear on the likelihood of conviction and the possible penalty.
   g. The Defendant's prior criminal record, if any, and if he previously has been released pending trial, whether he appeared as required. The Defendant has been convicted of the following felonies:
   _____.
   h. Any facts indicating the possibility of violations of law if the Defendant is released without restrictions; and
   i. Any other facts tending to indicate that the Defendant has strong ties to the community and is not likely to flee the jurisdiction.
   j. The Prosecuting Attorney advised the Court of his recommendations concerning the advisability and appropriateness of pretrial release, the amount and type of bail, and the conditions which should be imposed upon the Defendant's release. The Prosecuting Attorney recommended the following bail _____.

6. After the pre-trial inquiry, the Court made a pre-trial release determination:
   _____ A. The Defendant was released upon his own recognizance.
   _____ B. The Defendant was ordered to re-appear in this Court on the _____ day of _____, 20_____.
   _____ C. The Defendant was ordered to re-appear in the Circuit Court of _____County, Arkansas on the _____ day of _____, 20_____.
   _____ D. The Defendant was placed under the care of qualified person or persons or organization which agreed to supervise the Defendant and assist him in appearing in said court, viz
   _____.
   _____ E. The Defendant was placed under the supervision of a Probation Officer or other appropriate Court official, viz.
   _____ F. The Defendant was ordered to report tothe Circuit Court Clerk and Sheriff of _____ County, Arkansas any change of address.
   _____ G. The Defendant was ordered to report to the Sheriff of _____County, Arkansas in person or by phone as follows:
      _____ 1. Once per week _____ 3. Once every _____ weeks
      _____ 2. Once per month _____ 4. Other _____
   _____ H. The following restrictions were imposed upon the Defendant:
   _____ I. The Defendant was released upon a money bail upon the following requirements:
      _____ 1. The execution of a unsecured bond in the amount of $ _____ to be signed by two (2) other persons.
      _____ 2. The execution of an unsecured bond in amount of $ _____ to be accompanied by case deposit or securities equal to ten (10) percent of the face amount of the bond, ninety (90) percent of which shall be returned at the conclusion of proceedings provided the Defendant has not defaulted in the performance of the conditions of the bond.
      _____ 3. The execution of bond in the amount of $ _____ secured by the deposit of the full amount in cash or by other property or by the obligation of qualified securities.
      _____ 4. The execution of a bond in the amount of $ _____ in any form acceptable to the Sheriff of _____ County, Arkansas.
      _____ 5. The Defendant shall have no contact with _____.

7. In cases where money bail is set, the Court took into consideration all facts relevant to the risk of willful non-appearance including those items contained in Rule 9.2 of the Arkansas Rules of Criminal Procedure.

8. The Defendant was notified of the penalties for failure to comply with conditions or terms of this order granting pre-trial relief.

9. Other relevant proceedings: _____
_____

_____
DISTRICT JUDGE

_____
DATE

I acknowledge receipt of a copy of this First Judicial Appearance.

_____, Defendant

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____
DEFENDANT

_____
CASE NO.

RELEASE DECISION

A pretrial release inquiry was conducted in accordance with Rule 8.5 and the Court has inquired about and taken into consideration the factors set forth in said Rule. In addition to the verbal inquiry the following was presented:

□ Petition for Appointment of Counsel for Indigent

□ NCIC or other criminal records reports

□ Other information _____

_____

The Prosecuting Attorney or his Deputy made the following recommendations:

1. Advisability and appropriateness of pretrial release: □ Yes □ No

2. Amount and type of bail bond: _____

_____

3. Conditions, if any which should be imposed on Defendant's release: _____

_____

The Judicial Officer finds and orders as follows:

□ Defendant is released on his personal recognizance

□ The following conditions of release are found necessary: _____

_____

_____

And the Defendant is advised that if he does not comply with the conditions he may be arrested and brought before a Judicial Officer who may impose additional conditions of release or revoke his release.

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

STATE OF ARKANSAS

COUNTY OF _____

SEARCH AND SEIZURE WARRANT

DIRECTED TO: ANY POLICEMAN, SHERIFF OR LAW ENFORCEMENT OFFICER IN THE STATE OF ARKANSAS:

_____, Affiant, being duly sworn, before me according to law, deposes and says that there is reasonable cause to believe that certain property is evidence of or fruit of a crime or is contraband or is unlawfully possessed or otherwise subject to seizure and is located in a particular premises or in the possession of particular persons described as follows:

Item(s) to be seized:

Upon sworn affidavit having been made before me by the above named affiant(s) on this date, I do hereby find that the supporting affidavit(s) establishes reasonable cause for the issuance of this search warrant to search the above-named place for the above-named item(s).

YOU ARE HEREBY COMMANDED TO CONDUCT A SEARCH:

Within a reasonable time (not to exceed 60 days) between the hours or 6:00 a.m. and 8:00 p.m., of the above named place and if the above-named item(s) be found to seize it leaving a copy of this warrant with the occupant thereof, or attached to the premises if unoccupied, along with a receipt fairly describing the item(s) seized, and then make a return of this warrant to the issuing court within five (5) days of the execution of this warrant along with a verified report of the facts and circumstances of execution, including a list of things seized.

This search and seizure warrant signed by the Honorable _____, District Judge of _____

_____, Arkansas, on _____, 20___, at ___a.m./p.m. at_____.

_____
District Judge

_____
Date

MONTHLY REPORT TO SENTENCING COURT

ATTENDANCE STATUS OF STUDENT ON PROBATION/SUSPENDED IMPOSITION OF SENTENCE

_____ Name of Provider

_____ Student Name

_____ Contact Person

_____ Docket #

_____ Address

_____ Phone

WEEK	M	T	W	T	F	TOTAL HOURS

Student's Educational Level _____

Date of Entry _____

Date of Exit _____

CRIMINAL SUMMONS

STATE OF ARKANSAS
COUNTY OF _____
CITY OF _____

CRIMINAL CASE NO. _____
Date of summons _____

TO _____, Defendant
_____
_____

YOU are hereby notified that you have been charged in the District Court of _____ _____ County, State of Arkansas, with the offense(s) of _____
_____
_____

You are COMMANDED to appear before the District Court of _____ County, in the City of _____, Arkansas, at _____ o'clock _____m., on the ____day of _____, 20____, to answer the aforesaid charge(s).

FAILURE TO APPEAR AT THE ABOVE STATED TIME, PLACE AND COURT MAY RESULT IN YOUR ARREST AND SHALL CONSTITUTE A SEPARATE OFFENSE FOR WHICH YOU MAY BE PROSECUTED.

WITNESS my hand and the Seal of said Court on this _____ day of _____, 20___.

_____, CLERK

BY: _____, D.C.

SEAL

SHERIFF'S RETURN

STATE OF ARKANSAS
COUNTY OF _____

I have this ____ day of _____, 20___, duly served the within by delivering a copy of the same to the within named _____ as therein commanded.

_____, SHERIFF

By: _____, D.S.

Returned and filed this _____ day of _____, 20___.

_____, CLERK

By: _____, D. C

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

STATE OF ARKANSAS PLAINTIFF

VS. CASE NO. _____

_____ DEFENDANT

W A I V E R

Prior to any evidence being presented to the Court related to my cause, the District Judge advised and explained to me the following rights:

(1) I have a right to remain silent;

(2) I have the right to consult with a lawyer prior to the trial of my case and to have a lawyer represent me during the trial of my cause;

(3) I have the right to have a lawyer appointed to represent me free of cost prior to my trial if I am financially unable to secure a lawyer of my own choice.

WAIVER OF COUNSEL

I, the above named defendant having been advised of the nature of the charge against me and of my right to be represented by a lawyer of my own choice, or, if I am unable to employ a lawyer, by a court-appointed lawyer at every stage of this proceeding, hereby waive the right and consent that arraignment and trial may be had, a plea entered and sentence imposed without the benefit of a lawyer.

I have been given an opportunity to exercise these rights and after deliberation of these rights, I hereby state that I waive the above rights. This waiver is made freely, knowingly, and intelligently on my part, and I agree to proceed pro se without the assistance of any attorney.

_____ _____

WITNESS DEFENDANT

This Waiver filed of record in the District Court of _____ County, Arkansas this _____ day of _____, 20___.

_____

DISTRICT COURT CLERK

_____ COUNTY WORK-RELEASE PROGRAM

(WORK AND ATTENDANCE RECORD)

PROJECTS: _____

_____

_____

_____

ATTENDANCE RATING: _X_ if reported for work _0_ if did not report for work

WORK RATING: _G_ (GOOD) _A_ (AVERAGE) _P_ (POOR)

CREW MEMBERS	ATTENDANCE	WORK PERFORMANCE

SUPERVISORS: _____

DATE: _____

_____ COUNTY WORK RELEASE PROGRAM

PROJECT APPLICATION

NAME OF APPLICANT: _____

ADDRESS: _____

PHONE NO. _____ PERSON TO CONTACT: _____

PROPOSED PROJECT: _____

NO. OF CREW MEMBERS NEEDED (APPROX.) _____

ESTIMATED LENGTH OF PROJECT _____ DAYS

If the project is accepted, applicant agrees to furnish tools and equipment, fuel for equipment, and transportation for crew members, if needed.

_____
Name of applicant

_____
Date

By: _____

PROJECT ACCEPTED: ____ PROJECT DECLINED: ___

REASONS PROJECT DECLINED: _____

_____

_____

_____ COUNTY WORK RELEASE PROGRAM

By: _____
Supervisor

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

FIRST OFFENSE DWI SENTENCING GUIDLINES

POINT FOR EACH FACTOR:

_____ Tested .16% or more on Breathalyzer or other test (1 additional point for .21%-25% and 1 additional point for 25% and above)

_____ Refused to take test

_____ Accident involving injury to person or property

_____ Other evidence of substantial danger, such as Reckless driving, Child Endangerment, Assault or Battery, Resisting Arrest or Flight, etc.

_____ Previous DWI conviction (other than current charge) within 7 years, or history of alcohol-related or controlled substance violations.

_____ Violation of probationary rules or regulations previously ordered by Court on prior misdemeanor offense.

_____ **Total Points**

RANGE OF PENALTIES

Minimum Penalty - No Points

$350.00 Fine plus costs
90 days in jail with all but 2 days of jail suspended on 1 year good behavior (credit) for time served; work release or community service authorized
Attend alcohol education program; attend alcohol treatment program, counseling or AA meetings as recommended by Alcohol Safety Officer, attend Victim Impact Panel
Administrative Suspension of Driver's License

Penalty - One Point

$400.00 Fine plus costs
90 days in jail with all but 3 days of jail suspended on 1 year good behavior (credit) For time served; work release or community service authorized
Attend alcohol education program; attend alcohol treatment program, counseling or AA meetings as recommended by Alcohol Safety Officer, attend Victim Impact Panel
Administrative Suspension of Driver's License

Penalty - Two Points

$500.00 Fine plus costs
90 days in jail with all but 4 days of jail suspended on 1 year good behavior (credit for time served; work release or community service authorized)
Attend alcohol education program; attend alcohol treatment program, counseling or AA meetings as recommended by Alcohol Safety Officer, attend Victim Impact Panel
Administrative Suspension of Driver's License

Penalty - Three Points or More

$600.00 Fine plus costs
90 days in jail with all but 5 days of jail suspended on 1 year good behavior (credit for time served; work release or community Service authorized)
Attend alcohol education program; attend alcohol treatment program, counseling or AA meetings as recommended by Alcohol Safety Officer, attend Victim Impact Panel
Administrative Suspension of Driver's License

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

SECOND OFFENSE DWI SENTENCING GUIDLINES

POINT FOR EACH FACTOR:

_____ Tested .16% or more on Breathalyzer or other test (1 additional point for .21%-25% and 1 additional point for 25% and above)

_____ Refused to take test

_____ Accident involving injury to person or property

_____ Other evidence of substantial danger, such as Reckless driving, Child Endangerment, Assault or Battery, Resisting Arrest or Flight, etc.

_____ Previous DWI conviction (other than current charge) within 7 years, or history of alcohol-related or controlled substance violations.

_____ Violation of probationary rules or regulations previously ordered by Court on prior misdemeanor offense.

Note: If a defendant is arrested or convicted of the previous DWI within 90 days of the arrest on pending charge, then additional jail time may be imposed.

_____ **Total Points**

RANGE OF PENALTIES

Minimum Penalty - No Points

$700.00 Fine plus costs
180 days in jail with all but 30 days of jail suspended on 1 year good behavior (credit) f or time spent in inpatient treatment facility or intensive outpatient counseling, except defendant must serve a minimum of 7 days in jail in addition to time credited for treatment facility; credit for any time served; work release or partial community service may be authorized, depending on circumstances)
Attend alcohol education program; attend alcohol treatment program, counseling or AA meetings as recommended by Alcohol Safety Officer, attend Victim Impact Panel
Administrative Suspension of Driver's License

Penalty - One Point

$800.00 Fine plus costs
180 days in jail with all but 30 days of jail suspended on 1 year good behavior (credit)
For time spent in inpatient treatment facility or intensive outpatient counseling, except defendant must serve a minimum of 8 days in jail in addition to time credited for treatment facility; credit for any time served; work release or partial community service may be authorized, depending on circumstances)
Attend alcohol education program; attend alcohol treatment program, counseling or AA meetings as recommended by Alcohol Safety Officer, attend Victim Impact Panel
Administrative Suspension of Driver's License

Penalty - Two Points

$1,000 Fine plus costs
180 days in jail with all but 30 days of jail suspended on 1 year good behavior (credit for time spent in inpatient treatment facility or intensive outpatient counseling, except defendant must serve a minimum of 9 days in jail in addition to time credited for treatment facility; credit for any time served; work release or partial community service may be authorized, depending on circumstances)
Attend alcohol education program; attend AA meetings as recommended by Alcohol Safety Officer, attend Victim Impact Panel
Administrative Suspension of Driver's License

Penalty - Three Points or More

$1,200.00 Fine plus costs
180 days in jail with all but5 30 days of jail Suspended on 1 year good behavior (credit
For time spent in inpatient treatment facility or Intensive outpatient counseling, except defendant must serve a minimum of 10 days in jail in addition to Time credited for treatment facility, credit for any time served; work release or partial community service may be authorized, depending on circumstances)
Attend alcohol education program; attend Victim Impact Panel, attend AA meetings as recommended by Alcohol Safety Officer
Administrative Suspension of Driver's License

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

THIRD OFFENSE DWI SENTENCING GUIDLINES

POINT FOR EACH FACTOR:

_____ Tested .16% or more on Breathalyzer or other test (1 additional point for .21%-25% and 1 additional point for 25% and above.

_____ Refused to take test

_____ Accident involving injury to person or property

_____ Other evidence of substantial danger, such as Reckless driving, Child Endangerment, Assault or Battery, Resisting Arrest or Flight, etc.

_____ Previous DWI conviction (other than current charge) within 7 years, or history of alcohol-related or controlled substance violations.

_____ Previous DWI conviction was within 1 year of present arrest or other violation of probationary rules or regulations previously ordered by Court on prior misdemeanor offense

_____ Violation of probationary rules or regulations previously ordered by Court on prior misdemeanor offense.

Note: If a defendant is arrested or convicted of the previous DWI within 90 days of the arrest on pending charge, then additional jail time may be imposed.

_____ **Total Points**

RANGE OF PENALTIES

Minimum Penalty - Two Points or Less

$1,500.00 Fine plus costs
1 year in jail with all but 150 days of jail
suspended on 1 year good behavior (credit)
for time spent in inpatient treatment facility
except Defendant must serve a minimum of
120 days in jail; credit for any time served;
work release is not authorized unless
Sheriff's Office approves)
Attend alcohol education program; which
will include either inpatient treatment or
intensive outpatient counseling, and attend
AA meetings as recommended by Alcohol Safety
Officer, attend Victim Impact Panel
Administrative Suspension of Driver's License

Penalty - Three or more points

$2,500.00 Fine plus costs
1 year in jail with all but 180 days of jail
suspended on 1 year good behavior (credit)
For time spent in inpatient treatment facility
Except defendant must serve a minimum of
150 days in jail; credit for any time served;
Work release is not authorized unless
Sheriff's Office approves)
Attend alcohol education; which
Will include either inpatient treatment or
Intensive outpatient counseling, and attend
AA meetings as recommended by Alcohol
Safety Officer, attend Victim Impact Panel
Administrative Suspension of Driver's
License

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

NAME: _____

DOCKET NO: _____

R E A D C A R E F U L L Y

You have been charged with Driving While Intoxicated _____ offense pursuant to Act 549 of 1983 of the Arkansas General Assembly. Act 549 of 1983 provides that upon a for DWI ___ offense, you may be placed in the county jail for not less than _____ (hours) (days) nor more than (1) year or the court may order community service in lieu of jail, and fined not less than $ _____ or more than $ _____. You will also be ordered to attend alcohol counseling.

If you are convicted of this offense of DWI and then later convicted of another offense of DWI, Act 549 of 1983 provides that the penalties you will receive will be more severe than the penalties you can receive from a conviction of the offense you are presently facing. If you are convicted of DWI 3rd offense, a 4th offense within five (5) years of the first offense will be a felony for which you will be sent to prison for not less than one (1) year but no more than six (6) years, or the court may order one (1) year of community service. If you are convicted of a fifth or subsequent offense within five (5) years of the first, it is a felony and you may go to prison for at least five (5) years but not more than ten (10) years or the court may order not less than two (2) years of community service.

You have the right to an attorney to represent you on the charge you are now facing. If you want an attorney to represent you, your case will be continued for at least one week in order to give you the opportunity to hire an attorney. If you want an attorney to represent you but you cannot afford to hire one, you may ask the judge to appoint a lawyer to represent you. If the court determines that you qualify for an appointed attorney, one will be appointed and your case will be continued for at least one week to give you and your attorney the opportunity to discuss and prepare your case. You may waive (or give up) the right to have an attorney represent you, and the court will proceed to dispose of your case. If you waive or give up the right to an attorney, you will be waiving or giving up the following rights: (1) the right to have an attorney represent you, (2) the right to a trial on the charge now facing you, and (3) the right to confront and cross-examine the witnesses against you.

PLEASE CHECK ONE OF THE FOLLOWING

_____ I want an attorney to represent me on this charge and request a continuance of at lest one (1) week:

_____ I am represented by _____, Attorney at Law.

_____ I want an attorney to represent me on this charge but I cannot afford to hire one. I request the Court to examine me to see if I qualify for a court-appointed attorney.

_____ I do <u>not</u> want an attorney to represent me on this charge and realizing that I may have one, I waive or give up the right to an attorney.

I UNDERSTAND THAT I HAVE BEEN CHARGED WITH DRIVING WHILE INTOXICATED _____ OFFENSE UNDER ACT 549 OF 1983. I UNDERSTAND THAT IF I AM CONVICTED OF THIS OFFENSE, I WILL RECEIVE THE APPROPRIATE PUNISHMENT LISTED ABOVE. I ALSO UNDERSTAND THE ABOVE STATEMENTS CONCERNING MY RIGHTS TO AN ATTORNEY AND UNDERSTAND THE ABOVE PROVISIONS CONCERNING INCREASED PENALTIES ON SUBSEQUENT OR LATER DWI OFFENSES, INCLUDING A POSSIBLE FELONY CHARGE.

_____
DEFENDANT

_____
DATE

Signature of defendant acknowledged to me this the _____ day of _____, 20___.

_____
DISTRICT JUDGE

I HAVE READ AND UNDERSTAND THESE RIGHTS.

_____
DEFENDANT

_____
DATE

COURT ORDER

County Judicial District: **County:**

Court Facility: **Prosecutor:**

Department: **Defense Attorney:**

ORDER FOR IGNITION INTERLOCK PROGRAM

IT IS ORDERED THAT:

1. **Device to be installed on defendant's vehicle(s):**

   Make: _____ Model: _____ Year: _____
   Color: _____ License Plate Number: _____
   Make: _____ Model: _____ Year: _____
   Color: _____ License Plate Number: _____

2. **Program Length:** 6 mo 12 mo 18 mo 24 mo 36 mo 48 mo 60 mo Other _____
   (Please circle one of the above)
3. **Installation** to be no later than _____
4. **Defendant to call installer within 48 hours of this order to set up an installation time.**
5. **Defendant to present this form to installer at time of installation.**
6. **Defendant to take vehicle(s) to installer for monitoring checks every 60 days, commencing the date of installation.**
7. **Defendant is not to drive any vehicle without an installed ignition interlock device.**
8. **Defendant is to maintain current insurance and registration.**
9. **The device may not be removed prior to _____ without a court order.**

Defendant: **Date of Birth:**

Address: **Social Security No.**

City/State/Zip: **Drivers License No.**

Home Telephone: **Work Telephone:**

Installer's name: _____ **Telephone:** _____

Address: _____ **City, state, zip:** _____

_____ _____
Signature of Judge **Signature of monitor, if other than judge**

P E R S O N A L D A T A F O R M

NAME _____ DATE _____

ADDRESS: _____ DRIVERS LIC# _____

_____ SOC. SECURITY NO. _____

DATE OF BIRTH _____ RACE _____ SEX _____ PHONE _____

DATE OF PLEA & ARRIAGNMENT _____

CURRENT CHARGE(S) _____

DATE OF ARREST _____ BAC _____ TIME _____ PLACE _____

COURT _____ COURT NO. _____ JUDGE _____

PREVIOUS ALCOHOL RELATED ARRESTS _____

_____

_____

PREVIOUS ALCOHOL/DRUG RELATED TREATMENT _____

_____

CURRENT TREATMENT ASSIGNMENT _____

_____

DATE OF TRIAL _____ ORIGINAL DISPOSITION _____

FINAL DISPOSITION DATE _____

FINAL DISPOSITION _____

COURT ASSESSED PENALTY _____

_____

_____
Office of Alcohol and Drug Abuse Prevention
(Or designee)

FORMULARIO DE DATOS P E R S O N A LES

NOMBRE _____FECHA _____

DIRECCIÓN: _____ NO. DE LIC. DE MANEJAR_____

_____ NO. DE SEGURO SOCIAL _____

FECHA DE NACIMIENTO _____ RAZA ____SEXO ____ NO. DE TEL. _____

FECHA DE LECTURA DE CARGOS Y LA CONTESTACIÓN _____

CARGO/S ACTUAL/ES _____

FECHA DE ARRESTO _____ NIVEL DE ALCOHOL EN LA SANGRE _____HORA _____ LUGAR_____
_____

TRIBUNAL _____ NO. DE TRIBUNAL_____ JUEZ _____

ARRESTOS ANTERIORES RELACIONADOS CON EL ALCOHOL _____

_____

_____

TRATAMIENTO ANTERIOR RELACIONADO CON EL ALCOHOL/LAS DROGAS_____

_____

ASIGNACIÓN DE TRATAMIENTO ACTUAL_____

FECHA DEL JUICIO _____ DISPOSICIÓN ORIGINAL_____

FECHA DE LA DISPOSICIÓN FINAL_____

DISPOSICIÓN FINAL _____

SANCIÓN IMPUESTA POR EL TRIBUNAL_____

_____

_____

_____

Oficina para la Prevención del Abuso de Drogas y Alcohol
(o su representante)

In the _____ Court of _____, Arkansas

_____ Division

State of Arkansas

vs. Case No. _____

_____ DEFENDANT

(First, middle, and last name)

Final Order of Expungement pursuant to

Act 531 of 1993 ACA §16-93-1201 et seq.

1. That the defendant was arrested on the _____ day of _____, _____ and charged with the offense(s) of _____, in violation of A.C.A. §_____ .

2. On the _____ day of _____, _____, the Defendant entered a plea of guilty or nolo contendere to the charge(s) of _____, a Class ___ misd/felony.

3. The offense is not a violent or sexual offense as defined in A.C.A. §16-93-1202. .

4. The defendant does not have more than one (1) previous felony conviction and that conviction, whether expunged or not, was not:

A capital offense;

First-degree Murder, (ACA §5-10-102);

Second-degree Murder, (ACA §5-10-103);

Rape, (ACA §5-14-103);

Kidnapping, (ACA §5-11-102);

Aggravated Robbery (ACA §5-12-103); or

Delivery of controlled substance to a minor under ACA §5-64-410.

5. This court accepted the plea and entered a judgment of guilt and,

a. Committed the defendant to Arkansas Department of Correction for a term of _____ with judicial transfer to the Arkansas Department of Community Correction; **OR**

b. Suspended the imposition of sentence for a period of _____ years, with or without supervision; **OR**

c. Placed the defendant on (supervised) (unsupervised) probation for _____ ; **OR**

d. Sentenced the defendant to _____ in the county jail for a misdemeanor committed after January 1, 2007.

6. The defendant was sentenced under Act 531 of 1993, as codified at A.C.A. § 16-93-1201 et seq.

7. Defendant has successfully completed the term provided for in paragraph 5 above, and has applied for expungement, the Court has reviewed the defendant's compliance with the Court's terms and conditions and hereby grants the expungement.

It is therefore considered, ordered and adjudged that the defendant has been rehabilitated and the record expunged and sealed to all except those authorized by law to have access.

The Court Clerk is directed to mail a copy of this order to the Arkansas Crime Information Center, to the Administrative Office of the

Courts, to the arresting agency, and to the prosecuting attorney. Those agencies shall enter this order and seal all records maintained by them relating to the offense(s).

_____

Signature of Judge

_____

Type or print name of Judge

_____

Date

THIS INFORMATION IS MANDATORY unless indicated (if known)

Race _____ Arrest Tracking No. _____

Sex _____ SID No. _____ (if known)

DOB _____ FBI No. _____ (if known)

District Court of _____ County, Arkansas

ANSWER AND AFFIRMATIVE RELIEF

_____
Plaintiff

vs. Case No. _____

_____
Defendant

A copy of your answer must be filed with the court and a copy delivered or mailed to the plaintiff or his attorney (if applicable).

CHECK ONE:

A. ____ I admit everything in the complaint and do not want a trial.

B. ____ I admit that I am responsible, but not for the total amount claimed by the plaintiff(s).

C. ____ I deny that I am responsible at all.

D. ____ I deny that I am responsible at all. In fact the plaintiff is the one at fault. (Contact the court clerk to file a counterclaim form.)

Defendant's Address: _____
Reasons for Denial of Plaintiff's Claim: _____
Affirmative Defenses: _____
Amount of Affirmative Relief Sought: _____
Date Affirmative Claim Arose: _____
Factual Basis of Affirmative Claim: _____
Names and Addresses of Other Persons Needed for Determination of Affirmative Claim:
_____
Plaintiff's Attorney and Address: _____

_____
(Signature of Attorney or Defendant)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing answer was served on [plaintiff or attorney for plaintiff, as appropriate] on the _____ day of _____, 20___, by [state method of service used, e.g., hand delivery, mail, commercial delivery service].

_____
(Signature of Attorney or Defendant)

COMPLETE THIS ANSWER AND MAIL THE ORIGINAL TO: _____

Clerk's address: _____

Original - Court
2nd copy - Plaintiff
3rd copy - Defendant

IN THE DISTRICT COURT OF _____

CIVIL DIVISION

_____ Plaintiff

vs. Case No. _____

TRANSCRIPT

ON APPEAL TO CIRCUIT COURT

_____ Defendant

_____ Garnishee

RECORD ENTRIES, ORDERS AND JUDGMENT

I hereby certify the foregoing is a true and correct transcript of the record entries, orders, and judgment, in the above captioned case.

Witness my hand and seal of said Court this _____ day of _____, 20___.

_____

Clerk, District Court

DISTRICT COURT OF _____, ARKANSAS

COMPLAINT _____ Small Claims _____Civil Division

_____
Plaintiff

vs. Case No. _____

_____
Defendant

Plaintiff's Address: _____
Defendant Address: _____
Nature of Claim: _____
Amount of Relief Claimed: _____
Date Claim Arose: _____
Factual Basis of Claim: _____
Plaintiff's Attorney and Address: _____

_____
(Signature of Attorney or Plaintiff)

NOTICE TO DEFENDANT

You are hereby warned to file a written answer with the clerk of the court within 30 days after the date that you receive this complaint and to send a copy to the plaintiff or to his/her attorney. If you do not file an answer within 30 days, or if you fail to file an answer, a default judgment may be entered against you.

_____
(Signature of Clerk or Judge)

PROOF OF SERVICE

State of Arkansas
City of _____

I, _____, hereby certify that I served the within complaint on the defendant, _____, at ___ o 'clock _____.m. on _____, _____, by [state method of service].

_____
(Signature and Office, if any)

Subscribed and sworn to before me this _____ day of _____, 20___. [To be completed if service is by someone other than sheriff or constable.]

_____
Notary Public or Court Clerk

My commission expires:

Original - Court
2nd copy - Defendant
3rd copy - Sheriff/Process Agent
4th copy - Plaintiff

DEFENDANT'S INSTRUCTIONS

1. Please fill out the enclosed answer form and return it to the Clerk's office.
2. If the attached complaint shows this case to be in small claims, it is not necessary to hire an attorney although you may do so if you wish. In the event both parties do not have attorneys, the judge will ask questions of each party and decide the case on the evidence.
3. You may bring witnesses with you to testify on your behalf or you may have witnesses subpoenaed by providing a list of their names and addresses and telephone numbers to the Court Clerk of the _____ _____ District Court. There will be additional costs for service of each subpoena.
4. Bring to court all papers, receipts and other materials that might be useful as evidence in the case.
5. If you wish to contest this claim and it is not possible to appear on the disposition date on the front of the complaint, please notify the Clerk of the Court in person or by telephone no later than _____ prior to court date, and the Clerk will assist you in requesting a new date. In arranging this new date keep in mind that the court meets at _____ on _____. If you do not appear at the new date a judgment may be entered against you. The telephone number of the Court Clerk is _____ _____.
6. Bring this form with you when you come to court.
7. In court, direct all statements and questions to the Judge.

IMPORTANT: IF YOU FAIL TO FILE A WRITTEN ANSWER, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE AMOUNT OF THE CLAIM FILED PLUS THE COURT COSTS. IF THIS OCCURS, YOUR WAGES MAY BE GARNISHED OR ANY OF YOUR PERSONAL PROPERTY MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT.

DO NOT FAIL TO FILE A WRITTEN ANSWER.

SUMMONS

TO THE ABOVE NAMED DEFENDANT(S):

1. You have been SUED by the afore named plaintiff(s).
2. You must file the attached answer form with this court, within 30 days from the date on which you received this summons or a judgment may be entered against you.
3. In the event that you fail to file a written answer, a judgment may be entered against you. If a judgment is entered against you, you do have the right to appeal to Circuit Court within 30 days after the disposition date on the reverse side.
4. You may seek the advice of an attorney on any matter connected with this suit or your answer. Such attorney should be consulted immediately so that an answer may be filed within the time limit stated above.

Amount for which plaintiff may take judgment if you
fail to appear, exclusive of interest.....$_____
Court Fees.....$ _____
Service Fees..... $_____
Total.....$_____

WITNESS my hand and seal of said Court this day:_____

_____
District Court Clerk

DISTRICT COURT OF _____, ARKANSAS

COMPLAINT _____ Small Claims _____Civil Division

_____
Plaintiff

vs. Case No. _____

_____
Defendant

Plaintiff's Address: _____
Defendant's Address: _____
Nature of Claim: _____
Amount of Relief Claimed: _____
Date Claim Arose: _____
Factual Basis of Claim: _____
Plaintiff's Attorney and Address: _____

_____
(Signature of Attorney or Plaintiff)

NOTICE TO DEFENDANT

You are hereby warned to file a written answer with the clerk of the court within 30 days after the date that you receive this complaint and to send a copy to the plaintiff or to his/her attorney. If you do not file an answer within 30 days, or if you fail to file an answer, a default judgment may be entered against you.

_____
(Signature of Clerk or Judge)

PROOF OF SERVICE

State of Arkansas
City of _____

I _____, hereby certify that I served the within complaint on the defendant, _____ _____ at _____ o 'clock _____.m. on _____, _____ by [state method of service].

_____
(Signature and Office, if any)

Subscribed and sworn to before me this _____ day of _____, 20____. [To be completed if service is by someone other than sheriff or constable.]

_____
Notary Public or Court Clerk

My commission expires:

Original - Court
2nd copy - Defendant
3rd copy - Sheriff/Process Agent
4th copy - Plaintiff

The return service would be on the back of the sheriff's copy only. It would look similar to the following:

PROOF OF SERVICE

State of Arkansas
City of _____

I, _____, hereby certify that I served the within complaint, _____,at _____o'clock _____.m. on_____, 20___, by [state method of service] on _____ _____, such person being:

CHECK APPLICABLE SQUARE:

_____ the person named therein as defendant.

_____ a member of the defendant' s family abode 14 years of age at defendant's usual place of abode, namely _____

_____ the duly designated agent for service of process for the defendant, namely _____ _____

_____ OTHER:

_____,SHERIFF

By: _____, Deputy

SERVICE BY OTHER

I, _____, certify that I served the within Claim Form on the defendant, _____,at _____o'clock _____.m. on_____, 20___, by_____.
(Show manner of service)

_____
(Name and office, if any)

Subscribed and sworn to before me this _____ day of _____, 20___. (To be completed if service by other than sheriff or constable.)

_____
(Notary Public or Court Clerk)

My commission expires:

_____

IN THE _____ DISTRICT COURT _____
Case Number

_____
PLAINTIFF

_____
Street Address

_____
City State Zip

Vs. _____
Telephone

COUNTERCLAIM

_____
DEFENDANT

A copy of your counterclaim must be filed with the court and a copy delivered or mailed to the plaintiff or his attorney (if applicable).

PLEASE NOTE: ANY COUNTERCLAIM YOU HAVE AGAINST THE PLAINTIFF MUST HAVE RESULTED FROM THE SAME OCCURRENCE, INCIDENT, TRANSACTION OR CONTRACT MENTIONED IN THE PLAINTIFF'S COMPLAINT.

NATURE OF YOUR COUNTERCLAIM: _____

AMOUNT OF RELIEF YOU CLAIM: $_____

DATE YOUR COUNTERCLAIM AROSE:_____

FACTS SHOWING WHY CLAIM IS OWED: _____

_____

_____

_____

_____

I state that the information contained in this counterclaim is true and correct to the best of my knowledge. I understand that should the plaintiff be successful in his action and obtains judgment, and if I do not appeal, his judgment becomes final.

DATED: _____ _____
SIGNATURE OF DEFENDANT

_____
Street Address

_____
City State Zip

_____
Telephone

KEEP A COPY OF THIS COUNTERCLAIM AND BRING IT TO COURT
READ CAREFULLY INSTRUCTIONS ON REVERSE SIDE OF THIS FORM

COMPLETE THIS COUNTERCLAIM AND MAIL THE ORIGINAL TO: _____

Original - Court
2nd copy - Plaintiff
3rd copy - Defendant

_____
Clerk's Address
_____

INSTRUCTIONS TO DEFENDANT

1. If you wish to contest the plaintiff's claim and file a claim against the plaintiff, please complete this counterclaim form.

2. Mail the original form to the clerk's office at the address on the bottom of the counterclaim and mail the plaintiff a copy of the counterclaim.

INSTRUCTIONS TO PLAINTIFF

1. By this form, the defendant is SUING YOU.

2. A. You must appear at the date and at the time set for disposition. Unless noted otherwise, the original date of disposition remains the same. If you fail to appear the defendant may be given a default judgment against you in the amount specified in the counterclaim,

   1. You should bring with you at the time set for disposition all books, papers, witnesses, and evidence you have to establish your defense.

   2. You may bring witnesses with you to testify on your behalf or you may have witnesses subpoenaed by providing a list of their names and addresses and telephone numbers to the Court Clerk of the _____ District Court. At your request the court will issue subpoenas for any witnesses you may need. (You must order a subpoena as soon as possible, at least three days before the disposition date.)

COUNTERCLAIM DEFENDANT'S INSTRUCTIONS

1. Please fill out the enclosed answer form and return it to the Clerk's office.

   IMPORTANT: IF YOU FAIL TO FILE A WRITTEN ANSWER WITH THE COURT, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU IN THE AMOUNT OF THE CLAIM FILED PLUS THE COURT COSTS. IF THIS OCCURS, YOUR WAGES MAY BE GARNISHED OR ANY OF YOUR PERSONAL PROPERTY MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT.

   DO NOT FAIL TO FILE A WRITTEN ANSWER.

2. It is not necessary to hire an attorney, but you may do so if you wish. In the event both parties do not have attorneys, the judge will ask questions of each party and decide the case on the evidence.
3. You may bring witnesses with you to testify on your behalf or you may have witnesses subpoenaed by providing a list of their names and addresses and telephone numbers to the District Court Clerk. There will be additional costs for service of each subpoena.
4. Bring all papers, receipts and other materials that might be useful as evidence in the case.
5. Bring this form with you when you come to court.
6. In court, direct all statements and questions to the Judge.

SUMMONS
CASE:
TO _____ :

A counterclaim has been filed in answer to your complaint. You must file the attached answer form with this court, **within 20 days** (or 30 days if you live out of state) from the date on which you received this summons or a judgment may be entered against you. In the event that you fail to file a written answer, a judgment may be entered against you. If a judgment is entered against you, you do have the right to appeal to Circuit Court within 30 days after the disposition date. You may seek the advice of an attorney on any matter connected with this suit or your answer. Such attorney should be consulted immediately so that an answer may be filed within the time limit stated above.

Amount for which plaintiff may take judgment if you fail to appear, exclusive of interest:	$
CERT - CERTIFIED MAIL RESTRICTED DEL	$
Total:	$

WITNESS my hand and seal of said Court this day _____.

_____
, CLERK

IN THE DISTRICT COURT OF _____ COUNTY

PLAINTIFF(s)

CASE:

DEFENDANT(s)

COUNTERCLAIM ANSWER

A copy of your answer must be filed with the court and a copy delivered or mailed to the defendant or his attorney (if applicable).

CHECK ONE:

A. _____ I admit everything in the counterclaim.

B. _____ I admit that I am responsible, but not for the total amount claimed by the defendant(s).

C. _____ I deny that I am responsible at all.

Plaintiff's Address	
Reasons for Denial of Defendant's Claim	
Names and Addresses of Other Persons Needed for Determination of Counter Claim	

_____ _____

Date

PROOF OF SERVICE
CASE:

State of Arkansas

City of _____

I, _____, hereby certify that I served the within counterclaim on the plaintiff, _____, at ___ o'clock ___.m. on this ____ day of _____, 20___, by _____ [state method of service, e.g., hand delivery, mail, commercial delivery service] with the following documents:

_____

_____

CHECK APPLICABLE SQUARE

___ The person named therein

___ A family member of the person named therein, above the age of 14, at the defendant's usual abode, namely:

_____

___ The duly designated agent for service of process for the person named therein, namely:

_____

Other: _____

_____
(Signature and Office, if any)

Subscribed and sworn to before me this ____ day of _____, 20___. [To be completed if service is by someone other than sheriff or constable.]

_____
Notary Public or Court Clerk

COMPLETE THIS ANSWER AND MAIL THE ORIGINAL TO:

DISTRICT COURT OF _____COUNTY

, CLERK

, AR

IN THE _____ DISTRICT COURT

_____ PLAINTIFF

Case No. _____

_____ DEFENDANT

J U D G M E N T

NOW on this _____ day of _____, 20___, this cause comes to be heard

☐ the Plaintiff and Defendant appearing.

☐ the Plaintiff appearing by the Defendant comes not.

☐ the Defendant appearing but the Plaintiff comes not.

this cause was submitted to the Court upon the complaint, testimony with the exhibits thereof, filed herein, the summons issued herein against the Defendant and the return of the officer serving process thereon showing proper service for the time and in the manner required by law, and the evidence introduced ☐ (by Plaintiff) ☐ (by Defendant); from all of which and other matters, proof and things before the Court doth find; that this is the day which was regularly set for trial of this cause, that the Defendant has been duly served with summons for more than twenty days before this date, as required by law, and that Defendant ☐ (is indebted) ☐ (is not indebted) to the Plaintiff in the sum of _____ Dollars ($_____.)

☐ plus costs

☐ plus Attorney's fees in the amount of $_____.

☐ Plaintiff do have and recover from the Defendant the sum of _____ Dollars ($_____).

☐ Defendant do have and recover from the Plaintiff the sum of _____Dollars ($ _____).

for all of which execution and garnishment may issue; further, the ☐ (Defendant) ☐ (Plaintiff) shall prepare a schedule, verified by affidavit, of all his property, both real and personal, including moneys, bank accounts, rights, credits and chooses in action held by himself or others for him and specify the particular property which he claims as exempt under the provision of the law within forty-five (45) days of entry of the final judgment herein.

IT IS THEREFORE SO CONSIDERED, ORDERED AND ADJUDGED.

_____

DISTRICT JUDGE

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF(s)

Case #

DEFENDANT(s)

GARNISHEE

JUDGMENT AGAINST GARNISHEE

Comes on for consideration this cause upon an answer filed herein by the garnishee _____ _____ , having admitted to being in debt to the defendant(s) _____ _____, in the sum of _____, the court finds that a judgment should be rendered against the garnishee for the sum of _____.

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that the plaintiff have judgment for the sum of _____, representing monies due the defendant from said garnishee, and that said garnishee shall pay this sum to plaintiff. That upon payment of this _____ to plaintiff, said plaintiff is ordered to credit both the judgment against the defendant and against the garnishee with said amount.

IT IS SO ORDERED

_____ ___/___/____

DISTRICT JUDGE Date

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF

CASE #

DEFENDANT

CONSENT JUDGMENT

NOW on this _____ day of _____, 2005, comes on to be heard the complaint of Plaintiff against Defendant for a hearing and determination of the matter. Plaintiff and Defendant appeared. The Court doth find that Defendant was duly served with summons as required by law and answered admitting responsibility. After testimony, evidence and stipulation, careful consideration thereof, and the law applicable to the case, the court finds that Defendant is indebted to Plaintiff and a judgment is granted against Defendant.

IT IS THEREFORE CONSIDERED AND ADJUDGED that this court has jurisdiction and Plaintiff

has judgment against Defendant

in the sum of :

Judgment:	$
	$ $
Total:	$

With interest thereon from this date until paid at the rate of ten percent (10%) per annum, including costs, if any, incurred by Plaintiff in the lawful enforcement of this judgment to satisfaction, for all of which execution, garnishment, attachment, or any other form of relief may issue.

The Court further finds that pursuant to Ark. Code Ann. § 16-66-221, Defendant shall prepare a schedule, verified by affidavit, of all real and personal property, including moneys, bank accounts, rights, credits, and choses in action held by them, and specify the particular property claimed as exempt under the provisions of the law. Said schedule is to be filed with the Clerk of this Court within forty-five (45) days after entry of this judgment.

IT IS SO ORDERED

_____ _____/_____/_____

DISTRICT JUDGE DATE

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF(s)

CASE #

DEFENDANT(s)

DEFAULT JUDGMENT

NOW on this _____ day of _____ , _____ comes on to be heard the complaint of Plaintiff against Defendant for a hearing. The Plaintiff appeared in person and the Defendant comes not. Service of process was obtained on Defendant and more than 20 days elapsed with no answer being filed. The Defendant is found to be in default and after stipulation, testimony, evidence, careful consideration thereof, and the law applicable to this case, the court finds Defendant indebted to the Plaintiff.

IT IS THEREFORE CONSIDERED AND ADJUDGED that this court has jurisdiction and the Plaintiff(s)

has judgment against Defendant(s)

in the sum of :

Judgment:	
Total:	$ 0.00

with interest thereon from this date until paid at the rate of ten percent (10%) per annum, including costs, if any, incurred by Plaintiff in the lawful enforcement of this judgment to satisfaction, for all of which execution, garnishment, attachment, or any other form of relief may issue.

The Court further finds that pursuant to Ark. Code Ann. § 16-66-221, the Defendant(s) is/are to prepare a schedule, verified by affidavit, of all of his/her property, both real and personal, including moneys, bank accounts, rights, credits, and choses in action held by him/her, and specify the particular property which he/she claims as exempt under the provisions of the law. Said schedule is to be filed with the Clerk of this Court within forty-five (45) days after entry of this judgment.

IT IS SO ORDERED

_____ ___/___/____

DISTRICT JUDGE DATE

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF(s)

CASE #

DEFENDANT(s)

JUDGMENT

NOW on this _____ day of _____, 20___ , this cause comes to be heard, the Plaintiff(s) and Defendant(s) appearing. This cause submitted to the Court and the return of service of process showing proper service in the manner required by law, and from the testimony, evidence, and matters presented, the Court doth find that it has Jurisdiction of the subject matter and parties herein and that a judgment is awarded in favor of the PLAINTIFF against the DEFENDANT

IT IS THEREFORE SO CONSIDERED AND ADJUDGED that the PLAINTIFF have judgment against the DEFENDANT in the sum of _____ Dollars ($_____) plus costs and interest as follows:

	Judgment:	
☐ plus costs:		
☐ plus:	Attorney's fees	
☐ plus:	Other costs	
☐ plus:	Pre-judgment interest at the rate of_____% per annum	
☐ plus:	Post-judgment interest at the rate of_____ % per annum	
	Total:	

Further, the DEFENDANT shall prepare a schedule pursuant to Ark. Code Ann. § 16-66-221, verified by affidavit, of all his property, both real and personal, including moneys, bank accounts, rights, credits and choses in action held by himself or others for him and specify the particular property which he claims as exempt under the provision of the law within forty-five (45) days of entry of the final judgment herein.

IT IS SO ORDERED

_____ ___/___/____

DISTRICT JUDGE DATE

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF(s)

CASE #

DEFENDANT(s)

SATISFACTION OF JUDGMENT

The Judgment of record herefore entered in the above case on the _____ day of _____, 20___ has been satisfied in full on this ___ day of ___, ____ and the record should reflect the same.

_____ ___/___/____

Plaintiff or Authorized Person Date

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF(s)

CASE #

DEFENDANT(s)

SUMMARY JUDGMENT

The court, having been advised of all matters of fact and law contained in the motion for Summary Judgment by Plaintiff, finds that Plaintiff has shown a preponderance of the evidence and is entitled to a Summary Judgment.

IT IS THEREFORE CONSIDERED AND ADJUDGED that Plaintiff have of and recover from Defendant:

	Judgment:	
☐ plus costs:		
☐ plus:	Attorney's fees	
☐ plus:	Pre-judgment interest @ ___%	
☐ plus:	Post-judgment interest @ ___%	
☐ plus:	Other costs	
	Total:	

For all of which execution and garnishment may issue immediately forthwith.

Further, pursuant to Ark. Code Ann. § 16-66-221, Defendant shall prepare a schedule, verified by affidavit, of all his property, both real and personal, including moneys, bank accounts, rights, credits and choses in action held by himself or others for him and specify the particular property which he claims as exempt under the provision of the law within forty-five (45) days of entry of the final judgment herein.

IT IS SO ORDERED

_____ ___/___/____

DISTRICT JUDGE Date

DISTRICT COURT OF _____ COUNTY

, CLERK

, AR

Phone:

Case#
PLAINTIFF(S)
Vs.
DEFENDANT(S)

District Court 120 Day Notice

Re: Case#

_____, 20__

Dear :

According to Arkansas Rules of Civil Procedure, as Plaintiff in the above referenced case, you have one hundred twenty (120) days from _____ (the date your Summons was issued) to properly serve the Defendant or request in writing an extension for time to serve the Defendant. However, neither proof of service on the Defendant nor an extension request has been received by the court.

Therefore, if you do not provide proof of service or an extension request dated on or before _____ _____, your case will be dismissed without prejudice during the court session following this date.

Note: If the 120th day is a Saturday, Sunday, legal holiday, or other day when the clerk's office is closed, you have until the end of the next day the clerk's office is open. "Legal Holiday" means those days designated as a holiday by the President or Congress of the United States or designated by the laws of Arkansas.

If you have any questions, you may contact me at the address shown above.

Sincerely,

_____

CLERK

NOTICE AND ACKNOWLEDGMENT
FOR SERVICE BY MAIL
NOTICE

To: (insert the name and address of the person to be served.)

The enclosed summons and complaint are served pursuant to Rule 4(d)(8)(B) of the Arkansas Rules of Civil Procedure.

You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.

You must complete and return the form; you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within the time specified in the summons. If you fail to do so, judgment by default may be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint will have been mailed on (insert date.)

_____
Signature

_____
Date of Signature

ACKNOWLEDGMENT OF RECEIPT OF
SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of complaint in the above-captioned matter at (insert address).

_____
Signature

_____
Relationship to Entity/
Authority to Receive Service of Process

_____
Date of Signature

DISTRICT COURT OF _____ COUNTY

, CLERK

, AR

Phone:

Trial Schedule Notice

Case#

PLAINTIFF(S)

Vs.

DEFENDANT(S)

_____

Date

Dear :

The above referenced case has been set for trial on _____, _____, 2005 at _____ in the DISTRICT COURT OF _____ COUNTY COURTROOM. You will need to appear in court at that time along with any witnesses you may have.

All parties to this case are notified by copy of this letter. If you have any questions, you may contact me by phone.

Sincerely,

_____

CLERK

cc:

IN THE DISTRICT COURT OF _____, ARKANSAS

_____ PLAINTIFF

Case No. _____

_____ DEFENDANT

_____ GARNISHEE

NOTICE TO APPEAR

To: (Name and Address)

You are hereby notified that you were duly served with a writ of garnishment on _____ _____ and that you have neglected or refused to answer the interrogatories exhibited to you within twenty (20) days after service of said writ.

Pursuant to plaintiff's motion, in accordance with Arkansas Code Annotated §16-110-407, you are required to appear personally at a hearing in the _____ District Court, _____, Arkansas at _____ o'clock _____ . M. on the _____ day of _____, 20____, to answer the allegations and interrogatories of the plaintiff.

FAILURE TO APPEAR AT THE ABOVE STATED TIME, PLACE AND COURT MAY RESULT IN JUDGMENT BEING RENDERED AGAINST YOU IN SUCH AMOUNT AS THE COURT FINDS YOU HELD AT THE TIME OF SERVICE OF THE WRIT OF GARNISHMENT. IF ANY GOODS, CHATTELS, WAGES, CREDITS AND EFFECTS BELONGING TO THE DEFENDANT, NOT OTHERWISE EXEMPT UNDER STATE OR FEDERAL LAW; TOGETHER WITH ATTORNEY'S FEES AND SUCH OTHER REASONABLE EXPENSES INCURRED BY THE PLAINTIFF, AS THE COURT MAY DEEM APPROPRIATE UNDER THE FACTS AND CIRCUMSTANCES.

_____, Clerk

By: _____, D.C.

IN THE DISTRICT COURT OF _____ COUNTY

PLAINTIFF(s)

Case No.

DEFENDANT(s)

ORDER AND CITATION

Now on this _____ day of _____, 20___ is presented to the Court the petition of Plaintiff, asking that the Defendant _____ be cited to appear before this Court to show cause, if any he/she can, why he/she has failed to comply with the previous Orders and directives of this Court as set out in the orders for the Plaintiff papers he/she has received against said Defendant.

IT IS THEREFORE ADJUDGED AND DECREED that said Defendant _____ be and hereby commanded to appear before the DISTRICT COURT OF _____ COUNTY, COURTROOM on _____,20____, at _____ __M to show cause, if any why he/she is not complying with the orders and directions of this Court as set out in the Decree of the Court heretofore entered.

IT IS SO ORDERED

_____
DISTRICT JUDGE

___/___/____
DATE

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF(S)

CASE #

DEFENDANT(S)

ORDER OF DISMISSAL
(NO SERVICE)

NOW on this _____ day of _____, 2005, this cause was submitted to the Court upon the complaint filed herein, the summons issued herein against the Defendant, and the return of process showing no proper service for the time and in the manner required by law; and from which, and other matters, proof and things before the Court doth find; that proper notice has been mailed to:

☐ The attorney(s) of record.

☐ Any party not represented by an attorney.

IT IS THEREFORE CONSIDERED AND ADJUDGED that the case will be dismissed for want of prosecution, that no good cause has been shown to continue the case on the Court's docket, that the Defendant has not been duly served with summons for more than twenty days before this date as required by law, and that this cause is dismissed without prejudice to a future action by the plaintiff.

IT IS SO ORDERED

_____ ___/___/____

DISTRICT JUDGE DATE

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF(s)

CASE #

DEFENDANT(s)

ORDER OF DISMISSAL

NOW on this _____ day of _____, 2005, the above matter, and both parties present, the Court finds and orders this case to be Dismissed without Prejudice.

IT IS SO ORDERED

_____ ___/___/____

DISTRICT JUDGE DATE

IN THE DISTRICT COURT OF _____ COUNTY

PLAINTIFF(s)

Case No.

DEFENDANT(s)

GARNISHEE

ORDER

NOW on this _____ day of _____, 20___ , the Garnishee is directed to pay to the Plaintiff the sum of _____ being held by said Garnishee, as indicated in its answer.

The Garnishee is ordered to pay to the Plaintiff monthly a like amount for each pay period until the Judgment is paid in full, pursuant to Act 192 of 1991.

IT IS SO ORDERED.

_____

DISTRICT JUDGE

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____ PLAINTIFF

VS. NO. _____

_____ DEFENDANT

AFFIDAVIT FOR DELIVERY

STATE OF ARKANSAS)
)
COUNTY OF _____)

The affiant states that he is one of the attorneys for plaintiff in this cause and that this affidavit is made pursuant to A.C.A. § 18-60-810.

1. Plaintiff has a special interest in a _____. Plaintiff holds a security interest in the above-described collateral. Plaintiff is entitled to immediate possession thereof.

2. The value of the property is $_____.

3. The property is in the possession of the defendant(s) and is wrongfully detained, the right of possession having ceased and terminated by virtue of default in the terms of the contract between the parties.

4. The property has not been taken for a tax or fine against plaintiff, or under any order of judgment of a court against it, or seized under an execution of attachment against its property.

5. Plaintiff's cause of action accrued within three years last past.

_____

By: _____
Attorneys for Plaintiff

SUBSCRIBED and sworn to before me on this _____ day of _____, 20___.

_____
Notary Public

My commission expires:_____.

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____ PLAINTIFF

VS. NO._____

_____ DEFENDANT(S)

BOND FOR DELIVERY

We undertake that Plaintiff shall duly prosecute this action, and shall perform the judgment of the court therein by returning the collateral ordered to be delivered to it, if a return be adjudged, and by paying to the defendant(s) such sums of money as are adjudged in this action against plaintiff, not exceeding double the value of the property and the costs of this action.

DATED this _____ day of _____, 20 ___.

_____

By: _____
Attorneys for Plaintiff

_____

By: _____
Its Attorney-in-Fact

IN THE DISTRICT COURT OF _____, ARKANSAS

_____ PLAINTIFF

VS. NO._____

_____ DEFENDANT(S)

COMPLAINT

1. Plaintiff is a [citizen and resident of _____ County, Arkansas] [corporation authorized and doing business in the State of Arkansas]. Defendant, whether one or more, [is a resident of _____] [is a corporation with its principal place of business in _____ _____County, Arkansas].

2. On _____ Defendant executed a [conditional sale contract] [promissory note and security agreement] in favor of [plaintiff] [plaintiff's assignor] for the sum of $_ _____ [for the purchase of] [and granted a security interest in] a _____. A copy of the [contract] [note and security agreement] is attached hereto as Exhibit A.

3. Plaintiff perfected its security interest in the collateral by an appropriate filing, a copy of which is attached hereto as Exhibit B.

4. Defendant is ____ months delinquent in the payment of the indebtedness to plaintiff, and there is now due and owing the total sum of $_____.

5. Defendant has possession of and unlawfully detains the collateral, which has a value of $_____.

6. Plaintiff is entitled to immediate possession of the above-described collateral, so that it can be sold in accordance with the provisions of the Uniform commercial Code; judgment in the amount of $_____ against the defendant less the sale price of the collateral, plus a reasonable attorney's fee.

WHEREFORE, plaintiff prays that it have and recover from defendant immediate

possession of the above-described collateral to be sold by plaintiff in accordance with the provisions of the Uniform Commercial Code; judgment in the amount of $_____ less the sale price of the collateral, less all other credits due defendant, plus a reasonable attorney's fee, plus costs, and plus interest; and all other proper relief.

_____

By: _____
Attorneys for Plaintiff

VERIFICATION

STATE OF ARKANSAS

COUNTY OF _____

The undersigned states on oath that he is one of the attorneys for the plaintiff and that the facts set forth in the foregoing complaint are true and correct to the best of his knowledge, information and belief.

_____

SUBSCRIBED and sworn to before me on this _____ day of _____, 20___.

_____
Notary Public

My commission expires: _____

IN THE DISTRICT COURT OF _____, ARKANSAS

_____ PLAINTIFF

VS. NO. _____

_____ DEFENDANT(S)

NOTICE

TO: _____

You are hereby notified that plaintiff seeks an Order of Delivery of the property described in the complaint. If you have any objection to entry of this order, which will require you to deliver the _____ described in the complaint, it must be made in the form of a written response filed within five (5) days of service of the summons and complaint, excluding Sunday and legal holidays, with a copy served on plaintiff's attorney. In the event no such written response is filed and served within a five-day period, the order of delivery shall issue forthwith.

_____

District Clerk of _____

By: _____

Date: _____

IN THE DISTRICT COURT OF _____, ARKANSAS

_____ PLAINTIFF

VS. NO. _____

_____ DEFENDANT(S)

ORDER FOR DELIVERY OF POSSESSION

Defendant having been served with summons and notice in the manner required by law, and [having failed and refused to object or otherwise respond to plaintiff's summons and notice within the time specified by A.C.A. § 18-60-808] [having filed an answer herein, but not having appeared at the hearing set by the Court] [having filed an answer herein and the Court after hearing, finds that the plaintiff is entitled to immediate possession], the District Clerk is hereby ordered to issue forthwith an Order of Delivery directed to the defendant(s) for the collateral specified in plaintiff's complaint and defendant(s) [is] [are] ordered to delivery immediate possession of that collateral to plaintiff.

IT IS SO ORDERED, this _____ day of _____, 20___.

_____
District Judge

IN THE DISTRICT COURT OF _____, ARKANSAS

_____ PLAINTIFF

VS. NO. _____

_____ DEFENDANT(S)

ORDER OF DELIVERY

STATE OF ARKANSAS

TO THE SHERIFF OF _____ COUNTY:

You are commanded to take the following described property:

_____ Which has a value of $_____, from the possession of the defendant and deliver the same to plaintiff upon its giving bond as required by law.

WITNESS my hand as Clerk of the District Court of _____, Arkansas, and the seal thereof this ___ day of _____, 20___.

_____
District Clerk

By: _____D.C.

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____ PLAINTIFF

VS. NO._____

_____ DEFENDANT(S)

SCIRE FACIAS – CLERK'S CERTIFICATE OF POSTING

I, clerk of the District Court of _____ , County, Arkansas, do hereby certify that a certified copy of the above and foregoing order was posted by me at the court house door of the court house in said county and state, located in the City of _____, on the _____ day of _____, 20___, and so remained posted for more than four weeks prior to the date at which the parties therein named were required to appear.

Witness my hand as clerk of said court, and the seal of said court, this _____ day of _____ _____, 20___

_____

District Court Clerk

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____ PLAINTIFF

VS. NO._____

_____ DEFENDANT(S)

SCIRE FACIAS – ORDER WHERE DEFENDANT CANNOT BE FOUND

Now on this _____ day of _____, 19___, is presented to the court the return of the sheriff of _____ County, Arkansas, upon the writ of scire facias heretofore issued herein on the _____ day of _____, 20___, from which it appears, and the court so finds, that the defendant, _____, cannot be found and service therefore cannot be had upon him/her. And the court further finds that this is an action to revive a judgment rendered by the District Court of _____ , County, Arkansas, on the ___ day of _____, 19___, in favor of _____, plaintiff, against _____ _____, defendant, for the sum of _____ Dollars, with interest from the date thereof until paid at the rate of _____ per cent annually, and the costs of said action amounting to _____ Dollars.

It is therefore ordered that said defendant _____, and all others interested in said cause be, and they are hereby warned to appear in this court on or before the___ day of _____ _____, 20___, and show cause why said judgment should not be revived against them, and why execution should not issue thereon against them.

_____

District Judge

Witness my hand as clerk of said court, and the seal of said court, this _____ day of _____ _____, 20___

_____

District Court Clerk

By_____

Deputy Clerk

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____ PLAINTIFF

VS. NO._____

_____ DEFENDANT(S)

SCIRE FACIAS – ORDER OF REVIVOR

Now on this _____ day of _____, 20___, this cause comes on to be heard upon the petition of plaintiff, _____, heretofore filed herein, the writ of scire facias issued herein, the return thereon by the sheriff of _____ County , Arkansas, showing due and proper service on the defendant, _____, for the time and in the manner required by law (or showing that defendant _____, cannot be found, the order of this court heretofore made upon the filling of such return, the posting of same as required by law – giving facts) and the defendant appearing (or not appearing); from all of which and other matters, proof and things before the court, this court finds:

That said plaintiff, _____, did, on the _____ day of _____ _____, 19___ recover a judgment against said defendant in the District Court of _____ _____, County, Arkansas, for the sum of _____ Dollars, with interest from said date until paid at the rate of _____ per cent annually, and costs amounting to _____ _____ Dollars; that said judgment has not been paid or satisfied, reversed, set aside or in any way become void, and now remains due and unsatisfied; that the parties hereto are properly before the court and the court has jurisdiction of the persons and subject matter of this cause.

The court further finds that if said judgment be not revived, the same will soon expire by limitation, and that plaintiff is entitled to an order of revivor.

It is therefore ordered that the judgment aforesaid, be, and the same is hereby continued for a period of ten years from _____, 20___.

_____

District Judge

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____ PLAINTIFF

VS. NO._____

_____ DEFENDANT(S)

SCIRE FACIAS – PETITION FOR WRIT

Comes _____ plaintiff, and for his/her cause for revivor herein against the defendant _____, states:

That said plaintiff recovered a judgment against said defendant in the District Court of _____, County, Arkansas, on the ___ day of _____, 19____, for the sum of _____ Dollars, together with interest thereon from said date until paid at the rate of _____ per cent annually, as well as the sum of _____ Dollars costs. A copy of said judgment is hereto attached, marked Exhibit A for identification, and made a part hereof as though set out herein word for word.

Plaintiff says that no part of said judgment has been paid or satisfied (other than as endorsed herein, if any payment has been made), that same has not been reversed, set aside or in any way become void, and remains unsatisfied; and that unless same is revived, plaintiff's rights thereunder will be barred by limitation.

Wherefore, plaintiff prays that a writ of scire facias be issued to revive said judgment, and that said judgment be revived; for costs and all proper relief.

_____

Plaintiff

By_____

Plaintiff's Attorney

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____ PLAINTIFF

VS. NO._____

_____ DEFENDANT(S)

SCIRE FACIAS – WRIT

State of Arkansas,
County of _____:

The State of Arkansas, to the Sheriff of _____, County, Arkansas, Greeting:

Whereas, _____ plaintiff, recovered judgment against _____ _____ defendant, in the District Court of _____, County, Arkansas, on the ___ day of _____, 19___, for the sum of _____ Dollars, together with interest thereon from that date until paid at the rate of _____ per cent annually, and the costs of said action amounting to _____ Dollars; and

Whereas, said judgment, as it is alleged, has not been satisfied, reversed, set aside or become void in any manner, and same now as is alleged, remains due and unpaid; now,

Therefore, you are hereby commanded to summon said _____ to appear before the District Court of _____ , County, Arkansas, within twenty days from the date of service of this writ upon him/her, and show cause why said judgment should not be revived against him/her, and further, why execution thereon in favor of _____ _____ should not be issued and levied. And you will make due return of this writ into said court showing the manner in which you have executed same.

Witness my hand as clerk of said court, and the seal of said court, this _____ day of _____, 20___

_____
District Court Clerk

By_____
Deputy Clerk

DISTRICT COURT OF _____ COUNTY

CLERK

DEPUTY CLERK

AR

Phone:

Case Transfer & Trial Schedule Notice

Case#

PLAINTIFF(S)

Vs.

DEFENDANT(S)

Dear :

Please be informed that because one of the parties has hired an attorney, case number _____ has been transferred to the civil division. The new case number is _____. Please use the new case number on all future filings and correspondence.

Because this case is now in the civil division of district court, the Arkansas Rules of Civil Procedure and Rules of Evidence shall apply. Please remember that court clerks are not permitted to practice law and will not be permitted to give legal advice to any parties.

The case referenced above is now set for trial at _____ in the DISTRICT COURT OF _____, COUNTY.

All parties to this case are notified by copy of this letter. If you have any questions, you may contact me by phone.

Sincerely,

_____

CLERK

cc:

Issued by the

DISTRICT COURT

_____, Arkansas

_____

v.

_____

TO: _____

SUBPOENA IN A CIVIL CASE

CASE NUMBER_____

YOU ARE COMMANDED to appear in the _____ Court of _____, Arkansas, at the place, date and time specified below to testify in the above case

Place of Testimony | Courtroom

Date and Time

YOU ARE COMMANDED to appear at the place, date and time specified below to testify in the taking of a deposition in the above case.

Place of Deposition | Courtroom

Date and Time

YOU ARE COMMANDED, at the time of the trial, hearing or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Arkansas Rules of Civil Procedure 30(b)(6).

Issuing officer signature and Title (indicate if Attorney for Plaintiff or Defendant) Date

Issuing officer's Name, Address and Phone Number:

PROOF OF SERVICE

	Date	Place
SERVED		

Served on (Print Name) Manner of Service

Served by (Print Name) Title

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Arkansas that the foregoing information contained in the Proof of Service is true and correct.

Executed on_____ _____
Date Signature of Server

_____
Address of Server

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the trial or hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of trial or hearing.

Issued by the

DISTRICT COURT

_____

Vs.

_____

TO: _____

SUBPOENA
(duces tecum)

Case# _____

_____
Place of Trial

_____
Courtroom

_____
Date and Time

YOU ARE COMMANDED, at the time of the trial, hearing or deposition described above, to produce and permit inspection and copying of the following documents or objects (list documents or objects):

_____
Issuing officer signature and Title (indicate if Attorney for Plaintiff or Defendant) Date

_____
Issuing officer's Name, Address and Phone Number:

_____

PROOF OF SERVICE

	Date	Place
SERVED		

Served on (Print Name) Manner of Service

Served by (Print Name) Title

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Arkansas that the foregoing information contained in the Proof of Service is true and correct.

Executed on_____ _____
Date Signature of Server

_____
Address of Server

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the trial or hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing.

Issued by the

DISTRICT COURT

_____ **SUBPOENA**

Vs. Case# _____

_____

TO: _____ (note: this Witness is a different person from the Defendant)

YOU ARE COMMANDED to appear in the _____ **Court** of _____**,** **County, Arkansas**, at the place, date and time specified below to testify in the above case.

_____ _____

Place of Testimony Courtroom

_____

Date and Time

_____

Issuing officer signature and Title (indicate if Attorney for Plaintiff or Defendant) Date

_____

Issuing officer's Name, Address and Phone Number:

_____

NOTES:

PROOF OF SERVICE

SERVED **Date** **Place**

Served on (Print Name) Manner of Service

Served by (Print Name) Title

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Arkansas that the foregoing information contained in the Proof of Service is true and correct.

Executed on_____ _____
Date Signature of Server

_____
Address of Server

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the trial or hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing.

IN THE DISTRICT COURT OF _____ COUNTY

PLAINTIFF(s)

Case No.

DEFENDANT(s)

TO:

_____

YOU ARE COMMANDED to appear in the **District Court** of **_____, County, Arkansas**, at the place, date and time specified below to testify in the above case.

_____
Place of Testimony

_____
Courtroom

_____
Date and Time

_____
Issuing officer signature and Title (indicate if Attorney for Plaintiff or Defendant) Date

_____
Issuing officer's Name, Address and Phone Number:

_____

PROOF OF SERVICE

SERVED **Date** **Place**

_____ _____

Served on (Print Name) Manner of Service

_____

Served by (Print Name) Title

_____

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Arkansas that the foregoing information contained in the Proof of Service is true and correct.

Executed on_____ _____

Date Signature of Server

_____

Address of Server

NOTICE TO PERSONS SUBJECT TO SUBPOENAS

Regardless of his or her county of residence, a witness subpoenaed for examination at a trial or hearing must be properly served with a subpoena at least two days prior to the trial or hearing, or within a shorter time if the court so orders. The subpoena must be accompanied by a witness fee calculated at the rate of $30.00 per day for attendance and $0.25 per mile for travel from the witness' residence to the place of the trial or hearing.

IN THE DISTRICT COURT OF _____, ARKANSAS

Official Form of Summons

Plaintiff: _____
[If not represented by an attorney, give address)]

Court Division
[Or other appropriate
Court data]

Vs.

Defendant: _____

Case Number:_____

Plaintiff's attorney: _____

[Name and address] _____

THE STATE OF ARKANSAS TO DEFENDANT: _____

NOTICE

1. You are hereby notified that a lawsuit has been filed against you; the relief asked is stated in the attached complaint.

2. The attached complaint will be considered admitted by you and a judgment by default may be entered against you for the relief asked in the complaint unless you file a pleading and thereafter appear and present your defense. Your pleading or answer must meet the following requirement:

a. It must be in writing, and otherwise comply with the Arkansas Rules of Civil Procedure.

b. It must be filed in the court clerk's office within _____ days from the day you were served with this summons.

3. If you desire to be represented by an attorney you should immediately contact your attorney so that an answer can be filed for you within the time allowed.

4. Additional notices:

Witness my hand and seal of the court this _____day of _____, 20___.

Address of clerk's office:

_____
[SEAL]

_____
Clerk

(The appropriate return of service may be on the same page.)

SUPERSEDEAS BOND

Whereas, _____, the appellant, has appealed to the Circuit Court form the judgment of the District Court of _____, Arkansas, entered on _____, 20___, in favor of _____ appellee, in the amount of $_____, and costs and appellant seeks to supersede said judgment and is required by law to give bond:

Therefore, _____, as principal, and _____ as surety, do hereby agree, covenant with and bind themselves to appellee and the court that appellant will pay appellee the principal and interest on said judgment and all costs and damages for delay that may be adjudged against appellant on appeal, or which may result from dismissal or affirmance of the decision appealed; that in the event of modification, they will pay such lesser principal, interest, costs and damages as may be awarded; that the appeal shall be pursued without delay; (and such other assurances as may be required by the judgment). To all of which we bind our heirs, personal representatives, successors and assigns, as may be applicable.

WITNESS our hands this ____ day of _____, 20___.

_____
Principal

_____
Surety

_____

_____
Address of Surety

_____
Telephone number of Surety

IN THE DISTRICT COURT OF _____, ARKANSAS

_____ PLAINTIFF

Case No. _____

_____ DEFENDANT

SUPERSEDEAS

Comes now the Plaintiff/Defendant seeking a writ of supersedeas in the above-styled matter, and the court finds:

1. A judgment was granted in this Court on the _____ day of _____, 20____ in favor of , _____Plaintiff/Defendant, against _____, Plaintiff/Defendant, in the amount of $_____.

2. The Plaintiff/Defendant seeks to appeal the judgment to the circuit court of _____ County, Arkansas and has submitted a duly executed supersedeas bond for this Court's approval, pursuant to Ark. Dist. Ct. R. 9

IT IS THEREFORE CONSIDERED, ORDERED AND ADJUDGED that the supersedeas bond is approved and that all proceedings on said judgment are hereby stayed.

_____
District Judge

_____
Date

Title III, Consumer Credit Protection Act
(15 USC §1671 et. seq.; 29 CFR 870)

Basic Provisions/Requirements

Garnishment is a legal procedure through which the earnings of an individual are required by court order to be withheld by an employer for the payment of a debt. Title III prohibits an employer from discharging an employee whose earnings have been subject to garnishment for any one debt, regardless of the number of levies made or proceedings brought to collect it. It does not, however, protect an employee from discharge if the employee's earnings have been subject to garnishment for a second or subsequent debt.

Title III also protects employees by limiting the amount of their earnings that may be garnished in any workweek or pay period to the lesser of 25 percent of disposable earnings or the amount by which disposable earnings are greater than 30 times the federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938. This limit applies regardless of the number of garnishment orders received by an employer. The current federal minimum wage is $7.25 per hour which became effective July 24, 2009.

In court orders for child support or alimony, Title III allows up to 50 percent of an employee's disposable earnings to be garnished if the employee is supporting a spouse or child, and up to 60 percent for an employee who is not. An additional 5 percent may be garnished for support payments which are more than 12 weeks in arrears. Such garnishments are not subject to the restrictions noted in the preceding paragraph.

"Disposable earnings" is the amount of employee earnings left after legally required deductions have been made for federal, state and local taxes, Social Security, unemployment insurance and state employee retirement systems. Other deductions which are not required by law, e.g. union dues, health and life insurance, and charitable contributions, are not subtracted from gross earnings when calculating the amount of disposable earnings for garnishment purposes.

Title III specifies that garnishment restrictions do not apply to bankruptcy court orders and debts due for federal and state taxes. Nor does it affect voluntary wage assignments, i.e., situations in which workers voluntarily agree that their employers may turn over some specified amount of their earnings to a creditor or creditors.

MAXIMUM GARNISHMENT OF DISPOSABLE EARNINGS
NONSUPPORT PAYMENTS*
EFFECTIVE JULY 24, 2009 ($7.25 PER HOUR)

WEEKLY	BI-WEEKLY	SEMIMONTHLY	MONTHLY
$217.50 or less: None	$435.00 or less: None	$471.25 or less: None	$942.50 or less: None
More than $217.50 but less than $290.00: Amount above $217.50	More than $435.00 but less than $580.00 Amount above $435.00	More than $471.25 but less than $628.33 Amount above $471.25	More than $942.50 but less than $1,256.66 Amount above $942.50
$290.00 or more: Maximum 25%	$580.00 or more: Maximum 25%	$628.33 or more: Maximum 25%	$1,256.66 or more: Maximum 25%

*These restrictions do not apply to garnishments for child support, alimony, bankruptcy or to recover State or Federal taxes.

IN THE DISTRICT COURT OF _____, ARKANSAS

_____ PLAINTIFF

Case No. _____

_____ DEFENDANT

WRIT OF EXECUTION

To the Sheriff of _____, County, Greetings:

A judgment was entered in this cause on _____, 20___ in favor of _____ and against _____, for the principal sum of $_____, costs and disbursements and interest on the judgment at the rate of _____ percent per annum, until paid: and _____ has been paid and credited on the judgment to the date of this Writ, leaving unpaid thereon the total sum of $_____, including costs and interest accrued to the date hereof, and interest will accrue after the date of this Writ at the rate of $ _____ per day; all as shown by the docket and files of this cause.

You are commanded to take into your possession from _____, the judgment debtor, the following described property _____. If said property is not to be found, then you shall take into your possession monetary amounts in the sum of $ _____, which is the equivalent of the value of said property.

You are finally commanded to fully perform this Writ, to recover said property or sums, to make return of this Writ within the statutory period required by law, and to serve the Notice attached to this Writ.

In Witness Whereof, I have set my hand and official seal this _____ day of _____ 20___.

_____
District Court Clerk

NOTICE TO DEFENDANT OF YOUR RIGHT TO CLAIM CERTAIN PROPERTIES AS BEING EXEMPT FROM EXECUTION.

The Writ of execution delivered to you with this Notice means that certain properties belonging to you have been executed upon in order to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP YOUR PROPERTY FROM BEING TAKEN, OR TO SUBSTITUTE THE PROPERTY THAT IS TAKEN, SO READ THIS NOTICE CAREFULLY.

State and Federal laws say that certain property may not be taken to pay certain types of court judgments. This money or property is said to be 'exempt' from execution.

For example, under the Arkansas Constitution and State law, you will be able to claim as exempt all or part of your wages or other personal property. As another example, under federal law the following are also exempt from garnishment: Social Security, SSI, Veteran's benefits, AFDC (welfare), unemployment compensation, and worker's compensation.

You have the right to petition the court within twenty (20) days to claim an exemption. If your claim of an exemption is contested, the court shall promptly hold a hearing after your claim has been filed. YOU MUST IMMEDIATELY SERVE A COPY OF YOUR CLAIM UPON THE PARTY SEEKING EXECUTION.

If you need legal assistance to help you try to save your wages or property from being garnished, you should see a lawyer. If you can't afford a private lawyer, contact your local bar association or ask the clerk's office about any legal services program in your area.

CERTIFICATE OF SERVICE: I, _____, have this day mailed a copy of this writ and notice to the plaintiff/defendant at his residence address by first class mail.

Date: _____

_____
Plaintiff/Defendant's Signature

IN THE DISTRICT COURT OF _____

PLAINTIFF(s)

Case No.

DEFENDANT(s)

GARNISHEE

WRIT OF GARNISHMENT

EXPLANATION

JUDGMENT DEBTOR:

ORIGINAL JUDGMENT	$
BALANCE OF JUDGMENT	0.00
INTEREST RATE _____ %, AMOUNT	0.00
ATTORNEY'S FEES	0.00
OTHER	0.00
OTHER	0.00
WRIT - WRIT OF GARNISHMENT EXECUTION	0.00
Total:	0.00

DATE_____ _____

_____, CLERK

DISTRICT COURT CLERK

CERTIFICATE

_____

I certify that a copy of a Writ of Garnishment and Notices to the Defendant as required by Arkansas Code Annotated § 16-110-402 will be mailed to the defendant at the following address at least yearly.

Defendant's address: Plaintiff or agent:

CERTIFICATE OF SERVICE: I, _____, have this day mailed a copy of this writ and notice to the **Plaintiff/Defendant** at his residence address by First Class Mail.

DATE:_____ _____

Plaintiff/Defendant's Signature

Original - Court
2nd copy - Garnishee
3rd copy - Sheriff/Process Agent
4th copy - Plaintiff
5th copy - Defendant

NOTICE TO THE GARNISHEE

1. A judgment has been obtained in the DISTRICT COURT OF _____ COUNTY against the judgment Debtor listed in this writ and remains unsatisfied. The plaintiff believes that you are indebted to the Defendant, or have in your possession goods, chattels, moneys, credits, or effects belonging to the Defendant.

2. You are directed to prepare a written answer, under oath, and to file this answer in the DISTRICT COURT OF_____COUNTY Clerk's office within twenty (20) days from the date in which you are served with this writ. The written answer should contain a statement of what goods, chattels, moneys, credits, or effects you may have in your possession belonging to the Defendant.

3. In addition, you are required to answer any further interrogatories that may be asked of you.

4. Do not pay any money to the Clerk. You should hold the money until a court order directs you to release the money. You will then pay it to the plaintiff's attorney or agent.

NOTICE TO NON-EMPLOYER GARNISHEE

Failure to answer this writ within 20 days or failure or refusal to answer the interrogatories attached hereto shall result in the court entering a judgment against you and you becoming personally liable for the full amount specified in this Writ together with costs of this action as provided by Arkansas Code Annotated 16-110-407.

NOTICE TO EMPLOYER GARNISHEE

Failure to answer this Writ within 20 days or failure or refusal to answer the interrogatories attached hereto shall result in the court entering a judgment against you and you becoming personally liable for the amount of the non-exempt wages owed the debtor-employee on the date you were served this writ as provided by Arkansas Code Annotated 16-110-407.

The judgment or balance due therein is a lien on salaries, wages, or other compensation due at the time of the service of the garnishment and shall continue as to subsequent earnings until the total amount due upon the judgment and costs are paid or satisfied.

The lien on subsequent earnings shall end if the employment relationship is terminated or if the underlying judgment is vacated or modified.

Employer Garnishees are notified that the amount of wages available for withholding for this judgment and costs is subject to certain prior claims. Under Arkansas law income withholding for child support has a priority over all other legal processes. Under Federal law the total amount to be withheld cannot exceed the maximum amount allowed under Section 303(b) of the Title III Consumer Credit Protection Act.

NOTICE TO THE DEFENDANT

The Writ of Garnishment delivered to you with this Notice means that wages, money or other property belonging to you has been garnished in order to pay a court judgment against you. HOWEVER, YOU MAY BE ABLE TO KEEP YOUR MONEY OR PROPERTY FROM BEING TAKEN, SO READ THIS NOTICE CAREFULLY.

State and Federal laws say that certain money and property may not be taken to pay certain types of court judgments. Such money or property may not be taken to pay certain types of court judgments. Such money or property is said to be "exempt" from garnishment. For example, under the Arkansas Constitution and state law, you will be able to claim as exempt all or part of your wages or other personal property. As another example, under Federal law the following are also exempt from garnishment: Social Security, SSI, Veteran's benefits, AFDC (welfare), unemployment compensation, and workers compensation.

You have a right to ask for a court hearing to claim these or other exemptions. Such request must be made in writing. If you need legal assistance to help you try to save your wages or property from being garnished, you should see a lawyer. If you can't afford a private lawyer, contact your local bar association or ask the clerk's office about any Legal Services program in your area.

CERTIFICATE OF SERVICE

Case #_____

STATE OF ARKANSAS - COUNTY OF _____. On this day _____ _____ at

_____o'clock ____m. I have duly served this Writ by delivering a true copy thereof to: _____ _____

FEES: _____ BY: _____

TITLE: _____

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

_____
PLAINTIFF

CASE NO. _____

_____
DEFENDANT

SCHEDULE OF PROPERTY

ACT 610 OF 1991 REQUIRES THAT YOU PREPARE A SCHEDULE VERIFIED BY AFFIDAVIT, OF ALL YOUR PROPERTY, BOTH REAL AND PERSONAL, INCLUDING MONEYS, BANK ACCOUNTS, RIGHTS, CREDITS AND CHOSES IN ACTION HELD BY YOURSELF OR OTHERS FOR YOU, AND THAT YOU SPECIFY WHAT PROPERTY YOU CLAIM EXEMPT UNER THE PROVISIONS OF THE LAW.

LIST ALL ASSETS IN YOUR NAME HELD SOLELY OR WITH ANOTHER PERSON:
(If more space is required, please attach a separate sheet.)

1. **Bank(s)/Credit Union(s)**

Name of Institution: _____
Address: _____
Type of Account: _____
Account Number: _____
Current Balance: _____

2. **Savings**

Name of Institution: _____
Address: _____
Type of Account: _____
Current Balance: _____

3. **Real Estate**

Street Address: _____
City/State: _____

4. **Vehicles**

(Include Automobiles, Trucks, Boats, Airplanes, and other vehicles)
Make: _____ Year: _____ Mileage: _____
License Number: _____ Liens against vehicle: _____

Make: _____ Year: _____ Mileage: _____
License Number: _____ Liens against vehicle: _____

5. **Stocks, bonds, gold, silver, gems, jewelry**
(List number of shares or description, value, and where located.)

_____
_____
_____

6. Employer or other source of income

Name: _____
Address: _____
Phone Number: _____

7. Value of household furniture, furnishings or effects

_____
_____
_____

8. Other personal property not scheduled

_____
_____
_____
_____

9. Debtors owing you money

Name: _____
Address: _____
Phone Number: _____

10. Property which you claim as exempt

_____
_____

Current Mailing Address

Street: _____
City/State/Zip: _____
Phone: _____

I swear or affirm the above is whole, true and correct.

_____ _____
DEFENDANT DATE

VERIFICATION

Sate of _____
County of _____

Subscribed and sworn to before me this _____ day of _____, 20____.

_____
Notary Public

(Notary Seal)

ADMINISTRATIVE OFFICE OF THE COURTS

FOREIGN LANGUAGE INTERPRETER COMPENSATION POLICY

The 2005 Arkansas General Assembly again appropriated funds for the purpose of reimbursing the services of eligible foreign language interpreters who serve during in-court proceedings in the state's circuit and district courts. Because the amount of money available is insufficient to provide for the large number of interpreters providing services in the state, local courts are urged to continue to rely upon available local resources or the resources of the parties involved in the litigation. The Administrative Office of the Courts also employs two full time Spanish interpreters who are available on request and as time permits to provide direct interpreter services to local courts.

ELIGIBLE FOREIGN LANGUAGE INTERPRETER

An **eligible** foreign language interpreter is one whose name appears on the current registry of interpreters maintained by the AOC and who has been appointed by the presiding judge to serve in a particular case or cases. An eligible foreign language interpreter may also be an interpreter currently certified or qualified by another state which is a member of the Consortium for State Court Interpreter Certification or who is certified by the U.S. Courts. Written verification of current certification/qualification by the certifying entity is required.

PROCEDURE FOR PAYMENT

When a state circuit or district court becomes aware that a foreign language interpreter will be needed for an in-court proceeding, the AOC should be notified by calling the Foreign Language Interpreter Program Director, Ms. Mara Simmons at 1-800-950-8221. If a Spanish interpreter is required and the AOC interpreters are available, they will be scheduled to interpret for the proceeding. If interpretation for a language other than Spanish is required or if AOC staff interpreters are not available, the AOC will assist the local court in contracting with an available interpreter who is listed on the registry of interpreters.

At the conclusion of the interpreter's court appointed services, the interpreter will complete the appropriate portion of the interpreter payment form prescribed by the Administrative Office of the Courts and present it to the judge for approval. The judge will certify that the party requiring the interpreter was indigent and unable to otherwise afford the services of an interpreter and that the interpreter provided the services for the court. The interpreter will then forward the form to the Administrative Office of the Courts for payment.

In the event that the services of an interpreter are arranged locally without the knowledge or assistance of the Administrative Office of the Courts, the responsibility for payment of the interpreter's fees and costs will be with the local court.

RATE OF PAYMENT

A **certified interpreter,** as denoted on the registry of interpreters, will be paid $50.00 per hour for in-court services with a guaranteed one hour minimum. Additional hours in increments of 15 minutes will be paid at a rate of $40.00 per hour. Travel time will be reimbursed at the rate of $20.00 per hour. Mileage will be reimbursed at the rate of .37 cents per mile. Travel time and mileage will be reimbursed **ONLY** when the certified interpreter is required to travel outside of the county where he or she resides. Notice of the cancellation of a proceeding for which a certified interpreter has been scheduled should be provided by the Court to the Administrative Office of the Courts as soon as possible. The AOC will contact the certified interpreter immediately. In the event that notice of a cancellation is provided more than 24 hours prior to the commencement of the proceeding the certified interpreter will not be entitled to any payment. In the event that notice of a cancellation is provided less than 24 hours prior to the commencement of the proceeding, the certified interpreter will be paid the one hour minimum for any proceeding which was set for less than one full day and a rate equal to four hours of service for any proceeding which was set for more than one full day.

An interpreter whose name on the registry of interpreters appears as a **candidate for certification** will be paid $20.00 per hour with a guaranteed one hour minimum. Additional hours should be billed in increments of 15 minutes. Mileage will be reimbursed at the rate of .37 cents per mile when the candidate for certification is required to travel outside of the county where he or she resides. (Travel time will not be reimbursed to **candidates for certification** even when traveling outside of the county where he or she resides**)**.

Nothing contained herein precludes the presiding judge from ordering exclusive or additional payment from another source as he or she deems appropriate (provided, Title II of the Americans with Disabilities Act prohibits courts from including interpreter's fees in the "court cost").
56 Fed Reg 35705-06(July 26, 1991).

LIMITATION

Any payment from state funds is contingent upon verification by the AOC that (1) the interpreter is eligible for payment, (2) the procedures outlined in this policy have been followed, and (3) sufficient funds are available. Should it become necessary, based upon balances within the fund, preference for payment will be given to felony criminal cases and then to juvenile delinquency matters. The Director of the Administrative Office of the Courts will be the final arbiter for contested payments.

Revised: 07/01/05

REQUEST FOR REIMBURSEMENT FOR FOREIGN LANGUAGE INTERPRETER SERVICES

To Be Completed By Interpreter

Interpreter Name and Address

_____

_____

_____

_____

Telephone ( ) _____

□Certified Interpreter or; □Candidate for Certification
Language

Services Provided to the **INV.#**_____
□Circuit or □District Court of:

City_____

Judge _____

Case Information

_____v._____ Case #_____

_____v._____ Case #_____

_____v._____ Case #_____

Date Services Provided_____

Arrival Time _____ Departure Time _____ Total Time in Court _____

Total Court Fee $_____

Travel Time_____@ $20.00 hr (Certified Interpreter Only) Total Travel Fee $_____

Mileage Incurred From _____

to _____

Total Miles _____ Total fee for mileage @ .39/mile $_____

TOTAL APPEARANCE FEE REQUESTED $_____

I hereby certify that I am eligible for payment for my services as indicated above and that the information provided is correct to the best of my knowledge and belief.

Submitted this _____day of _____, 20___

SSN- - - Signature of Interpreter _____

To Be Completed By Judge

I hereby certify that interpreter services were provided to my court as indicated above and that the interpreter is eligible for reimbursement from the AOC. I further certify that the party requiring interpreter services was indigent and unable to afford the services of the interpreter.

Signature of Judge_____

To Be Completed By AOC

Total Fee Approved $_____

Travel Time Approved $_____

Total Mileage Approved $_____

Approved by_____ TOTAL FEE PAID $_____

Arkansas District and City Court Clerks
Certification Program

CERTIFICATE OF ATTENDANCE

Program Location: _____

Program Date(s): _____

Program Attendance

DATE/TIME	PROGRAM TITLE	HOURS
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
	TOTAL HOURS	_____

Clerk's Name: _____

Title (Chief Clerk or Deputy Clerk): _____

District/City Court: _____

Address (Court): _____

Phone (Court): _____

I hereby certify that the information above is, to the best of my knowledge, complete and accurate.

_____ _____
Date Clerk's Signature

Received by _____ _____
ADCCCCC Representative Date

Return original copy to Registration Desk at end of program

Consent for Media Coverage

Consent is hereby given to broadcast, electronically record or photograph my participation in the proceedings of the above-styled case, pursuant to the rules for media coverage of trials approved by the Arkansas Supreme Court, and the plan for coverage of this trial approved by the trial judge. I understand that once this consent is entered it cannot be revoked without a showing of just cause.

Date: _____

_____
Judge

_____
Attorney

_____
Attorney

_____
Party

_____
Witness

Covenant Marriage act 2001

Act 1486 of 2001 created an option for couples in Arkansas to choose a Covenant Marriage. The couple entering into a Covenant Marriage agrees to be bound by two limitations on obtaining a divorce or separation which do not apply to other couples married in Arkansas: The couple agrees to seek marital counseling if problems develop during the marriage; and the couple can seek a divorce or legal separation only for limited reasons, as set out in the Act and explained in this pamphlet, which outlines the consequences of entering into a Covenant Marriage under Arkansas law. Additionally, couples bound by a Covenant Marriage, unless judicially separated, may only sue each other for certain causes of action. **Couples who are already married** may execute a declaration of intent to designate their marriage a Covenant Marriage. They must sign a recitation and an affidavit such as the one included in this pamphlet, after receiving counseling, to which the counselor must attest. This intent to designate their marriage a Covenant Marriage must be filed with the official who issues marriage licenses in the county in which the couple is domiciled.

LEGAL SEPARATION IN A COVENANT MARRIAGE

In order to obtain a legal separation (which is not a divorce and does not end the marriage), a spouse to a Covenant Marriage must first obtain counseling and then must prove:

1) Adultery by the other spouse;
2) Commission of a felony by the other spouse which results in a sentence of imprisonment of death;
3) Physical or sexual abuse of the spouse or a child of either spouse;
4) The spouses have lived separate and apart continuously without reconciliation for two years; or
5) Habitual drunkenness for one year, cruel and barbarous treatment or such indignities as to render the spouse's condition intolerable.

DIVORCE IN A COVENANT MARRIAGE

In a Covenant Marriage a spouse may get a divorce <u>only</u> after receiving counseling and <u>only</u> for the following reasons:

1) Adultery by the other spouse;
2) Commission of a felony by the other spouse which results in a sentence of imprisonment of death;
3) Physical or sexual abuse of the spouse or a child of either spouse;
4) The spouses have lived separate and apart continuously without reconciliation for two years; or
5) The spouses are judicially separated and have lived separate and apart continuously without reconciliation since the legal separation for:
    a) Two years and six months if there is a minor child or children of the marriage;
    b) One year if the separation was granted for abuse of a child of either spouse;
    c) Two years in all other cases.

SUITS AGAINST SPOUSES IN A COVENANT MARRIAGE

Unless judicially separated, spouses in a covenant marriage may only sue each other for causes of action pertaining to contracts, for restitution of separate property, for judicial separation, for divorce, for declaration of nullity of the marriage, or for causes of action pertaining to spousal support of support or custody of a child while the spouses are living separate and apart, although not judicially separated.

DECLARATION OF INTENT

In order to enter into a Covenant Marriage, the couple must sign a recitation that provides:

"A COVENANT MARRIAGE"

We do solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for so long as they both may live. We have chosen each other carefully and disclosed to one another everything which could adversely affect the decision to enter into this marriage. We have received authorized counseling on the nature, purposes, and responsibilities of marriage. We have read the Covenant Marriage Act 94 2001, and we understand that a covenant marriage is for life. If we experience marital difficulties, we commit ourselves to take all reasonable efforts to preserve our marriage, including marital counseling. With full knowledge of what this commitment means, we do hereby declare that our marriage will be bound by Arkansas law on covenant marriages and we promise to love, honor, and care for one another as husband and wife for the rest of our lives."

_____
(Name of prospective spouse)

_____
(Name of prospective spouse)

After discussing the meaning of the Covenant Marriage with a counselor, the couple must also sign a notarized affidavit with an attestation by the counselor. The following is the suggested form of the affidavit:

AFFIDAVIT FOR PARTIES AND NOTARY

State of Arkansas, County of _____

BE IT KNOWN THAT on this ____ day of _____, 20_____, before me the undersigned notary, personally came and appeared: _____ and _____ who after being duly sworn by me, a Notary, deposed and stated that: Affiants acknowledge that they have received premarital (or marriage) counseling from a priest, minister, rabbi, clerk of the Religious Society of Friends, any clergyman of any religious sect, or a professional marriage counselor, which marriage counseling included: A discussion of the seriousness of Covenant Marriage; Communication of the fact that a Covenant Marriage is a commitment for life; The obligation of a Covenant Marriage to take reasonable efforts to preserve the marriage if marital difficulties arise; and That the affiants both read this pamphlet, developed and promulgated by the Administrative Office of the Courts, which provides a full explanation of a Covenant Marriage, including the obligation to seek marital counseling in times of marital difficulties and the exclusive grounds for legally terminating a Covenant Marriage by divorce or divorce after judgment of separation from bed or board.

_____
(Name of prospective spouse)

_____
(Name of prospective spouse)

ATTESTATION for counselor
The undersigned attests that the affiants did receive counseling from me as to the nature and purpose of marriage, which included a discussion of the seriousness of Covenant Marriage, communication of the fact that a Covenant Marriage is for life, and the obligation of a Covenant Marriage to take reasonable efforts to preserve the marriage if marital difficulties arise.

_____
Counselor Title/professional credential
The two documents that comprise the declaration of intent-the recitation and the affidavit with attestation-must be filed with the official who issues the marriage license with the couple's application for marriage license.

IN THE DISTRICT COURT OF _____, COUNTY, ARKANSAS

AND THE DISTRICT COURT OF _____, COUNTY, ARKANSAS

IN THE MATTER OF EXCHANGE OF JURISDICTION

We, the undersigned judges, respectively, of the above-styled courts, hereby exchange jurisdiction until such time as such exchange is terminated.

Implementation of this exchange shall be by mutual agreement of the judges in particular cases and for specified periods of time.

It is the intent of this agreement, as and when implemented, to permit respective judges to sit in the respective courts other than their own pursuant to and under the authority of Ark. Const. Amend. 80, § 7 and Ark. Code Ann. § 16-17-102.

Nothing in this exchange shall prevent the judges from exercising and discharging the authorities, duties and prerogatives of their own offices and courts.

This agreement directed to be filed and recorded in the records of the respective courts by the clerks thereof.

Witness our hands this _____ day of _____ 20____

_____ _____

District Judge District Judge

CEREMONY OF MARRIAGE

We have assembled for the purpose of solemnizing the rites of matrimony between this couple. Marriage was instituted by God, and is regulated by civil society and when entered into can be dissolved only by death or sentence of law. It should therefore be entered into advisedly, soberly, and in the fear of God. If any one can show just cause why this man and woman may not be lawfully joined together, let him now speak or else hereafter forever hold his peace.

Join your right hands.

(Addressing the man.) Wilt thou have this woman to be thy wedded wife, to live together after God's ordinance, in the holy state of matrimony? Wilt thou love, comfort, honor and keep her, in sickness and in health, and, forsaking all others, cleave unto her till death do you part?

(Ans.) I will.

(Addressing the woman.) Wilt thou have this man to be thy wedded husband, to live together after God's ordinance, in the holy state of matrimony? Wilt thou love, honor, serve, obey, and keep him in sickness and in health, and, forsaking all others, cleave unto him till death do you part?

(Ans.) I will.

(Groom places ring on bride's finger and repeats after you– "With this ring I thee wed"-- If double ring ceremony, have each to place ring on the other's finger and repeat the same together.

Whom God hath joined together let no man put assunder. May the blessing of Heaven rest upon you. May you be prosperous and happy in the world to come, in live everlasting, Amen.

In the name of God and by the authority vested in me by law, I pronounce you husband and wife.

DEAR FRIENDS:

WE ARE GATHERED HERE FOR A VERY HAPPY PURPOSE - TO JOIN _____ _____ AND _____ IN A LOVING AND LASTING RELATIONSHIP, ONE THAT WILL ENDURE BECAUSE THEY HAVE CHOSEN TO MAKE IT SO AND HAVE PLEDGED THEMSELVES TO THAT END. AND WE ARE ALSO HERE TO SHARE THEIR GLADNESS AND JOY AS WE CELEBRATE THEIR COMMITMENT TO ONE ANOTHER. _____ AND _____ YOU ARE SURROUNDED BY LOVING FRIENDS AND FAMILY WHO WANT YOUR LIFE TOGETHER TO BE RICH AND FULFILLING AND TO BE MARKED, ESPECIALLY, BY PEACE AND CONTENTMENT.

THERE WILL SURELY BE TIMES WHEN YOU WON'T FEEL LOVING TOWARD EACH OTHER; AND TIMES WHEN YOU WON'T BEHAVE IN A LOVING WAY. TIMES WHEN YOU ARE TIRED, OR SICK, OR IMPATIENT, OR RESENTFUL, OR AFRAID, AND AT THOSE TIMES YOU MAY DRAW AWAY FROM EACH OTHER. BUT YOU CAN (IF YOU CHOOSE) WORK THROUGH THOSE TIMES, AND EVEN GROW CLOSER IN THE PROCESS. REMEMBER THAT LOVE HAS ITS OWN SPECIAL WAY OF SUSTAINING AND NURTURING TWO PEOPLE WHO LOVE EACH OTHER AND ARE WILLING TO MAKE LOVE AN ACT OF WILL AND OF SELFLESSNESS. REMEMBER, TOO, THAT LOVE IS NOT SIMPLY A STATE OF MIND; RATHER, IT IS A PROCESS, A LIFE-LONG PROCESS, AND TONIGHT THE TWO OF YOU MERELY BEGIN A JOURNEY TOGETHER.

_____, WILL YOU HAVE _____ AS YOUR WIFE AND YOUR PARTNER, TO LIVE WITH HER AS ONE; WILL YOU LOVE HER, COMFORT HER, HONOR AND RESPECT HER AND HER FAMILY, WILL YOU KEEP HER AND CARE FOR HER IN SICKNESS AND IN HEALTH, IN BAD TIMES AS WELL AS IN GOOD TIMES, ON HAPPY OCCASIONS AS WELL AS WHEN YOU ARE ANGRY WITH EACH OTHER, AND WILL YOU BE FAITHFUL TO HER AND ONLY TO HER, AS LONG AS YOU BOTH SHALL LIVE?

_____, WILL YOU HAVE _____ AS YOUR HUSBAND AND YOUR PARTNER, TO LIVE WITH HIM AS ONE; WILL YOU LOVE HIM, COMFORT HIM, HONOR AND RESPECT HIM AND HIS FAMILY, WILL YOU KEEP HIM AND CARE

FOR HIM IN SICKNESS AND IN HEALTH, IN BAD TIMES AS WELL AS GOOD TIMES, ON HAPPY OCCASIONS AS WELL AS WHEN YOU ARE ANGRY WITH EACH OTHER, AND WILL YOU BE FAITHFUL TO HIM AND ONLY TO HIM, AS LONG AS YOU BOTH SHALL LIVE?

I HOLD TWO RINGS, WHICH HAVE BEEN A TOKEN AND A SYMBOL OF LOVE BETWEEN TWO PEOPLE FOR AGES, BECAUSE JUST AS A RING HAS NO END, A COMMITTED, LOVING RELATIONSHIP HAS NO END. SO, LET ALL OF US BOW OUR HEADS A FEW MOMENTS IN PRAYER TO ASK GOD, WHO IS LOVE ITSELF, TO GIVE HIS OWN SPECIAL BLESSING TO THIS MARRIAGE AND TO_____ AND _____.

> **LORD, YOUR NAME IS LOVE, AND THAT THOSE WHO DWELL IN LOVE DWELL IN YOU, AND YOU IN THEM. MAY THAT LOVE SUPPORT AND SUSTAIN _____ AND _____ IN THEIR LIVING TOGETHER, AMEN.**

(PLACE RING ON FINGER)

WITH THIS RING I THEE WED.

_____ AND _____, I NOW DECLARE THAT YOU BELONG TO EACH OTHER, PARTNERS IN LOVE AND MARRIAGE - GOD BLESS YOU BOTH.

IN THE DISTRICT COURT OF _____ COUNTY, ARKANSAS

IN THE MATTER OF _____ SPECIAL JUDGE

Now on this _____ day of _____ , _____ , the Honorable _____ _____, notified the clerk that he/she was unable to attend and preside over this court on this day. WHEREUPON, the Clerk gave notice pursuant to Administrative Order No. 1 that an election was to be held for a Special Judge to preside during the absence of said Judge.

AND THEREAFTER, the Honorable _____, an attorney at law, a resident of the State of Arkansas and possessing the required qualifications, having received a majority of the votes cast at such special election, at which only the practicing attorneys in attendance in the Court were allowed to vote, was found and declared to be duly elected Special Judge to preside during the absence of the Honorable _____ _____.

WHEREUPON, _____ did administer the oath of office required by law as such Special Judge and he/she assumed the bench and entered upon the discharge of his/her duties herein.

_____

OATH OF OFFICE
STATE OF ARKANSAS
COUNTY OF _____

I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of Special Judge of District Court,_____ Division, _____ County, upon which I am about to enter.

_____
Special Judge

Witnesses: _____ , _____ ,

_____

Subscribed and sworn to before me this _____ day of _____ , _____.

_____

SMALL CLAIMS COURT IN ARKANSAS

Note: The information contained in this publication is designed as a useful guide to remind you of your rights as a citizen of this state. You should not rely totally on this information because the laws are subject to constant change.

In Small Claims Court, you can sue to recover for damages to personal property, money owed, or for delivery of personal property which is worth $5,000 or less.

Each District Court in Arkansas has a division known as small claims court. Small claims courts are located in the same building and are served by the same personnel as district courts. Small claims courts are designed to allow individuals to settle certain disputes in court under relaxed rules of procedure and without attorneys. The small claims trial is a unique process; its purpose is to provide the full advantage under the law to the parties involved in a legal action, i.e., the plaintiff in a lawsuit who files the claim and the defendant who defends against the claim.

In order to bring a lawsuit, the plaintiff must file a legal form known as a claim. The claim should be kept simple so the defendant can understand, without the aid of an attorney, why he is being sued. A claim in the small claims division of district court lists:

1. The names and addresses of the plaintiff and the defendant'

2. The amount of money being claimed or a description of the property to be recovered;

3. A brief description of why the plaintiff believes the defendant owes him the amount of money or property claimed;

4. Notification to the defendant stating that he must answer the lawsuit upon receipt of the complaint.

The District Clerk may have a claim form which you can use to file your lawsuit.

A. WHAT CAN YOU SUE FOR?

In small claims court, you can sue for different types of claims. These include matters of contract, recovery for damages to personal property, or for delivery of personal property that is worth $5,000 or less. If you sue for money damages, the maximum amount you may claim is $5000.

B. HOW LONG MAY YOU WAIT BEFORE FILING YOUR COMPLAINT?

The length of time you have to file depends upon the type of claim you are bringing. If a written agreement has been broken or breached, you have five years after the date it was broken to file your complaint. If an oral agreement or contract, rent or injury to goods is involved, then you usually have three years to file your claim.

C. WHAT ROLE DO ATTORNEYS PLAY IN THE SMALL CLAIMS COURT PROCEDURE?

No attorney or persons other than the plaintiff and the defendant are allowed to take part in the

filing, prosecution or defense of a case in small claims court. If a judge determines that a party is being represented by an attorney in a case pending in the small claims division of any district court, the case will immediately be transferred to the regular district court docket.

D. IN WHICH SMALL CLAIMS COURT CAN YOU FILE?

You can file a lawsuit in the county in which a defendant currently resides or in the county where he was to perform an obligation. When the action is for damage to personal property, you can file a lawsuit in the county in which the damage occurred or in the county where the defendant currently resides. In all other cases, you must file the action in the county in which the defendant resides.

E. WHAT DO YOU FILE?

The Arkansas legislature has devised the following form for use by you in filing a claim. Your district clerk may have copies of this form to make available to you. If the clerk does not have copies available, you may prepare a form like this one, complete it and file it with the clerk in order to start a small claims lawsuit.

CLAIM FORM

In the District Court of _____
State of Arkansas
Small Claims Division

_____
Plaintiff

No._____

Vs.

_____
Defendant

Defendant's address:_____
_____

Nature of Claim:_____

Nature and Amount of Relief Claimed:_____
_____

Date Claim Arose_____

Factual Basis of Claim_____
_____
_____

_____
Signature of Plaintiff

Plaintiff's Address:_____

_____

SUMMONS AND NOTICE TO DEFENDANT

You are hereby warned to file a written answer with the clerk of this court within thirty days after you receive this claim and forward a copy to the plaintiff at the address above or a default judgment may be entered against you.

_____
(Signature of Clerk or Judge)

_____
District Court Clerk

Address:_____
_____

RETURN OF SERVICE
STATE OF ARKANSAS
COUNY OF _____

I, _____, certify that I served the within Claim Form on the defendant, _____, at __o'clock__.m. on _____ 20__, by _____ _____.
(Show manner of service)

Name and Office, if any:_____
_____

Subscribed and sworn to before me this _____day of _____, 20_____. (To be completed if service by other than a Sheriff, Constable, or Clerk)

_____
Notary Public

My commission expires:_____

F. CAN YOU APPEAL THE JUDGE'S DECISION?

Yes. The appeal must be filed within 30 days from the date the small claims judgment is entered on the district court docket by the Judge. An appeal does cost more money. You will have to pay another filing fee. If the small claims court rules against you and sets a specific amount for money damages, you may have to post a bond in that amount to appeal the judgment. All appeals are filed in the circuit court of the county where the small claims court is located.

G. IS ANYONE BARRED FROM SUING IN THE SMALL CLAIMS DIVISION?

Yes. No action may be filed in a small claims court by any collection agency, collection agent or any other person, firm, partnership, association, or corporation engaged/involved in the business of lending money with interest. Arkansas corporations, other than those which are classified as lending institutions, which have three or fewer stockholders; those in which 85% or more of the voting stock is held by persons related within the third degree; or those otherwise defined as closely held corporations may appear in small claims court provided they are represented by officers of the corporation.

H. MAY ONE OF THE PARTIES SEEK A TRANSFER OF THE CLAIM TO DISTRICT COURT?

Transfer of a small claims case prior to trial should be permitted only by the order of a judge. The case will be transferred to district court if any party is represented by an attorney. The case may be transferred to circuit court if the defendant countersues for more than $5000.

Costs of presenting a claim with a small claims division of the district court varies from county to county. The minimum filing fees are $50. There is a court technology fee of $15. The cost of service of the complaint is extra.

Some courts have a mediation program. Mediation means the plaintiff; the defendant and a court-appointed mediator meet in an informal atmosphere to attempt to settle the dispute without going to court. The mediation program is free and voluntary. Both the plaintiff and the defendant must agree to mediate before a session can be scheduled. Mediation is also faster. Once an agreement is reached through mediation and the judge approves it, the conditions of the agreement are legally binding. If no agreement is reached, the plaintiff still has the right to pursue the matter in court.

The prevailing part - the person who wins the lawsuit - is entitled to costs of the action, including the costs of service and notices directing the appearance of a party and the costs of enforcing any judgment. The losing party will be ordered to pay these costs in addition to the amount of the judgment.

The first step required by the defendant is to file a written response on the answer form provided him with the service of the complaint. The answer form will be similar to the form shown below. The defendant must file this form within 30 days after the date of service. He must mail a copy of his answer and/or counterclaim to the plaintiff. After an answer and/or counterclaim have been filed, the parties will be notified of the trial date by the court.

ANSWER FORM

In the District Court of _____
Small Claims Division

_____
Plaintiff

Vs. No._____

_____
Defendant

Defendant's Address:_____
_____

Reason for Denial of Plaintiff's Claim:_____
_____
_____

Nature and Amount of Affirmative Relief (if any):_____
_____

Date Affirmative Claim Arose:_____

Factual Basis of Affirmative Claim:_____
_____
_____

_____
(Signature of Defendant)

I. IS THE DEFENDANT ALLOWED TO FILE A COUNTERCLAIM OR A SETOFF?

Yes. A counterclaim is a claim for damages presented by a defendant in opposition to or deduction from the claim of the plaintiff. It arises from the same set of circumstances on which the plaintiff filed his lawsuit. If proven, the defendant's counterclaim will defeat or reduce the plaintiff's claim. A setoff is a special type of counterclaim which the defendant files against the plaintiff. A setoff arises from a different set of circumstances than those on which the plaintiff filed his lawsuit.

The defendant must file a counterclaim or setoff on the written form provided him with the service of the complaint. He must then see that the plaintiff and court clerk receive a copy of the counterclaim. The defendant must bear the cost of the filing and service of the counterclaim, if any, but if he wins in court he will be reimbursed these costs by the plaintiff.

J. WHAT HAPPENS IF A PARTY FAILS TO SHOW UP ON THE DATE SET FOR THE CLAIM?

1. If the defendant does not show.....

   If the defendant does not show up or answer the plaintiff's complaint, the judge may enter a default judgment. A default judgment gives the plaintiff the damages he asked for in the complaint.

2. If the plaintiff does not show.....

If the plaintiff fails to show up on the date set the judge will dismiss the lawsuit. If the defendant has filed a counterclaim, the judge may award a default judgment to the defendant giving him the amount asked for in the counterclaim.

3. If the party who failed to show has a legitimate reason or excuse.....

If the plaintiff was not aware prior to the time set for court that he could not attend, he should submit a letter to the judge explaining why he was absent. If the judge determines that there is good reason shown, then the judge may allow the plaintiff to file again with an additional filing and service fee. If the defendant did not show up, he should write a letter to the judge explaining why he was unable to attend the trial and asking the judge to set aside the judgment. If there is good reason shown for the absence, the judge may set the default judgment aside and set a new court date.

K. WHO HAS THE BURDEN OF PROOF?

The necessity of one party to prove his case is referred to as the burden of proof. In the small claims case the burden of proof is upon the plaintiff (and on the defendant in a counterclaim.) He must prove his case by a preponderance of the facts presented. A preponderance of the facts means that the party with the burden of proof must present more convincing evidence in favor of his argument than is offered against his argument.

L. HOW TO PROVE YOUR CASE

1. Witness

Find all witnesses who can testify for you and bring them to court with you on the date specified. If they refuse to cooperate you can obtain a subpoena from the court clerk. A subpoena is a command to appear at a certain time and place to give testimony upon a certain matter.

2. Subpoenas

If subpoenas are requested, the plaintiff or defendant must provide a list of the witnesses' names, addresses and telephone numbers to the court clerk. There will be additional costs for serving each subpoena.

3. Evidence

Besides witnesses, you should find other evidence which will be helpful to you. You must bring all the evidence with you to the court if you wish for the judge to consider it in making his decision. Anything not brought with you will not be considered by the judge. If your case concerns injury to property, take a picture of it and bring the picture with you. Similarly, bring any receipts, cancelled checks or other documents that concern your case. If there is a witness who has told you something that is helpful to the claim, you cannot tell the judge what the witness said; the witness must be present to speak for himself.

M. HOW SHOULD I CONDUCT MYSELF IN THE COURTROOM?

You should direct all questions and statements to the judge. Do not talk to the other party.

The judge will ask for the evidence and the witnesses when he is ready. Do not present them until the judge asks for them.

You may not appear with an attorney.

Do not interrupt the judge. Avoid saying or doing anything to anger or irritate the judge or the other party. Remember, the judge is the one who makes the decision, so you should avoid causing any problems or conflicts that could sway opinion away from your side.

Show up prepared to present your side. The purpose of the small claims division is to present an inexpensive and speedy method of hearing your claim. Showing up prepared helps the judge to make a decision.

N. WHAT EFFECT DOES A JUDGMENT IN MY FAVOR HAVE?

The court only decides who should prevail in a given suit. Courts are only responsible for deciding disputes and not for enforcing their decisions. It is the winner's responsibility to make sure that the loser pays the amount the judge orders. If you have trouble collecting the amount the judge has found you are entitled to, there are two possible actions available to you - a writ of garnishment and a writ of execution.

O. WRIT OF GARNISHMENT

The writ of garnishment of wages will order an employer to take out a certain amount of the defendant's paycheck. The maximum is 25 percent. Sometimes a person's low income will prevent you from being able to garnish his wages or will allow you to receive only a small amount of money at a time. If this happens you may want to garnish the defendant's bank account.

The writ of garnishment is filed with the district court clerk in your area. Call the district clerk before you go to his or her office to see what you need to bring. You will need at least the defendant's place of employment and address and name of his bank if you are garnishing his bank account. You will also need to bring the fee necessary to file and process the garnishment. These costs will be added to the amount that the defendant owes in the judgment. However, you are responsible for paying these costs until they can be collected from the defendant.

After the writ of garnishment is filed, the employer or the bank of the defendant has 10 days in which to file and answer. Failure by the bank or employer to answer will result in the judge entering a judgment against the employer or bank for the full amount specified in the original judgment plus costs.

After filing, the plaintiff will receive a notice of when the money should come to the court. You must go down to the clerk's office upon that date and sign a statement to show that you received the money. The clerk will not call you when the money arrives. It is totally your responsibility to keep in touch with the clerk's office.

P. WRIT OF EXECUTION

This writ is more complicated than the writ of garnishment.

It is an order telling the sheriff to take the property of the defendant (t.v, stereo, car, etc.) and sell it at a public auction in order for you to get your money. You should only use the writ of execution if there is no other means of collecting your money because it is a very complicated process.

In order to get an execution against someone, you need to follow the steps below:

Go to the district clerk where you filed your suit and indicate you wish to file a writ of execution.

Fill out the form the clerk gives you, take it to the sheriff's process office and pay them the fee they require for delivery.

Stay in touch with the sheriff's office in order to keep informed about what is happening with the writ. The sheriff's office will not call you.

You must put up a bond with the court in case the item you execute against is not owned by the defendant. The bond will protect you and the sheriff's process office against being sued if the item sold belongs to someone else.

If you get this far without serious problems, the sheriff will take possession of the property. If a car is involved, he will have it towed in and stored while he publicizes the sale of the item. You must pay for storage fees, advertising costs and, if a car is involved, for towing charges, but you will be reimbursed for the costs from the proceeds of the sale.

CONCLUSION

The preceding has been a brief analysis of the small claims divisions established in district courts throughout the state. The most important thing for you to remember is that the courts are here to serve your needs. If you have any questions, or are confused about any of the elements, or steps involved in filing a small claim, call the clerk at the district court in your area. They will be happy to assist you in matters concerning small claims courts.

INTERPRETER OATH

"Do you solemnly swear (or affirm) that you will justly, truly, and impartially interpret to ..... the oath about to be administered to him (her), and the questions which may be asked him (her), and the answers that he (she) shall give to such questions, relative to the cause now under consideration before this board (agency), so help you God (or under the pains and penalties of perjury)?"

Ark. Code Ann. § 25-15-101

DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF ADMINISTRATIVE SERVICES
ADMINISTRATION OF JUSTICE FUND SECTION
ACT 1256-95 AND LEGISLATED CHANGES THROUGH 2007

UNIFORM FILING FEES COLLECTION REMITTANCE FORM AND FINE REPORT

ID: 0
Court:
County:

☐ Please check this Box if your address or phone number has changed. Make correction on back of this form.

I. TOTAL UNIFORM FILING FEES/COURT COSTS COLLECTED DURING THE MONTH OF: _____**2011**
(LIST BY LETTER DESIGNATION - SEE BACK OF FORM FOR LIST)

(A)	**CIR**	**$**	_____	**(N)**	**CITY/CV**	**$**	_____
(B)	**CIR/CR**	**$**	_____	**(O)**	**CITY/CR**	**$**	_____
(C)	**CIR/DWI**	**$**	_____	**(P)**	**CITY/TR**	**$**	_____
(E)	**CIR/REOPEN**	**$**	_____	**(Q)**	**CITY/DWI**	**$**	_____
(Y)	**CIR/TRANS**	**$**	_____	**(R)**	**LOC/ORD**	**$**	_____
(Z)	**CIR/FORECLO**	**$**	_____	**(NT)**	**CITY/DRUG**	**$**	_____
(AF)	**CIR/TR**	**$**	_____				
(AG)	**CIR/DRUG**	**$**	_____				
(H)	**DIST/CV**	**$**	_____				
(I)	**DIST/SC**	**$**	_____				
(J)	**DIST/CR**	**$**	_____				
(K)	**DIST/TR**	**$**	_____				
(L)	**DIST/DWI**	**$**	_____				
(M)	**LOC/ORD**	**$**	_____				_____
(HM)	**DIST/DRUG**	**$**	_____				

TOTAL UNIFORM FILING FEES/COURT COSTS COLLECTED:	$	
LESS COUNTY TREASURER'S COMMISSION (**COUNTIES ONLY**):	$	
LESS MONTHLY SHARE OF UNIFORM FILING FEES/COURT COSTS (**The amount certified by DFA—Administration of Justice fund):**	$	
EQUALS **STATE SHARE** OF FILING FEES/COURT COSTS REMITTED:	$	

Make checks payable to the Department of Finance and Administration, Administration of Justice Fund.

Mail to:

Department of Finance & Administration
Office of Administrative Services
Administration of Justice Fund Section
PO Box 2485, Room 700
Little Rock, AR 72203-2485

CERTIFIED AND SUBMITTED BY _____
Signature/Telephone Number

_____
Date Title

DRAFT

DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF ADMINISTRATIVE SERVICES
ADMINISTRATION OF JUSTICE FUND SECTION

BEGINNING WITH ACT 1256-95 AND INCLUDING ALL LEGISLATED CHANGES
THROUGH 2011
SUMMARY OF UNIFORM FILING FEES AND COURT COSTS FOR
UNIFORM FILING FEES COLLECTION REMITTANCE FORM AND FINE REPORT

Circuit Courts

A.	For initiating a cause of action in the circuit court (including appeals) first $110.00 of court fee additional $40.00 to State Treasurer	$ 150.00
B.	For misdemeanor or felony violation of state law, excluding the Omnibus DWI Act	$ 150.00
C.	For violations of the Omnibus DWI Act; §5-65-101 et seq.; The Underage DUI Law, §5-65-301 et seq.; § 5-75-101 et seq.; §27-23-114; or §15-42-127.	$ 300.00
E.	For reopening a cause of action in the circuit court	$ 50.00
AF.	For traffic offenses which are misdemeanors or violations under state law of local ordinance, excluding violations of the Omnibus DWI Act, etc.	$ 75.00
AG.	For knowingly possessing less than four ounces (4 oz.) of a Schedule VI controlled substance; $150.00 of court cost to AOJF; $150.00 to State Treasurer	$ 300.00
Y.	For any cause of action which by court order is transferred from any district court to circuit court or from a circuit court to another circuit court	$ 50.00
Z.	For filing a notice of default and intention to sell	$ 140.00

District Courts

H.	For initiating a cause of action in the civil division of district court	$ 65.00
I.	For initiating a cause of action in the small claims division of district court	$ 50.00
J.	For offenses which are misdemeanors or violations under state law or local ordinance, excluding violations of the Omnibus DWI Act	$ 100.00
K.	For traffic offenses which are misdemeanors or violations under state law or local ordinance, excluding violations of the Omnibus DWI Act	$ 75.00
HM.	For knowingly possessing less than four ounces (4 oz.) of a Schedule VI controlled substance; $150.00 of court cost to AOJF; $150.00 to State Treasurer	$ 300.00
L.	For violations of the Omnibus DWI Act §5-65-101 et seq.; The Underage DUI Law, §5-65-301 et seq.; § 5-75-101 et seq.; §27-23-114; or §15-42-127.	$ 300.00
M.	For non-traffic offenses which are violations under local ordinances in district, city, or police court.	$ 25.00

City Courts

N.	For initiating a cause of action in city court	$ 25.00
O.	For offenses which are misdemeanors or violations under state law or local ordinance, excluding violations of the Omnibus DWI Act	$ 75.00
P.	For traffic offenses which are misdemeanors or violations under state law or local ordinance, excluding violations of the Omnibus DWI Act	$ 50.00
NT.	For knowingly possessing less than four ounces (4 oz.) of a Schedule VI controlled substance; $150.00 of court cost to AOJF; $150.00 to State Treasurer	$ 300.00
Q.	For violation of the Omnibus DWI Act; §5-65-101 et seq.; The Underage DUI Law, §5-65-301 et seq.; § 5-75-101 et seq.; §27-23-114; or §15-42-127.	$ 300.00
R.	For non-traffic offenses which are violations under local ordinances in district, city, or police court.	$ 25.00

Time Pay

X. Time Pay (Use this section **only** if receipts cannot be distributed in the above categories.)

Instructions: The County or City shall send the uniform filing fees and court costs (less the county or city share of the fees as certified by DFA—Administration of Justice Fund) collected for the previous month to the Department of Finance and Administration on or before the **15th day of each month (Act 434-05)**. Please use the form with the court name and ID to insure forms and money are applied to the right court account.

Mailing Address: **Department of Finance & Administration**
Office of Administrative Services
Administration of Justice Fund Section
PO Box 2485, Room 700
Little Rock, AR 72203-2485

☐ ADDRESS CORRECTIONS

_____

_____

_____

DRAFT

Administration of Justice Fund

MISCELLANEOUS FEE/FINE COLLECTION REPORT

ID: 0

Court: Draft Only Contact DFA for specific court form before using!

County:

Mail form and check to:

Department of Finance and Administration
Administration of Justice Fund Section
PO Box 2485, Suite 700
Little Rock, AR 72203-2485

Month: **Year of Collection: 20**

1	12-12-1118 DNA Detection Fund *(enter 100% of fine collected)*	SDN	$
2	12-12-910 Sex and Child Offender Registration *(enter 100% of fine collected)*	SSC1 SSC2	$
3	16-13-704 Judicial Fine Enhancement Collection *(enter 50% of fine collected)*	MJF	$
4	8-6-404(d)(2)(B) Unlawful Littering to Keep America Beautiful Fund *(enter 1 00% of fine collected if not affiliated with "Keep America Beautiful" or "Keep Arkansas Beautiful")*	SBA	$
5	12-14-105 State Capitol Police Enforcement Fines *(Pulaski County Only)*	HSC	$
6	23-112-603(c)(1) Used Motor Vehicle Buyers Protection Act *(enter 50% of fine collected on State Police citations)*	SMP1	$
7	27-14-314(c)(1) Fines for Failure to Register Vehicle *(enter 100% of fine collected on State Police citations)*	SMP2	$
8	27-15-305 Illegal Parking In Area for Disabled *(enter 30% of fine collected)*	SPD	$
9	27-22-103(c)(1) Fines for No Liability Insurance *(enter 100% of fine collected on State Police citations)*	SMP3	$
10	27-34-107 Child Passenger Protection *(enter 75% of fine collected)*	SCP	$
11	27-50-311(e) Large Truck Exceeding Speed Limit *(enter 98% of fine collected)*	AGA1	$
12	23-13-264 Z-Tickets - Safety Violations for Large Trucks *(enter 50% of fine collected)*	AGA2	$
13	27-14-601(e)(2)(B) Fines for Failure to Register Vehicle *(enter 100% of fine collected on Highway Police citations)*	RRA1	$
14	27-14-601(e)(2)(A) Fines for Failure to Register Vehicle *(enter 100% of fine collected on State Police citations)*	SMP4	$
15	27-35-211 Overweight/Over Length Trucks *(enter 100% of penalty collected on Highway Police citations)*	RRA2	$
16	27-23-114(h)(2) Fraudulently Obtaining or Applying for a Commercial Motor Vehicle License *(enter 100% of fine collected)*	SMP5	$
17	27-50-1212(d)(1) Illegally Operating a Tow Vehicle *(enter 50% of fine collected)*	NTR	$
18	27-50-1212(d)(2) Illegally Operating a Tow Vehicle *(enter 50% of fine collected on State Police citations)*	SMP6	$
19	27-50-1212(d)(2) Illegally Operating a Tow Vehicle *(enter 50% of fine collected on Highway Police citations)*	RRA3	$
20	12-17-106 Drug Crime Special Assessment *(enter 100% of fine collected)*	SEP	$
21	23-13-605(d)(1) Violation of Federal Unified Carrier Registration Act of 2005 *(enter 50% of fine collected)*	AGA3	$
22	21-6-416(b) Court Technology Fees for Judicial Fine Collection Enhancement Fund *(enter 100% of 15.00 fee collected)*	**MJF2**	
	Total Collections		$

Certified/Submitted By *Title* *Phone No.* *Date*

COUNTY TREASURER'S
OR
DISTRICT COURT REPORT

District Court _____, Arkansas
Town County

Date _____, 20___

ARKANSAS FORESTRY COMMISSION
3821 West Roosevelt Road
Little Rock, AR 72204-6396

Pursuant to section 2 of act 132 of the General Assembly of 1997, I am making this settlement for fines assessed and collected in this County resulting from law enforcement activities of the State Forestry Commission which includes wildland fire, unlawful dumping, and timber theft law violations.

Court Date.	Docket No.	Ticket No.	Defendant	Amount of Fine

Total Amount Due _____

This covers my report for the period beginning _____ and ending _____

_____
District Court Clerk or County Treasurer

ARKANSAS GAME AND FISH COMMISSION
No. 2 Natural Resources Drive
Little Rock, AR 72205

COUNTY TREASURER'S AND DISTRICT COURT REPORT

Pursuant to Section 2 of Act 160 of the General Assembly of 1927, I am making settlement for fines assessed and collected in this county for violations of the game and fish and mussel shell laws of this state.

_____ County _____ Arkansas

Report Period Beginning (month/day/year) _____ and ending _____

Defendant	Citation #	Docket #	Fine Amt	Amt PD

Total _____

Less Commission @ 2% _____

Amount Due _____

_____
District Court Clerk or County Treasurer

COUNTY OR DISTRICT COURT

REMITTANCE FORM TO

ARKANSAS LIVESTOCK AND POULTRY COMMISSION

_____
Town County State

Date: _____

Gentlemen:

Pursuant to Arkansas Statute § 2-33-113, section b, 1 and 2, I am making settlement for fines assessed and collected in this county for violations of Commission laws of this state.

DEFENDANT	**CITATION OR WARRANT #**	**AMOUNT OF FINE** (Do not add court costs)

Total..... _____

Less Handling Fee @ 20%..... _____

Amount Due to AL&PC..... _____

Remit to:
ARK. LIVESTOCK & POULTRY COMM.
 # 1 Natural Resources Drive
Little Rock, AR 72205

_____
District Court Clerk or County Treasurer

Public Defender User Fee and Attorney Fee Remittance Form
As provided by Act 1564 of 1999 and Act 1765 of 2003

Collecting Officers for District and Circuit Courts should forward all monies collected by the 10th of each month to:

Arkansas Public Defender Commission
101 East Capitol, Suite 201
Little Rock, Arkansas 72201

Questions may be directed to 501-682-9070

Judicial District _____ County _____

Court Jurisdiction: (check one)

Circuit _____
Juvenile_____
District _____ District Court Name _____

Type & Amount of Fees:

User Fee $_____
Attorney Fee $_____

Public Defender Attorney Fee
Provided by Act 1564 of 1999
As amended by Act 1765 of 2003

County _____ Judicial District _____ Court Jurisdiction: District
Circuit
Juvenile

Case Number _____ Defendant _____

Charge(s) _____ Disposition _____

Disposition Date _____ Is Defendant Employed? Y/N

Yearly income _____

Employer's Name _____

Amount Attorney's Fee Assessed _____

Public Defender _____

_____ _____
Judge Date Assessed

Instructions:

1) Defendant - **Take this form to Sheriff, Clerk or other Collection Official. Payment should be made immediately.**

2) Collecting official should remit money received to the Arkansas Public Defender Commission, 101 East Capitol, Suite 201, Little Rock, Arkansas 72201.

3) Collecting officer should notify the local Public Defender of payments monthly.

Copy Distribution: White – Court file; Yellow – Public Defender file; Pink – Defendant/Collecting Officer

Public Defender User Fee
Provided by Act 1564 of 1999
As amended by Act 1765 of 2003

County _____ Judicial District _____ Court Jurisdiction: District
Circuit
Juvenile

Case Number _____ Defendant _____

Is Defendant Released on Bond? Y/N Bond Amount _____

Is Defendant Employed? Y/N Defendant's yearly income _____

Employer's Name _____

Amount User Fee Assessed _____

Public Defender _____

_____ _____
Judge Date Assessed

Instructions:

1) Defendant - **Take this form to Sheriff, Clerk or other Collection Official. Payment should be made immediately.**

2) Collecting official should remit money received to the Arkansas Public Defender Commission, 101 East Capitol, Suite 201, Little Rock, Arkansas 72201.

3) Collecting officer should notify the local Public Defender of payments monthly.

Copy Distribution: White – Court file; Yellow – Public Defender file; Pink – Defendant/Collecting Officer

ADMINISTRATIVE OFFICE OF THE COURTS
MONTHLY REPORTING FORM
DISTRICT COURTS

NAME OF COURT _____ REPORT ENDING____/_____/_____

NAME OF CITY _____ COUNTY _____

NAME OF JUDGE _____ NAME OF CLERK _____

JUDGE ADDRESS _____ CLERK ADDRESS _____

_____ _____

JUDGE PHONE _____ CLERK PHONE _____

CRIMINAL	**Filings**	**Convictions**	**Dismissals**	**Appeals**	**Fines Assessed**	**Fines Collected**	**Costs Assessed**	**Costs Collected**
Misdemeanors								
Local								
Felonies Bound Over								

TRAFFIC	**Filings**	**Convictions**	**Dismissals**	**Appeals**	**Fines Assessed**	**Fines Collected**	**Costs Assessed**	**Costs Collected**
DWI 1								
DWI 2								
DWI 3								
Other Traffic								
Total Traffic								

CIVIL	**Filings**	**Dispositions**	**Filing Fees Assessed**	**Filing Fees Collected**
Small Claims				
Civil				
Total Civil				

REVISED 08/02/05

MONTHLY REPORTING INSTRUCTIONS FOR DISTRICT COURTS

1. Fill in the Month, Day and Year of the month that the report covers. (Example: May would be 05/31/05). Do not put the date that you completed the form unless it is the last day of the report.

2. Fill in the city and county in which the court is located.

3. Fill in the judge's and clerk's name, address, and phone number in the blanks provided. If the judge and clerk address is the same, please denote "same" in one of the clerk address blanks. If the clerk phone number is the same as the judge's, denote that in the clerk phone number blank as well.

4. For the columns that require dollar amounts such as fines assessed and collected and costs assessed and collected, please round up or down to a whole dollar amount. For example, $145.50 would round up to $146.00, while $145.49 would round down to $145.00.

5. Under the criminal case type, fill in the number of cases filed, convicted, dismissed and appealed that month. In the appeal column, fill in the number of appeals filed that month. Also, indicate fines and costs assessed and collected in the appropriate blanks.

6. Under Felonies Bound Over, indicate the number of felonies bound over to circuit court. If your court does not conduct such proceedings, please denote "n/a" in the blank.

7. Under the traffic case type, fill in DWI and Other Traffic cases filed, convicted, dismissed and appealed for a particular reporting period. Other Traffic is defined as a traffic violation other than D.W.I or parking violations. Parking tickets are NOT to be included. Please add up each column for DWI 1, DWI 2, DWI 3, and Other Traffic in the last row named Total Traffic.

8. Installment payments are collections from previous convictions and should be reported during the month they are collected. They should not count as a conviction each time an installment payment is made. Please include installment payments in your total fine and costs collected amounts.

9. Please submit this form by the 15th of the month following the reporting period. For example, January's report will be due on February 15th. For months when no court is held, please indicate "no court" on the lower half of the form and return it in the same fashion.

10. Please return the form by mail or fax to

    Administrative Office of the Courts/Systems Division
    Attn: Dawn Thompson
    625 Marshall Street
    Little Rock, AR 72201
    Fax (501) 682-9410

AMENDMENTS TO THE CONSTITUTION OF ARKANSAS OF 1874

AMEND. 80.

§ 1. Judicial power.

The judicial power is vested in the Judicial Department of state government, consisting of a Supreme Court and other courts established by this Constitution.

§ 2. Supreme Court.

(A) The Supreme Court shall be composed of seven Justices, one of whom shall serve as Chief Justice. The Justices of the Supreme Court shall be selected from the State at large.

(B) The Chief Justice shall be selected for that position in the same manner as the other Justices are selected. During any temporary period of absence or incapacity of the Chief Justice, an acting Chief Justice shall be selected by the Court from among the remaining justices.

(C) The concurrence of at least four justices shall be required for a decision in all cases.

(D) The Supreme Court shall have:

(1) Statewide appellate jurisdiction;

(2) Original jurisdiction to issue writs of quo warranto to all persons holding judicial office, and to officers of political corporations when the question involved is the legal existence of such corporations;

(3) Original jurisdiction to answer questions of state law certified by a court of the United States, which may be exercised pursuant to Supreme Court rule;

(4) Original jurisdiction to determine sufficiency of state initiative and referendum petitions and proposed constitutional amendments; and

(5) Only such other original jurisdiction as provided by this Constitution.

(E) The Supreme Court shall have power to issue and determine any and all writs necessary in aid of its jurisdiction and to delegate to its several justices the power to issue such writs.

(F) The Supreme Court shall appoint its clerk and reporter.

(G) The sessions of the Supreme Court shall be held at such times and places as may be adopted by Supreme Court rule.

§ 3. Rules of pleading, practice and procedure.

The Supreme Court shall prescribe the rules of pleading, practice and procedure for all courts; provided these rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trial by jury as declared in this Constitution.

§ 4. Superintending control.

The Supreme Court shall exercise general superintending control over all courts of the state and may temporarily assign judges, with their consent, to courts or divisions other than that for which they were elected or appointed. These functions shall be administered by the Chief Justice.

§ 5. Court of Appeals.

There shall be a Court of Appeals which may have divisions thereof as established by Supreme Court rule. The Court of Appeals shall have such appellate jurisdiction as the Supreme Court shall by rule determine and shall be subject to the general superintending control of the Supreme Court. Judges of the Court of Appeals shall have the same qualifications as Justices of the Supreme Court.

§ 6. Circuit courts.

(A) Circuit Courts are established as the trial courts of original jurisdiction of all justiciable matters not otherwise assigned pursuant to this Constitution.

(B) Subject to the superintending control of the Supreme Court, the Judges of a Circuit Court may divide that Circuit Court into subject matter divisions, and any Circuit Judge within the Circuit may sit in any division.

(C) Circuit Judges may temporarily exchange circuits by joint order. Any Circuit Judge who consents may be assigned to another circuit for temporary service under rules adopted by the Supreme Court.

(D) The Circuit Courts shall hold their sessions in each county at such times and places as are, or may be, prescribed by law.

§ 7. District courts.

(A) District Courts are established as the trial courts of limited jurisdiction as to amount and subject matter, subject to the right of appeal to Circuit Courts for a trial de novo.

(B) The jurisdictional amount and the subject matter of civil cases that may be heard in the District Courts shall be established by Supreme Court rule. District Courts shall have original jurisdiction, concurrent with Circuit Courts, of misdemeanors, and shall also have such other

criminal jurisdiction as may be provided pursuant to Section 10 of this Amendment [Ark. Const. Amend. 80, § 10].

(C) There shall be at least one District Court in each county. If there is only one District Court in a county, it shall have county-wide jurisdiction. Fines and penalties received by the district court shall continue to be distributed in the manner provided by current law, unless and until the General Assembly shall establish a new method of distribution.

(D) A District Judge may serve in one or more counties. Subject to the superintending control of the Supreme Court, the Judges of a District Court may divide that District Court into subject matter divisions, and any District Judge within the district may sit in any division.

(E) District Judges may temporarily exchange districts by joint order. Any District Judge who consents may be assigned to another district for temporary service under rules adopted by the Supreme Court.

§ 8. Referees, masters and magistrates.

(A) A Circuit Court Judge may appoint referees or masters, who shall have power to perform such duties of the Circuit Court as may be prescribed by Supreme Court rule.

(B) With the concurrence of a majority of the Circuit Court Judges of the Circuit, a District Court judge may appoint magistrates, who shall be subject to the superintending control of the District court and shall have power to perform such duties of the District Court as may be prescribed by Supreme Court rule.

§ 9. Annulment or amendment of rules.

Any rules promulgated by the Supreme Court pursuant to Sections 5, 6 (B), 7 (B), 7 (D), or 8 of this Amendment [Ark. Const. Amend. 80, § 5, § 6 (B), § 7 (B), § 7 (D), or § 81 may be annulled or amended, in whole or in part, by a two-thirds (2/3) vote of the membership of each house of the General Assembly.

§ 10. Jurisdiction, venue, circuits, districts and number of judges.

The General Assembly shall have the power to establish jurisdiction of all courts and venue of all actions therein, unless otherwise provided in this Constitution, and the power to establish judicial circuits and districts and the number of judges for Circuit Courts and District Courts, provided such circuits or districts are comprised of contiguous territories.

§ 11. Right of appeal.

There shall be a right of appeal to an appellate court from the Circuit Courts and other rights of appeal as may be provided by Supreme Court rule or by law.

§ 12. Temporary disqualification of justices or judges.

No Justice or Judge shall preside or participate in any case in which he or she might be interested in the outcome, in which any party is related to him or her by consanguinity or affinity within such degree as prescribed by law, or in which he or she may have been counsel or have presided in any inferior court.

§ 13. Assignment of special and retired judges.

(A) If a Supreme Court Justice is disqualified or temporarily unable to serve, the Chief Justice shall certify the fact to the Governor, who within thirty (30) days thereafter shall commission a Special Justice, unless the time is extended by the Chief Justice upon a showing by the Governor that, in spite of the exercise of diligence, additional time is needed. If the Governor fails to commission a Special Justice within thirty (30) days, or within any extended period granted by the Chief Justice, the Lieutenant Governor shall commission a Special Justice.

(B) If a Judge of the Court of Appeals is disqualified or temporarily unable to serve, the Chief Judge shall certify the fact to the Chief Justice who shall commission a Special Judge.

(C) If a Circuit or District Judge is disqualified or temporarily unable to serve, or if the Chief justice shall determine there is other need for a Special Judge to be temporarily appointed, a Special Judge may be assigned by the Chief Justice or elected by the bar of that Court, under rules prescribed by the Supreme Court, to serve during the period of temporary disqualification, absence or need.

(D) In naming Special Justices and Judges, the Governor or the Chief Justice may commission, with their consent, retired Justices or Judges, active Circuit or District Judges, or licensed attorneys.

(E) Special and retired Justices and Judges selected and assigned for temporary judicial service shall meet the qualifications of Justices or Judges of the Court to which selected and assigned.

(F) Special and retired judges shall be compensated as provided by law.

§ 14. Prohibition of practice of law.

Justices and Judges, except District Judges, shall not practice law during their respective terms of office. The General Assembly may, by classification, prohibit District Judges from practicing law.

§ 15. Prohibition of candidacy for non-judicial office.

If a Judge or Justice files as a candidate for non-judicial governmental office, that candidate's judicial office shall immediately become vacant.

§ 16. Qualifications and terms of justices and judges.

(A) Justices of the Supreme Court and Judges of the Court of Appeals shall have been licensed attorneys of this state for at least eight years immediately preceding the date of assuming office. They shall serve eight-year terms.

(B) Circuit Judges shall have been licensed attorneys of this state for at least six years immediately preceding the date of assuming office. They shall serve six-year terms.

(C) District Judges shall have been licensed attorneys of this state for at least four years immediately preceding the date of assuming office. They shall serve four-year terms.

(D) All Justices and Judges shall be qualified electors within the geographical area from which they are chosen, and Circuit and District Judges shall reside within that geographical area at the time of election and during their period of service. A geographical area may include any county contiguous to the county to be served when there are no qualified candidates available in the county to be served.

(E) The General Assembly shall by law determine the amount and method of payment of Justices and Judges. Such salaries and expenses may be increased, but not diminished, during the term for which such Justices or Judges are selected or elected. Salaries of Circuit Judges shall be uniform throughout the state.

(F) Circuit, District, and Appellate Court Judges and Justices shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this state or the United States, except as authorized by law.

§ 17. Election of circuit and district judges.

(A) Circuit Judges and District Judges shall be elected on a nonpartisan basis by a majority of qualified electors voting for such office within the circuit or district which they serve.

(B) Vacancies in these offices shall be filled as provided by this Constitution.

§ 18. Election of Supreme Court Justices and Court of Appeals Judges.

(A) Supreme Court Justices and Court of Appeals Judges shall be elected on a nonpartisan basis by a majority of qualified electors voting for such office. Provided, however, the General Assembly may refer the issue of merit selection of members of the Supreme Court and the Court of Appeals to a vote of the people at any general election. If the voters approve a merit selection system, the General Assembly shall enact laws to create a judicial nominating commission for the purpose of nominating candidates for merit selection to the Supreme Court and Court of Appeals.

(B) Vacancies in these offices shall be filled by appointment of the Governor, unless the voters provide otherwise in a system of merit selection.

§ 19. Transition provisions, tenure of present justices and judges, and jurisdiction of present courts.

(A) Tenure of Present Justices and Judges.

(1) Justices of the Supreme Court and Judges of the Court of Appeals in office at the time this amendment takes effect shall continue in office until the end of the terms for which they were elected or appointed.

(2) All Circuit, Chancery, and Circuit-Chancery Judges in office at the time this Amendment takes effect shall continue in office as Circuit Judges until the end of the terms for which they were elected or appointed; provided further, the respective jurisdictional responsibilities for matters legal, equitable or juvenile in nature as presently exercised by such Judges shall continue until changed pursuant to law.

(3) Municipal Court Judges in office at the time this Amendment takes effect shall continue in office through December 31, 2004; provided, if a vacancy occurs in an office of a Municipal Judge, that vacancy shall be filled for a term which shall end December 31, 2004.

(B) Jurisdiction of Present Courts.

(1) The Jurisdiction conferred on Circuit Courts established by this Amendment includes all matters previously cognizable by Circuit, Chancery, Probate and Juvenile Courts including those matters repealed by Section 22 of this Amendment [Ark. Const. Amend. 80, § 22]. The geographic circuits and subject matter divisions of these courts existing at the time this Amendment takes effect shall become circuits and divisions of the Circuit Court as herein established until changed pursuant to this Amendment. Circuit Courts shall assume the jurisdiction of Circuit, Chancery, Probate and Juvenile Courts.

(2) District Courts shall have the jurisdiction vested in Municipal Courts, Corporation Courts, Police Courts, Justice of the Peace Courts, and Courts of Common Pleas at the time this Amendment takes effect. District Courts shall assume the jurisdiction of these courts of limited jurisdiction and other jurisdiction conferred in this Amendment on January 1, 2005. City Courts shall continue in existence after the effective date of this Amendment unless such City Court is abolished by the governing body of the city or by appropriate action of the General Assembly. Immediately upon abolition of such City Court, the jurisdiction of the City Court shall vest in the nearest District Court in the county where the city is located.

(C) Continuation of Courts. The Supreme Court provided for in this Amendment shall be a continuation of the Supreme Court now existing. The Court of Appeals shall be regarded as a continuation of the Court of Appeals now existing. All laws and parts of laws relating to the Supreme Court and to the Court of Appeals which are not in conflict or inconsistent with this Amendment shall remain in full force and effect and shall apply to the Supreme Court and Court of Appeals, respectively, established by this Amendment until amended, repealed or superseded by appropriate action of the General Assembly or the Supreme Court pursuant to this Amendment. The Circuit Courts shall be regarded as a continuation of the Circuit, Chancery, Probate and Juvenile Courts now existing. Effective January 1,

2005, the District Courts shall be regarded as a continuation of the Municipal Courts, Corporation Courts, Police Courts, Justice of the Peace Courts and Courts of Common Pleas now existing. All the papers and records pertaining to these courts shall be transferred accordingly, and no suit or prosecution of any kind or nature shall abate because of any change made by this Amendment. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, decrees, orders, sentences, regulations, causes of action and appeals existing on the effective date of this Amendment shall continue unaffected except as modified in accordance with this Amendment.

§ 20. Prosecuting attorneys.

A Prosecuting Attorney shall be elected by the qualified electors of each judicial circuit. Prosecuting Attorneys shall have been licensed attorneys of this state for at least four years immediately preceding the date of assuming office. They shall be qualified electors within the judicial circuit from which they are elected and shall reside within that geographical area at the time of the election and during their period of service. They shall serve four-year terms.

§ 21. Effective date.

This Amendment shall become effective on July, 2001.

§ 22. Repealer.

(A) The following sections of Article 7 of the Constitution of the State of Arkansas are hereby repealed effective July 1, 2001; [sic] 1 through 18; 20 through 22; 24; 25; 32; 34; 35; 39; 40; 42; 44; 45 and 50.

(B) Sections 34 and 35 of Article 7 of the Constitution of the State of Arkansas, as amended by Sections 1 and 2 of Amendment 24, are hereby repealed effective July 1, 2001.

(C) Section 43 of Article 7 of the Constitution of the State of Arkansas is hereby repealed effective January 1, 2005.

(D) Section 1 of Amendment 58 of the Constitution of the State of Arkansas is hereby repealed effective July 1, 2001.

(E) Section 1 of Amendment 64 of the Constitution of the State of Arkansas is hereby repealed effective January 1, 2005.

(F) Section 1 of Amendment 77 of the Constitution of the State of Arkansas is hereby repealed effective July 1, 2001.

(G) No other provision of the Constitution of the State of Arkansas shall be repealed by this Amendment unless the provision is in irreconcilable conflict with the provisions of this Amendment.

DISTRICT COURT RULES

Rule 1. Scope of rules.

(a) These rules shall govern the procedure in all civil actions in the district courts and county courts (hereinafter collectively called the "district courts") of this state. They shall apply in the small claims division of district courts except as may be modified by Rule 10 of these rules.

(b) These rules shall not apply to an appeal of a tax assessment from an equalization board to the county court. Rule 9 of these rules, however, shall apply to a tax-assessment appeal from county court to circuit court.

(c) Where applicable and unless otherwise specifically modified herein, the Arkansas Rules of Civil Procedure and the Arkansas Rules of Evidence shall apply to and govern matters of procedure and evidence in the district courts of this State. Actions in the small claims division of district court shall be tried informally before the court with relaxed rules of evidence, see Rule 10(d)(2) of these rules.

(d) Rules specific to criminal proceedings in district court shall so indicate, and in such cases, such rules shall apply to actions pending in city courts.

(e) Other matters affecting district courts may be found in Administrative Order Number 18.

Addition to Reporter's Notes, 2008 Amendment. Subdivision (b) is new. It recognizes that our statutes prescribe specific procedures for appealing a tax assessment from an equalization board to the county court. Ark. Code Ann. §§ 26-27-311, 318. Those statutory procedures, not the District Court Rules, govern such cases in the county court with one exception. The exception is that Rule 9 governs appeals in tax-assessment cases from county court to circuit court. Former subdivisions (b)–(d) have been redesignated as (c)–(e).

Rule 2. Jurisdiction and venue unaffected; Right to jury trial.

(a) These rules shall not be construed to extend or affect the jurisdiction of the district courts of this State or the venue of actions therein.

(b) There shall be no jury trials in district court. In order that the right of trial by jury remains inviolate, all appeals from judgment in district court shall be de novo to circuit court.

Rule 3. Commencement of action.

A civil action is commenced by filing a complaint with the clerk of the proper court who shall note thereon the date and precise time of filing. However, an action shall not be deemed commenced as to any defendant not served with the complaint, in accordance with these rules, within 120 days of the date on which the complaint is filed, unless within that time and for good cause shown the court, by written order or docket entry, extends the time for service.

Rule 4. Complaint.

A complaint shall be in writing and signed by the plaintiff or his or her attorney, if any. It shall also: (a) state the names of the parties, the nature and basis of the claim, and the nature and amount of the relief sought; (b) warn the defendant to file a written answer with the clerk of the court, and to serve a copy to the plaintiff or his or her attorney, within 30 days after service of the complaint upon him; (c) warn the defendant that failure to file an answer may result in a default judgment being entered against him; (d) recite the address of the plaintiff or his or her attorney, if any; and (e) contain a proof of service form which shall be completed by the person serving the defendant. No separate summons is required.

COMPLAINT - FORM

_____ Court of _____, Arkansas

_____, Plaintiff

Vs. No. _____

_____, Defendant

Plaintiff's Address: _____
Defendant's Address: _____
Nature of Claim: _____
Nature and Amount of Relief Claimed: _____
_____
_____
_____
Date Claim Arose: _____
Factual Basis of Claim: _____

Plaintiff's Attorney, if any, and Address: _____
_____
_____

_____
[Signature of Attorney, if any, or of Plaintiff]

SUMMONS AND NOTICE TO DEFENDANT

You are hereby warned to file a written answer with the clerk of the court within 30 days after the date that you receive this complaint and to send a copy to the plaintiff or to his or her attorney. If you do not file an answer within 30 days, or if you fail to file an answer, a default judgment may be entered against you.

_____
[Signature of Clerk or Judge]

PROOF OF SERVICE

STATE OF ARKANSAS

CITY OF _____

I _____, hereby certify that I served the within complaint on the defendant _____ _____, at o'clock ___.m. on _____ 2_____, by [state method of service].

_____
[Signature and Office, if any]

Subscribed and sworn to before me this _____ day of _____ 2_____,
[To be completed if service is by someone other than sheriff or constable.]

_____
Notary Public or Court Clerk

My Commission Expires: _____

Rule 5. Service of complaint.

(a) *By Whom Served.* A copy of the complaint shall be served upon each defendant by a sheriff or constable or any other person permitted to make service under Rule 4(c) of the Arkansas Rules of Civil Procedure.

(b) *Proof of Service.* The person serving the complaint shall promptly make proof of service thereof to the clerk of the court. Proof of service shall reflect that which has been done to show compliance with these rules. Service by one other than the sheriff or constable shall state by affidavit the time, place, and manner of service.

Rule 6. Contents of answer; time for filing.

(a) *Contents of Answer.* An answer shall be in writing and signed by the defendant or his or her attorney, if any. It shall also state: (1) the reasons for denial of the relief sought by the plaintiff, including any affirmative defenses and the factual bases therefor; (2) any affirmative relief sought by the defendant, whether by way of counterclaim, set-off, cross-claim, or third-party claim, the factual bases for such relief, and the names and addresses of other persons needed for determination of the claim for affirmative relief; and (3) the address of the defendant or his or her attorney, if any.

(b) *Time for Filing Answer or Reply.* A defendant shall file an answer with the clerk of the court within thirty (30) days after the service of the complaint upon the defendant. An answer to a cross-claim and a reply to a counterclaim shall be filed with the clerk of the court within 20 days of the date that the pleading asserting the claim is served. A copy of an answer or reply shall also be served on the opposing party or parties in accordance with Rule 5(b) of the Rules of Civil Procedure.

ANSWER AND AFFIRMATIVE RELIEF - FORM

_____ Court of _____, Arkansas

_____, Plaintiff

Vs. No. _____

_____, Defendant

Defendant's Address: _____
Reasons for Denial of Plaintiff's Claim: _____
Affirmative Defenses: _____
_____
Nature and Amount of Affirmative Relief Sought: _____
_____
Date Affirmative Claim Arose: _____
Factual Basis of Affirmative Claim: _____
_____
_____

Names and Addresses of Other Persons Needed for Determination of Affirmative Claim:
_____
_____
_____

Defendant's Attorney, if any, and Address: _____
_____
_____

_____
[Signature of Attorney, if any, or of Defendant]

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing answer was served on [plaintiff or attorney for plaintiff, as appropriate] on the _____ date of _____, 2_____, by [state method of service used, e.g., hand delivery, mail, commercial delivery service].

_____
[Signature of Defendant or Defendant's Attorney]

Rule 7. Jurisdiction - Effect of counterclaim, cross-claim, or third-party claim - Transfer.

(a) *Subject Matter Jurisdiction.* The civil jurisdiction of district courts is set out in Administrative Order Number 18.

(b) *Plaintiff's Claim Exceeds Jurisdictional Amount*. If the plaintiff's claim is in an amount that exceeds the court's jurisdictional limit, the court, upon its own motion or upon motion of either party, shall dismiss the claim for lack of subject matter jurisdiction.

(c) *Compulsory Counterclaim or Set-off*. If a compulsory counterclaim or a set-off involves an amount that would cause the court to lose jurisdiction of the case, the court, upon its own motion or upon motion of either party, shall transfer the entire case to circuit court for determination therein as if the case had been appealed.

(d) *Permissive Counterclaim, Cross-Claim, or Third-Party Claim*. If a permissive counterclaim, a cross-claim, or a third-party claim involves an amount that would otherwise cause the court to lose jurisdiction of the case, the court shall disregard such counterclaim, cross-claim, or third-party claim and proceed to determine the claim of the plaintiff.

Rule 8. Judgments - How entered.

(a) *By Default*. When a defendant has failed to file an answer or reply within the time specified by Rule 6(b) of these rules, a default judgment may be rendered against him.

(b) *Upon the Merits*. Where the court has decided the case, it shall enter judgment in favor of the prevailing party for the relief to which the party is deemed entitled.

(c) *Docket Entry*. The court shall timely enter in the docket the date and amount of the judgment, whether rendered by default or upon the merits.

(d) *Judgment Lien*. A judgment entered by a district court in this state shall not become a lien against any real property unless a certified copy of such judgment, showing the name of the judgment debtor, the date and amount thereof, shall be filed in the office of the circuit clerk of the county in which such land is situated.

Rule 9. Appeals to circuit court.

(a) *Time for Taking Appeal*. All appeals in civil cases from district courts to circuit court must be filed in the office of the clerk of the particular circuit court having jurisdiction of the appeal within 30 days from the date of a docket entry awarding judgment regardless of whether a formal judgment is entered. The 30-day period is not extended by a motion for judgment notwithstanding the verdict, a motion for new trial, a motion to amend the court's findings of fact or to make additional findings, or any other motion to vacate, alter or amend the judgment.

(b) *How Taken*. A party may take an appeal from a district court by filing a certified copy of the district court's docket sheet, which shows the awarding of judgment and all prior entries, with the clerk of the circuit court having jurisdiction over the matter. Neither a notice of appeal nor an order granting leave to appeal shall be required. The appealing party shall serve a copy of the certified docket sheet upon counsel for all other parties, and any party proceeding pro se, by any form of mail that requires a signed receipt.

(c) *Procedure on Appeal from District Court.*

(1) All the parties shall assert all their claims and defenses in circuit court. Within thirty days after a party perfects its appeal to circuit court by filing a certified copy of the district court docket sheet with the circuit clerk, the party who was the plaintiff in district court shall file a complaint and plead all its claims in circuit court. The party who was the defendant in district court shall file its answer, motions, and claims within the time and manner prescribed by the Arkansas Rules of Civil Procedure. All the parties shall serve their pleadings and other papers on counsel for all opposing parties, and on any party proceeding pro se, by any form of mail which requires a signed receipt.

(2) At the time they file their complaint, answer, motions, and claims, the parties shall also file with the circuit clerk certified copies of any district court papers that they believe are material to the disputed issues in circuit court. Any party may also file certified copies of additional district court papers at any time during the proceeding as the need arises.

(3) As soon as practicable after the pleadings are closed, the circuit court shall establish a schedule for discovery, motions, and trial.

(4) Except as modified by the provisions of this rule, and except for the inapplicability of Rule of Civil Procedure 41, the Arkansas Rules of Civil Procedure shall govern all the circuit court proceedings on appeal of a district court judgment as if the case had been originally in circuit court.

(d) *Supersedeas Bond on Appeal from District Court*. Whenever an appellant entitled thereto desires a stay on appeal to circuit court in a civil case, he shall present to the district court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be to the effect that appellant shall pay to appellee all costs and damages that shall be affirmed against appellant on appeal; or if appellant fails to prosecute the appeal to a final conclusion, or if such appeal shall for any cause be dismissed, that appellant shall satisfy and perform the judgment, decree, or order of the inferior court. All proceedings in the district court shall be stayed from and after the date of the court's order approving the supersedeas bond.

(e) … (NOTE: '*Special Provisions for Appeals from County Court to Circuit Court' is omitted from this document)*

Addition to Reporter's Notes, 2008 Amendment*. The rule has been substantially rewritten to eliminate several points of confusion and difficulty.*

Subdivision (a) has been amended. The rule prescribes that the thirty-day time to appeal from a district court runs from the date that the court makes a docket entry of judgment. This change conforms the rule to precedent. E.g., Lewis v. Robertson, 96 Ark. App. 114, 239 S.W. 3d 30 (2006). This change also preserves the flexibility that district courts need to dispose of many cases with only a docket entry. Counsel and parties proceeding pro se must monitor the district court's docket carefully to determine when the time to appeal begins to run.

The procedure prescribed in subdivision (b) for taking an appeal has been changed. Instead of having to file a certified copy of the entire district court record, now the appealing party must file with the circuit clerk only a certified copy of the district court docket sheet. This document should show all proceedings in the district court, including the judgment appealed from. This simplification makes it easier to perfect an appeal. It eliminates the difficulty that parties often encountered in getting a complete certified record from the district court clerk within thirty days of the judgment. This change also eliminates the need for former subdivision (c), which provided an affidavit procedure when the certified district court record was unavailable and which resulted in litigation about that procedure. E.g., Nettles v. City of Little Rock, 96 Ark. App. 86, 238 S.W.3d 635 (2006). New subdivision (b) also conforms the rule to case law.

In McNabb v. State, 367 Ark. 93, 238 S.W.3d 119 (2006), the supreme court held that a party satisfied former rule 9's requirement that the appealing party file "a record of the proceedings" in the district court by filing a certified district court docket sheet with the circuit clerk.

To ensure notice of the appeal to opposing parties, the appealing party must serve the docket sheet on all other parties by some form of mail that generates a signed receipt. This provision echoes the requirements of Arkansas Rule of Appellate Procedure—Civil 3(f) about serving a notice of appeal. Rule of Civil Procedure 4 does not apply and service of process is not required.

Former Rule 9 was silent about the procedure that circuit courts should follow in perfected appeals from district court. This silence led to confusion. E.g., Wright v. City of Little Rock, 366 Ark. 96, 233 S.W.3d 644 (2006). New subdivision (c) outlines the procedure in circuit court: the party who was the plaintiff in the district court must file a complaint and plead its claims again; the other parties must file their answers, motions, and claims; all the parties must file certified copies of whatever district court materials they believe are important; and then the circuit court should handle the case like any other matter pursuant to the Arkansas Rules of Civil Procedure.

The requirement to plead again is new. It better captures the truth that appeals from district court are appellate in form but original in fact. This new pleading requirement generated a corresponding amendment in Rule of Civil Procedure 81(b), which formerly made pleading again discretionary with the circuit court.

Under settled precedent, an appeal from a district court judgment may not be dismissed without prejudice, either by a party's voluntary nonsuit or by the circuit court. Such a dismissal leaves the district court's judgment intact and finally adjudicates the matter. Wright, supra; Watson v. White, 217 Ark. 853, 233 S.W.2d 544 (1950). With that exception, and subject to the particularized requirements of this rule, the Arkansas Rules of Civil Procedure apply to circuit court proceedings on appeal from a district court's judgment. To insure that all parties have notice of the claims and defenses in circuit court, and to avoid defaults, all the parties must serve their pleadings by some form of mail requiring a signed receipt.

Rule 10. Procedure in small claims division.

(a) *Commencement of action - Form of claim and notice to defendant.*

(1) Actions in the small claims division of district court shall be commenced whenever the claimant or the personal representative of a deceased claimant shall file with the clerk of the court a claim in substantially the following form:

In the District Court of _____, State of Arkansas.

Small Claims Division

_____
Plaintiff

Vs. No. _____

_____
Defendant

Defendant's Address: _____
Nature of Claim: _____

Nature and Amount of Relief Claimed: _____
Date Claim Arose: _____
Factual Basis of Claim: _____

_____
Signature of Plaintiff

_____
Plaintiff's Address

SUMMONS AND NOTICE TO DEFENDANT

You are hereby warned to file a written answer with the clerk of this court within thirty (30) days after you receive this claim and forward a copy to the plaintiff at the address above or a default judgment may be entered against you.

_____
(Signature of Clerk or Judge)

_____
District Court Clerk

Address: _____

RETURN OF SERVICE

STATE OF ARKANSAS
COUNTY OF _____

I _____, certify that I served the within Claim Form on the defendant _____ _____, at ____ o'clock _____.m. on _____, 2____, by _____ _____. (Show manner of service)

_____ Name and Office, if any

Subscribed and sworn to before me this _____ day of _____ _____, 2_____
(To be completed if service by other than a Sheriff, Constable, or Clerk)

_____
Notary Public

My commission expires: _____

(2) *Preparation, etc., of claim form.*

The plaintiff shall prepare the claim form as is set forth in this rule. The claim form shall be presented by the plaintiff in person. Upon receipt of the claim form and filing fee, the clerk shall file the claim form and proceed to assist the plaintiff in obtaining service on the defendant. In all cases,

a copy of the answer in substantially the same form as set forth in this rule shall be included by the clerk with the claim form to be served on the defendant.

(3) *Service of process.*

(A) Unless service by the sheriff or other authorized person is requested by the plaintiff, the defendant shall be served by certified mail.

(B) The clerk shall enclose a copy of the claim form in an envelope addressed to the defendant at the address stated in the claim form, prepay the postage, the cost of which may be collected from the plaintiff at time of filing, and mail the envelope to the defendant by certified mail and request a return receipt from addressee only. The clerk shall attach to the original claim form the receipt for the certified letter and the return card thereon or other evidence of service of the claim form. No separate summons is required.

(C) Service hereunder shall be in accordance with Rule 4 of the Arkansas Rules of Civil Procedure.

(b) *Answer by defendant.*

A defendant shall file an answer with the clerk of the court within thirty (30) days after the service of the claim form upon the defendant. The defendant shall mail a copy of the answer to the plaintiff.

(c) *Form of answer - Affirmative relief.*

The defendant shall file with the clerk of the court his or her answer and assert any affirmative relief he or she may claim in substantially the following form:

In the District Court of _____
Small Claims Division

_____
Plaintiff

Vs. No. _____

_____
Defendant

Defendant's Address: _____
Reason for Denial of Plaintiffs Claim: _____
Nature and Amount of Affirmative Relief (if any):_____
_____
Date Affirmative Claim Arose: _____
Factual Basis of Affirmative Claim: _____
_____

_____
(Signature of Defendant)

(d) *Taking of evidence - Third-party practice.*

(1) The plaintiff and the defendant shall have the right to offer evidence in their behalf by witnesses appearing at the hearing or, with the permission of the court, at any other time.

(2) Actions in the small claims division of district court shall be tried informally before the court with relaxed rules of evidence.

(3) No depositions shall be taken and no interrogatories or other discovery proceedings shall be used in proceedings, except in the aid of execution.

(4) No new parties shall be brought into an action in the small claims division of district court, and no party shall be allowed to intervene.

(e) *Judgments and orders - Awarding of costs - Appeals.*

(1) The judge may give judgment and make such orders as to time of payment or otherwise as may be deemed by him or her to be right and just. However, judgments and orders shall be in writing and entered upon the official record in the same manner as other judgments and orders of the district court.

(2) No prejudgment attachment or prejudgment garnishment shall issue in any suit in the small claims division of district court.

(3) Proceedings to enforce or collect a judgment shall be in all respects as in other cases, except that security interests may be proved at the same time as the proof of the claim. The order of judgment may include an order of delivery directing the sheriff to deliver the property subject to the security interests to the plaintiff. If the court issues an order of delivery, no further action shall be necessary on the part of the plaintiff to obtain possession of the property.

(4) Except as otherwise ordered by the court, no execution or enforcement proceedings shall issue on any judgment until after the expiration of ten (10) days from the entry thereof.

(5) The prevailing party in an action in the small claims division of district court is entitled to costs of the action, including the costs of service and notice directing the appearance of the defendant and the costs of enforcing any judgment rendered in the action.

(6) Appeals may be taken from the judgment rendered in the small claims division of district court in the same manner as other civil appeals are taken from district courts.

(f) *Restrictions on participation by attorneys.* See Administrative Order Number 18.

Rule 11. Uniform paper size.

All briefs, motions, pleadings, records, transcripts, and other papers required or authorized by these rules shall be on 8 1/2" by 11" paper.

ARKANSAS RULES OF CRIMINAL PROCEDURE

RULE 36. APPEALS FROM DISTRICT COURT TO CIRCUIT COURT.

(a) *Right to Appeal.* A person convicted of a criminal offense in a district court, including a person convicted upon a plea of guilty, may appeal the judgment of conviction to the circuit court for the judicial district in which the conviction occurred. The state shall have no right of appeal from a judgment of a district court.

(b) *Time for Taking Appeal.* An appeal from a district court to the circuit court shall be filed in the office of the clerk of the circuit court having jurisdiction of the appeal within thirty (30) days from the date of the entry of the judgment in the district court. The 30-day period is not extended by the filing of a post-trial motion under Rule 33.3.

(c) *How Taken.* An appeal from a district court to circuit court shall be taken by filing with the clerk of the circuit court a certified record of the proceedings in the district court. Neither a notice of appeal nor an order granting an appeal shall be required. The record of proceedings in the district court shall include, at a minimum, a copy of the district court docket sheet and any bond or other security filed by the defendant to guarantee the defendant's appearance before the circuit court. It shall be the duty of the clerk of the district court to prepare and certify such record when the defendant files a written request to that effect with the clerk of the district court and pays any fees of the district court authorized by law therefor. The defendant shall serve a copy of the written request on the prosecuting attorney for the judicial district and shall file a certificate of such service with the district court. The defendant shall have the responsibility of filing the certified record in the office of the circuit clerk. Except as otherwise provided in subsection (d) of this rule, the circuit court shall acquire jurisdiction of the appeal upon the filing of the certified record in the office of the circuit clerk.

(d) *Failure of clerk to file record.* If the clerk of the district court does not prepare and certify a record for filing in the circuit court in a timely manner, the defendant may take an appeal by filing an affidavit in the office of the circuit clerk, within forty (40) days from the date of the entry of the judgment in the district court, showing (i) that the defendant has requested the clerk of the district court to prepare and certify the record for purposes of appeal and (ii) that the clerk has not done so within thirty (30) days from the date of the entry of the judgment in the district court. The defendant shall promptly serve a copy of such affidavit upon the clerk of the district court and upon the prosecuting attorney. The circuit court shall acquire jurisdiction of the appeal upon the filing of the affidavit. On motion of the defendant or the prosecuting attorney, the circuit court may order the clerk of the district court to prepare, certify, and file a record in the circuit court.

(e) *Bond.* When an appeal is taken from a district court to circuit court, the district court may require the defendant to post a bond or other security to guarantee the appearance of the defendant before the circuit court, provided that an appearance bond originally posted with the district court to guarantee the appearance of the defendant before that court shall serve to guarantee the appearance of the defendant before the circuit court on appeal. The approval of the bond or other security to guarantee the appearance of the defendant before the circuit court shall stay the imposition of the judgment imposed by the district court. The clerk of the district court shall transmit any bond or other security to the circuit court. The failure of the defendant to post a bond or other security with the district court shall not

prevent the circuit court from acquiring jurisdiction of the appeal. After acquiring jurisdiction of the appeal, the circuit court may modify the bond or other security.

(f) *Notice*. When the record of the proceeding in the district court is filed in the office of the circuit clerk, the circuit clerk shall promptly give written notice thereof to the prosecuting attorney and to the circuit judge to whom the appeal is assigned.

(g) *Trial De Novo*. An appeal from a judgment of conviction in a district court shall be tried *de novo* in the circuit court as if no judgment had been rendered in the district court.

(h) *Default Judgment*. The circuit court may affirm the judgment of the district court if (i) the defendant fails to appear in circuit court when the case is set for trial; or (ii) the clerk of the district court fails to prepare and certify a record for filing in the circuit court as provided in subsection (c) of this rule and the defendant fails to move the circuit court for an order to compel the filing of the record within thirty (30) days after filing the affidavit provided in subsection (d) of this rule.

(i) *District court without clerk*. If a district court has no clerk, any reference in this rule to the clerk of a district court shall be deemed to refer to the judge of the district court.

Reporter's Notes: Prior to the adoption of Rule 36 appeals from limited jurisdiction courts to circuit court were governed by District Court Rule 9 (formerly Inferior Court Rule 9) and various statutory provisions in Title 16, Chapter 9, Subchapter 5. Although District Court Rule 1 limited the scope of the rules to "civil actions in district courts and county courts," the Supreme Court ruled that District Court Rule 9 also governed criminal appeals. *Bocksnick v. City of London*, 308 Ark. 599, 825 S.W.2d 267 (1992).

Subsection (a) incorporates Ark. Code Ann. § 16-96-501 (shown as superseded) and Arkansas Code Ann. § 16-96-502 (repealed in 2005). See, also, Amendment 80, § 7(A) of the Arkansas Constitution, which establishes district courts as trial courts of limited jurisdiction, subject to the right of appeal to circuit court.

Subsection (b) substantially restates District Court Rule 9(a).

Subsection (c) is based on District Court Rule 9(b). Because appearance bonds are unique to criminal appeals, the sentence requiring the record to include any bond or other security to guarantee the defendant's appearance in circuit court is not found in District Court Rule 9(b). Ark. Code Ann. § 16-96-505, which describes the transcript in a criminal case, was not included in this subsection because § 16-96-505 is shown as superseded by the Code Revision Commission.

Subsection (d) is based on District Court Rule 9(c). A defendant has two ways to perfect an appeal from district court to circuit court. The usual method will be to file the certified record with the circuit court, as described in subsection (c). Alternatively, if the district court clerk does not prepare and certify the district court record, the defendant can vest the circuit court with jurisdiction by filing the affidavit described in subsection (d). *Velek et al. v. State (City of Little Rock)*, ___ Ark. ___, ___ S.W.3d ___ (2006). If the district court record is not filed within thirty days but is filed within forty days, the circuit court does not acquire jurisdiction of the appeal unless the defendant also files an affidavit to the effect that the record was requested but not prepared and certified within thirty days by the district court clerk.

Subsection (e) is derived from on District Court Rule 9(d) and repealed Ark. Code Ann. § 16-96-504. The sentence providing that an appearance bond posted with the district court shall serve to guarantee the appearance of the defendant before the circuit court is consistent with Arkansas Rule of Criminal Procedure 9.2(e). The next to last sentence of the subsection codifies the holding of *Velek*, *supra*. In that case the Supreme Court ruled that the circuit court acquired jurisdiction upon filing of the affidavit described in subsection (d) even though the district court clerk refused to prepare the record because the defendant failed to post an appeal bond.

Subsection (f) ensures that both the prosecuting attorney and the circuit judge are aware that an appeal to circuit court has been filed and should reduce the number of cases in which thedefendant fails to receive the speedy trial required by Arkansas Rule of Criminal Procedure 28. There is nothing comparable to this subsection in current law.

Subsection (g)'s provision for *de novo* review of a district court judgment on appeal to circuit court is required by Amendment 80, § 7(A) of the Arkansas Constitution. See, also, Ark. Code Ann. § 16-96-507.

Subsection (h) is based loosely on Ark. Code Ann. § 16-96-508. The collection and disposition of fines, penalties, forfeitures, or costs in the event of a default judgment in circuit court will continue to be governed by Ark. Code Ann. § 16-96-403.

Reporter's Notes, 2007 Amendments. The 2007 amendment to subsection (d) clarified the contents of the record that must be filed with the circuit court in order to vest that court with jurisdiction of the appeal. *Compare McNabb v. State,* 367 Ark. 93, _ S.W.3d _ (2006). After acquiring jurisdiction of the appeal, the circuit court can if necessary or desirable, order additional documents or pleadings filed in the district court be made a part of the record on appeal.

Arkansas Code of Judicial Conduct

PREAMBLE

[1] An independent, fair and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

[2] Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

[3] The Arkansas Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are governed in their judicial and personal conduct by general ethical standards as well as by the Code. The Code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through disciplinary agencies.

SCOPE

[1] The Arkansas Code of Judicial Conduct consists of four Canons, numbered Rules under each Canon, and Comments that generally follow and explain each Rule. Scope and Terminology sections provide additional guidance in interpreting and applying the Code. An Application section establishes when the various Rules apply to a judge or judicial candidate.

[2] The Canons state overarching principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a Rule, the Canons provide important guidance in interpreting the Rules. Where a Rule contains a permissive term, such as "may" or "should," the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

[3] The Comments that accompany the Rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the Rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the term "must," it does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue.

[4] Second, the Comments identify aspirational goals for judges. To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

[5] The Rules of the Arkansas Code of Judicial Conduct are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

[6] Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the Rules, and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

[7] The Code is not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

TERMINOLOGY

"Aggregate," in relation to contributions for a candidate, means not only contributions in cash or in kind made directly to a candidate's campaign committee, but also all contributions made indirectly with the understanding that they will be used to support the election of a candidate or to oppose the election of the candidate's opponent. See Rules 2.11 and 4. 4.

"Appropriate authority" means the authority having responsibility for initiation of disciplinary process in connection with the violation to be reported. See Rules 2.14 and 2.15.

"Contribution" means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 2.11, 2.13, 3.7, 4.1, and 4.4.

"De minimis," in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge's impartiality. See Rule 2.11.

"Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. See Rules 2.11, 2.13, 3.13, and 3.14.

"Economic interest" means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

(1) an interest in the individual holdings within a mutual or common investment fund;

(2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a direc-

tor, an officer, an advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judge.

See Rules 1.3 and 2.11.

"Fiduciary" includes relationships such as executor, administrator, trustee, or guardian. See Rules 2.11, 3.2, and 3.8.

"Impartial," "impartiality," and **"impartially"** mean absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge. See Canons 1, 2, and 4, and Rules 1.2, 2.2, 2.10, 2.11, 2.13, 3.1, 3.12, 3.13, 4.1, and 4.2.

"Impending matter" is a matter that is imminent or expected to occur in the near future. See Rules 2.9, 2.10, 3.13, and 4.1.

"Impropriety" includes conduct that violates the law, court rules, or provisions of this Code, and conduct that undermines a judge's independence, integrity, or impartiality. See Canon 1 and Rule 1.2.

"Independence" means a judge's freedom from influence or controls other than those established by law. See Canons 1 and 4, and Rules 1.2, 3.1, 3.12, 3.13, and 4.2.

"Integrity" means probity, fairness, honesty, uprightness, and soundness of character. See Canon 1 and Rule 1.2.

"Judicial candidate" means any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, authorizes or, where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for election or appointment to office. See Rules 2. 11, 4.1, 4.2, and 4.4.

"Knowingly," "knowledge," "known," and **"knows"** mean actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances. See Rules 2.11, 2.13, 2.15, 2.16, 3.6, and 4.1.

"Law" encompasses court rules as well as statutes, constitutional provisions, and decisional law. See Rules 1.1, 2.1, 2.2, 2.6, 2.7, 2.9, 3.1, 3.4, 3.9, 3.12, 3.13, 3.14, 3.15, 4.1, 4.2, 4.4, and 4.5.

"Member of the candidate's family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the candidate maintains a close familial relationship.

"Member of the judge's family" means a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

"Member of a judge's family residing in the judge's household" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household. See Rules 2.11 and 3.13.

"Nonpublic information" means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3. 5.

"Pending matter" is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, 3.13, and 4.1.

"Personally solicit" means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. See Rule 4.1.

"Political organization" means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate's campaign committee created as authorized by Rule 4.4. See Rules 4.1 and 4.2.

"Public election" includes primary and general elections. See Rules 4.2 and 4.4.

"Third degree of relationship" includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11.

APPLICATION

The Application section establishes when the various Rules apply to a judge or judicial candidate.

I. APPLICABILITY OF THIS CODE

(A) The provisions of the Code apply to all full-time judges. Parts II through V of this section identify those provisions that apply to four distinct categories of part-time judges. The four categories of judicial service in other than a full-time capacity are necessarily defined in general terms because of the widely varying forms of judicial service. Canon 4 applies to judicial candidates.

(B) A judge, within the meaning of this Code, is anyone who is authorized to perform judicial functions, including an officer such as a, magistrate, special master, referee, or member of the administrative law judiciary.

COMMENT

[1] The Rules in this Code have been formulated to address the ethical obligations of any person who serves a judicial function, and are premised upon the supposition that a uniform system of ethical principles should apply to all those authorized to perform judicial functions.

[2] The determination of which category and, accordingly, which specific Rules apply to an individu-

al judicial officer, depends upon the facts of the particular judicial service.

[3] In recent years many jurisdictions have created what are often called "problem solving" courts, in which judges are authorized by court rules to act in nontraditional ways. For example, judges presiding in drug courts and monitoring the progress of participants in those courts' programs may be authorized and even encouraged to communicate directly with social workers, probation officers, and others outside the context of their usual judicial role as independent decision makers on issues of fact and law.

II. [Reserved]

III. CONTINUING PART-TIME JUDGE

A judge who serves repeatedly on a part-time basis by election or under a continuing appointment, including a retired judge subject to recall who is permitted to practice law ("continuing part-time judge"),

(A) is not required to comply:

(1) with Rules 2.10(A) and 2.10(B) (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges), 3.15 (Reporting Requirements); and

(B) shall not practice law in the court on which the judge serves, shall not appear in any criminal matter in the county in which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

COMMENT

[1] When a person who has been a continuing part-time judge is no longer a continuing part-time judge, including a retired judge no longer subject to recall, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the informed consent of all parties, and pursuant to any applicable Arkansas Rules of Professional Conduct.

[2A] Paragraph (B) does not, as a general rule, prohibit a continuing part-time judge from practicing law. However the position of a judge in presiding over a criminal matter and then appearing as a criminal defense attorney in a court of general jurisdiction and opposing that same prosecutor creates an appearance of impropriety, even when the proceedings are separate. Accordingly, continuing part time judges are prohibited from appearing in any criminal matter in the county where the judge serves, regardless of how the criminal matter arises.

[3A] Because the position of the judge is paramount to the judge's private law practice, the judge should be particularly sensitive to conflicts that may arise when the judge presides over matters involving particular attorneys and then, in his or her private law practice, appears in adversary proceedings in a court of general jurisdiction opposing the same attorneys who appear before the judge.

Opposing counsel may be hampered in vigorous advocacy against an attorney who wears judicial robes and presides over cases involving that counsel. The primacy of judicial service and the obligation to avoid even the appearance of impropriety mandate caution in accepting civil cases in disputed matters.

IV. PERIODIC PART-TIME JUDGE

A periodic part-time judge who serves or expects to serve repeatedly on a part-time basis, but under a separate appointment for each limited period of service or for each matter,

(A) is not required to comply:

(1) with Rule 2.10 (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office); and

(B) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

V. PRO TEMPORE PART-TIME JUDGE

A pro tempore part-time judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment for each period of service or for each case heard is not required to comply:

(A) except while serving as a judge, with Rules 1.2 (Promoting Confidence in the Judiciary), 2.4 (External Influences on Judicial Conduct), 2.10 (Judicial Statements on Pending and Impending Cases), or 3.2 (Appearances before Governmental Bodies and Consultation with Government Officials); or

(B) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.6 (Affiliation with Discriminatory Organizations), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office).

VI. TIME FOR COMPLIANCE

A person to whom this Code becomes applicable shall comply immediately with its provisions, except that those judges to whom Rules 3.8 (Appointments to Fiduciary Positions) and 3.11 (Financial, Business, or Remunerative Activities) apply shall comply with those Rules as soon as reasonably

possible, but in no event later than one year after the Code becomes applicable to the judge.

COMMENT

[1] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event longer than one year.

CANON 1. A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1 Compliance with the Law

A judge shall comply with the law, including the Arkansas Code of Judicial Conduct.

RULE 1.2 Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

COMMENT

[1] Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

[2] A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the Code.

[3] Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

[4] Judges should participate in activities that promote ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

[5] Actual improprieties include violations of law, court rules or provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge.

[6] A judge should initiate and participate in community outreach activities for the purpose of pro-

moting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

RULE 1.3 Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

COMMENT

[1] It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.

[2] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.

[3] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.

[4] Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this Rule or other applicable law. In contracts for publication of a judge's writing, the judge should retain sufficient control over the advertising to avoid such exploitation.

CANON 2. A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.1 Giving Precedence to the Duties of Judicial Office

The duties of judicial office, as prescribed by law, shall take precedence over all of a judge's personal and extrajudicial activities.

COMMENT

[1] To ensure that judges are available to fulfill their judicial duties, judges must conduct their personal and extrajudicial activities to minimize the risk of conflicts that would result in frequent disqualification. See Canon 3.

[2] Although it is not a duty of judicial office unless prescribed by law, judges are encouraged to participate in activities that promote public understanding of and confidence in the justice system.

RULE 2.2 Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

COMMENT

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

[4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.

RULE 2.3 Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to personal characteristics when they are relevant to an issue in a proceeding.

COMMENT

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

[2] Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Even facial expressions and body language can convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

[3] Harassment, as referred to in paragraphs (B) and (C), is verbal or physical conduct that denigrates

or shows hostility or aversion toward a person on the basis of personal characteristics.

[4] Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome.

RULE 2.4 External Influences on Judicial Conduct

(A) A judge shall not be swayed by public clamor or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

COMMENT

[1] An independent judiciary requires that judges decide cases according to the law and facts, without regard to whether particular laws or litigants are popular or unpopular with the public, the media, government officials, or the judge's friends or family. Confidence in the judiciary is eroded if judicial decision making is perceived to be subject to inappropriate outside influences.

RULE 2.5 Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties, competently and diligently.

(B) A judge shall cooperate with other judges and court officials in the administration of court business.

COMMENT

[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.

[2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

[3] Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

RULE 2.6 Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

COMMENT

[1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judge's participation in settlement discussions may have, not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions, (2) whether the parties and their counsel are relatively sophisticated in legal matters, (3) whether the case will be tried by the judge or a jury, (4) whether the parties participate with their counsel in settlement discussions, (5) whether any parties are unrepresented by counsel, and (6) whether the matter is civil or criminal.

[3] Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge's best efforts, there may be instances when information obtained during settlement discussions could influence a judge's decision making during trial, and, in such instances, the judge should consider whether disqualification may be appropriate. See Rule 2.11(A)(1).

RULE 2.7 Responsibility to Decide

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.

COMMENT

[1] Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.

RULE 2.8 Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

COMMENT

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.

[3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.

RULE 2.9 Ex Parte Communications

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as follows:

(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:

(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

(2) A judge may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the judge, if the judge gives advance notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and affords the parties a reasonable opportunity to object and respond to the notice and to the advice received.

(3) A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.

(4) [Reserved]

(5) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law to do so.

(B) If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(C) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

(D) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

COMMENT

[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

[2] Whenever the presence of a party or notice to a party is required by this Rule, it is the party's lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is to be given.

[3] The proscription against communications concerning a proceeding includes communications with lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted by this Rule.

[4] A judge may initiate, permit, or consider ex parte communications expressly authorized by law, such as when serving on therapeutic or problem-solving courts, mental health courts, or drug courts. In this capacity, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers, and others.

[5] A judge may consult with other judges on pending matters, but must avoid ex parte discussions of a case with judges who have previously been disqualified from hearing the matter, and with judges who have appellate jurisdiction over the matter.

[6] The prohibition against a judge investigating the facts in a matter extends to information available in all mediums, including electronic.

[7] A judge may consult ethics advisory committees, outside counsel, or legal experts concerning the judge's compliance with this Code. Such consultations are not subject to the restrictions of paragraph (A)(2).

RULE 2.10 Judicial Statements on Pending and Impending Cases

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic

statement that might substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.

(E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge's conduct in a matter.

COMMENT

[1] This Rule's restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.

[2] This Rule does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity. In cases in which the judge is a litigant in an official capacity, such as a writ of mandamus, the judge must not comment publicly.

[3] Depending upon the circumstances, the judge should consider whether it may be preferable for a third party, rather than the judge, to respond or issue statements in connection with allegations concerning the judge's conduct in a matter.

RULE 2.11 Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) [Reserved]

(5) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(6) The judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter; or

(d) previously presided as a judge over the matter in another court.

(B) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(C) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

COMMENT

[1] Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (6) apply. In many jurisdictions, the term "recusal" is used interchangeably with the term "disqualification."

[2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

[3] The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the

basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

[4] The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge's impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A)(2)(c), the judge's disqualification is required.

[4A] The fact that a lawyer in a proceeding, or a litigant, contributed to the judge's campaign, or publicly supported the judge in his or her election does not of itself disqualify the judge. However, the size of contributions, the degree of involvement in the campaign, the timing of the campaign and the proceeding, the issues involved in the proceeding, and other factors known to the judge may raise questions as to the judge's impartiality under paragraph (A).

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[6] "Economic interest," as set forth in the Terminology section, means ownership of more than a de minimis legal or equitable interest. Except for situations in which a judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

(1) an interest in the individual holdings within a mutual or common investment fund;

(2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, officer, advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judge.

RULE 2.12 Supervisory Duties

(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

COMMENT

[1] A judge is responsible for his or her own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as the judge's representative when such conduct would violate the Code if undertaken by the judge.

[2] Public confidence in the judicial system depends upon timely justice. To promote the efficient administration of justice, a judge with supervisory authority must take the steps needed to ensure that judges under his or her supervision administer their workloads promptly.

RULE 2.13 Administrative Appointments

(A) In making administrative appointments, a judge:

(1) shall exercise the power of appointment impartially and on the basis of merit; and

(2) shall avoid nepotism, favoritism, and unnecessary appointments.

(B) [Reserved]

(C) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

(D) No judge shall employ a spouse or other relative unless it has been affirmatively demonstrated to the Arkansas Judicial Discipline and Disability Commission that it is impossible for the judge to hire any other qualified person to fill the position.

COMMENT

[1] Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers, and guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by paragraph (A).

[2] Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship of either the judge or the judge's spouse or domestic partner, or the spouse or domestic partner of such relative.

[3] [Reserved]

RULE 2.14 Disability and Impairment

A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.

COMMENT

[1] "Appropriate action" means action intended and reasonably likely to help the judge or lawyer in question address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include but is not limited to speaking directly to the impaired person, notifying an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

[2] Taking or initiating corrective action by way of referral to an assistance program may satisfy a

judge's responsibility under this Rule. Assistance programs have many approaches for offering help to impaired judges and lawyers, such as intervention, counseling, or referral to appropriate health care professionals. Depending upon the gravity of the conduct that has come to the judge's attention, however, the judge may be required to take other action, such as reporting the impaired judge or lawyer to the appropriate authority, agency, or body. See Rule 2.15.

[3A] Judges may exercise discretion in referring a lawyer or another judge to the Arkansas Judges and Lawyers Assistance Program. See Rule 2.15.

RULE 2.15 Responding to Judicial and Lawyer Misconduct

(A) A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the appropriate authority.

(B) A judge having knowledge that a lawyer has committed a violation of the Arkansas Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

(C) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code shall take appropriate action.

(D) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Arkansas Rules of Professional Conduct shall take appropriate action.

COMMENT

[1] Taking action to address known misconduct is a judge's obligation. Paragraphs (A) and (B) impose an obligation on the judge to report to the appropriate disciplinary authority the known misconduct of another judge or a lawyer that raises a substantial question regarding the honesty, trustworthiness, or fitness of that judge or lawyer. Ignoring or denying known misconduct among one's judicial colleagues or members of the legal profession undermines a judge's responsibility to participate in efforts to ensure public respect for the justice system. This Rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.

[2] A judge who does not have actual knowledge that another judge or a lawyer may have committed misconduct, but receives information indicating a substantial likelihood of such misconduct, is required to take appropriate action under paragraphs (C) and (D). Appropriate action may include, but is not limited to, communicating directly with the judge who may have violated this Code, communicating with a supervising judge, or reporting the suspected violation to the appropriate authority or other agency or body. Similarly, actions to be taken in response to information indicating that a lawyer has committed a violation of the Arkansas Rules of Professional Conduct may include but are not limited to communicating directly with the lawyer who may have committed the violation, or reporting the suspected violation to the appropriate authority or other agency or body.

[3A] This rule does not apply to a member of the Lawyer Assistance Committee of the Arkansas Judges and Lawyers Assistance Program (ArJLAP) or a volunteer acting pursuant to the Rules regarding information received in one's capacity as a Committee member or volunteer, acting in good faith, unless it appears to the member or volunteer that the lawyer or judge in question, after entry into the ArJLAP, is failing to desist from said violation, or is failing to cooperate with a program of

assistance to which said lawyer or judge has agreed, or is engaged in the sale of a controlled substance or theft of property constituting a felony under Arkansas law, or the equivalent thereof if the offense is not within the State's jurisdiction.

[4A] Except as provided by this Code or the Rules of ArJLAP, no information received, gathered, or maintained by the Committee, its members or volunteers, or by an employee of the ArJLAP in connection with the work of the Committee may be disclosed to any person nor be subject to discovery or subpoena in any administrative or judicial proceeding, except upon the express written release of the subject lawyer or judge. However, the Committee may refer any lawyer or judge to a professional assistance entity, and may, in good faith, communicate information to the entity in connection with the referral. If information obtained by a member of the Committee, a volunteer, or an employee of the ArJLAP gives rise to reasonable suspicion of a direct threat to the health or safety of the subject lawyer, judge or other person, then the obligation of confidentiality shall not apply, and the Committee member, volunteer, or ArJLAP employee may make such communications as are necessary for the purpose of avoiding or preventing said threat.

RULE 2.16 Cooperation with Disciplinary Authorities

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

(B) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

COMMENT

[1] Cooperation with investigations and proceedings of judicial and lawyer discipline agencies, as required in paragraph (A), instills confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

CANON 3. A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

RULE 3.1 Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

(A) participate in activities that will interfere with the proper performance of the judge's judicial duties;

(B) participate in activities that will lead to frequent disqualification of the judge;

(C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;

(D) engage in conduct that would appear to a reasonable person to be coercive; or

(E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or

unless such additional use is permitted by law.

COMMENT

[1] To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See Rule 3.7.

[2] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities, and furthers public understanding of and respect for courts and the judicial system.

[3] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their personal characteristics. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See Rule 3.6.

[4] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judge's solicitation of contributions or memberships for an organization, even as permitted by Rule 3.7(A), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.

[5A] Before speaking or writing about social or political issues, judges should consider the impact of their statements. Comments may suggest that the judge lacks impartiality. See Rule 1.2. They may create the impression that a judge has or manifests bias or prejudice toward individuals with contrary social or political views. See Rule 2.3. Public comments may require the judge to disqualify himself or herself when litigation involving those issues comes before the judge. See Rule 2.11. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

CANON 4. A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 4.1 Political and Campaign Activities of Judges and Judicial Candidates in General

(A) Except as permitted by law, or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate shall not:

(1) act as a leader in, or hold an office in, a political organization;

(2) make speeches on behalf of a political organization;

(3) publicly endorse or oppose a candidate for any public office;

(4) solicit funds for, pay an assessment to, or make a contribution to a political organization or a candidate for public office;

(5) [Reserved]

(6) publicly identify himself or herself as a candidate of a political organization;

(7) seek, accept, or use endorsements from a political organization;

(8) personally solicit or accept campaign contributions other than through a campaign committee authorized by Rule 4.4;

(9) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others;

(10) use court staff, facilities, or other court resources in a campaign for judicial office;

(11) knowingly, or with reckless disregard for the truth, make any false or misleading statement;

(12) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court; or

(13) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

(B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).

COMMENT

GENERAL CONSIDERATIONS

[1] Even when subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates, taking into account the various methods of selecting judges.

[2] When a person becomes a judicial candidate, this Canon becomes applicable to his or her conduct.

PARTICIPATION IN POLITICAL ACTIVITIES

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by paragraph (A)(1)

from assuming leadership roles in political organizations.

[4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. See Rule 1.3. These Rules do not prohibit candidates from campaigning on their own behalf, or from endorsing or opposing candidates for the same judicial office for which they are running. See Rules 4.2(B)(2) and 4.2(B)(3).

[5] Although members of the families of judges and judicial candidates are free to engage in their own political activity, including running for public office, there is no "family exception" to the prohibition in paragraph (A)(3) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with, a family member's political activity or campaign for public office.

[6] Judges and judicial candidates retain the right to participate in the political process as voters in both primary and general elections. Judges are permitted to request a ballot in a party's primary without violating this Code.

[6A] Judges are permitted to attend or purchase tickets for dinners or other events sponsored by a political organization.

STATEMENTS AND COMMENTS MADE DURING A CAMPAIGN FOR JUDICIAL OFFICE

[7] Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees. Paragraph (A)(11) obligates candidates and their committees to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication considered as a whole not materially misleading.

[8] Judicial candidates are sometimes the subject of false, misleading, or unfair allegations made by opposing candidates, third parties, or the media. For example, false or misleading statements might be made regarding the identity, present position, experience, qualifications, or judicial rulings of a candidate. In other situations, false or misleading allegations may be made that bear upon a candidate's integrity or fitness for judicial office. As long as the candidate does not violate paragraphs (A)(11), (A)(12), or (A)(13), the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate's opponent, the candidate may disavow the attacks, and request the third party to cease and desist.

[9] Subject to paragraph (A)(12), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[10] Paragraph (A)(12) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

[11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

[12] Paragraph (A)(13) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result.

[13A] Before speaking or announcing personal views on social or political topics in a judicial campaign, candidates should consider the impact of their statements. Such statements may suggest that the judge lacks impartiality. See Rule 1.2. They may create the impression that a judge has or manifests bias or prejudice toward individuals with contrary social or political views. See Rule 2.3. Public comments may require the judge to disqualify himself or herself when litigation involving those issues come before the judge. See Rule 2.11. When making such statements, a judge should acknowledge the overarching judicial obligation to apply and uphold the law, without regard to his or her personal views.

[14] A judicial candidate may make campaign promises related to judicial organization, administration, and court management, such as a promise to dispose of a backlog of cases, start court sessions on time, or avoid favoritism in appointments and hiring. A candidate may also pledge to take action outside the courtroom, such as working toward an improved jury selection system, or advocating for more funds to improve the physical plant and amenities of the courthouse.

[15] Judicial candidates may receive questionnaires or requests for interviews from the media and from issue advocacy or other community organizations that seek to learn their views on disputed or controversial legal or political issues. Paragraph (A)(13) does not specifically address judicial responses to such inquiries. Depending upon the wording and format of such questionnaires, candidates' responses might be viewed as pledges, promises, or commitments to perform the adjudicative duties of office other than in an impartial way. To avoid violating paragraph (A)(13), therefore, candidates who respond to media and other inquiries should also give assurances that they will keep an open mind and will carry out their adjudicative duties faithfully and impartially if elected. Candidates who do not respond may state their reasons for not responding, such as the danger that answering might be perceived by a reasonable person as undermining a successful candidate's independence or impartiality, or that it might lead to frequent disqualification. See Rule 2.11.

RULE 4.2 Political and Campaign Activities of Judicial Candidates in Public Elections

(A) A judicial candidate in a public election shall: (1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary; (2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;

(3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and (4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1.

(B) A judicial candidate in a public election may, unless prohibited by law, and not earlier than 365 days before the first applicable election:

(1) establish a campaign committee pursuant to the provisions of Rule 4.4; (2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature; (3)[Reserved] (4) attend or purchase tickets for dinners or other events sponsored by a political organization; (5) seek, accept, or use endorsements from any person or organization other than a partisan political organization; and (6)[Reserved].

(C)[Reserved].

COMMENT [1] Paragraph (B) permits judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1. Candidates may not engage in these activities earlier than 365 days before the first applicable election. See definition of "judicial candidate," which provides that a person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election authority, or authorizes or engages in solicitation or acceptance of contributions or support. This rule does not prohibit private conversations with potential supporters by a potential candidate as part of an effort to "test the waters" for a future candidacy. It does prohibit establishing a campaign committee earlier than 365 days before the election date.

[2] Despite paragraph (B), judicial candidates for public election remain subject to many of the provisions of Rule 4.1. For example, a candidate continues to be prohibited from soliciting funds for a political organization, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), paragraphs (4), (11), and (13).

[3][Reserved]

[4] In nonpartisan elections, paragraph (B)(5) prohibits a candidate from seeking, accepting, or using nominations or endorsements from a partisan political organization.

[5] Subject to the 365 day limitation, judicial candidates are permitted to attend or purchase tickets for dinners and other events sponsored by political organizations. (Cf. Rule 4.1, Comment 6A, Judges are permitted to attend or purchase tickets for dinners or other events sponsored by a political organization.)

[6][Reserved]

[7][Reserved]

RULE 4.3 Activities of Candidates for Appointive Judicial Office

A candidate for appointment to judicial office may: (A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and (B) seek endorsements for the appointment from any person or organization other than a partisan political organization.

COMMENT [1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(A)(13).

RULE 4.4 Campaign Committees

(A) A judicial candidate subject to public election may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.

(B) A judicial candidate subject to public election shall direct his or her campaign committee:

(1) to solicit and accept only such campaign contributions as are permitted by state law.

(2) not to solicit or accept contributions for a candidate's current campaign more than 180 days before the applicable election, nor more than 45 days after the last election in which the candidate participated; and

(3) to comply with all applicable statutory requirements for disclosure and divestiture of campaign contributions.

(C) Any campaign fund surplus shall be returned to the contributors or turned over to the State Treasurer as provided by law.

COMMENT [1] Judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions. See Rule 4.1(A)(8). This Rule recognizes that in many jurisdictions, judicial candidates must raise campaign funds to support their candidacies, and permits candidates, other than candidates for appointive judicial office, to establish campaign committees to solicit and accept reasonable financial contributions or in-kind contributions.

[2] Campaign committees may solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct campaigns. Candidates are responsible for compliance with the requirements of election law and other applicable law, and for the activities of their campaign committees.

[2A] The forty-five day post-election restriction applies both to contested and non-contested elections. Once a candidate's campaign has ended, the candidate should only raise funds for 45 more days. For example, if three candidates participate in a judicial election, the candidate who is eliminated may raise funds for only an additional 45 days. However, the two remaining candidates may continue to raise funds through the runoff election and 45 days thereafter.

[3] At the start of a campaign, the candidate must instruct the campaign committee to solicit or accept only such contributions as are reasonable in amount, appropriate under the circumstances, and in conformity with applicable law.

[3A] To reduce potential disqualification and to avoid the appearance of impropriety, judicial candidates should, as much as possible, not be aware of those who have contributed to the campaign.

RULE 4.5 Activities of Judges Who Become Candidates for Nonjudicial Office

(A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law to continue to hold judicial office.

(B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.

COMMENT [1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate. [2] The "resign to run" rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote his or her candidacy, and prevents post-campaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the "resign to run" rule.

DISTRICT COURT CLERK

A General Statutory Duties of the Clerk

1 The judge of any district court may appoint a clerk for the court, who shall be designated and known as the district court clerk.

2 The city council of the city in which the court is located shall fix the salary of the district court clerk at a reasonable sum, the salary to be computed on an annual basis and payable in equal monthly installments. However, where the county in which the court is located is to pay any portion of the clerk's salary, the salary must also be approved by the quorum court of that county. Further, if the expenses and salaries of any district court are paid entirely by the county in which the court is located, the salary of the clerk shall be fixed by the quorum court of the county and not by the city council.

3 The district court clerk shall keep a fair record of all the acts done and proceedings had in the court and shall enter all judgments of the court, under the direction of the judge.

4 The district court clerk shall:

(a) Administer oaths, including special judges of district court under § 16-17-210

(b) Take affidavits required or permitted in the progress of the action

(c) Keep a complete docket of all proceedings to the extent and in the manner directed by the judge

(d) Seasonably record the judgments, rules, orders, and other civil or criminal proceedings of the court and keep an alphabetical index thereof

(e) Keep such other dockets, books, and indices as may be required by law or by the judge

(f) Issue and attest all process

(g) Tax and collect the same fees and costs allowed by law

5 The district court clerk shall render for each month, not later than the tenth day of the succeeding month, reports in triplicate of all civil and criminal cases tried. These reports shall show all fines, penalties, forfeitures, fees, and costs taxed, assessed, and collected during the month and also show the nature of each case. One (1) copy of such report is to be forwarded or delivered to the mayor of the city and one (1) copy to the clerk of the county court.

6 Where the duties of the office of district court clerk do not require a full-time employee, the city council may require that the duties of the clerk be performed by any other officer of the city.

Ark. Code Ann. § 16-17-211

B Deputy Court Clerks

1 The judge of the district court of any city in this state may, with the approval of the governing body of the city, appoint one (1) or more deputy clerks to serve under the supervision of the district court clerk.

2 The salary of the deputy clerk or clerks may be less than but not more than the salary paid to the district court clerk. The salary designated for the office of district court clerk may be apportioned by the city council between and among the district court clerks and any or all of the deputies.

3 Deputy district court clerks are empowered to perform all duties and exercise all powers granted to the district court clerk and shall post bond in the same manner and amount as required of the district court clerk.

Ark. Code Ann. § 16-17-106

C Additional Responsibilities of the Clerk

In addition to the responsibilities set out by statute, the clerk is responsible for:

1 Opening and closing the office

2 Answering the telephone

3 Meeting the public

4 Assisting the judge

5 Answering correspondence

6 Notifying officers of the court of any changes in court dates

7 Keeping records of bonds and forfeitures

8 Inventorying and requisitioning supplies

9 Preparing budgets

10 Processing payroll

11 Balancing monthly bank statements

12 Notifying witnesses of appearance dates

D Professionalism for Court Clerks

The office of District Clerk is an integral part of our system of justice. As a matter of practice, court clerks conduct themselves in a professional manner. Even so, the subjects of professionalism and ethics should not be overlooked when developing a manual on the functions and duties of the clerk.

Canon 2, Rule 2.3 of the Code of Judicial Conduct states, "A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so." The suggestion is that all employees of the court should conduct themselves in a professional manner.

While some states have a specific code or standards that apply to non-judicial employees, Arkansas does not. This puts clerks in a posture of establishing their own individual codes and standards.

The American Judicature Society in its publication, Judicature (Volume 73, Number 3, October-November, 1989) addresses the subject of conduct for non-judicial employees.

"It is clearly inappropriate for a clerk to favor one voter or lawyer over another. While some clerks might view judges as the chief clients, others may view the court system as the chief client. Justice, confidence, and trust in the court system, and efficiency, are the criteria of ethical conduct for court employees. Court clerks should remember it is not only the judges, but the court employees who make courts available to the community.

While judges determine substantive issues in the courts, a great portion of the work of maintaining procedural justice and administration within the court system is done by the clerk. Although it may appear that substantive and procedural justice are not necessarily involved in some questions concerning ethics, i.e., political activity, the clerk should consider the public's confidence and trust in the system when making decisions.

One consideration of ethical conduct in the court system is the efficient use of resources. The problem may not be one of using resources efficiently, but rather, how to ration resources so as not to compromise the justice system.

On the matter of confidentiality, the court clerk should remember that cases are decided on their merits. Justice cannot be achieved unless all court employees maintain confidentiality. Matters discussed in confidence with the judge or attorneys should never be disclosed to members of the public. This rule of practice is especially true for court clerks who are often in the position of overhearing private conversations by the judge, lawyers or litigants. On the other hand, the clerk should remember that the court system is a public institution. Members of the public have a right to attend sessions of the court and have access to court records.

Being an employee of the court system is a matter of public trust. Court clerks should observe high standards of conduct to uphold the integrity and independence of the court system."

E Certification Program

On November 19, 1988, the Arkansas Municipal and City Court Clerks Association elected to begin a certification program, with assistance from the Arkansas Municipal Judges Council and the Administrative Office of the Courts.

The Arkansas District and City Court Clerks Certification Committee is composed of two (2) district judges and five (5) court clerks, one of whom is the chair.

A minimum of four (4) creditable programs will be offered each year. Programs will be scheduled for the third Friday of the months of March, September and November. The fourth meeting will be held at an undetermined date in May.

Requirements for Certification

To be certified, a clerk must:

1 Complete a minimum of three (3) years as Chief of Deputy Clerk in a city or district court by the time of certification.

2 Complete a minimum of 30 hours training, including at least six (6) hours of instruction in each of the following areas:

(a) Financial and accounting responsibilities of the clerk

(b) Filing and docketing responsibilities of the clerk

(c) Office and courtroom management, behavior and dress

(d) Substantive law update – civil and criminal

3 Complete a new clerks' orientation program if in office less than two (2) years when beginning certification program.

4 Be a current member of the Arkansas Association of District and City Court Clerks. A certified list of paid members of the association will be presented to the committee each year by the Secretary/Treasurer of the Association.

5 Maintain certification by completing a minimum of 18 hours training every two (2) years after original certification, including at least six (6) hours on substantive law update – civil and criminal.

Certification Rules

Absences of up to one (1) year in duration will be acceptable during the three (3) year requirement.

Each clerk must complete a two (2) part attendance form for each program.

Requests for certification will be reviewed by the committee and awarded at the annual association meeting.

Certificates will be given by the Arkansas Association of District and City Court Clerks, signed by the Governor, Chief Justice, President of the District Judges Council and President of the District and City Court Clerks Association.

F District Court Case Reporting Responsibilities

General Overview

The Clerks of the district courts have been reporting aggregate caseload statistics to the Administrative Office of the Courts since publication of the first Annual Report of the Judiciary in 1965. Since that time, the only changes made in the reporting process have been in frequency of reporting, specificity of case types and the addition of the reporting of financial information.

Statutory Authority for Reporting

There are two basic statutes that give authority to the Supreme Court and the Administrative Office of the Courts to gather caseload information from the courts of general and limited jurisdiction.

The first is Ark. Code Ann. § 16-10-101, Administrative Responsibilities of the Supreme Court. Subsection (b) states, "Under rules prescribed by the Supreme Court, the Chief Justice may require reports from all courts of the state…"

The second statute is Ark. Code Ann. § 16-10-102, Administrative Office of the Courts. Subsection (e) (5) charges the Administrative Office to "collect, analyze and report to the Supreme Court statistical and other data concerning the business of the courts." Subsection (h) gives the A.O.C. further authority, "The clerks, officers and employees of the courts shall comply with all requests of the Director for information and statistical data relating to the business of the courts and the expenditure of public funds for their maintenance and operation. The Director shall notify the Supreme Court of any noncompliance with such requests."

General Reporting Instructions

Reports are to be returned to the Administrative Office of the Courts on a monthly basis by the 15th of the month following the reporting period.

The mailing address and instructions for completion of the form are contained on the back of the form.

If you have any questions about the forms, call the Administrative Office of the Courts at (501) 682-9400 and ask for Michelle Maxwell.

See Relevant Form

ADMINISTRATIVE ORDER 4.
VERBATIM TRIAL RECORD

(a) Verbatim Record. Unless waived on the record by the parties, it shall be the duty of any circuit court to require that a verbatim record be made of all proceedings, including any communications between the court and one or more members of the jury, pertaining to any contested matter before the court or the jury.

(b) Back-Up System. When making a verbatim record, an official court reporter or substitute court reporter shall always utilize a back-up system in addition to his or her primary reporting system in order to insure preservation of the record.

(c) Exhibits. Physical exhibits received or proffered in evidence shall be stored pursuant to the requirements of Section 21 of the Regulations of the Board of Certified Court Reporter Examiners, Official Court Reporter Retention Schedule.

(d) Sanctions. Any person who fails to comply with these requirements shall be subject to the discipline provisions of the Rules and Regulations of the Board of Certified Court Reporter Examiners in addition to the enforcement powers of the court, including contempt.

(e) Electronic Recording.

1. Applicability. This subsection (e) shall apply to state district court judges presiding over matters pending in circuit courts pursuant to Administrative Order Number 18 and to circuit court judges upon request to and approval by the Supreme Court.

2. Electronic Recording. An audio recording system may make the verbatim record of court proceedings. A recording system used for the purpose of creating the official record of a court proceeding shall meet the standards adopted and published by the Administrative Office of the Courts ("AOC"). The system shall be approved by the AOC, and it shall be tested and court personnel shall be trained before the system is implemented. The system shall include a back-up capability to satisfy the requirement of subsection (b) of this Administrative Order.

3. Record Security. (A) The trial court shall maintain the electronic recordings of court proceedings and all digital files, backup files, and archive files consistent with standards adopted and published by the AOC.

(B) Subsection (c) of this Administrative Order regarding the storage of trial exhibits when using an electronic recording system is supplemented by the following: During the period in which the records are required to be retained, the trial court may order items of physical evidence held for storage and safekeeping by the attorneys of record, and such arrangements shall be appropriately documented. Forms of orders and receipts are appended to the Regulations of the Board of Certified Court Reporter Examiners. When physical exhibits include firearms, contraband, or other similar items, the trial court may order such items transferred to the sheriff or other appropriate governmental agency for storage and

safekeeping. The sheriff or governmental agency shall sign a receipt for such items and shall acknowledge that the items shall not be disposed of until authorized by subsequent court order. See Regulation 21 of the Regulations of the Board of Certified Court Reporter Examiners for the record retention schedule and other requirements for maintaining records and exhibits.

4. Official Transcripts. When a transcript is required and is to be prepared from an audio recording, the official court reporter of the circuit judge to which the case is assigned shall be responsible for preparing the transcript and the statutory rate and payment provisions shall apply. A transcript prepared from an audio recording of a court proceeding prepared and certified by an official court reporter is an official transcript for purpose of appeal or other use.

ADMINISTRATIVE ORDER NUMBER 18 – ADMINISTRATION OF DISTRICT COURTS

This administrative order is promulgated pursuant to Ark. Const. Amend. 80, § 7; Ark. Code Ann. § 16-17-704; and the Supreme Court's inherent rule-making authority. Procedural rules applicable to district courts are set out in the District Court Rules.

1. *Divisions.*

(a) The district court judges shall establish the following subject-matter divisions in each district court: criminal, civil, traffic, and small claims. For purposes of this administrative order, the term "traffic division" means cases relating to a violation of a law regulating the operation of a vehicle upon a roadway.

(b) The designation of divisions is for the purpose of judicial administration and caseload management and is not for the purpose of subject-matter jurisdiction. The creation of divisions shall in no way limit the powers and duties of the judges to hear all matters within the jurisdiction of the district court.

2. *Departments.*

(a) Each department of a district court shall maintain its own docket, and the docket shall be heard at times and places as may be determined by the judge(s) of the district court. Except as authorized in subsection (2) (b) or as approved by the Supreme Court, each department of a district court shall hear cases in all of the subject matter divisions. "Department" is defined in Ark. Code Ann. § 16-17-901.

(b) If a district court's territorial jurisdiction is only city-wide and the district court has more than one department, the judges of the district court by unanimous written agreement may designate that cases of one or more of the subject matter divisions (criminal, civil, traffic, and small claims) be assigned to one or more of the departments.

3. *Civil Jurisdiction.*

The district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:

(a) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars ($100), excluding interest, costs and attorney's fees;

(b) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of five thousand dollars ($5,000), excluding interest, costs and attorney's fees;

(c) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of five thousand dollars ($5,000); and

(d) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of five thousand dollars ($5,000), excluding interest and costs.

4. *Small Claims Division*.

The small claims division shall have the same jurisdiction over amounts in controversy as provided in subsection 3 of this administrative order. Special procedural rules governing actions filed in the small claims division are set out in Rule 10 of the District Court Rules. The following restrictions apply to litigation in the small claims division:

(a) Restriction on participation by attorneys. No attorney-at-law or person other than the plaintiff and defendant shall take part in the filing, prosecution, or defense of litigation in the small claims division. When any case is pending in the small claims division of any district court and the judge of the court determines that an attorney is representing any party in the case, the case shall immediately be transferred to the civil docket. However, it is not the intention of this provision and this provision shall not be construed, to abridge in any way the rights of persons to be represented by legal counsel.

(b) Entities restricted from bringing actions. No action may be brought in the small claims division by any collection agency, collection agent, or assignee of a claim or by any person, firm, partnership, association, or corporation engaged, either primarily or secondarily, in the business of lending money at interest. "Credit bureaus and collection agencies", by definition, shall include those businesses that either collect delinquencies for a fee or are otherwise engaged in credit history or business.

(c) Actions by and against corporations. (1) Corporations, other than those identified in subsection 4(b) of this administrative order, which are organized under the laws of this state and which have no more than three stockholders or in which eighty-five percent or more of the voting stock is held by persons related by blood or marriage within the third degree of consanguinity or any closely held corporations by unanimous vote of the shareholders may sue and be sued in the small claims division. (2) A corporation shall be represented in the proceedings by an officer of the corporation.

5. *Assignment of Judges*.

See Administrative Order Number 16.

6. *Jurisdiction of State District Court Judgeships*. **[This section (6) applies to State District Court Judgeships ("Pilot District Courts") upon their effective date.]**

In addition to the duties of a district court under this administrative order, a state district court shall exercise additional power and authority as set out in this section.

(a) *Original Jurisdiction*. A state district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:

(1) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars ($100), excluding interest, costs and attorney's fees;

(2) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of twenty-five thousand dollars ($25,000), excluding interest, costs and attorney's fees;

(3) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of twenty-five thousand dollars ($25,000); and

(4) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of twenty-five thousand dollars ($25,000), excluding interest and costs.

(b) *Reference*. A state district court judge may be referred matters pending in the circuit court. A state district judge presiding over any referred matter shall be subject at all times to the superintending control of the administrative judge of the judicial circuit. The following matters pending in circuit court may be referred to a state district court judge:

(1) *Consent Jurisdiction*. Matters filed in the civil, domestic relations or probate division of circuit court upon the consent of all parties (see subsection (d) below);

(2) *Protective Orders*. Ark. Code Ann. §§ 9-15-201 – 217;

(3) *Forcible Entry and Detainers and Unlawful Detainer*. Ark. Code Ann. §§ 18-60-301 - 312;

(4) *Other Matters*. Matters of an emergency or uncontested nature pending in the civil, domestic relations, or probate division of circuit court (such as, *ex parte* emergency involuntary commitments pursuant to Ark. Code Ann. § 20-47-209-210, decedent estate administration, uncontested divorces, and defaults) under guidelines and procedures set out in the judicial circuit's administrative plan; and

(5) *Criminal Matters*. (A) Any of the following duties (the rules referenced below are the Arkansas Rules of Criminal Procedure) with respect to an investigation or prosecution of an offense lying within the exclusive jurisdiction of the circuit court:

(i) Issue a search warrant pursuant to Rule 13.1.

(ii) Issue an arrest warrant pursuant to Rule 7.1 or Ark. Code Ann. § 16-81-104, or issue a summons pursuant to Rule 6.1.

(iii) Make a reasonable cause determination pursuant to Rule 4.1(e).

(iv) Conduct a first appearance pursuant to Rule 8.1, at which the judge may appoint counsel pursuant to Rule 8.2; inform a defendant pursuant to Rule 8.3; accept a plea of "not guilty" or "not guilty by reason insanity": conduct a pretrial release inquiry pursuant to Rules 8.4 and 8.5; or release a defendant from custody pursuant to Rules 9.1, 9.2, and 9.3.

(v) Conduct a preliminary hearing as provided in Ark. Code Ann. § 5-4-310(a).

If a person is charged with the commission of an offense lying within the exclusive jurisdiction of the circuit court, a state district court judge may not accept or approve a plea of guilty or nolo contendere to the offense charged or to a lesser included felony offense but, may accept or approve a plea of guilty or nolo contendere to a misdemeanor.

(B) If authorized by an Act of the General Assembly, a state district court judge may preside over a drug court program, probation revocation proceedings, or parole revocation proceedings.

(c) *Reference Process*. Except for the exercise of consent jurisdiction which is governed be subsection (d), with the concurrence of a majority of the circuit judges of a judicial circuit, the administrative judge of a judicial circuit may refer matters pending in the circuit court to a pilot district court judge, with the judge's consent, which shall not be unreasonably withheld. A final judgment although ordered by a state district court judge, is deemed a final judgment of the circuit court and will be entered by the circuit clerk under Rule 58 of the Arkansas Rules of Civil Procedure. Any appeal shall be taken to the Arkansas Supreme Court or Court of Appeals in the same manner as an appeal from any other judgment of the circuit court. An order that does not constitute a final appealable order may be modified or vacated by the circuit judge to whom the case has been assigned as permitted by Rule 60 of the Arkansas Rules of Civil Procedure.

(d) *Consent Process*.

1. *Notice*. The circuit clerk shall give the plaintiff notice of the consent jurisdiction of a state district court judge when a suit is filed in the civil, domestic relations, or probate division of circuit court. The circuit clerk shall also attach the same notice to the summons for service on the defendant. Any party may obtain a "Consent to Proceed before a State District Court Judge" form from the Circuit Clerk's Office.

2. *Consent*. By agreeing to consent jurisdiction, the parties are waiving their right to a jury trial, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals.

3. *Transfer*. Once the completed forms have been returned to the circuit clerk, the circuit clerk shall then assign the case to a state district court

judge and forward the consent forms for final approval to the circuit judge to whom the case was originally assigned. When the circuit judge has approved the transfer and returned the consent forms to the circuit clerk's office for filing, the circuit clerk shall forward a copy of the consent forms to the pilot district court judge to whom the case is reassigned. The circuit clerk shall also indicate on the file that the case has been reassigned to the state district court judge.

4. *Appeal.* The final judgment, although ordered by a state district court judge, is deemed a final judgment of the circuit court and will be entered by the circuit clerk under Rule 58 of the Arkansas Rules of Civil Procedure. Any appeal shall be taken to the Arkansas Supreme Court or Court of Appeals in the same manner as an appeal from any other judgment of the circuit court.

7. Small Claims Magistrate.

(a) At the request of the majority of the district judges of a district court, with the concurrence of a majority of the circuit court judges of a judicial circuit, the Administrative Judge of the judicial circuit may designate one or more licensed attorney(s) to serve as a Small Claims Magistrate to preside over the Small Claims Division of the district court. A Small Claims Magistrate shall be deemed the "judge" as that term is used in Rule 10 of the District Court Rules. A Small Claims Magistrate shall be subject to the superintending control of the district judges of the district court.

(b) A Small Claims Magistrate shall possess the same qualifications as a district court judge. The appointment shall be in writing and filed with the District Court Clerk.

8. Special Judges.

(a) When the judge of a district court shall fail to attend on any day scheduled for the holding of that court or when a judge is disqualified from presiding in a pending case, a special judge may be elected.

(b) When a special judge is to be elected, notice shall be given by the clerk of the court to the regular practicing attorneys in the district served by the court in the most practical manner under the circumstances, including giving notice by telephone or by posting the notice in a public and conspicuous place in the courtroom. Upon notice from the clerk of the court, the regular practicing attorneys attending the court may elect a special judge. The election shall be conducted by the clerk of the court, who will accept nominations from the attorneys present. Only attorneys who are qualified to serve as special judge may vote in the election of a special judge. The election shall be by secret ballot. The attorney receiving a majority of the votes shall be declared elected as special judge. He or she shall immediately be sworn in by the clerk and shall immediately enter upon the duties of the office. He or she shall adjudicate those causes pending at the time of his or her election.

(c) No person who is not an attorney regularly engaged in the practice of law in the State of Arkansas and duly licensed and in good standing to do so, and who is not a resident

possessed of the qualifications required of an elector of this state, whether registered to vote or not, shall be elected special judge. A law clerk is not eligible to be elected as a special judge.

(d) For purposes of this rule, each division of district court in a multi-judge district shall be considered to be a separate court.

(e) The clerk of the court shall make a record of the proceedings, which shall be a part of the record of the court. Forms for the clerk's use are appended to Administrative Order Number 1.

INSTRUCTIONS FOR STATEMENT OF FINANCIAL INTEREST

INTRODUCTION/WHO MUST FILE

Ark. Code Ann. § 21-8-701(a) requires that the following persons file a written Statement of Financial Interest on an annual basis:

- A public official, as defined by Ark. Code Ann. § 21-8-402(17);
- A candidate for elective office;
- A district judge or city attorney, whether elected or appointed;
- Any agency head, department director, or division director of state government;
- Any public appointee to any state board or commission (who possesses regulatory authority or is authorized to receive or disburse state or federal funds);[1]
- All persons who are elected members of a school board or who are candidates for a position on a school board;
- All public and charter school superintendents;
- All executive directors of education service cooperatives; and
- Any person appointed to a municipal, county or regional (i) planning board or commission, (ii) airport board or commission, (iii) water or sewer board or commission, (iv) utility board or commission, or (v) civil service commission.

The Arkansas Ethics Commission, which enforces this statute, has prepared these instructions, along with the office of the Secretary of State, whose office maintains the records, to assist persons required to file these statements. If you have any questions concerning the reporting requirements or how to fill out your Statement of Financial Interest, call or write either the **Arkansas Ethics Commission**, Post Office Box 1917, Little Rock, Arkansas 72203-1917, tel. (501) 324-9600 or the **Secretary of State, Elections Division**, State Capitol, Room 026, Little Rock, Arkansas 72201, tel. (501) 682-5070.

When preparing the Statement of Financial Interest, please **print or type the information.** You must also sign the Statement in Section 13 and your signature must be attested to before a Notary Public.

TIME FOR FILING/PERIOD COVERED

Pursuant to Ark. Code Ann. § 21-8-701(c)(1)(A), a Statement of Financial Interest for the previous calendar year "shall be filed by January 31, of each year, except that a candidate for elective office shall file the Statement of Financial Interest for the previous calendar year on the first Monday following the close of the period to file as a candidate for elective office."

[1] Pursuant to Ark. Code Ann. § 21-8-701(a)(5)(B), a public appointee to a state board or commission which is not charged by law with the exercise of regulatory authority and which receives or disburses state or federal funds only in the form of mileage reimbursement for members attending meetings of the board or commission is not required file a written Statement of Financial Interest.

Moreover, an agency head, department director, or division director of state government and any public appointee to a state board or commission authorized or charged by law with the exercise of regulatory authority or authorized to receive or disburse state or federal funds shall file a Statement of Financial Interest for the previous calendar year within thirty (30) days after appointment or employment. Incumbent officeholders who filed a Statement of Financial Interest for the previous calendar year by January 31 of the year in which an election is held are not required to file an additional Statement of Financial Interest upon becoming a candidate for reelection or election to another office during the year. Ark. Code Ann. § 21-8-701(c)(2). If a person required to file a Statement of Financial Interest leaves his or her office or position during a particular calendar year, he or she shall still be required to file a Statement of Financial Interest covering that part of the year which he or she held the office or position. Ark. Code Ann. § 21-8-701(c)(1)(B).

WHERE TO FILE

Pursuant to Ark. Code Ann. § 21-8-703, the Statement of Financial Interest shall be filed as follows:

(1) State or district public servants (including appointees to state boards/ commissions) and candidates for state or district public office are required to file the statement with the Secretary of State;
(2) County, township, or school district public servants and candidates for county, township, or school district public office are required to file the statement with the county clerks;
(3) Municipal public servants and candidates for municipal office are required to file the statement with the city clerk or recorder;
(4) Municipal judges and city attorneys are required to file the statement with the city clerk of the municipality within which they serve; and
(5) Members of regional boards or commissions are required to file the statement with the county clerk of the county in which they reside.

SPECIFIC REPORTING INSTRUCTIONS

SECTION 1 (Name and Address)

Answer each of these questions or indicate "Not Applicable". List all names under which you and/or your spouse do business.

SECTION 2 (Reason for Filing)

Check the box applicable to you and provide the office/position held or name of the board, commission or school district in the appropriate space.

SECTION 3 (Sources of Income)

The term "gross income" is intended to be comprehensive. It refers to all income from whatever source derived, including but not limited to compensation for services, fees, commissions, and income derived from business interests. Report each employer and/or each other source of income from which you, your spouse, or any other person for the use or benefit of you or your spouse receives gross income exceeding $1,000 on an annual basis. Include your governmental income from the office or position which requires your filing of this form. You are required to use the gross amount received as income. Thus, you must compute your total income from any particular source without first deducting expenses.

You are not required to list the individual items of gross income that constitute a portion of the income of the business or profession from which you or your spouse derives income. (For example: Accountants, attorneys, farmers, contractors, etc. do not have to list their individual clients.) If more than one source/employer/entity compensated you during the past year, you are required to list each source of income greater than $1,000. If you or your spouse received speaking honoraria, you must report, under the request for "source", the sponsor of each event for which a payment was made for your speech or appearance, as well as the date and dollar category ("more than $1,000.00" or "more than $12,500.00"). The term "honoraria", as used herein, means a payment of money or any thing of value for an appearance, speech, or article. NOTE: Food, lodging, and travel provided to a public servant in connection with an appearance would not constitute honoraria if the public servant is appearing in his or her official capacity and the appearance bears a relationship to the public servant's office or position. Section 10 of the Statement of Financial Interest addresses the reporting of payment for such food, lodging, and travel.

You must also provide a brief description of the nature of the services for which the income was received, as well as the name under which the income was received. For example:

Source	**Description**	**Amount**
State of Arkansas (address) John Doe	Executive Dir.	More than $12,500.00
University of Arkansas (address) John M. Doe	Teaching	More than $12,500.00
450 Main Street, Little Rock, Arkansas John M. Doe	Rent Income	More than $12,500.00

Ark. Med. Society Annual Meeting (address) John Doe	Speaking fee Oct. 2, Little Rock	More than $1,000.00
Star National Bank Star, Arkansas John or Jane Doe	Interest Income	More than $1,000.00
City of Mayberry (address) Jane Doe	Spouse income	More than $12,500.00
Ark. Bar Association Annual Meeting (address) Jane Doe	Speaking Fee Spouse, June 12 Hot Springs	More than $1,000.00

Section 4 (Business or Holdings)

In this section, list the name of every business in which you, your spouse or any other person for the use or benefit of you or your spouse have an investment or holding. Stocks, bonds, stock options and other securities held by you or your spouse must be reported. Figures for these items, as well as all other holdings or accounts, should be based on fair market value at the end of the reporting period.

For **securities, stocks, or bonds**, you must disclose each security held in your portfolio which exceeds the $1,000.00 threshold. If securities are held through an investment firm, the firm will normally provide periodic statements from which you may obtain the information required to be disclosed. If you own different types of securities issued by the same authority, such as U. S. Treasury obligations or bonds, it is not necessary to provide an itemized list of each security worth over $1,000.00. Rather, you may simply report the aggregate value of the securities issued by the same authority and identify the type of securities.

In the case of **mutual funds or similar investments**, you need not disclose specific stocks held in a widely diversified investment trust or mutual fund as long as the holdings of the trust or fund are a matter of public record <u>and</u> you have no ability to exercise control over the specific holdings. If you have such control, you must disclose each holding exceeding the threshold level of $1,000.00, whether or not you exercise the control. Otherwise, you may simply disclose the name, address, etc. of the authority through which your mutual fund is invested (e.g., IDS), the category of the fund and the category of the appropriate amount (e.g., "more than $1,000.00").

In the case of **bank accounts**, if the total of interest bearing accounts (including certificates of deposit) deposited in a particular bank exceeds $1,000.00, list each institution holding more than $1,000.00. If no particular bank holds more than $1,000.00, you need not report any bank accounts. All accounts at one institution, including those for your spouse, may be combined as one entry. Thus, for example, you may report a checking account, savings account, certificate of deposit, and IRA in Smith First National Bank of Arkansas by checking the gross total of the accounts (e.g., "more than $1,000.00") and stating "Smith First National Bank of Arkansas" with its address. You need not list each account. If you are listed on an account purely for custodial reasons, and you do not assert any ownership rights to the assets in the account (for example, if you are a joint tenant with an elderly relative), you need not list the account.

For any business interest, if you or your spouse has an interest in a proprietorship, partnership, or corporation that is actively engaged in a trade or business, you must disclose the name and address of each interest. It is not necessary to provide an itemized list of the assets of the business. For example, you need only categorize the total value of your interest (e.g., "more than $12,500.00") and not items such as "office equipment." This includes each asset held in trust for you or your spouse which has a value greater than $1,000.00. Holdings of a trust for which you or your spouse are merely an administrator and for which you have no beneficial interest need not be reported.

Section 5 (Office or Directorship)

You must report your nongovernmental offices and directorships held by you or your spouse in any business, corporation, firm, or enterprise subject to the jurisdiction of a regulatory agency of this State, or any of its political subdivisions. For each such business, provide the name of the business, its address, the office or directorship held and the name of the person (either you or your spouse) who holds the office or directorship. A "regulatory agency", as defined by Ark. Code Ann. § 21-8-301(1), means any "state board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases except those in the legislative or judicial branches."

Section 6 (Creditors)

You must report the name and address of each creditor to whom the value of $5,000.00 or more is personally owed and outstanding at the end of the reporting period. All information regarding a single creditor may be reported in a single entry. If you have more than one liability owed to the same creditor, add up the items of credit to determine if the $5,000.00 threshold has been met. The identity of the creditor is the name of the person or organization to which the liability is owed (e.g., "Bob Smith, 1000 Elm Street, Little Rock, Arkansas").

You do not need to include debts owed to members of your family. You may also exclude loans made in the ordinary course of business by either a financial institution or a person who regularly and customarily extends credit. This exclusion applies to such items as a mortgage secured by real property which is your personal residence, credit extended to purchase personal items such as furniture or appliances, credit card debts, and car loans, provided the credit does not exceed the value of the item purchased.

Debts not incurred in the ordinary course of business include, but are not limited to, such items as legal judgments, judgment liens, money borrowed from individuals, other than family members, who are not normally in the business of lending money, and tax liens owed to any governmental agency.

Section 7 (Guarantor, Co-Maker)

The law requires you to provide the name and address of each guarantor or co-maker, other than a member of your family, who has guaranteed a debt which is still outstanding. The $5,000.00 threshold of Section 6 does not apply here. To the extent that you have a guarantor or co-maker of any of your outstanding debts, the guarantor or co-maker must be disclosed. There is no exception for debts incurred in the ordinary course of business. This requirement also includes debts arising, extended or refinanced after January 1, 1989.

This requirement extends to situations where you have co-signed a loan to assist another person in obtaining credit, unless the person is a member of your family.

Section 8 (Gifts)

The law requires you to identify the source, date, description, and a reasonable estimate of the fair market value of each gift of more than one hundred dollars ($100.00) received by you or your spouse during the reporting period or more than two hundred and fifty dollars ($250.00) received by your dependent children during the reporting period. A gift is any "payment, entertainment, advance, services, or anything of value" unless consideration of equal or greater value has been given therefor. The value of an item shall be considered to be less than one hundred dollars ($100) if the public servant reimburses the person from whom the item was received any amount over one hundred dollars ($100) and the reimbursement occurs within ten (10) days from the date the item was received. All types of gifts must be reported. Items such as food, lodging, and travel are considered gifts <u>unless</u> they are received when you are appearing in your official capacity and the appearance bears a relationship to your office or position. [Note: The reporting of food, lodging, and travel received by a public servant who is appearing in his or her official capacity at an event which bears a relationship to his or her office or position is addressed in Section 10 below.]

A gift can be a tangible item, such as a watch, or an intangible item, such as a hunting or fishing trip. A gift does not include (1) informational material; (2) receiving food, lodging, or travel which bears a relationship to the public servant's office and when appearing in an official capacity; (3) gifts which are not used and returned to the donor within 30 days; (4) gifts from a family member listed in Ark. Code Ann. § 21-8-402(5)(B)(iv), unless the family member is acting as an agent for a person not covered by the exception; (5) campaign contributions; (6) devises or inheritances; (7) anything with a value of $100 or less; (8) wedding presents and engagement gifts; (9) a monetary or other award presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee's contribution to education; (10) tickets to charitable fundraising events held within this state by a non-profit organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; (11) a personalized award, plaque, or trophy with a value of one hundred fifty dollars ($150) or less; (12) an item which appointed or elected members of a specific governmental body purchase with their own personal funds and present to a fellow member of that governmental body in recognition of public service; (13) food or beverages provided at a conference scheduled event that is part of the program of the conference; (14) food or beverages provided in return for participation in a bona fide panel, seminar, speaking engagement at which the audience is a civic, social, or cultural organization or group; and (15) a monetary or other award publicly presented to an employee of state government in recognition of his or her contributions to the community and State of Arkansas when the presentation is made by the employee's supervisor or peers, individually or through a non-profit organization which is exempt from taxation under Section 501(c) of the Internal Revenue Code, and the employee's receipt of the award would not result in or create the appearance of the employee using his or her position for private gain, giving preferential treatment to any person, or losing independence or impartiality (This exception shall not apply to an award presented to an employee of state government by a person having economic interests which may be affected by the performance or nonperformance of the employee's duties or responsibilities.).

In reporting a gift, you must report the source, the date it was received, a reasonable estimate of its fair market value, and a brief description. In that regard, the Ethics Commission has issued opinions concerning the "fair market value" of such items as transportation on a private aircraft. A group of items received from the same source at the same time would be considered one gift and the separate values should be added together. As an example, if you receive a tie and tie clip (valued $50.00) along with a pair of golf shoes (valued at $75) from one donor, this should be reported and described in Section 8, as the receipt of a gift, "tie, tie clip and shoes." The value would be $125.00. Similarly, food and beverages provided you in connection with lodging should be aggregated to ascertain if the threshold reporting level has been reached. If you are unsure if the value should be aggregated for purposes of reporting, you may wish to contact the Arkansas Ethics Commission for an opinion.

In accordance with Ark. Code Ann. § 21-8-804, certain designated officials are authorized to accept gifts, grants, and donations of money or property on behalf of the State of Arkansas, the Arkansas Senate, the Arkansas House of Representatives, and the Arkansas Supreme Court. In addition, the designated officials are authorized to accept donations of money for the purpose of hosting official swearing-in and inaugural events of the constitutional officers, Senate, House of Representatives, and Supreme Court justices, the official recognition event for the President Pro Tempore, and the official recognition event for the Speaker of the House. The public official accepting the gift, grant, or donation of money or property on behalf of an appropriate entity is not required to disclose same on his or her Statement of Financial Interest. Instead, public servants are required to report such gifts, grants, or donations of money or property to the Ethics Commission on a quarterly basis on a separate disclosure form prepared for such purposes.

Section 9 (Awards)

If you are an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college, the law requires you to disclose each monetary or other award over one hundred dollars ($100) which you have received in recognition of your contributions to education. The information disclosed with respect to each such award should include the source, date, description, and a reasonable estimate of the fair market value.

Section 10 (Nongovernmental Sources of Payment)

Payments for food, lodging, or travel are not considered a gift in situations where a public servant is appearing in his or her official capacity <u>and</u> the appearance bears a relationship to the public servant's office or position. However, Section 10 requires that each nongovernmental source of payment of expenses for such food, lodging, or travel be listed when the expenses paid by that source exceed $150.00. [Note: The reporting of money or things of value received when you are not appearing in an official capacity or the appearance does not bear a relationship to your office or position is addressed in Section 3 ("Sources of Income") or Section 8 ("Gifts).] In this regard, you must list the name and business address of the person or organization which has paid your expenses, the date, nature, and amount of the expenses unless such person or organization was compensated by the governmental body for which the public servant serves. Thus, you must disclose in this section, lodging or travel received in connection with such activities as speaking engagements, conferences, or fact finding events related to your official duties.

Section 10 requires the disclosure of each nongovernmental source of payment when the expenses paid in connection with a particular appearance exceed $150.00. Thus, if one source provides lodging and food and the total amount paid exceeds $150.00, that source must be reported in this section.

The **organization** is the source of payment. It should be the name of the sponsor actually paying or providing the expenses. The **date of expenses** should be the inclusive dates of all travel provided. If the travel all occurred on one day, report that day. Otherwise, list the starting and ending dates of each trip provided (i.e., "May 1 - 5, 1997").

It is permissible to extend the duration of a trip at your own expense, accepting return travel from the sponsor. However, to avoid suggesting that travel was accepted for a longer period of time than was actually the case, you should indicate any time not spent at the sponsor's expense on either the line requesting the "date" or "nature" of expenses. For example, using the dates listed above, you could report "May 1 - 5, 1997. May 3 - 4 on personal business, expenses paid by me."

Section 11 (Direct Regulation of Business)

The law requires you to list any business by whom you are employed if the business is under direct regulation or subject to direct control by the governmental body which you serve. You must report the employment by listing the name of this business/employer and provide the governmental body which regulates or controls aspects of the business. Such a business relationship typically exists if your private employer is subject to any rules or regulations of a governmental body or if a governmental body adjudicates contested cases of fact involving your private employer. For example, if you work as a licensed dentist, the appropriate regulatory governing body may be the State Board of Dental Examiners.

Whether your business is under direct regulation or subject to direct control by a governing body is often a question of fact. If you are unsure, you should contact the Arkansas Ethics Commission or, if you know, the agency you suspect may regulate part or all of your activities.

Section 12 (Sales to Governmental Body)

The law requires you to report certain business relationships with the government if a significant sale of goods or services occurs. Specifically, you must set out in detail the goods or services sold having a total annual value in excess of $1,000.00 sold to the governmental body for which you serve or are employed and the compensation paid for each category of goods or services by you or any business in which you or your spouse is an officer, director, stockholder owning more than ten percent (10%) of the stock, owner, trustee, or partner.

Section 13 (Signature)

Under the law, each person, required to file a Statement of Financial Interest must prepare the statement under penalty of false swearing and sign such form attesting to the truth and accuracy of the information set forth on the form. Ark. Code Ann. § 21-8-702. If a person who is required to file a Statement of Financial Interest is called to active duty in the armed forces of the United States, the statement may be completed by the spouse of the person. If the Statement of Financial Interest is completed by the spouse, under this exception, the spouse's signature shall be sufficient for the requirement of Ark. Code Ann. § 21-8-702.

REVISED 07/07

STATEMENT OF FINANCIAL INTEREST

State/District officials file with:
Charlie Daniels, Secretary of State
State Capitol, Room 026
Little Rock, AR 72201
Phone (501) 682-5070
Fax (501) 682-3408

Calendar year covered _____
(Note: Filing covers the previous calendar year)

Is this an amendment? ☐ **Yes** ☐ **No**

For assistance in completing this form contact:
Arkansas Ethics Commission
Post Office Box 1917
Little Rock, AR 72203
Phone (501) 324-9600
Toll Free (800) 422-7773

Please provide complete information. If the information requested in a particular section does not apply to you, indicate such by noting **"Not Applicable"** in that section. Do not leave any part of this form blank. If additional space is needed, you may attach the information to this document.

SECTION 1- NAME AND ADDRESS

Name _____
(Last) (First) (Middle)

Address _____
(Street or P.O. Box Number) (City) (State) (Zip Code)

Phone _____

Spouse's name _____
(Last) (First) (Middle)

All names under which you and/or your spouse do business: _____

_____

SECTION 2- REASON FOR FILING

☐ Public Official _____
(office held)

☐ Candidate _____
(office sought)

☐ District Judge _____
(name of municipality)

☐ City Attorney _____
(name of city)

☐ State Government: Agency Head/Department Director/Division Director _____
(name of agency/department/division)

☐ Public appointee to State Board or Commission _____
(name of board/commission)

☐ School Board member _____
(name of school district)

☐ Candidate for school board _____
(name of school district)

☐ Public or Charter School Superintendent _____
(name of school district/school)

☐ Executive Director of Education Service Cooperative _____
(name of cooperative)

☐ Appointee to one of the following municipal, county or regional boards or commissions (list name of board or commission):

☐ Planning board or commission _____

☐ Airport board or commission _____

☐ Water or Sewer board or commission _____

☐ Utility board or commission _____

☐ Civil Service commission _____

The law provides for a maximum penalty of $2,000 per violation and/or imprisonment for not more than one year for any person who knowingly or willfully fails to comply with the provisions of A.C.A.§ 21-8-401 through § 21-8-804. This report constitutes a public record. This form has been approved by the Arkansas Ethics Commission.

SECTION 3- SOURCE OF INCOME

List each employer and/or each other source of income from which you, your spouse, or any other person for the use or benefit of you or your spouse receives gross income amounting to more than $1,000. (You are not required to disclose the individual items of income that constitute a portion of the gross income of the business or profession from which you or you spouse derives income. For example: accountants, attorneys, farmers, contractors, etc. do not have to list their individual clients.) If you receive gross income exceeding $1,000 from at least one source, the answer N/A is not correct.

a) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of employer or source of income)

_____
(address)

_____
(name under which income received)

Provide a brief description of the nature of the services for which the compensation was received _____
_____

b) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of employer or source of income)

_____
(address)

_____
(name under which income received)

Provide a brief description of the nature of the services for which the compensation was received _____
_____

c) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of employer or source of income)

_____
(address)

_____
(name under which income received)

Provide a brief description of the nature of the services for which the compensation was received _____
_____

d) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of employer or source of income)

_____
(address)

_____
(name under which income received)

Provide a brief description of the nature of the services for which the compensation was received _____
_____

The law provides for a maximum penalty of $2,000 per violation and/or imprisonment for not more than one year for any person who knowingly or willfully fails to comply with the provisions of A.C.A.§ 21-8-401 through § 21-8-804. This report constitutes a public record. This form has been approved by the Arkansas Ethics Commission.

SECTION 4- BUSINESS OR HOLDINGS

List the name of every business in which you, your spouse or any other person for the use or benefit of you or your spouse have an investment or holding. Individual stock holdings should be disclosed. Figures should be based on fair market value at the end of the reporting period.

a) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of corporation, firm or enterprise)

_____
(address)

_____
(name under which investment held)

b) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of corporation, firm or enterprise)

_____
(address)

_____
(name under which investment held)

c) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of corporation, firm or enterprise)

_____
(address)

_____
(name under which investment held)

d) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of corporation, firm or enterprise)

_____
(address)

_____
(name under which investment held)

e) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of corporation, firm or enterprise)

_____
(address)

_____
(name under which investment held)

f) Check appropriate box: ☐ More than $1,000 ☐ More than $12,500

_____
(name of corporation, firm or enterprise)

_____
(address)

_____
(name under which investment held)

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SECTION 5- OFFICE OR DIRECTORSHIP

List every office or directorship held by you or your spouse in any business, corporation, firm, or enterprise subject to jurisdiction of a regulatory agency of this State, or of any of its political subdivisions.

a) _____
(name of business, corporation, firm, or enterprise)

_____
(address)

_____
(office or directorship held)

_____
(name of office holder)

b) _____
(name of business, corporation, firm, or enterprise)

_____
(address)

_____
(office or directorship held)

_____
(name of office holder)

SECTION 6- CREDITORS

List each creditor to whom the value of five thousand dollars ($5,000) or more was personally owed or personally obligated and is still outstanding. (This does not include debts owed to members of your family or loans made in the ordinary course of business by either a financial institution or a person who regularly and customarily extends credit.)

a) _____
(name of creditor)

_____
(address of creditor)

b) _____
(name of creditor)

_____
(address of creditor)

c) _____
(name of creditor)

_____
(address of creditor)

SECTION 7- GUARANTOR OR CO-MAKER

List each guarantor or co-maker who has guaranteed a debt of yours that is still outstanding. (This includes debt guarantors arising or extended and refinanced after Jan. 1, 1989. Members of your family who are your guarantors are not required to be disclosed.)

a) _____
(name)

_____
(address)

b) _____
(name)

_____
(address)

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SECTION 8- GIFTS

List the source, date, description, and a reasonable estimate of the fair market value of each gift of more than $100 received by you or your spouse and of each gift of more than $250 received by your dependent children. The term "gift" is defined as "any payment, entertainment, advance, services, or anything of value unless consideration of equal or greater value has been given therefor." There are a number of exceptions to the definition of "gift." Those exceptions are set forth in the Instructions for Statement of Financial Interest prepared for use with this form. (Note: The value of an item shall be considered to be less than $100 if the public servant reimburses the person from whom the item was received any amount over $100 and the reimbursement occurs within ten (10) days from the date the item was received.)

a) _____
(description of gift)

_____
(date) (fair market value)

_____
(source of gift)

b) _____
(description of gift)

_____
(date) (fair market value)

_____
(source of gift)

c) _____
(description of gift)

_____
(date) (fair market value)

_____
(source of gift)

d) _____
(description of gift)

_____
(date) (fair market value)

_____
(source of gift)

e) _____
(description of gift)

_____
(date) (fair market value)

_____
(source of gift)

f) _____
(description of gift)

_____
(date) (fair market value)

_____
(source of gift)

g) _____
(description of gift)

_____
(date) (fair market value)

_____
(source of gift)

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SECTION 9- AWARDS

If you are an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college, the law requires you to disclose each monetary or other award over one hundred dollars ($100) which you have received in recognition of your contributions to education. The information disclosed with respect to each such award should include the source, date, description, and a reasonable estimate of the fair market value.

a) _____
(description of award)

_____
(date) (fair market value)

_____
(source of award)

b) _____
(description of award)

_____
(date) (fair market value)

_____
(source of award)

c) _____
(description of award)

_____
(date) (fair market value)

_____
(source of award)

d) _____
(description of award)

_____
(date) (fair market value)

_____
(source of award)

SECTION 10- NONGOVERNMENTAL SOURCES OF PAYMENT

List each nongovernmental source of payment of your expenses for food, lodging, or travel which bears a relationship to your office when you appear in your official capacity when the expenses incurred exceed $150.

a)_____
(name of person or organization paying expense)

_____
(business address)

_____$_____
(date of expense) (amount of expense)

_____
(nature of expenditure)

b)_____
(name of person or organization paying expense)

_____
(address)

_____$_____
(date of expense) (amount of expense)

_____
(nature of expenditure)

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SECTION 11- DIRECT REGULATION OF BUSINESS

List any business which employs you and is under direct regulation or subject to direct control by the governmental body which you serve.

a) _____
(name of business)

_____
(governmental body which regulates or controls)

b) _____
(name of business)

_____
(governmental body which regulates or controls)

c) _____
(name of business)

_____
(governmental body which regulates or controls)

d) _____
(name of business)

_____
(governmental body which regulates or controls)

SECTION 12- SALES TO GOVERNMENTAL BODY

List the goods or services sold to the governmental body for which you serve which have a total annual value in excess of $1,000. List the compensation paid for each category of goods or services sold by you or any business in which you or your spouse is an officer, director, or stockholder owning more than 10% of the stock of the company.

a) _____
(goods or services)

_____
(governmental body to whom sold)

_____
(compensation paid)

b) _____
(goods or services)

_____
(governmental body to whom sold)

_____
(compensation paid)

c) _____
(goods or services)

_____
(governmental body to whom sold)

_____
(compensation paid)

d) _____
(goods or services)

_____
(governmental body to whom sold)

_____
(compensation paid)

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SECTION 13- SIGNATURE

I certify under penalty of false swearing that the above information is true and correct.

_____
Signature

STATE OF ARKANSAS
} ss
COUNTY OF_____

Subscribed and sworn before me this _____ day of _____, 20_____ .

_____
(Legible Notary Seal) Notary Public

My commission expires: _____

Note: If faxed, notary seal must be legible (i.e., either stamped or raised and inked) and the original must follow within ten (10) days pursuant to Ark. Code Ann. § 21-8-703(b)(3).

IMPORTANT

Where to file:

State or district candidates/public servants file with the Secretary of State.
County, township, and school district candidates/public servants file with the county clerk.
Municipal candidates/public servants file with the city clerk or recorder, as the case may be.
Municipal judges and city attorneys file with the city clerk of the municipality in which they serve.
Members of regional boards or commissions file with the county clerk of the county in which they reside.

General Information:

* The Statement of Financial Interest should be filed by January 31 of each year.

* The filing covers the previous calendar year.

* Candidates for elective office shall file the Statement of Financial Interest for the previous calendar year on the first Monday following the close of the period to file as a candidate for elective office unless already filed by January 31.

* Agency heads, department directors, and division directors of state government shall file the Statement of Financial Interest within thirty (30) days of appointment or employment unless already filed by January 31.

* Appointees to state boards or commissions shall file the Statement of Financial Interest within thirty (30) days after appointment unless already filed by January 31.

* If a person is included in any category listed above for any part of a calendar year, that person shall file a Statement of Financial Interest covering that period of time regardless of whether they have left their office or position as of the date the statement is due.

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