

## 2013 ACTS OF ARKANSAS (REGULAR SESSION)

### DOMESTIC RELATIONS

**Act 1156 (SB 901) [Dom. Rel.]** The Act amends § 9-13-101(a)(1)(A) to provide that in an action for divorce, an award of joint custody is favored in Arkansas. It defines “joint custody” as “the approximate and reasonable equal division of time with the child by both parents individually as agreed to by the parents or as ordered by the court.” It provides that if the circuit court finds by a preponderance that one parent demonstrates a pattern of willfully creating conflict to attempt to disrupt a joint-custody arrangement, such behavior may be deemed a material change in circumstances, providing the basis for a change from joint custody to an order of primary custody to the nondisruptive parent. Finally, it provides that child support under a joint custody order is at the discretion of the court, and that it shall be consistent with Administrative Order No. 10 and a deviation as permitted by Administrative Order No. 10.

**Act 1487 (HB 1962) [Dom. Rel.]** The Act amends § 9-12-312 concerning alimony to add three circumstances which shall be considered the equivalent of remarriage when one is receiving alimony: (1) living full time with another in an intimate cohabiting relationship; (2) the death of either party; or (3) any other contingencies as set out in the alimony order. The Act also provides that when a request is made for rehabilitative alimony, the payer may request or the court may require the recipient to provide a plan of rehabilitation for the court to determine (1) whether or not the plan is feasible, and (2) the amount and duration of the award. A person paying or a person receiving alimony may petition the court for a review, modification, or both at any time based upon a significant and material change of circumstances.

**Act 1512 (HB 2267) [Dom. Rel.]** The Act amends § 9-13-107(d)(2), concerning grandparent visitation when the parent does not have custody of the child, to provide that visitation in that circumstance shall be consistent with visitation awarded un § 9-13-103, which is distinct from a custody and visitation schedule awarded to a parent in a divorce case. If the court finds that the visitation should be expanded, then the court shall include the expansions in the order granting visitation.

**Act 44 (SB 118) [Dom. Rel., Judicial Retirement, State Employees' Retirement]** The Act amends § 9-18-103(b) to allow state-supported retirement systems to require that qualified domestic relations orders that reach public employees' retirement benefits substantially comply with a uniform legal form. The boards of the state-supported retirement systems shall (1) establish rules and regulations to implement, and (2) adopt a uniform legal form for preparing a qualified domestic relations order. The uniform legal form shall be approved by Legislative Council. A state-supported retirement system is not required to comply with a qualified domestic relations order that does not substantially follow the uniform legal form.

**Act 317 (HB 1257) [Child Support]** The Act amends § 9-14-235 to clarify that the payment of child support arrearages continues as an obligation after the duty to support ceases until the child support arrearage or judgment has been satisfied.

**Act 1119 (HB 2175) [Child Support].** The Act repeals § 9-14-104, which requires suspension of court action regarding failure to provide child support when a person pleads insanity.

**Act 573 (HB 1555) [Misc. Dom. Rel.].** The Act amends § 20-47-202, to create a mechanism for transferring back to Arkansas any Arkansas citizen who has been detained in a private hospital in another state for the treatment of mental illness. It adds definitions for “resides” and “State or local authority,” and adds a section providing for reciprocal agreements between Arkansas and contiguous states for carrying out the purposes of the provision.

**Act 583 (HB 1812) [Misc. Dom. Rel.].** The Act amends § 9-20-103(10) and (11), concerning definitions for the Adult Maltreatment Custody Act, adding definitions and describing the process for less-than-custody orders. Adds that a less-than-custody order may specify safeguards, including without limitation: (1) prohibiting a legal custodian or guardian of an endangered or impaired adult from having contact with the endangered or impaired adult; (2) prohibiting a legal custodian, guardian or holder of a power of attorney of an endangered or impaired adult from withdrawing funds from account or accessing the assets of the endangered or impaired adult; or (3) requiring the endangered or impaired adult to accept services as directed by the court. The Act also amends § 9-20-115, concerning emergency orders, authorizing the probate division of circuit court to issue an ex parte less-than-custody order to protect an endangered or impaired adult in lieu of an ex parte order for emergency custody.

**Act 584 (HB 1813) [Misc. Dom. Rel.].** The Act amends various provisions of § 12-12-1701, et seq. to clarify the Adult and Long-Term Care Facility Resident Maltreatment Act, to add definitions to the Act, and to describe the procedures of DHS.

**Act 1152 (HB 1731) [Dom. Rel.].** The Act repeals various provisions of the Arkansas Code concerning family law, including the following: §§ 9-3-108, -109; 9-8-301, -302, -303, -304, -305, -306; 9-9-303; 9-11-502; 9-11-504; 9-11-515; 9-25-103; 9-33-201, -202, -203, -204, -205, -206; 9-33-301, -302, -303, -304.

**Act 1264 (SB 1013) [Misc. Dom. Rel. and Probate].** The Act creates an additional subchapter in Title 20, Chapter 6, §§ 20-6-101, et seq., the “Arkansas Healthcare Decisions Act.” Its purpose is to protect patients’ rights to make their own health care decisions, to promote advance directives, and to provide legal protection for patients’ rights.

## **PROBATE**

**Act 1054 (HB 1790) [Adoption].** The Act amends § 9-9-206(a)(2), concerning persons who are required to consent to an adoption, to add the father of a minor if he has acknowledged paternity under § 9-10-120(a).

**Act 1019 (SB 781) [Decedents’ Estates].** The Act amends § 28-11-204, concerning the distribution of a decedent’s estate upon his or her murder by a spouse, to provide that if a decedent spouse dies without a will, the descendants of the one convicted shall not benefit from the estate of the decedent spouse unless the descendants of the spouse who committed the murder

are also descendants of the decedent spouse.

**Act 1351 (HB 1920) [Decedents' Estates].** The Act amends the Arkansas Code to add a new chapter and subchapters to amend the property laws to prohibit property rights from being acquired through the unlawful killing of another person. The acquisition of property rights which are barred include property that would be passed by testate or intestate succession, or insurance or annuity benefits.

**Act 577 (HB 1693) [Guardianship Subsidy].** The Act amends §§ 9-8-205, 28-65-104, 28-65-107(c), and 28-65-401(a), concerning a guardianship subsidy, including who can receive a guardianship subsidy from DHS, when a guardianship subsidy is terminated, and when DHS can intervene in a guardianship case.

**Act 582 (HB 1811) [Guardianship of Adults].** The Act amends § 28-65-703(a)-(c), concerning the Public Guardian for Adults, to authorize the employment of Deputy Public Guardians for Adults, and to require that the Public Guardian for Adults must petition for the guardianship and consent to the appointment before a court may appoint.

**Act 230 (HB 1265) [Probate].** The Act amends § 28-41-101(b), concerning distribution of a small estate without administration, to amend the form of notice required for estates that include real property.

## OTHER

**Act 291 ((HB 1193) [Clerks].** The Act amends § 21-6-412, concerning sales of real or personal property under judicial decrees. If the circuit court clerk's office is appointed commissioner for a sale of real or personal property under judicial decree, the fee awarded to the circuit clerk's office shall be (1) collected by the circuit clerk and paid into the county treasury into a designated fund; and (2) used exclusively by the circuit clerk's office to offset administrative costs in connection with the performance of the commissioner's duties; and for general operational expenses of the circuit clerk's office. The quorum court has the authority to appropriate and expend the funds at the direction of the circuit clerk.

**Act 1014 (HB 2146) [Stalking].** The Act amends § 5-71-229 regarding stalking to redefine stalking in the first degree; to add the crime of stalking in the third degree, a Class A misdemeanor; and to establish a new subchapter, §§ 16-127-101, et seq., the "Stalker Liability Act." The Act provides a civil remedy for stalking, including the possibility for actual damages, punitive damages, attorneys' fees, and court costs for one who proves by a preponderance of the evidence that another person knowingly engaged in a course of conduct towards the person that would place a reasonable person in the person's position under emotional distress or in fear for his or her safety or the safety of a third person. A cause of action may be maintained against one whether or not he or she is charged with or convicted of § 5-71-229. An action or termination of a civil action does not prevent a criminal prosecution under § 5-71-229. The statute of limitations under the action is one year or less after the most recent conduct prohibited under § 5-71-229.

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: H2/20/13

# A Bill

HOUSE BILL 1265

5 By: Representatives Broadaway, Ferguson, Jett, Julian, Ratliff, D. Whitaker, Wren  
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## For An Act To Be Entitled

8 AN ACT AMENDING THE FORM OF NOTICE REQUIRED WHEN A  
9 SMALL ESTATE IS DISTRIBUTED WITHOUT ADMINISTRATION;  
10 AND FOR OTHER PURPOSES.  
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### Subtitle

12 AMENDING THE FORM OF NOTICE REQUIRED WHEN  
13 A SMALL ESTATE IS DISTRIBUTED WITHOUT  
14 ADMINISTRATION.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 28-41-101(b), concerning the form of notice  
22 required when there is a distribution of a small estate without  
23 administration, is amended to read as follows:

24 (b)(1)(A) The clerk shall file the affidavit, assign it a number, and  
25 index it as required by § 28-1-108(1).

26 (B) He or she shall make a charge of twenty-five dollars  
27 (\$25.00) for filing the affidavit and five dollars (\$5.00) for each certified  
28 copy.

29 (C) ~~No~~ An order of the court or other proceeding ~~shall be~~  
30 is not necessary.

31 (D) ~~No additional fees~~ An additional fee shall not be  
32 charged if a will is attached to the affidavit.

33 (2)(A) If an estate collected under this section contains real  
34 property, in order to allow for claims against the estate to be presented,  
35 the distributee shall cause a notice of the decedent's death and the filing  
36 of an affidavit for ~~collecting~~ the collection of his or her estate to be



1 published within thirty (30) days after the affidavit has been filed.

2 (B) The notice shall ~~contain~~ be in substantially the  
3 following form:

4 ~~(i) The name of the decedent and his or her last~~  
5 ~~known address;~~

6 ~~(ii) The date of death;~~

7 ~~(iii) A statement that the affidavit was filed, the~~  
8 ~~date of the filing, and a legal description of all real property listed in~~  
9 ~~the affidavit;~~

10 ~~(iv) A statement requiring all persons having claims~~  
11 ~~against the estate to exhibit them, properly verified, within three (3)~~  
12 ~~months from the date of the first publication of the notice, or they shall be~~  
13 ~~forever barred and precluded from any benefit in the estate;~~

14 ~~(v) The name and mailing address of the distributee~~  
15 ~~or his or her attorney; and~~

16 ~~(vi) The date the notice was first published.~~

17 "In the Circuit Court of . . . . . County, Arkansas

18 Probate Division

19 In the Matter of the Estate of . . . . ., Deceased. No . . . . .

20 Name of decedent . . . . .

21 Last known address . . . . .

22 Date of death . . . . .

23 On . . . . ., an affidavit for collection of small estate by  
24 distributee was filed with respect to the estate of . . . . .,  
25 deceased, with the clerk of the probate division of the circuit court of . .  
26 . . . . . County, Arkansas, under Ark. Code Ann. § 28-41-101.

27 The legal description of the real property listed in the affidavit is  
28 as follows:

29 . . . . .

30 All persons having claims against the estate must exhibit them,  
31 properly verified, to the distributee or his or her attorney within three (3)  
32 months from the date of the first publication of this notice or they shall be  
33 forever barred and precluded from any benefit of the estate.

34 The name, mailing address, and telephone number of the distributee or  
35 distributee's attorney is:

36 . . . . .

1           This notice first published . . . . ., 20 . . .

2                           (C) Publication of the notice shall be as provided in §§  
3 28-1-112(b)(4) and 28-40-111(a)(4).

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*/s/Broadaway*

**APPROVED: 03/01/2013**

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: H2/7/13  
**A Bill**

HOUSE BILL 1193

5 By: Representatives Hammer, Neal  
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND ARKANSAS LAW CONCERNING SALES OF REAL  
9 OR PERSONAL PROPERTY UNDER JUDICIAL DECREES; AND FOR  
10 OTHER PURPOSES.  
11

12 **Subtitle**

13 TO AMEND ARKANSAS LAW CONCERNING SALES OF  
14 REAL OR PERSONAL PROPERTY UNDER JUDICIAL  
15 DECREES.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 21-6-412 is amended to read as follows:  
22 21-6-412. Commissioners to sell property.

23 (a)(1) Commissioners appointed to make sales of real property under  
24 judicial decrees shall be allowed the following fees as compensation for such  
25 services:

26	On sales for	\$ 1.00	to	\$ 500.....	\$10.00
27	On sales for	500	to	2,500.....	15.00
28	On sales for	2,500	to	5,000.....	20.00
29	On sales for	5,000	to	10,000.....	25.00
30	On sales for	10,000	to	20,000.....	30.00
31	On sales for	20,000	to	35,000.....	35.00
32	On sales for	35,000 or more, one-tenth of one percent (0.1%).			

33 (2) Commissioners appointed to make sales of personal property  
34 under judicial decrees shall be allowed as compensation for such services the  
35 fee prescribed by the judge of the court that issued the decree.

36 (b) In lieu of the fees provided for in this section, the court may



1 set reasonable fees for commissioners based upon services rendered on sales  
2 under thirty-five thousand dollars (\$35,000).

3 (c)(1) If the circuit clerk's office is appointed as commissioner for  
4 a sale of real or personal property under judicial decree, the fee awarded to  
5 the circuit clerk's office under this section shall be:

6 (A) Collected by the circuit clerk and paid into the  
7 county treasury to the credit of a fund to be known as the "circuit clerk  
8 commissioner's fee fund"; and

9 (B) Used exclusively by the circuit clerk's office for the  
10 following purposes and in the following order:

11 (i) To offset administrative costs associated with  
12 the performance of the commissioner's duties; and

13 (ii) For general operational expenses of the office  
14 of circuit clerk.

15 (2) Moneys deposited into the fund shall be appropriated and  
16 expended for the uses designated in this section by the quorum court at the  
17 direction of the circuit clerk.

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/s/Hammer

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APPROVED: 03/06/2013

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1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
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*As Engrossed: S3/21/13*

# A Bill

SENATE BILL 901

5 By: Senators J. Woods, J. English  
6 By: Representatives Lowery, Alexander, Neal, *E. Armstrong, Baine, Ballinger*  
7

## For An Act To Be Entitled

8 AN ACT CONCERNING CHILD CUSTODY PRESUMPTIONS IN  
9 DIVORCE CASES; AND FOR OTHER PURPOSES.  
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### Subtitle

12 CONCERNING CHILD CUSTODY PRESUMPTIONS IN  
13 DIVORCE CASES.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code § 9-13-101(a)(1)(A), concerning awarding  
21 child custody, is amended to read as follows:

22 (a)(1)(A)(i) In an action for divorce, the award of custody of a child  
23 of the marriage shall be made without regard to the sex of a parent but  
24 solely in accordance with the welfare and best interest of the child.

25 (ii) In determining the best interest of the child,  
26 the court may consider the preferences of the child if the child is of a  
27 sufficient age and mental capacity to reason, regardless of chronological  
28 age.

29 (iii) In an action for divorce, an award of joint  
30 custody is favored in Arkansas.  
31

32 SECTION 2. Arkansas Code § 9-13-101(a), concerning awarding child  
33 custody, is amended to add an additional subdivision to read as follows:

34 (5) As used in this section, "joint custody" means the  
35 approximate and reasonable equal division of time with the child by both  
36 parents individually as agreed to by the parents or as ordered by the court.



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SECTION 3. Arkansas Code § 9-13-101(b)(1)(A), concerning joint custody, is amended to read as follows:

(b)(1)(A)(i) When in the best ~~interests~~ interest of a child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents consistent with subdivision (a)(1)(A) of this section.

*(ii) To this effect, the circuit court may consider awarding joint custody of a child to the parents in making an order for custody.*

(iii) If, at any time, the circuit court finds by a preponderance of the evidence that one (1) parent demonstrates a pattern of willfully creating conflict in an attempt to disrupt a current or pending joint-custody arrangement, the circuit court may deem such behavior as a material change of circumstances and may change a joint custody order to an order of primary custody to the nondisruptive parent.

(iv) Child support under a joint custody order is issued at the discretion of the court and shall:

(a) Be consistent with Administrative Order No. 10 - Child Support Guidelines; or

(b) Deviate from Administrative Order No. 10 - Child Support Guidelines as permitted by the rule.

*/s/J. Woods*

**APPROVED: 04/11/2013**

1 State of Arkansas      *As Engrossed: H3/18/13 H3/27/13 S4/4/13*  
2 89th General Assembly  
3 Regular Session, 2013

# A Bill

HOUSE BILL 2146

4  
5 By: Representative Fite  
6 By: Senator J. Woods

## For An Act To Be Entitled

8  
9 AN ACT REGARDING THE OFFENSE OF STALKING; TO  
10 ESTABLISH CIVIL LIABILITY FOR STALKING; AND FOR OTHER  
11 PURPOSES.

### Subtitle

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15 REGARDING THE OFFENSE OF STALKING AND TO  
16 ESTABLISH CIVIL LIABILITY FOR STALKING.

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

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21 SECTION 1. Arkansas Code § 5-71-229 is amended to read as follows:  
22 5-71-229. Stalking.

23 (a)(1) A person commits stalking in the first degree if he or she  
24 ~~purposely knowingly engages in a course of conduct that harasses another~~  
25 ~~person and makes a terroristic threat with the intent of placing that person~~  
26 ~~in imminent fear of death or serious bodily injury or placing that person in~~  
27 ~~imminent fear of the death or serious bodily injury of his or her immediate~~  
28 ~~family and the person that would place a reasonable person in the victim's~~  
29 position under emotional distress and in fear for his or her safety or a  
30 third person's safety, and the actor:

31 (A) Does so in contravention of an order of protection  
32 consistent with ~~The~~ the Domestic Abuse Act of 1991, § 9-15-101 et seq., or a  
33 no contact order as set out in subdivision (a)(2)(A) of this section,  
34 protecting the same victim, or any other order issued by any court protecting  
35 the same victim;

36 (B) Has been convicted within the previous ten (10) years



1 of:

2 (i) Stalking in the second degree;

3 (ii) ~~Violating~~ Terroristic threatening, § 5-13-301  
4 or terroristic act, § 5-13-310; or

5 (iii) Stalking or threats against another person's  
6 safety under the statutory provisions of any other state jurisdiction; or

7 (C) Is armed with a deadly weapon or represents by word or  
8 conduct that he or she is armed with a deadly weapon.

9 (2)(A) Upon pretrial release of the defendant, a judicial  
10 officer shall enter a no contact order in writing consistent with Rules 9.3  
11 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to  
12 the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of  
13 Criminal Procedure.

14 (B) ~~This~~ The no contact order remains in effect during the  
15 pendency of any appeal of a conviction under this subsection (a) of this  
16 section.

17 (C) The judicial officer or prosecuting attorney shall  
18 provide a copy of ~~this~~ the no contact order to the victim and the arresting  
19 law enforcement agency without unnecessary delay.

20 (D) If the judicial officer has reason to believe that  
21 mental disease or defect of the defendant will or has become an issue in the  
22 cause, the judicial officer shall enter such orders as are consistent with §  
23 5-2-305.

24 (3) Stalking in the first degree is a Class B C felony.

25 (b)(1) A person commits stalking in the second degree if he or she purposely  
26 knowingly engages in a course of conduct that harasses another person and  
27 makes a terroristic threat with the ~~intent~~ purpose of placing that person in  
28 imminent fear of death or serious bodily injury or placing that person in  
29 imminent fear of the death or serious bodily injury of his or her immediate  
30 family.

31 (2)(A) Upon pretrial release of the defendant, a judicial  
32 officer shall enter a no contact order in writing consistent with Rules 9.3  
33 and 9.4 of the Arkansas Rules of Criminal Procedure and shall give notice to  
34 the defendant of penalties contained in Rule 9.5 of the Arkansas Rules of  
35 Criminal Procedure.

36 (B) ~~This~~ The no contact order remains in effect during the

1 pendency of any appeal of a conviction under this subsection ~~(b) of this~~  
2 ~~section.~~

3 (C) The judicial officer or prosecuting attorney shall  
4 provide a copy of ~~this the~~ no contact order to the victim and arresting law  
5 enforcement agency without unnecessary delay.

6 (D) If the judicial officer has reason to believe that  
7 mental disease or defect of the defendant will or has become an issue in the  
8 cause, the judicial officer shall enter such orders as are consistent with §  
9 5-2-305.

10 (3) Stalking in the second degree is a *Class C D* felony.

11 (c)(1) A person commits stalking in the third degree if he or she  
12 knowingly commits an act that would place a reasonable person in the victim's  
13 position under emotional distress and in fear for his or her safety or a  
14 third person's safety.

15 (2)(A) Upon pretrial release of the defendant, a judicial officer  
16 shall enter a no contact order in writing consistent with Rules 9.3 and 9.4  
17 of the Arkansas Rules of Criminal Procedure and shall give notice to the  
18 defendant of penalties contained in Rule 9.5 of the Arkansas Rules of  
19 Criminal Procedure.

20 (B) The no contact order remains in effect during the  
21 pendency of any appeal of a conviction under this subsection (c).

22 (C) The judicial officer or prosecuting attorney shall  
23 provide a copy of the no contact order to the victim and arresting law  
24 enforcement agency without unnecessary delay.

25 (D) If the judicial officer has reason to believe that  
26 mental disease or defect of the defendant will or has become an issue in the  
27 cause, the judicial officer shall enter orders as are consistent with § 5-2-  
28 305.

29 (3) Stalking in the third degree is a Class A misdemeanor.

30 ~~(e)(d)~~ It is an affirmative defense to prosecution under this section  
31 if the actor is a law enforcement officer, licensed private investigator,  
32 attorney, process server, licensed bail bondsman, or a store detective acting  
33 within the reasonable scope of his or her duty while conducting surveillance  
34 on an official work assignment.

35 ~~(d)(e)~~ It is not a defense to a prosecution under this section that  
36 the actor was not given actual notice by the victim that the actor's conduct

1 was not wanted.

2 (f) As used in this section:

3 (1)(A) "Course of conduct" means a pattern of conduct composed  
4 of two (2) or more acts, separated by at least thirty-six (36) hours, but  
5 occurring within one (1) year including without limitation an act in which  
6 the actor directly, indirectly, or through a third party by any action,  
7 method, device, or means follows, monitors, observes, places under  
8 surveillance, threatens, or communicates to or about a person or interferes  
9 with a person's property.

10 (B)(i) "Course of conduct" does not include  
11 constitutionally protected activity.

12 (ii) If the defendant claims that he or she was  
13 engaged in a constitutionally protected activity, the court shall determine  
14 the validity of that claim as a matter of law and, if found valid, shall  
15 exclude that activity from evidence;

16 (2)(A) "Emotional distress" means significant mental suffering  
17 or distress.

18 (B) "Emotional distress" does not require that the victim  
19 sought or received medical or other professional treatment or counseling; and

20 ~~(2)(3) "Harasses" means an act of harassment as prohibited by §~~  
21 ~~5-71-208; and-~~

22 ~~(3) "Immediate family" means any spouse, parent, child, any~~  
23 ~~person related by consanguinity or affinity within the second degree, or any~~  
24 ~~other person who regularly resides in the household or who, within the prior~~  
25 ~~six (6) months, regularly resided in the household.~~

26

27 SECTION 2. Arkansas Code Title 16 is amended to add an additional  
28 chapter to read as follows:

29 CHAPTER 127 STALKER LIABILITY ACT

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31 16-127-101. Title.

32 This chapter shall be known and may be cited as the "Stalker Liability  
33 Act."

34

35 16-127-102. Civil liability for stalking.

36 (a) A person may recover actual damages, and if applicable, punitive

1 damages, reasonable attorney's fees, and court costs against another person  
2 if he or she proves by a preponderance of the evidence that another person  
3 knowingly engaged in a course of conduct towards the person that would place  
4 a reasonable person in the person's position under emotional distress or in  
5 fear for his or her safety or a third person's safety.

6 (b) The definitions at § 5-71-229(f) apply to this chapter.

7 (c) A cause of action under subdivision (a)(1) of this section may be  
8 maintained whether or not the person who is alleged to have engaged in a  
9 course of conduct prohibited under § 5-71-229 has been charged or convicted  
10 under § 5-71-229.

11 (d) The existence or the termination of a cause of action under  
12 subdivision (a)(1) of this section does not prevent the criminal prosecution  
13 of a person for violation of § 5-71-229.

14 (e) A person shall commence a cause of action under subdivision (a)(1)  
15 of this section against another person one (1) year or less after the most  
16 recent conduct prohibited under § 5-71-229 by the other person toward the  
17 aggrieved party.

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*/s/Fite*

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**APPROVED: 04/08/2013**

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1 State of Arkansas *As Engrossed: H3/19/13 S4/2/13 S4/9/13*  
2 89th General Assembly  
3 Regular Session, 2013

# A Bill

HOUSE BILL 1962

4  
5 By: Representative Gillam  
6

## For An Act To Be Entitled

8 AN ACT CONCERNING REFORMS TO THE CURRENT ALIMONY AND  
9 CHILD SUPPORT STATUTES; AND FOR OTHER PURPOSES.

### Subtitle

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12 CONCERNING REFORMS TO THE CURRENT ALIMONY  
13 AND CHILD SUPPORT STATUTES.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18  
19 SECTION 1. Arkansas Code § 9-12-312 is amended to read as follows:

20 9-12-312. Alimony – Child support – Bond – Method of payment.

21 (a)(1) When a decree is entered, the court shall make ~~orders~~  
22 ~~concerning the alimony of the wife or the husband and an order concerning~~ the  
23 care of the children, if there are any, and an order concerning alimony, if  
24 applicable, as are reasonable from the circumstances of the parties and the  
25 nature of the case.

26 (2) Unless otherwise ordered by the court or agreed to by the  
27 parties, the liability for alimony shall automatically cease upon the earlier  
28 of:

29 (A) The date of the remarriage of the person who was  
30 awarded the alimony;

31 (B) The establishment of a relationship that produces a  
32 child or children and results in a court order directing another person to  
33 pay support to the recipient of alimony, which circumstances shall be  
34 considered the equivalent of remarriage; ~~or~~

35 (C) The establishment of a relationship that produces a  
36 child or children and results in a court order directing the recipient of



1 alimony to provide support of another person who is not a descendant by birth  
 2 or adoption of the payor of the alimony, which circumstances shall be  
 3 considered the equivalent of remarriage-;

4 (D) The living full time with another person in an  
 5 intimate, cohabitating relationship;

6 (E) The death of either party; or

7 (F) Any other contingencies as set forth in the order  
 8 awarding alimony.

9 ~~(2)~~(3)(A) In determining a reasonable amount of child support,  
 10 initially or upon review to be paid by the noncustodial parent, the court  
 11 shall refer to the most recent revision of the family support chart.

12 (B) It shall be a rebuttable presumption for the award of  
 13 child support that the amount contained in the family support chart is the  
 14 correct amount of child support to be awarded.

15 (C) Only upon a written finding or specific finding on the  
 16 record that the application of the child support chart would be unjust or  
 17 inappropriate, as determined under established criteria set forth in the  
 18 family support chart, shall the presumption be rebutted.

19 ~~(3)~~(4)(A) The family support chart shall be revised at least  
 20 once every four (4) years by a committee to be appointed by the Chief Justice  
 21 of the Supreme Court to ensure that the support amounts are appropriate for  
 22 child support awards.

23 (B) The committee shall also establish the criteria for  
 24 deviation from use of the chart amount.

25 ~~(4)~~(5) The Supreme Court shall approve the family support chart  
 26 and criteria upon revision by the committee for use in this state and shall  
 27 publish it through per curiam order of the court.

28 ~~(5)~~(4)(6)(A) The court may provide for the payment of child  
 29 support beyond the eighteenth birthday of the child to address the  
 30 educational needs of a child whose eighteenth birthday falls ~~prior to~~ before  
 31 graduation from high school so long as such child support is conditional on  
 32 the child remaining in school.

33 (B) The court also may ~~also~~ provide for the continuation  
 34 of support for an individual with a disability that affects the ability of  
 35 *the individual to live independently from the custodial parent.*

36 (7) Both a person paying alimony and a person receiving alimony

1 are entitled to petition the court for a review, modification, or both of the  
2 court's alimony order at any time based upon a significant and material  
3 change of circumstances.

4 (b)(1) ~~In addition to any other remedies available, alimony~~ Alimony  
5 may be awarded under proper circumstances concerning rehabilitation to either  
6 party in fixed installments for a specified period of time ~~subject to the~~  
7 ~~contingencies of the death of either party, the remarriage of the receiving~~  
8 ~~party, or such other contingencies as are set forth in the award, so that the~~  
9 ~~payments qualify as periodic payments within the meaning of the Internal~~  
10 ~~Revenue Code, so that the payments qualify as periodic payments within the~~  
11 meaning of the Internal Revenue Code.

12 (2) When a request for rehabilitative alimony is made to the  
13 court, the payer may request or the court may require the recipient to  
14 provide a plan of rehabilitation for the court to consider in determining:

15 (A) Whether or not the plan is feasible; and

16 (B) The amount and duration of the award.

17 (3) If the recipient fails to meet the requirements of the  
18 rehabilitative plan, the payer may petition the court for a review to  
19 determine if rehabilitative alimony shall continue or be modified.

20 (4) A person paying alimony is entitled to petition the court  
21 for a review, modification, or both of the court's alimony order at any time  
22 based upon a significant and material change of circumstances.

23 (c)(1) When the order provides for payment of money for the support  
24 and care of any children, the court, in its discretion, may require the  
25 person ordered to make the payments to furnish and file with the clerk of the  
26 court a bond or post security or give some other guarantee such as life  
27 insurance in an such amount and with such sureties as the court shall direct.

28 (2) The bond, security, or guarantee is to be conditioned on  
29 compliance with that part of the order of the court concerning the support  
30 and care of the children.

31 (3) If ~~such~~ action is taken due to a delinquency under the  
32 order, proper advance notice to the noncustodial parent shall be given.

33 (d)(1) All orders requiring payments of money for the support and care  
34 of any children shall direct the payments to be made through the registry of  
35 the court unless the court in its discretion determines that it would be in  
36 the best interest of the parties to direct otherwise.

1           (2) However, in all cases brought ~~pursuant to~~ under Title IV-D  
2 of the Social Security Act, the court shall order that all payments be made  
3 through the Arkansas child support clearinghouse in accordance with § 9-14-  
4 801 et seq.

5           (e)(1)(A) Except as set forth in subdivision (e)(5) of this section,  
6 all orders directing payments through the registry of the court or through  
7 the Arkansas child support clearinghouse shall set forth a fee to be paid by  
8 the noncustodial parent or obligated spouse in the amount of thirty-six  
9 dollars (\$36.00) per year.

10           (B) The fee shall be collected from the noncustodial  
11 parent or obligated spouse at the time of the first support payment and  
12 during the anniversary month of the entry of the order each year thereafter,  
13 or nine dollars (\$9.00) per quarter at the option of the obligated parent,  
14 until no children remain minor and the support obligation is extinguished and  
15 any arrears are completely liquidated.

16           (2) The clerk, upon direction from the court and as an  
17 alternative to collecting the annual fee during the anniversary month each  
18 year after entry of the order, may prorate the first fee collected at the  
19 time of the first payment of support under the order to the number of months  
20 remaining in the calendar year and thereafter collect all fees as provided in  
21 this subsection during the month of January of each year.

22           (3)(A) Payments made for this fee shall be made ~~on an annual~~  
23 basis annually in the form of a check or money order payable to the clerk of  
24 the court or ~~such~~ other legal tender that the clerk may accept.

25           (B) This fee payment shall be separate and apart from the  
26 support payment, and under no circumstances shall the support payment be  
27 reduced to fulfill the payment of this fee.

28           (4) Upon the nonpayment of the annual fee by the noncustodial  
29 parent within ninety (90) days, the clerk may notify the payor under the  
30 order of income withholding for child support who shall withhold the fee in  
31 addition to any support and remit it to the clerk.

32           (5) In counties where an annual fee is collected and the court  
33 grants at least two thousand five hundred (2,500) divorces each year, the  
34 court may require that the initial annual fee be paid by the noncustodial  
35 parent or obligated spouse ~~prior to~~ before the filing of the order.

36           (6)(A) All moneys collected by the clerk as a fee as provided in

1 this subsection shall be used by the clerk's office to offset administrative  
2 costs as a result of this subchapter.

3 (B) At least twenty percent (20%) of the moneys collected  
4 annually shall be used to purchase, maintain, and operate an automated data  
5 system for use in administering the requirements of this subchapter.

6 (C) The acquisition and update of software for the  
7 automated data system shall be a permitted use of these funds.

8 (D) All fees collected under this subsection shall be paid  
9 into the county treasury to the credit of the fund to be known as the  
10 "support collection costs fund".

11 (E) Moneys deposited into this fund shall be appropriated  
12 and expended for the uses designated in this subdivision (e)(6) by the quorum  
13 court at the direction of the clerk of the court.

14 (f)(1) The clerk of the court shall maintain accurate records of all  
15 child support orders and payments made under this section and shall post to  
16 individual child support account ledgers maintained in the clerk's office all  
17 payments received directly by the Office of Child Support Enforcement of the  
18 Revenue Division of the Department of Finance and Administration and reported  
19 to the clerk by the office.

20 (2) The office shall provide the clerk with sufficient  
21 information to identify the custodial and noncustodial parents, a docket  
22 number, and the amount and date of payment.

23 (3) The clerk shall keep on file ~~the~~ information provided by the  
24 office for audit purposes.

25 (g) The clerk may accept the support payment in any form of cash or  
26 commercial paper, including personal check, and may require that the  
27 custodial parent or nonobligated spouse be named as payee thereon.

28

29 */s/Gillam*

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32 **APPROVED: 04/22/2013**

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36

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: H4/11/13

# A Bill

HOUSE BILL 2267

5 By: Representative Hammer  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND PROVISIONS OF ARKANSAS LAW CONCERNING  
9 *THE VISITATION RIGHTS* OF GRANDPARENTS; AND FOR OTHER  
10 PURPOSES.  
11

### Subtitle

12 *TO AMEND PROVISIONS OF ARKANSAS LAW*  
13 *CONCERNING THE VISITATION RIGHTS OF*  
14 *GRANDPARENTS.*  
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16  
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 *SECTION 1. Arkansas Code § 9-13-107(d)(2), concerning the visitation*  
22 *rights of grandparents when the parent does not have custody of the child, is*  
23 *amended to read as follows:*

24 *(2)(A) If the court grants visitation to the petitioner under*  
25 *this section, then the visitation shall be ordered and exercised in a manner*  
26 *consistent with ~~all orders regarding custody of or an order for grandparent~~*  
27 *visitation with ~~the~~ a child awarded under § 9-13-103, which is distinct from*  
28 *a custody and visitation schedule awarded to a parent in a divorce case,*  
29 *unless the court makes a specific finding otherwise.*

30 *(B) If the court finds that the petitioner's visitation*  
31 *should be restricted ~~or~~, limited, or expanded in any way, then the court*  
32 *shall include the restrictions ~~or~~, limitations, or expansions in the order*  
33 *granting visitation.*  
34

35 /s/Hammer

36 APPROVED: 04/23/2013



1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

SENATE BILL 118

5 By: Senator R. Thompson  
6

## For An Act To Be Entitled

8 AN ACT TO ALLOW A STATE-SUPPORTED RETIREMENT SYSTEM  
9 TO REQUIRE A QUALIFIED DOMESTIC RELATIONS ORDER TO  
10 SUBSTANTIALLY COMPLY WITH THE UNIFORM LEGAL FORM OF A  
11 QUALIFIED DOMESTIC RELATIONS ORDER TO PAY BENEFITS;  
12 TO MAKE TECHNICAL CORRECTIONS; AND FOR OTHER  
13 PURPOSES.  
14  
15

## Subtitle

17 TO ALLOW A STATE-SUPPORTED RETIREMENT  
18 SYSTEM TO REQUIRE AN ORDER TO  
19 SUBSTANTIALLY COMPLY WITH THE UNIFORM  
20 LEGAL FORM OF A QUALIFIED DOMESTIC  
21 RELATIONS ORDER TO PAY BENEFITS; AND TO  
22 MAKE TECHNICAL CORRECTIONS.  
23  
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code § 9-18-103(b), concerning qualified domestic  
28 relations ~~order~~ orders to reach public employees' retirement benefits, is  
29 amended to read as follows:

30 (b) The boards of trustees of the state-supported retirement systems  
31 shall:

32 (1) ~~promulgate~~ Establish rules and ~~regulations~~ to implement this  
33 chapter; and

34 (2)(A) ~~shall adopt~~ Adopt a uniform legal form, ~~as approved by~~  
35 ~~the Legislative Council~~, for use in preparing a qualified domestic relations  
36 ~~orders~~ order for each retirement plan.



1                   (B)(i) The state-supported retirement system's uniform  
2 legal form of the qualified domestic relations order shall be approved by the  
3 Legislative Council.

4                   (ii) A state-supported retirement system is not  
5 required to comply with a qualified domestic relations order that does not  
6 substantially follow the uniform legal form approved by the Legislative  
7 Council.

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**APPROVED: 02/06/2013**

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1257

5 By: Representative Dale  
6 By: Senator B. Pierce  
7

## For An Act To Be Entitled

8  
9 AN ACT TO CLARIFY THE PAYMENT OF CHILD SUPPORT  
10 ARREARAGES AFTER THE DUTY TO SUPPORT CEASES; AND FOR  
11 OTHER PURPOSES.  
12  
13

## Subtitle

14  
15 TO CLARIFY THE PAYMENT OF CHILD SUPPORT  
16 ARREARAGES AFTER THE DUTY TO SUPPORT  
17 CEASES.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 9-14-235(a) and (b), concerning child  
23 support arrearages after the duty to support ceases, is amended to read as  
24 follows:

25 (a) If a child support arrearage or judgment exists at the time when  
26 ~~all children~~ any child entitled to support ~~reach~~ reaches the age majority,  
27 ~~are~~ is emancipated, or ~~die~~ dies, or when the obligor's current duty to pay  
28 child support otherwise ceases, the obligor shall continue to pay an amount  
29 equal to the court-ordered child support, or an amount to be determined by a  
30 court based on the application of guidelines for child support under the  
31 family support chart, until such time as the child support arrearage or  
32 judgment has been satisfied.

33 ~~(b) When the order of support directs an amount of support per child,~~  
34 ~~as each child reaches majority, is emancipated, or dies, or the obligor's~~  
35 ~~current duty to pay support otherwise ceases, the obligor shall continue to~~  
36 ~~pay the amount set as child support, or an amount set by a court based on the~~



1 ~~application of the guidelines for child support under the family support~~  
2 ~~chart, for that child if a judgment or child support arrearage exists until~~  
3 ~~such time as the judgment or arrearage has been satisfied.~~

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APPROVED: 03/11/2013

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013

# A Bill

HOUSE BILL 2175

4  
5 By: Representative H. Wilkins

## For An Act To Be Entitled

8 AN ACT TO REPEAL THE LAW REQUIRING SUSPENSION OF  
9 COURT ACTION REGARDING FAILURE TO PROVIDE CHILD  
10 SUPPORT WHEN A PERSON PLEADS INSANITY IN A CONTEMPT  
11 PROCEEDING; AND FOR OTHER PURPOSES.

## Subtitle

12  
13  
14 TO REPEAL THE LAW REQUIRING SUSPENSION OF  
15 COURT ACTION REGARDING FAILURE TO PROVIDE  
16 CHILD SUPPORT WHEN A PERSON PLEADS  
17 INSANITY.  
18

19  
20  
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22  
23 SECTION 1. Arkansas Code § 9-14-104 is repealed.

24 ~~9-14-104. Failure to support - Defense of insanity to contempt~~  
25 ~~proceedings.~~

26 ~~(a) Whenever a person pleads insanity in contempt proceedings before a~~  
27 ~~circuit judge for failure to make family support payments as ordered by the~~  
28 ~~circuit judge or whenever the circuit judge has reason to believe that the~~  
29 ~~defense of insanity will be raised or become an issue in the case, the~~  
30 ~~circuit judge shall postpone all proceedings in the cause. He or she shall~~  
31 ~~forthwith commit the contemnor to the Arkansas State Hospital where the~~  
32 ~~contemnor will remain under observation for such time as the court will~~  
33 ~~direct, but not exceeding one (1) month.~~

34 ~~(b) The circuit judge shall order the director or his or her designee~~  
35 ~~of the Arkansas State Hospital to direct some competent physician or~~  
36 ~~physicians employed by the Arkansas State Hospital to conduct observation and~~



1 ~~investigations of the mental conditions of the contemnor and to prepare a~~  
2 ~~written report thereof. On issuing the order, the circuit judge shall direct~~  
3 ~~the circuit clerk to notify the attorneys in the case of the issuance of the~~  
4 ~~order.~~

5 ~~(c) The action of the court in committing the contemnor for~~  
6 ~~examination shall not preclude the plaintiff or contemnor from calling expert~~  
7 ~~witnesses to testify at the trial. The expert witnesses shall have free~~  
8 ~~access to the contemnor for the purposes of observation and examination~~  
9 ~~during the period of his or her commitment to the Arkansas State Hospital for~~  
10 ~~examination.~~

11 ~~(d) The Arkansas State Hospital shall indicate separately the~~  
12 ~~contemnor's mental condition at the time of the alleged act of contempt. This~~  
13 ~~report shall be certified by the director or his or her designee of the~~  
14 ~~Arkansas State Hospital, under his or her seal, or by an affidavit duly~~  
15 ~~subscribed and sworn to by him or her before a notary public who shall add~~  
16 ~~his or her certificate and affix his or her seal thereto.~~

17 ~~(e) It is the specific intent of this section only to affect those~~  
18 ~~laws pertaining to mental health. Nothing in this section shall be deemed to~~  
19 ~~repeal or modify the provisions of §§ 20-64-701 - 20-64-707. No other laws~~  
20 ~~shall be affected in any manner, nor shall the inclusion of those laws within~~  
21 ~~the mental health laws in any way repeal or affect those laws as they~~  
22 ~~otherwise apply.~~

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APPROVED: 04/11/2013

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: S4/2/13*  
**A Bill**

HOUSE BILL 1790

5 By: Representative Broadaway  
6

7 **For An Act To Be Entitled**

8 AN ACT CONCERNING WHO IS REQUIRED TO CONSENT TO AN  
9 *ADOPTION; AND FOR OTHER PURPOSES.*

10  
11  
12 **Subtitle**

13 ACT CONCERNING WHO IS REQUIRED TO CONSENT  
14 *TO AN ADOPTION.*  
15  
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 SECTION 1. Arkansas Code § 9-9-206(a)(2), concerning persons who are  
20 required to consent to an adoption, is amended to read as a follows:

21 (2) The father of the minor if:

22 ~~(A) the~~ The father was married to the mother at the time  
23 the minor was conceived or at any time thereafter;

24 ~~(B) the~~ The minor is his child by adoption;

25 ~~(C) he~~ He has physical custody of the minor at the time the  
26 petition is filed;

27 ~~(D) he~~ He has a written order granting him legal custody of  
28 the minor at the time the petition for adoption is filed;

29 ~~(E) a~~ A court has adjudicated him to be the legal father  
30 prior to the time the petition for adoption is filed;

31 ~~(F) he~~ He proves a significant custodial, personal, or  
32 financial relationship existed with the minor before the petition for  
33 adoption is filed; or

34 ~~(G) He~~ He has acknowledged paternity under § 9-10-120(a);  
35

36 */s/Broadaway* **APPROVED: 04/10/2013**



1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: H4/1/13  
**A Bill**

SENATE BILL 781

5 By: Senators Bledsoe, J. Hutchinson  
6 By: Representatives D. Douglas, Ballinger, J. Burris, Collins, Farrer, Gillam, Payton, Scott  
7

8 **For An Act To Be Entitled**

9 AN ACT CONCERNING THE DISTRIBUTION OF A DECEDENT'S  
10 ESTATE UPON HIS OR HER MURDER BY A SPOUSE; AND FOR  
11 OTHER PURPOSES.  
12  
13

14 **Subtitle**

15 CONCERNING THE DISTRIBUTION OF A  
16 DECEDENT'S ESTATE UPON HIS OR HER MURDER  
17 BY A SPOUSE.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 28-11-204 is amended to read as follows:  
23 28-11-204. Murder of spouse – Effect.

24 (a) Whenever a spouse shall kill or slay his or her spouse and the  
25 killing or slaying would under the law constitute murder, either in the first  
26 or second degree, and that spouse shall be convicted of murder for the  
27 killing or slaying, in either the first or second degree, the one so  
28 convicted shall not be endowed in the real or personal estate of the decedent  
29 spouse so killed or slain.

30 (b) In the event that a decedent spouse under this section dies  
31 without a will, the descendents of the one so convicted shall not benefit  
32 from the estate of the decedent spouse unless the descendents of the spouse  
33 that committed the murder are also descendants of the decedent spouse.  
34

35 /s/Bledsoe

36 APPROVED: 04/09/2013



1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: H3/25/13*  
**A Bill**

HOUSE BILL 1920

5 By: Representative J. Edwards  
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND THE PROPERTY LAWS OF THE STATE OF  
9 ARKANSAS TO PROHIBIT PROPERTY RIGHTS FROM BEING  
10 ACQUIRED THROUGH THE UNLAWFUL KILLING OF ANOTHER  
11 PERSON; AND FOR OTHER PURPOSES.  
12  
13

14 **Subtitle**

15 TO AMEND THE PROPERTY LAWS OF THE STATE  
16 OF ARKANSAS TO PROHIBIT PROPERTY RIGHTS  
17 FROM BEING ACQUIRED THROUGH THE UNLAWFUL  
18 KILLING OF ANOTHER PERSON.  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Title 18 is amended to add a new chapter and subchapters to  
24 read as follows:

25 CHAPTER 4 – MISCELLANEOUS OWNERSHIP RIGHTS

26  
27 Subchapter 1 – General Provisions [reserved]

28 Subchapter 2 – Barring of Property Rights

29  
30 18-4-201. Title.

31 This subchapter shall be known and may be cited as the "Arkansas Slayer  
32 Law".  
33

34 18-4-202. Definitions.

35 As used in this chapter:

36 (1) "Decedent" means a person whose life is taken by a slayer;



1                   (2) "Property" means real or personal property;

2                   (3) "Slayer" means an individual who is:

3                   (A) Convicted by a court of competent jurisdiction of or  
4 pleads guilty or nolo contendere to the unlawful killing of the decedent;

5                   (B) Found by a preponderance of the evidence in a civil  
6 action to have unlawfully killed the decedent or procured the killing of the  
7 decedent, including an individual who has been:

8                   (i) Acquitted by reason of insanity, mental defect  
9 or disease, or any other mental incapacity concerning a criminal charge of  
10 the unlawful killing of the decedent; or

11                   (ii) Found to lack the capacity to understand or  
12 effectively assist in a criminal proceeding against himself or herself for  
13 the unlawful killing of the decedent; or

14                   (C) A juvenile who is adjudicated delinquent by reason of  
15 committing an act that if committed by an adult would constitute the unlawful  
16 killing of the decedent.

17  
18                   18-4-203. Tolling of civil actions.

19                   If a criminal proceeding is brought against a person to establish the  
20 person's guilt concerning the unlawful killing of the decedent, a civil  
21 action that involves an issue of whether the person unlawfully killed the  
22 decedent may be brought within one (1) year after a final determination is  
23 made in the criminal proceeding, including a determination concerning the  
24 person's:

25                   (1) Mental capacity under § 5-2-312 or § 5-2-313 or similar  
26 provisions of another state's law; or

27                   (2) Fitness to proceed under § 5-2-309 or a similar provision of  
28 another state's law.

29  
30                   18-4-204. Slayer barred from testate or intestate succession and other  
31 rights.

32                   (a) A slayer is deemed to have died immediately before the death of  
33 the decedent.

34                   (b) A slayer shall not acquire any property or property right or  
35 receive any benefit from the estate of the decedent by testate or intestate  
36 succession, by common law, or by statutory right, including as the surviving

1 spouse of the decedent.

2

3 18-4-205. Insurance and annuity benefits.

4 (a) Insurance and annuity proceeds payable to a slayer as the  
5 beneficiary or assignee of a policy or certificate of insurance or an annuity  
6 contract on the life of the decedent, or in any other manner payable to the  
7 slayer by virtue of the slayer having survived the decedent, shall be paid to  
8 the decedent's estate.

9 (b) If the decedent is the beneficiary or assignee of any annuity  
10 contract, life insurance policy, or certificate of insurance on the life of  
11 the slayer, the proceeds shall be paid to the estate of the decedent upon  
12 the death of the slayer.

13 (c) An insurance or annuity company that makes payment according to  
14 the terms of the annuity contract, life insurance policy, or certificate of  
15 insurance is not liable under this subchapter if payment or performance is  
16 made without knowledge of circumstances tending to make this subchapter  
17 apply.

18

19 18-4-206. Persons acquiring property from slayer protected.

20 The provisions of this subchapter do not affect the right of a person  
21 who before the interests of the slayer have been adjudicated acquires from  
22 the slayer for adequate consideration property that the slayer would have  
23 received except for the terms of this subchapter if the person acquired the  
24 property without notice of circumstances tending to make this subchapter  
25 apply provided, however, that:

26 (1) The consideration received by the slayer shall be held by  
27 the slayer in trust for the persons entitled to the property under this  
28 subchapter; and

29 (2) The slayer is liable for:

30 (A) Any portion of the consideration which the slayer may  
31 have transferred or dissipated; and

32 (B) Any difference between the actual value of the  
33 property and the amount of the consideration paid for the property.

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35 18-4-207. Remedies supplemental.

36 This subchapter supplements:

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(1) The common law of the State of Arkansas as it exists on the effective date of this subchapter unless application of the common law would be inconsistent with this subchapter; and

(2) Section 28-11-204.

18-4-208. Effect on existing proceedings.

This subchapter applies to a civil or criminal action that is pending at the time of the effective date of this subchapter in which a final, nonappealable judgment has not been entered.

*/s/J. Edwards*

**APPROVED: 04/18/2013**

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

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

SENATE BILL 307

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

8 **For An Act To Be Entitled**

9 AN ACT CONCERNING FUNDING FOR COURTS AND COURT-  
10 RELATED SERVICES; TO AMEND THE ASSESSMENT,  
11 COLLECTION, AND REMITTANCE OF FUNDING FOR THE STATE  
12 ADMINISTRATION OF JUSTICE FUND; TO DECLARE AN  
13 EMERGENCY; AND FOR OTHER PURPOSES.  
14

15 **Subtitle**

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

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

25  
26 SECTION 1. Arkansas Code § 9-9-205(a), concerning jurisdiction of  
27 adoption of minors, is amended to add a new subdivision to read as follows:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (F) Section 15-42-127;

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

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

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

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

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

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

13 (F) Section 15-42-127;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vii) Driving while intoxicated, § 5-65-103.

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

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

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

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

1 Arkansas Rules of Civil Procedure.

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

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

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

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

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

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

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

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

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

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

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

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

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

5

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

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

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

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

12 (b) The uniform filing fees are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) To assert another claim:

20 (A) A separate case shall be opened;

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

22 (C) A filing fee shall be assessed.

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

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

28 (i) Traffic fines;

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

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

34  
35 SECTION 15. Arkansas Code § 27-22-111(b), concerning the fines for  
36 failure to present proof of insurance at the time of a traffic stop, is

1 amended to read as follows:

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

4

5 SECTION 16. Arkansas Code § 27-37-706 is amended to read as follows:  
6 27-37-706. Penalties – Court costs.

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

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

13

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

- 24 (1) The date of its approval by the Governor;
- 25 (2) If the bill is neither approved nor vetoed by the Governor,  
26 the expiration of the period of time during which the Governor may veto the  
27 bill; or
- 28 (3) If the bill is vetoed by the Governor and the veto is  
29 overridden, the date the last house overrides the veto.

30

31 /s/D. Johnson

32

33

34 APPROVED: 03/06/2013

35

36

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1325

5 By: Representative Wright  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE PROCESS FOR APPOINTMENT,  
9 CERTIFICATION, AND REGULATION OF COURT INTERPRETERS;  
10 AND FOR OTHER PURPOSES.  
11

## Subtitle

12 TO AMEND THE PROCESS FOR APPOINTMENT,  
13 CERTIFICATION, AND REGULATION OF COURT  
14 INTERPRETERS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code § 16-10-127 is repealed.

22 ~~16-10-127. Court interpreters.~~

23 ~~(a) The Director of the Administrative Office of the Courts shall~~  
24 ~~establish a program to facilitate the use of interpreters and transliterators~~  
25 ~~in all courts of the State of Arkansas.~~

26 ~~(b)(1) The director shall prescribe the qualifications of and certify~~  
27 ~~persons who may serve as certified interpreters and transliterators in all~~  
28 ~~courts of the State of Arkansas in bilingual proceedings and proceedings~~  
29 ~~involving the hearing impaired, whether or not also speech impaired.~~

30 ~~(2) The director shall maintain a current registry of all~~  
31 ~~interpreters and transliterators certified by the director and shall report~~  
32 ~~annually to the Arkansas Supreme Court on the frequency of requests for and~~  
33 ~~the use and effectiveness of the interpreters and transliterators.~~

34 ~~(c) In all state court bilingual proceedings and proceedings involving~~  
35 ~~the hearing impaired, whether or not also speech impaired, the presiding~~  
36 ~~judicial officer, with the assistance of the director, shall utilize the~~



1 ~~services of a certified interpreter or transliterator to communicate verbatim~~  
 2 ~~all spoken words or signs, illustrating alphabetical letters or words in~~  
 3 ~~American Sign Language, signed English, or spoken English.~~

4 ~~(d) All state courts shall maintain on file in the office of the clerk~~  
 5 ~~of the court a list of all persons who have been certified as interpreters or~~  
 6 ~~transl iterators by the director in accordance with the certification program~~  
 7 ~~established pursuant to this section.~~

8 ~~(e)(1) Whenever a judicial officer appoints a certified foreign~~  
 9 ~~language interpreter or transliterator from the registry to a criminal or~~  
 10 ~~civil case, upon the conclusion of the interpreter's or transliterator's~~  
 11 ~~services in the case the judicial officer may certify those services to the~~  
 12 ~~director upon a form prescribed by the Administrative Office of the Courts.~~

13 ~~(2) The director is authorized to pay from funds specifically~~  
 14 ~~appropriated for this purpose the certified foreign language interpreter or~~  
 15 ~~transliterator for the interpreting services furnished to the court.~~

16 ~~(f) As used in this section, unless the context otherwise requires:~~

17 ~~(1) "Deaf person" means a person with a hearing loss so great as~~  
 18 ~~to prevent his or her understanding language spoken in a normal tone; and~~

19 ~~(2) "Director" means the Director of the Administrative Office~~  
 20 ~~of the Courts.~~

21  
 22 SECTION 2. Arkansas Code Title 16, Chapter 10, is amended to add a new  
 23 subchapter to read as follows:

24  
 25 Subchapter 11 – Court Interpreters

26  
 27 16-10-1101. Purpose.

28 (a) The State of Arkansas requires that court proceedings be  
 29 conducted in the English language under § 16-10-107.

30 (b) Recognizing that a person with limited English proficiency cannot  
 31 fully participate in the legal process and exercise the rights afforded to  
 32 him or her, a court shall appoint a qualified interpreter to assist a person  
 33 with limited English proficiency in a court proceeding.

34  
 35 16-10-1102. Definitions.

36 As used in this subchapter:

1           (1) "Interpret" means to convey spoken English in a manner  
 2 understood by a person who has limited English proficiency by using American  
 3 Sign Language and transliteration, Communication Access Realtime Translation  
 4 (CART) services or similar procedures, or a language in which the person is  
 5 fluent, and to convey the communication made by that person into spoken  
 6 English; and

7           (2) "Limited English proficiency" means either:

8                   (A) The inability of a person to adequately understand or  
 9 communicate effectively in English in a court proceeding because the person  
 10 has not developed fluency in English; or

11                   (B) The inability of a person to adequately hear,  
 12 understand, or communicate effectively in English in a court proceeding due  
 13 to a speech impairment, hearing loss, deafness, deaf-blindness, or other  
 14 disability.

15  
 16           16-10-1103. Court interpreter for persons with limited English  
 17 proficiency.

18           (a) A person with limited English proficiency who is a party to or a  
 19 witness in a court proceeding is entitled to a qualified interpreter to  
 20 interpret for the person throughout the court proceeding.

21           (b)(1) The Supreme Court shall administer an interpreter program to  
 22 appoint and use interpreters in court proceedings and to ensure interpreter  
 23 certification, continued proficiency, and discipline.

24           (2) Staff and administrative support required by the court  
 25 relating to the program shall be provided by the Administrative Office of the  
 26 Courts, and the program may include:

27                   (A) Establishing and administering a comprehensive testing  
 28 and certification program for foreign language interpreters;

29                   (B) Establishing and adopting standards concerning written  
 30 and verbal proficiency in English and the foreign language to be interpreted;

31                   (C) Establishing and adopting recognized standards for  
 32 interpreters for the deaf and hearing impaired, including without limitation  
 33 certification by the Registry of Interpreters for the Deaf or similar  
 34 registries;

35                   (D) Conducting periodic examinations to ensure the  
 36 availability of certified interpreters;

1                   (E) Charging reasonable fees as necessary for testing and  
 2 certification;

3                   (F) Ensuring reciprocity of certification for interpreters  
 4 from other jurisdictions provided that the criteria for certification in the  
 5 foreign jurisdiction is comparable to that established by the office;

6                   (G) Establishing a schedule of reasonable fees for  
 7 services rendered by interpreters in court proceedings;

8                   (H) Establishing a process to review and respond to  
 9 allegations of misconduct by interpreters; and

10                   (I) Addressing other matters relating to interpreters in  
 11 the courts.

12           (c)(1) The General Assembly may appropriate to the office funds as  
 13 necessary to establish a program to facilitate the use of interpreters and  
 14 otherwise satisfy the requirements of this subchapter.

15                   (2) Implementation of this subchapter is contingent upon the  
 16 availability of appropriated funds to carry out its purposes.

17           (d)(1) With the support of the office, all court personnel shall make  
 18 a reasonable effort to ensure public awareness of interpreter services.

19                   (2) Clerks of court shall clearly publicize the availability of  
 20 interpreter services.

21  
 22           16-10-1104. Appointment of interpreter.

23           (a) The Administrative Office of the Courts shall compile, maintain,  
 24 and disseminate a certified registry of qualified interpreters for the  
 25 courts.

26           (b) When an interpreter is requested or when the court determines that  
 27 a party to or a witness in a court proceeding has limited English  
 28 proficiency, a qualified interpreter shall be appointed under procedures  
 29 adopted by the Supreme Court.

30           (c) An attorney, a clerk of court, employee or officer of a law  
 31 enforcement agency, or a party to or a witness in a court proceeding shall  
 32 notify the court as soon as the need for an interpreter is identified.

33           (d) If a qualified interpreter is not available through the office's  
 34 registry, the court may appoint an interpreter qualified under procedures  
 35 adopted by the court, and the interpreter shall take the oath under § 16-10-  
 36 1105.

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16-10-1105. Interpreter oath.

Before commencing his or her duties, an interpreter appointed under this subchapter shall take an oath in substantially the following form: "Do you [swear] [affirm] that you will make a true and impartial interpretation using your best skills and judgment in accordance with the standards and ethics of the interpreter profession and that you will abide by the Arkansas Code of Professional Responsibility for Interpreters in the Judiciary, [so help you God][under the penalty of perjury]?"

16-10-1106. Replacement of interpreter.

(a) A court that appoints an interpreter shall dismiss the interpreter and obtain the services of a qualified interpreter under procedures adopted by the Supreme Court:

(1) If the interpreter fails to follow the standards prescribed by law or by the Arkansas Code of Professional Responsibility for Interpreters in the Judiciary;

(2) If the interpreter is unable to effectively communicate; or

(3) For other reasons prescribed by the Supreme Court.

(b) A court that appoints an interpreter shall notify the Administrative Office of the Courts in writing if the court dismisses an interpreter, setting forth the reason for the dismissal.

16-10-1107. Confidential communications in presence of interpreter.

An interpreter appointed under this subchapter shall not be compelled to testify in a court proceeding as to any statements made by the person with limited English proficiency and interpreted by the interpreter when the person with limited English proficiency is engaged in a privileged communication recognized by the Arkansas Rules of Evidence.

16-10-1108. Compensation of interpreter.

(a) Except as provided in subsection (b) of this section, the payment of the cost of providing an interpreter appointed under this subchapter shall be the responsibility of the local government responsible for funding the court that has jurisdiction over the court proceeding.

(b) If an interpreter from the registry maintained by the

1 Administrative Office of the Courts is appointed by a court, the court may  
 2 certify upon prescribed forms upon the conclusion of the interpreter's  
 3 services those services to the office for payment from funds specifically  
 4 appropriated for this purpose at the rate set by the office.

5 (c) A person with limited English proficiency who is a party to or  
 6 witness in a court proceeding shall not be denied the services of an  
 7 interpreter because he or she is unable to pay for the services.

8 (d) A defendant in a criminal proceeding shall not be required to pay  
 9 a fee for the services of a court-appointed interpreter.

10 (e) If costs are assessed or collected by the court under the Arkansas  
 11 Rules of Civil Procedure, the disposition of the costs shall be at the  
 12 discretion of the court, and the court may order reimbursement to the local  
 13 government responsible for funding the court or the Administrative Office of  
 14 the Courts for their responsibilities under this subchapter.

15  
 16 SECTION 3. Arkansas Code § 16-64-111 is repealed.

17 ~~16-64-111. Interpreters for persons with communication problems~~  
 18 ~~generally.~~

19 ~~(a) Every person who cannot speak or understand the English language~~  
 20 ~~or who because of hearing, speaking, or other impairment has difficulty in~~  
 21 ~~communicating with other persons and who is a party to any civil proceeding~~  
 22 ~~or a witness therein shall be entitled to an interpreter to assist such~~  
 23 ~~person throughout the proceeding.~~

24 ~~(b)(1) The interpreter may be retained by the party or witness or, if~~  
 25 ~~the person is unable to pay for an interpreter, may be appointed by the court~~  
 26 ~~before which the action is pending.~~

27 ~~(2) If an interpreter is appointed by the court, the fee for the~~  
 28 ~~services of the interpreter shall be set by the court and shall be paid in~~  
 29 ~~such manner as the court may determine.~~

30 ~~(3) If a certified foreign language interpreter from the roster~~  
 31 ~~is appointed by the court in a civil matter, the judge may certify the~~  
 32 ~~appointment to the Director of the Administrative Office of the Courts as~~  
 33 ~~provided in § 16-10-127(e)(1).~~

34 ~~(c) Any court may inquire into the qualifications and integrity of any~~  
 35 ~~interpreter and may disqualify any person from serving for cause as an~~  
 36 ~~interpreter.~~

1           ~~(d) Every interpreter for another person who is either a party or a~~  
 2 ~~witness in a court proceeding as referred to in this section shall take the~~  
 3 ~~following oath:~~

4           ~~“Do you solemnly swear (or affirm) that you will justly, truly, and~~  
 5 ~~impartially interpret to ... the oath about to be administered to him (her),~~  
 6 ~~and the questions which may be asked him (her), and the answers that he (she)~~  
 7 ~~shall give to such questions, relative to the cause now under consideration~~  
 8 ~~before this court, so help you God (or under the pains and penalties of~~  
 9 ~~perjury)?”~~

10

11           SECTION 4. Arkansas Code § 16-64-112 is repealed.

12           ~~16-64-112. Interpreters for the deaf.~~

13           ~~(a) For the purpose of appointing an interpreter for a deaf person~~  
 14 ~~under § 16-64-111:~~

15           ~~(1)(A) “Qualified interpreter” means an interpreter certified by~~  
 16 ~~the National Registry of Interpreters for the Deaf, Arkansas Registry of~~  
 17 ~~Interpreters for the Deaf, or, in the event an interpreter so certified is~~  
 18 ~~not available, an interpreter who is otherwise qualified.~~

19           ~~(B)(i) Efforts to obtain the services of a qualified~~  
 20 ~~interpreter certified with a Legal Skills Certificate or a Comprehensive~~  
 21 ~~Skills Certificate will be made prior to accepting services of an interpreter~~  
 22 ~~with lesser certification.~~

23           ~~(ii) No qualified interpreter shall be appointed~~  
 24 ~~unless the appointing authority and the deaf person make a preliminary~~  
 25 ~~determination that the interpreter is able to readily communicate with the~~  
 26 ~~deaf person and is able to accurately interpret the statements of the deaf~~  
 27 ~~person and interpret the proceedings in which a deaf person may be involved.~~

28           ~~(iii) Every deaf person entitled to an interpreter~~  
 29 ~~under § 16-64-111 shall be entitled to a qualified interpreter as defined by~~  
 30 ~~this subsection.~~

31           ~~(2)(A) “Oral interpreter” means a person who interprets language~~  
 32 ~~through facial and lip movements only and who does not use manual~~  
 33 ~~communication.~~

34           ~~(B)(i) An oral interpreter shall be provided upon the~~  
 35 ~~request of a deaf person who does not communicate in sign language.~~

36           ~~(ii) The right of a deaf person to an interpreter~~

1 ~~may not be waived except by a deaf person who does not use sign language and~~  
2 ~~who initiates the request for waiver in writing. The waiver is subject to~~  
3 ~~approval of counsel, if existent, to that deaf person and is subject to~~  
4 ~~approval of the appointing authority.~~

5 ~~(b) Every deaf person whose appearance before a proceeding entitles~~  
6 ~~him or her to an interpreter should notify the appointing authority of his or~~  
7 ~~her need prior to any appearance and should request at that time the services~~  
8 ~~of an interpreter. Where a deaf person reasonably expects the need for an~~  
9 ~~interpreter to be for a period greater than a single day, he or she should~~  
10 ~~notify the appointing authority and such notification shall be sufficient for~~  
11 ~~the duration of his or her participation in the proceedings.~~

12 ~~(c) An appointing authority may require a person requesting the~~  
13 ~~appointment of an interpreter to furnish reasonable proof of his deafness~~  
14 ~~when the appointing authority has reason to believe that the person is not~~  
15 ~~deaf.~~

16 ~~(d) It shall be the responsibility of the appointing authority to~~  
17 ~~channel requests for qualified interpreters through:~~

18 ~~(1)(A) The Arkansas Registry of Interpreters for the Deaf;~~  
19 ~~(B) The Department of Health and Human Services; or~~  
20 ~~(C) The University of Arkansas at Little Rock Interpreter~~  
21 ~~Training Program; or~~

22 ~~(2) In the alternative, any community resource wherein the~~  
23 ~~appointing authority or the deaf person is knowledgeable that such qualified~~  
24 ~~interpreters can be found.~~

25 ~~(e) Before a qualified interpreter participates in any proceedings~~  
26 ~~subsequent to an appointment under the provisions of this section, the~~  
27 ~~interpreter shall make an oath or affirmation that the interpreter will make~~  
28 ~~a true interpretation in an understandable manner to the deaf person for whom~~  
29 ~~he or she is appointed and that such interpreter will interpret the~~  
30 ~~statements of the deaf person desiring that statements be made, in the~~  
31 ~~English language to the best of such interpreter's skill and judgment.~~

32 ~~(f) The appointing authority shall provide recess periods as necessary~~  
33 ~~for the interpreter when the interpreter so indicates.~~

34 ~~(g) Any and all information that the interpreter gathers, learns from,~~  
35 ~~or relays to the deaf person or person who is unable to communicate in~~  
36 ~~English pertaining to any administrative, civil, or criminal proceeding shall~~

1 ~~at all times remain confidential and privileged, on an equal basis with the~~  
 2 ~~attorney-client privilege, unless such deaf person or person who is unable to~~  
 3 ~~communicate in English desires that such information be communicated to other~~  
 4 ~~persons.~~

5 ~~(h) An interpreter appointed under the provisions of this section~~  
 6 ~~shall be entitled to a reasonable fee for his or her services. The fee shall~~  
 7 ~~be in accordance with standards established by the Arkansas Registry of~~  
 8 ~~Interpreters for the Deaf, in addition to actual expenses for travel and~~  
 9 ~~transportation. When the interpreter is appointed by a court, the fee shall~~  
 10 ~~be paid out of general county funds and, when the interpreter is otherwise~~  
 11 ~~appointed, the fee shall be paid out of funds available to the appointing~~  
 12 ~~authority.~~

13  
 14 SECTION 5. Arkansas Code Title 16, Chapter 81, Subchapter 1, is  
 15 amended to add a new section to read as follows:

16 16-81-117. Interpreters for deaf persons who are arrested.

17 (a) If a person who is deaf is arrested for a criminal offense and  
 18 taken into custody, the arresting law enforcement officer and his or her  
 19 superiors shall procure a qualified interpreter in order to properly  
 20 interrogate the deaf person and to interpret the person's statement.

21 (b) If a qualified interpreter is not present when a deaf person makes  
 22 a statement while in custody for an arrest, the statement is not admissible  
 23 in court.

24  
 25 SECTION 6. Arkansas Code § 16-89-104 is repealed.

26 ~~16-89-104. Interpreters in criminal actions generally.~~

27 ~~(a) Every person who cannot speak or understand the English language~~  
 28 ~~or who because of hearing, speaking, or other impairment has difficulty in~~  
 29 ~~communicating with other persons and who is a defendant in any criminal~~  
 30 ~~action or a witness therein shall be entitled to an interpreter to aid the~~  
 31 ~~person throughout the proceeding.~~

32 ~~(b)(1) An interpreter may be retained by the party or witness or, if~~  
 33 ~~the person is unable to pay for an interpreter, may be appointed by the court~~  
 34 ~~before which the action is pending and shall be appointed by the court before~~  
 35 ~~which the action is pending if the person is a defendant in the criminal~~  
 36 ~~action.~~

1           ~~(2) If an interpreter is appointed by the court, the fee for the~~  
 2 ~~services of the interpreter shall be set by the court and shall be paid in~~  
 3 ~~the manner as the court may determine, except that an acquitted defendant~~  
 4 ~~shall not be required to pay any fee for the services of a court appointed~~  
 5 ~~interpreter.~~

6           ~~(3) If a certified foreign language interpreter from the roster~~  
 7 ~~is appointed by the court in a criminal matter, the judge may certify the~~  
 8 ~~appointment to the Director of the Administrative Office of the Courts as~~  
 9 ~~provided in § 16-10-127(e)(1).~~

10          ~~(c) Any court may inquire into the qualifications and integrity of any~~  
 11 ~~interpreter, and may disqualify any person from serving as an interpreter.~~

12          ~~(d) Every interpreter for another person who is either a party or a~~  
 13 ~~witness in a court proceeding as referred to in this section shall take the~~  
 14 ~~following oath:~~

15           ~~“Do you solemnly swear (or affirm) that you will justly, truly and~~  
 16 ~~impartially interpret to . . . . the oath about to be administered to him~~  
 17 ~~(her), and the questions which may be asked him (her), and the answers that~~  
 18 ~~he (she) shall give to such questions, relative to the cause now under~~  
 19 ~~consideration before this court, so help you God (or under the pains and~~  
 20 ~~penalties of perjury)?”~~

21  
 22           SECTION 7. Arkansas Code § 16-89-105 is repealed.

23           ~~16-89-105. Interpreters in criminal actions — Interpreters for the~~  
 24 ~~deaf.~~

25           ~~(a) Every deaf person entitled to an interpreter under § 16-89-104~~  
 26 ~~shall be entitled to a qualified interpreter as defined by this section.~~

27           ~~(b) For the purpose of appointing an interpreter for the deaf under §~~  
 28 ~~16-89-104:~~

29           ~~(1)(A) “Qualified interpreter” means an interpreter certified by~~  
 30 ~~the National Registry of Interpreters for the Deaf or the Arkansas Registry~~  
 31 ~~of Interpreters for the Deaf or, in the event an interpreter so certified is~~  
 32 ~~not available, an interpreter who is otherwise qualified.~~

33           ~~(B) Efforts to obtain the services of a qualified~~  
 34 ~~interpreter certified with a legal skills certificate or a comprehensive~~  
 35 ~~skills certificate will be made prior to accepting services of an interpreter~~  
 36 ~~with lesser certification.~~

1                   ~~(C) No qualified interpreter shall be appointed unless the~~  
2 ~~appointing authority and the deaf person make a preliminary determination~~  
3 ~~that the interpreter is able to readily communicate with the deaf person and~~  
4 ~~is able to accurately interpret the statements of the deaf person and~~  
5 ~~interpret the proceedings in which a deaf person may be involved; and~~

6                   ~~(2)(A) "Oral interpreter" means a person who interprets language~~  
7 ~~through facial and lip movements only and who does not use manual~~  
8 ~~communication.~~

9                   ~~(B) An oral interpreter shall be provided upon the request~~  
10 ~~of a deaf person who does not communicate in sign language.~~

11                   ~~(C) The right of a deaf person to an interpreter may not~~  
12 ~~be waived except by a deaf person who does not use sign language and who~~  
13 ~~initiates the request for waiver in writing. A waiver is subject to approval~~  
14 ~~of counsel to the deaf person, if existent, and is subject to approval of the~~  
15 ~~appointing authority.~~

16                   ~~(c) In the event a person who is deaf is arrested and taken into~~  
17 ~~eustody for any alleged violation of a criminal law of this state, the~~  
18 ~~arresting officer and his or her superiors shall procure a qualified~~  
19 ~~interpreter in order to properly interrogate the deaf person and to interpret~~  
20 ~~the person's statement. No statement taken from the deaf person before an~~  
21 ~~interpreter is present may be admissible in court.~~

22                   ~~(d) Every deaf person whose appearance before a proceeding entitles~~  
23 ~~him or her to an interpreter should notify the appointing authority of his or~~  
24 ~~her need prior to any appearance and should request at that time the services~~  
25 ~~of an interpreter. Where a deaf person reasonably expects the need for an~~  
26 ~~interpreter to be for a period greater than a single day, he or she should~~  
27 ~~notify the appointing authority and the notification shall be sufficient for~~  
28 ~~the duration of his or her participation in the proceedings.~~

29                   ~~(e) An appointing authority may require a person requesting the~~  
30 ~~appointment of an interpreter to furnish reasonable proof of his or her~~  
31 ~~deafness when the appointing authority has reason to believe that the person~~  
32 ~~is not deaf.~~

33                   ~~(f) It shall be the responsibility of the appointing authority to~~  
34 ~~channel requests for qualified interpreters through:~~

35                   ~~(1) The Arkansas Registry of Interpreters for the Deaf;~~

36                   ~~(2) The Department of Health and Human Services, Office for the~~

1 ~~Deaf and Hearing Impaired;~~

2 ~~(3) The University of Arkansas at Little Rock Interpreter~~  
 3 ~~Training Program; or~~

4 ~~(4) Any community resource wherein the appointing authority or~~  
 5 ~~the deaf person is knowledgeable that qualified interpreters can be found.~~

6 ~~(g) Before a qualified interpreter participates in any proceedings~~  
 7 ~~subsequent to an appointment under the provisions of this section, the~~  
 8 ~~interpreter shall make an oath or affirmation that the interpreter will make~~  
 9 ~~a true interpretation in an understandable manner to the deaf person for whom~~  
 10 ~~he or she is appointed and that the interpreter will interpret the statements~~  
 11 ~~of the deaf person desiring that statements be made in the English language~~  
 12 ~~to the best of the interpreter's skill and judgment.~~

13 ~~(h) The appointing authority shall provide recess periods as necessary~~  
 14 ~~for the interpreter when the interpreter so indicates.~~

15 ~~(i) Any and all information that the interpreter gathers, learns from,~~  
 16 ~~or relays to the deaf person or person who is unable to communicate in~~  
 17 ~~English pertaining to any administrative, civil, or criminal proceeding shall~~  
 18 ~~at all times remain confidential and privileged on an equal basis with the~~  
 19 ~~attorney-client privilege, unless such deaf person or person who is unable to~~  
 20 ~~communicate in English desires that such information be communicated to other~~  
 21 ~~persons.~~

22 ~~(j)(1) An interpreter appointed under the provisions of this section~~  
 23 ~~shall be entitled to a reasonable fee for the services.~~

24 ~~(2) The fee shall be in accordance with standards established by~~  
 25 ~~the Arkansas Registry of Interpreters for the Deaf, in addition to actual~~  
 26 ~~expenses for travel and transportation.~~

27 ~~(3)(A) When the interpreter is appointed by a court, the fee~~  
 28 ~~shall be paid out of general county funds.~~

29 ~~(B) When the interpreter is otherwise appointed, the fee~~  
 30 ~~shall be paid out of funds available to the appointing authority.~~

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