Arkansas Circuit Clerks
2022 Procedures Manual

Association of Arkansas Counties
1415 W. Third Street
Little Rock, Arkansas 72201
(501) 372-7550
FAX (501) 372-0611
www.arcounties.org

FOREWORD

This Circuit Clerk's procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC staff. It reflects the current law through the 2021 session and includes a description of the duties, responsibilities, and procedures of the Circuit Clerk's office. It is not to be construed as legal advice. It presents the law for your information and guidance, but specific legal questions should be directed to your county attorney.

We hope this procedures manual will be of help to you as you do the day-to-day business of your county.

Chris Villines
Executive Director

ASSOCIATION OF ARKANSAS COUNTIES
BOARD OF DIRECTORS
2021

PRESIDENT
Debbie Wise, Circuit Clerk ..... Randolph County

VICE PRESIDENT
Brandon Ellison, County Judge .....Polk County

SECRETARY/TREASURER
Jimmy Hart, County Judge .....Conway County

Terri Harrison, County Clerk .....Polk County
Randy Higgins, Justice of the Peace.....Faulkner County
Ellen Foote, County Collector ..... Crittenden County
Brenda DeShields, Circuit Clerk .....Benton County
Terry McNatt, County Treasurer..... Craighead County
Kevin Cleghorne, County Coroner .....Saline County
Debra Buckner, County Treasurer/Collector ..... Pulaski County
Gerone Hobbs, County Coroner ..... Pulaski County
John Montgomery, County Sheriff..... Baxter County
Debbie Cross, County Treasurer .....Greene County
Heather Stevens, County Assessor.....Stone County
Marty Boyd, County Sheriff ..... Craighead County
Dana Baker, County Assessor ..... Pope County
Tommy Young, Justice of the Peace ..... Jackson County
Doug Curtis, County Clerk.....Saline County

AAC STAFF

Chris Villines, Executive Director

Mark Whitmore, Chief Legal Counsel
Cindy Posey, Accountant
Becky Comet, Membership Benefits Manager
Whitney Ives, Receptionist
Josh Curtis, Governmental Affairs Director
Colin Jorgensen, Litigation Counsel
Anne Baker, Sr Exec. Assist. /Event Manager
Lindsey Bailey French, Legal Counsel
Karan Skarda, ACE Coordinator
Holland Doran, Comm. Coordinator
Christy Smith, Comm. Director
Mark Harrell, IT Manager

AAC RISK MANAGEMENT SERVICES

Debbie Norman, Risk Manager Director

Debbie Lakey, WCT Claims Manager
Cathy Perry, Claims Analyst
Kim Mitchell, Administrative Assistant
Riley Groover, Claims Analyst
Brandy McAllister, RMS Counsel
Kim Nash, Claims Adjuster
Ed Piker, Loss Control Specialist
Ellen Wood, Administrative Assistant

TABLE OF CONTENTS

Page

Chapter One - INTRODUCTION TO COUNTY GOVERNMENT

County government is a political subdivision of the state. County government provides services to all of the citizens of the county, and every resident of Arkansas lives in a county. The services that every county must provide include: (1) the administration of justice through the courts; (2) law enforcement protection and the operation of the jail (3) real and personal property tax administration, including assessments, collection, and custody of tax proceeds; (4) court and public records management; and (5) the required services prescribed by state law provided through the various elected county officers or departments of county government such as providing and managing a county road system, elections and financial management just to name a any service or performance of any function that is not expressly prohibited by law. These services and functions include, but are not limited to, things like agricultural extension services; community and rural development services; libraries; park and recreation services; emergency medical services; fire prevention and protection services; solid waste collection and disposal services; public health services; and any other services related to county affairs (ACA 14-14-802).

County government elects nine executive officers and a countywide legislative body called the Quorum Court to provide these various services. The nine elected officials are county judge, sheriff, county clerk, circuit clerk, collector, assessor, treasurer, coroner and surveyor. Some counties combine two of these offices into one, such as county clerk/circuit clerk, sheriff/collector, or treasurer/collector. Also, not all counties elect a surveyor and in the counties that do elect them, this job is usually not a full-time position. The county legislative body is entitled the Quorum Court and is composed of 9-15 members called Justices of the Peace. These justices of the peace are district officers and not county officials because they represent a district within the county.

The chief executive officer for county government in Arkansas is the county judge. As chief executive, the judge authorizes and approves the disbursement of all appropriated county funds, operates the system of county roads, administers ordinances enacted by the quorum court, has custody of county property, accepts grants from federal, state, public and private sources, hires county employees except those persons employed by other elected officials of the county, and presides over the quorum court without a vote, but with the power of veto. (ACA 14-14-1101 - 1102)

All powers not vested in the county judge as the chief executive officer of the county shall continue to be exercised and administered by the county court, over which the county judge shall preside. The county court, in fact, is the county judge sitting in a judicial role.

The county court of each county has exclusive original jurisdiction in all matters relating to:

1. County Taxes: Including real and personal ad valorem taxes collected by county government. The county court's authority in this area includes jurisdiction over the assessment of property, equalization of assessments on appeal, tax levies, tax collections, and the distribution of tax proceeds.

2. Paupers: The court's jurisdiction includes all county administrative actions affecting the conduct of human services programs serving indigent residents of the county where such services are financed in total or in part by county funds.

3. Apprenticeship of Minors: Jurisdiction over juvenile matters is vested in the county courts of each county and shall be exclusive in all cases of delinquency, juveniles in need of supervision, and dependency-neglect.

4. Jurisdiction in each other case that may be necessary to the internal improvement and local concerns of the respective counties including county financial activities and works of general public utility or advantage designed to promote intercommunication, trade and commerce, transportation of persons and property, or the development of natural resources, which are not otherwise transferred to the county judges to be administered in an executive capacity.

5. The county court shall have all other jurisdiction now vested by law in the county court except with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution which were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution, (and those powers removed by Amendment 67 as they pertain to the apprenticeship of minors. (ACA 14-14-1105)

In addition to the duties of the county court, the county judge is responsible for coordinating the day-to-day inter-governmental relations between the various state and federal agencies operating at the county level. The judge must also apply for all federal and state assistance moneys for which the county is eligible, and appoints the members to all administrative and advisory boards in the county, some of which have to be confirmed by the quorum court.

The county sheriff is the sheriff of the courts, maintains public peace, and has custody of the county jail. As chief enforcement officer of the circuit courts, the sheriff's office, which includes the sheriff and deputies, is charged by constitutional and statutory laws with the execution of summons, enforcement of judgments, orders, injunctions, garnishments, attachments, and the making of arrests on warrants issued by the courts. The sheriff also opens and attends each term of circuit court, notifies residents

selected to jury duty and assists in handling witnesses and prisoners during a given court term.

The sheriff, or a member of that staff, often prepares and assembles evidence of the Prosecuting Attorney's case against defendants charged with both felonies and misdemeanors. The sheriff also transports convicted prisoners and others declared by the court to the various penal and mental institutions of the state.

The sheriff in every county has the custody, rule, and charge of the county jail and all prisoners committed in his county (ACA 12-41-502). The sheriff shall be conservator of the peace in his county (ACA 14-15-501). It shall be the duty of each sheriff to quell and suppress all assaults and batteries, affrays, insurrections, and unlawful assemblies; and he shall apprehend and commit to jail all felons and other offenders (ACA 14-14-1301). The sheriff also works with the various local municipal law enforcement officials or other state and federal officials charged with law enforcement.

The county clerk is the official bookkeeper of county government and serves as the clerk for the county, quorum and probate courts.

As clerk of the county court, the clerk has the duty of keeping a regular account between the treasurer and the county. The clerk charges the treasurer with all moneys received and credits the treasurer with all moneys dispersed. In addition, the clerk keeps an accurate account of all financial transactions within the county and files all documents, vouchers, and other papers pertaining to the settlement of any account to which the county is involved. It is the responsibility of the county clerk to prepare all checks on the treasury for moneys ordered to be paid by the county court and to keep complete and accurate records of all these financial transactions ready for the court's inspection at any time (ACA 16-20-402). [An alternate method of the county treasurer issuing checks, allowed by ACA 14-24-204, is used by many counties.]

The county clerk shall serve, unless otherwise designated by county ordinance, as the secretariat of the quorum court. These duties involve keeping a complete permanent record of the proceedings of the Quorum Court including minutes, ordinances, resolutions and an index to provide easy access to the information (ACA 14-14-902 and 14-14-903).

As clerk to the probate court, the clerk files all instruments making them a matter of record in decedent estate cases, and swears in all witnesses in contested estates. The clerk, also in this capacity, maintains all records relative to adoptions and guardianship cases within the county.
The county clerk, or the clerk's designee, serves as the secretary of the Board of Equalization and records the minutes of their meetings (ACA 26-27-307). Also, if the clerk is the preparer of tax books for the county, the clerk is responsible for extending the taxes in the information provided by the assessor and the Board of Equalization (ACA 26-28-101 through 26-28-108).

The clerk became the official voter registrar with the adoption of Amendment 51 to the Arkansas Constitution in 1966. The clerk maintains an accurate and up-to-date voter registration list within the office and stores the ballot boxes between elections. In addition, the clerk is the custodian of absentee ballots and is responsible for early voting. It is common practice in many counties for the county clerk to assist the county election commission in the overall performance of the election process. With the increasing complexity of elections, however, there is an increasing trend towards the hiring of election coordinators to aid the county election commission and the county clerk in their respective election responsibilities. (ACA 7-5-401 et seq.)

The clerk issues marriage licenses (ACA 9-11-201), and keeps a record of all firms in the county which have incorporated (ACA 4-26-1201). The clerk issues special licenses allowing certain activities (ACA 26-76-102).

The circuit clerk is the clerk of the circuit court and juvenile court and usually acts as the ex-officio recorder of the county.

Unless otherwise provided by law, the county recorder is the circuit clerk of the county. In a county that under law has assigned the duties of the county recorder to the county clerk, all Code references to circuit clerk that concern recording functions shall mean the county clerk.

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts to enter docket number and name of the defendant and to prepare the dockets for these courts (ACA 16-20-102). The circuit clerk prepares summons, warrants, orders, judgments, and injunctions authorized by the circuit court for delivery by the county sheriff. The circuit clerk also maintains a file of all cases pending in either court, as well as a record of all past court cases and their disposition (ACA 16-20-303 and 16-20-304). A clerk may make only an electronic alphabetical index if he or she is able to electronically scan the judgments, rules, orders, or other proceedings of the court so that the judgments, rules, orders, or other proceedings of the court are accessible on an internet-based computer database searchable by name or case number (ACA 16-20-304). The clerk has 20 days before commencement of each of the dockets in all cases. In addition, the circuit clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (ACA 16-32-101 et seq.).

The circuit clerk is also the ex-officio county recorder; and is responsible for recording deeds, mortgages, liens, and surety bonds, and many other orders and instruments which involve property within the county (ACA 14-15-401 et seq). The circuit clerk maintains a record of many miscellaneous items, and files certain licenses. The circuit clerk also swears in all notaries public and files regulations of state agencies which license trade or professional workers.

The county collector is the collector of taxes for the county and collects municipal, county, school and improvement district taxes and turns them over to the county treasurer.

The collector is responsible for collecting all property taxes from the first day of March to the fifteenth day of October during the calendar year after they are assessed. By statute, the collector is required to turn over all tax revenue to the treasurer at least once a month (ACA 26-39-201). The County Depository Board may require the collector and other county officials to settle with the county treasurer more frequently than once a month (ACA 19-8-106). Taxpayers may pay their taxes in installments, with one-fourth of the total being due between March and the third Monday in April, one-fourth being due between April and the third Monday in July, and the remaining one-half between July and October 15 (ACA 26-35-501).

Any real or personal property taxes not paid by the fifteenth day of October, or falling within one of the exceptions to the required that taxes be paid by October 15 of each year (i.e., postmarked prior to October 15 or paid after October 15 if the fifteenth falls on a weekend or holiday), are considered delinquent and the collector extends a 10% penalty against the taxpayer (ACA 26-36-201). Before December 1st of each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper in the county. Within seven (7) days thereafter, the newspaper shall publish the list. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published. (ACA 26-36-203) The collector shall, by the fourth Wednesday of October in each year, file with the clerk of the county court a list of taxes levied on real estate that the collector has been unable to collect.

A required publication made by a county in a newspaper shall include the statement "This publication was paid for by" and shall: (1) Identify the county entity responsible for payment of the publication; (2) Identify the office within the county entity responsible for payment of the publication; and (3) Disclose the amount paid for the publication. (ACA 14-14-116).

The duty of the county assessor is to appraise and assess all real property between the first Monday of January and the first of July, and all personal property between the first Monday in January and the thirty-first of May. (ACA 26-26-1408 and 26-26-1101). All property in the state shall be assessed according to its value on the first of January except merchants and manufacturers inventory that is assessed at its average value during the year immediately preceding the first of January (ACA 26-26-1201).

The assessor must make an abstract of assessment showing the total assessed value of the county. On August 1st, the assessor turns over to the County Equalization Board his/her Real Property Assessment Book and his/her Personal Property Assessment Book.

The assessor is required to maintain current appraisal and assessment records by securing necessary filed data and making changes in valuations as they occur in land use and improvements. He/she is also charged with staying abreast of all property transactions within the county and keeping a file on all properties updated throughout the year (ACA 26-26-715).

The county treasurer is the disbursement officer of the county, and is the unofficial or quasi comptroller. A few counties do have a county comptroller. The treasurer is responsible for the custody and disbursement of all county funds and school district funds. The treasurer, therefore, receives county property tax collections, county sales tax collections, county turnback funds, grant funds, fees and fines from other county officials and departments, and revenues from various other sources. The treasurer, after receiving this revenue, distributes the money to the various taxing entities and the other units of the county. The county treasurer signs checks, prepared and signed by the county clerk indicating that the expenditure has been authorized by the county court, to pay employees and creditors of the county. A copy of each check serves as a warrant and is filed in the county financial records. ACA 14-24-204 provides for an alternate method whereby the county treasurer prepares and issues the check.

The treasurer must keep an accurate and detailed account of all receipts and disbursements of the county (ACA 14-15-807). The treasurer is required to make a monthly financial report to the quorum court on the fiscal condition of the county (ACA 14-20-105).

The county treasurer is required to charge a two percent commission on all funds coming to his/her office. There are a few exceptions. No commission is allowed for the handling of borrowed money, proceeds of school bond sales, the teacher's salary fund, money collected from insurance on losses, fire protection premium taxes (Act 833 funds for fire departments, but inactive fire departments will not receive funding under this section) and all non-revenue receipts, which is defined as reimbursement of all or a part of a payment made by a county (ACA 21-6-302, 6-17-908, 6-20-221 and 14-284-403). Also, the county treasurer is allowed a smaller commission, 1/4 of 1%, on funds from school districts that employ their own treasurer (ACA 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (ACA 14-90-913). The commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary and operation of the office is paid. Any excess treasurer's commission shall be redistributed to the various entities that were charged on a pro-rata basis (AG Opinion #78-112).

The county coroner is charged with the responsibility of determining the cause of death for those deaths properly the responsibility of the coroner. Although the duties of the county coroner are, necessarily, intermittent, the office is a full-time position. The coroner is tasked with the investigation of deaths occurring within the county 24 hours a day, 7 days a week and 365 days per year. At any time the coroner is required to investigate deaths. When a death is reported to the coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including but not limited to, medical information and any other information which may

be helpful in determining the cause and manner of death. (ACA 14-15-301). These duties are mandated to be completed in very short timeframes.

The county surveyor locates boundaries of specific properties at the request of the assessor, and establishes disputed property lines upon request of the county, circuit or chancery court (ACA 14-15-702). The surveyor is also county timber inspector and determines the amount of timber cut, records the log markings, and prosecutes persons who remove timber from state owned lands (ACA 15-32-201).

A constable is a constitutional township official not a county official as some might think. A constable is charged, by law, to conserve the peace in his township (ACA 16-19-301). In order for a constable to have access to information from the Arkansas Crime Information Center and to carry a firearm, the officer must receive required training. Uniform and vehicle requirements are also mandated for constables in the performance of official duties (ACA 14-14-1314).

The legislative body of county government is called the quorum court and is composed of 9, 11, 13 or 15 members depending on the population of the county. The quorum court members are called justices of the peace and are elected for two-year terms from districts within the county. These district officials meet each month, more often if necessary, to conduct county business and review ordinances and resolutions for passage. The county judge is the presiding officer over the quorum court without a vote, but with the power of veto. This veto can be overridden with a 3/5ths vote of the total membership of the quorum court. (See generally ACA 14-14-801 et seq and 14-14-901 et seq.)

As provided by Amendment No. 55 of the Arkansas Constitution, county government acting through its quorum court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county (ACA 14-14-801). Some limitations are: The quorum court cannot declare any act a felony (felonies are covered by the State Criminal Code); quorum courts may not participate in the day-to-day administration of county executive branch offices and exercise no authority unrelated to county affairs (ACA 14-14-806).

The quorum court may exercise the following powers, but not limited to: A) the levy of taxes in manner prescribed by law; B) appropriate public funds for the expenses of the county in a manner prescribed by ordinance; C) preserve the peace and order and secure freedom from dangerous or noxious activities; provided, however, that no act may be declared a felony; D) for any public purpose, contract, or join with another county, or with any political subdivision or with the United States; E) create, consolidate, separate, revise, or abandon any elected office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved said action; F) fix the number and compensation of deputies and county employees; G) fix the compensation of each county officer with a minimum and maximum to be determined by law; H) fill vacancies in elected county offices; I) provide for any service or performance of any function relating to county affairs; J) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions (ACA 14-14-801).

Chapter Two - DUTIES OF THE OFFICE

The Circuit Clerk is an elected official in county government. The Constitution of the State of Arkansas provides for the election of the Circuit Clerk to a four-year term of office with the requirements that he/she be a qualified elector and resident. In the event of a vacancy in office, the Quorum Court fills the vacancy by appointment, the appointee serving until the next general election, when a successor is elected. Before beginning his/her duties, the Circuit Clerk must enter into an official bond for the protection of the county. This may be accomplished either through the State Blanket Bond Program which covers all employees on the payroll, or a Surety Bond purchased for the officer. Finally, the clerk must also take the constitutional oath of office.

The Circuit Clerk is entitled to that salary fixed for his/her office by applicable law and Quorum Court appropriation, but he/she cannot keep the various fees collected in the performance of his/her duties as the Circuit Clerk, as in that respect, he/she is only an agent or trustee for the County Treasury. To assist the Clerk in the performance of his/her duties, the Circuit Clerk may appoint such number of deputies as the Quorum Court may approve. The Clerk generally supervises the deputies and may discharge them and regulate their employment, within the guidelines established by the Quorum Court.

The office of the Circuit Clerk is to be operated according to the office budget which is established annually by the Quorum Court of the County.

In general, the Circuit Clerk maintains records of, and is the focal point for the orderly flow of paperwork through the various divisions of circuit court in the county. There are two exceptions to this rule. The first exception is in those few counties where the office of circuit clerk and county clerk is combined. The second exception is found in the probate division of circuit court. Typically, the county clerk is tasked with performing the duties of court clerk for the probate division of circuit court. (With the exception of a limited number of counties where the offices have been either separated or combined with other county offices) In addition, the Circuit Clerk also acts as ex-officio Recorder for the County unless that function is otherwise provided by law. (ACA 14-14-1301)

The primary duties of the office revolve around filing, docketing, attending court, issuing of notices, records management, and reporting to the Administrative Office of the Courts. It is the responsibility of the Circuit Clerk to prepare a list of prospective jurors, docket cases of the respective courts, issue summonses, subpoenas, writs and warrants related to each case, attend court and swear witnesses. The Clerk maintains the records of the civil, criminal and juvenile divisions of the Courts and prepares transcripts of proceedings under appeal. In addition, duties of the office in the capacity of Recorder include recording all deeds, mortgages, and conveyances of lands and buildings lying within the County, as well as maps and plats of newly laid out subdivisions and all records from other counties concerning land sales or conveyance which affect title in the County. Other duties assigned the Recorder include the recording of powers of attorney, liens on real property, soldiers' discharges, leases, financing statements, performance bonds and public official bonds. The records of the Circuit Courts are the evidence of their official acts and, therefore, it is necessary that they be accurately recorded and well maintained.

THE ARKANSAS COURT SYSTEM
INTRODUCTION

There are several different kinds of courts in Arkansas, handling both civil and criminal cases. A civil case usually involves a controversy between individuals or business corporations in respect to private rights or obligations. Those bringing the controversy into court are called the plaintiffs; those being sued are called the defendants. The State can be the defendant in civil cases, and the State, county or municipality is often the plaintiff. A criminal case involves the State or municipality against an individual alleging that the individual has committed an offense against society by violating the criminal laws.

Courts in Arkansas have varying levels of jurisdiction and at the top of the judicial system is the State Supreme Court, next is the Court of Appeals, then the trial courts of general jurisdiction, and the courts of limited jurisdiction.

ARKANSAS SUPREME COURT

Arkansas became the 25th state of the United States in 1836. Under the state's first constitution, the Arkansas Supreme Court was composed of three judges including one Chief Justice.

The state's current constitution, ratified in 1874, provided for three Arkansas Supreme Court judges. The Arkansas Constitution of 1874 was amended in 1924 to provide for five Arkansas Supreme Court judges. Amendment 9 also allowed the Arkansas General Assembly to increase the number to seven judges, which it did by Act 205 of 1925. The jurisdiction and power of the Arkansas Supreme Court is controlled by Article 7, § 4 of the Arkansas Constitution. Under this section, the Arkansas Supreme Court generally has only appellate jurisdiction, meaning it typically hears cases that are appealed from trial courts. The Arkansas Supreme Court also has general superintending control over all inferior courts of law and equity. In November, 2000, the 80th amendment to the Arkansas Constitution was approved by the voters of Arkansas. See section on Amendment 80 which merged circuit and chancery courts and changed municipal courts to district courts with countywide jurisdiction.

Article 7, §6 of the Arkansas Constitution describes the qualifications for an Arkansas Supreme Court judge, as follows:

A judge of the Supreme Court shall be at least thirty years of age, of good moral character, and learned in the law; a citizen of the United States and two years a resident of the State, and who has been a practicing lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practiced law, shall be equal to eight years. The judges of the Supreme Court shall be elected by the qualified electors of the State and shall hold their offices during the term of eight years from the date of their commissions.

The seven Arkansas Supreme Court judges are elected in state-wide non-partisan races, and serve staggered terms, such that it is unlikely all members of the court would be replaced in one election. In the event a member of the court fails to serve his entire term of office, the vacancy shall be filled by appointment by the Governor of Arkansas. Ark. Const., amend. 29, §1. The appointee shall serve during the entire unexpired term in the office in which the vacancy occurs if such office would in regular course be filled at the next general election if no vacancy had occurred; otherwise, the appointee may serve until the first or second general election following appointment, depending upon the timing of that election. Id. at §4. No person appointed under Section 1 shall be eligible for appointment or election to succeed himself. Id. at §2.

The Arkansas Supreme Court's jurisdiction is described by its Rule 1-2. Any case is subject to reassignment or transfer by the Arkansas Supreme Court. Id. at (b), (d). The Arkansas Court of Appeals may seek to transfer a case to the Arkansas Supreme Court, upon requisite certification. Id. at (d). Special proceedings before the Arkansas Supreme Court are described in Article VI of its rules. Amendment 28 to the Arkansas Constitution, adopted in 1938, vests the Arkansas Supreme Court with the power to make rules regulating the practice of law and the professional conduct of attorneys at law.

All signed opinions of the Arkansas Supreme Court are designated for publication. Ark. Sup. Ct. R. 5-2(a).

COURT OF APPEALS

A major change in the Arkansas Court system was initiated in November 1978, when the voters approved Constitutional Amendment 58 authorizing the General Assembly to establish an intermediate appellate court known as the Court of Appeals. This intermediate appellate court was needed to help alleviate the tremendous caseload that the Supreme Court has experienced during the last several years. Pursuant to the authority of Constitutional Amendment 58, the General Assembly has subsequently created and funded the Court of Appeals, and the Supreme Court has established its jurisdiction.

The Court is composed on one chief justice and eleven judges who are each elected circuit wide for an eight-year term of office. Cases appealed from the Circuit Court are taken to the Court of Appeals, with the exception of the following types of cases that are appealed directly to the Supreme Court:

(a) Cases involving interpretation or construction of the Arkansas Constitution.

(b) Cases involving validity, interpretation, construction or constitutionality of an act of the legislature or ordinance of a county or municipality.

(c) Criminal cases involving a cumulative sentence of more than 30 years imprisonment.

Amendment 80

In November 2000, the people of the State of Arkansas approved Amendment 80 to the Constitution. By approving this amendment, the Judicial Article of the Arkansas Constitution was significantly altered.

Section 1. Judicial Power.

The judicial power is vested in the Judicial Department of state government, consisting of a Supreme Court and other courts established by this Constitution.

Section 2. Supreme Court.

(A) The Supreme Court shall be composed of seven Justices, one of whom shall serve as Chief Justice. The Justices of the Supreme Court shall be selected from the State at large.

(B) The Chief Justice shall be selected for that position in the same manner as the other Justices are selected. During any temporary period of absence or incapacity of the Chief Justice, an acting Chief Justice shall be selected by the Court from among the remaining justices.

(C) The concurrence of at least four justices shall be required for a decision in all cases.

(D) The Supreme Court shall have:

(1) Statewide appellate jurisdiction;

(2) Original jurisdiction to issue writs of quo warranto to all persons holding judicial office and to officers of political corporations when the question involved is the legal existence of such corporations;

(3) Original jurisdiction to answer questions of state law certified by a court of the United States which may be exercised pursuant to Supreme Court rule;

(4) Original jurisdiction to determine sufficiency of state initiative and referendum petitions and proposed constitutional amendments; and

(5) Only such other original jurisdiction as provided by this Constitution.

(E) The Supreme Court shall have power to issue and determine any and all writs necessary in aid of its jurisdiction and to delegate to its several justices the power to issue such writs.

(F) The Supreme Court shall appoint its clerk and reporter.

(G) The sessions of the Supreme Court shall be held at such times and places as may be adopted by Supreme Court rule.

Section 3. Rules of Pleading, Practice and Procedure.

The Supreme Court shall prescribe the rules of pleading, practice and procedure for all courts; provided these rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trial by jury as declared in this Constitution.

Section 4. Superintending Control.

The Supreme Court shall exercise general superintending control over all courts of the state and may temporarily assign judges, with their consent, to courts or divisions other than that for which they were elected or appointed. These functions shall be administered by the Chief Justice.

Section 5. Court of Appeals.

There shall be a Court of Appeals which may have divisions thereof as established by Supreme Court rule. The Court of Appeals shall have such appellate jurisdiction as the Supreme Court shall by rule determine and shall be subject to the general superintending control of the Supreme Court. Judges of the Court of Appeals shall have the same qualifications as Justices of the Supreme Court.

Section 6. Circuit Courts.

(A) Circuit Courts are established as the trial courts of original jurisdiction of all justiciable matters not otherwise assigned pursuant to this Constitution.

(B) Subject to the superintending control of the Supreme Court, the Judges of a Circuit Court may divide that Circuit Court into subject matter divisions, and any Circuit Judge within the Circuit may sit in any division.

(C) Circuit Judges may temporarily exchange circuits by joint order. Any Circuit Judge who consents may be assigned to another circuit for temporary service under rules adopted by the Supreme Court.

(D) The Circuit Courts shall hold their sessions in each county at such times and places as are, or may be, prescribed by law.

Section 7. District Courts.

(A) District Courts are established as the trial courts of limited jurisdiction as to amount and subject matter, subject to the right of appeal to Circuit Courts for a trial de novo.

(B) The jurisdictional amount and the subject matter of civil cases that may be heard in the District Courts shall be established by Supreme Court rule. District Courts shall have original jurisdiction, concurrent with Circuit Courts, of misdemeanors, and shall also have such other criminal jurisdiction, concurrent with Circuit Courts, of misdemeanors, and shall also have such other criminal jurisdiction as may be provided pursuant to Section 10 of this Amendment.

(C) There shall be at least one District Court in each county. If there is only one District Court in a county, it shall have county-wide jurisdiction. Fines and penalties received by the district court shall continue to be distributed in the manner provided by current law, unless and until the General Assembly shall establish a new method of distribution.

(D) A District Judge may serve in one or more counties. Subject to the superintending control of the Supreme Court, the Judges of a District Court may divide that District Court into subject matter divisions, and any District Judge within the district may sit in any division.

(E) District Judges may temporarily exchange districts by joint order. Any District Judge who consents may be assigned to another district for temporary service under rules adopted by the Supreme Court.

Section 8. Referees, masters and Magistrates.

(A) A Circuit Court Judge may appoint referees or masters, who shall have power to perform such duties of the Circuit Court as may be prescribed by Supreme Court rule.

(B) With the concurrence of a majority of the Circuit Court Judges of the Circuit, a District Court Judge may appoint magistrates, who shall be subject to the superintending control of the District Court and shall have power to perform such duties of the District Court as may be prescribed by Supreme Court rule.

Section 9. Annulment or Amendment of Rules.

Any rules promulgated by the Supreme Court pursuant to Sections 5, 6(B), 7(B), 7(D), or 8 of this Amendment may be annulled or amended, in whole or in part, by a two-thirds (2/3) vote of the membership of each house of the General Assembly.

Section 10. Jurisdiction, Venue, Circuits, Districts and Number of Judges.

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

Section 11. Right of Appeal.

There shall be a right of appeal to an appellate court from the Circuit Courts and other rights of appeal as may be provided by Supreme Court rule or by law.

Section 12. Temporary Disqualification of Justices or Judges.

No Justice or Judge shall preside or participate in any case in which he or she might be interested in the outcome, in which any party is related to him or her by consanguinity or affinity within such degree as prescribed by law, or in which he or she may have been counsel or have presided in any inferior court.

Section 13. Assignment of Special and Retired Judges.

(A) If a Supreme Court Justice is disqualified or temporarily unable to serve, the Chief Justice shall certify the fact to the Governor, who within thirty (30) days thereafter shall commission a Special Justice, unless the time is extended by the Chief Justice upon a showing by the Governor that, in spite of the exercise of diligence, additional time is needed. If the Governor fails to commission a Special Justice within thirty (30) days, or within any extended period granted by the Chief Justice, the Lieutenant Governor shall commission a Special Justice.

(B) If a Judge of the Court of Appeals is disqualified or temporarily unable to serve, the Chief Judge shall certify the fact to the Chief Justice who shall commission a Special Judge.

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

(D) In naming Special Justices and Judges, the Governor or the Chief Justice may commission, with their consent, retired Justices or Judges, active circuit or District Judges, or licensed attorneys.

(E) Special and retired Justices and Judges selected and assigned for temporary judicial service shall meet the qualifications of Justices or Judges or the Court to which selected and assigned.

(F) Special and retired Justices and Judges shall be compensated as provided by law.

Section 14. Prohibition of Practice of Law.

Justices and Judges, except District Judges, shall not practice law during their respective terms of office. The General Assembly may, by classification, prohibit District Judges from practicing law.

Section 15. Prohibition of Candidacy for Non-Judicial Office.

If a Judge or Justice files as a candidate for nonjudicial governmental office, that candidate's judicial office shall immediately become vacant.

Section 16. Qualifications and Terms of Justices and Judges.

(A) Justices of the Supreme Court and Judges of the Court of Appeals shall have been licensed attorneys of this state for at least eight years immediately preceding the date of assuming office. They shall serve eight-year terms.

(B) Circuit Judges shall have been licensed attorneys of this state for at least six years immediately preceding the date of assuming office. They shall serve six-year terms.

(C) District Judges shall have been licensed attorneys of this state for at least four years immediately preceding the date of assuming office. They shall serve four-year terms.

(D) All Justices and Judges shall be qualified electors within the geographical area from which they are chosen, and Circuit and District Judges shall reside within that geographical area at the time of election and during their period of service. A geographical area may include any county contiguous to the county to be served when there are no qualified candidates available in the county to be served.

(E) The General Assembly shall by law determine the amount and method of payment of Justices and Judges. Such salaries and expenses may be increased, but not diminished, during the term for which such Justices or Judges are selected or elected. Salaries of Circuit Judges shall be uniform throughout the state.

(F) Circuit, District, and Appellate Court Judges and Justices shall not be allowed any fees or perquisites of offices, nor hold any other office of trust or profit under this state or the United States, except as authorized by law.

Section 17. Election of Circuit and District Judges.

(A) Circuit Judges and District Judges shall be elected on a nonpartisan basis by a majority of qualified electors voting for such office within the circuit or district which they serve.

(B) Vacancies in these offices shall be filled as provided by this Constitution.

Unopposed candidates for all offices, including school board positions, shall be declared and certified elected without the necessity of including those names on the general election ballot. In an election in which one (1) or more candidates are unopposed, the phrase "unopposed candidates" shall appear on the ballot, adjacent to a place in which the voter may cast a vote for all unopposed candidates by placing an appropriate mark. Votes received by an unopposed candidate in any election in this state may be counted or tabulated by the election officials for administrative purposes, but shall not be certified unless otherwise provided by law. Votes received by an unopposed candidate for the office of Governor, mayor, circuit clerk, or the office of a nonjudicial state elected official shall be counted or tabulated by the election officials and certified according to law. The names of all unopposed candidates for the office of Governor, mayor, circuit clerk, and the office of a nonjudicial state elected official shall be separately placed on the general election ballot, and the votes for Mayor, Governor, Circuit Clerk, City Clerk, and a nonjudicial state elected official shall be tabulated as in all contested races. All unopposed candidates, other than for the offices of Governor, mayor, circuit clerk, and the office of a nonjudicial state elected official, shall be declared and certified as elected in the same manner as if the candidate had been voted upon at the election (ACA 7-5-207).

Section 18. Election of Supreme Court Justices and Court of Appeals Judges.

(A) Supreme Court Justices and Court of Appeals Judges shall be elected on a nonpartisan basis by a

majority of qualified electors voting for such office. Provided, however, the General Assembly may refer the issue of merit selection of members of the Supreme Court and the Court of Appeals to a vote of the people at any general election. If the voters approve a merit selection system, the General Assembly shall enact laws to create a judicial nominating commission for the purpose of nominating candidates for merit selection to the Supreme Court and Court of Appeals.

(B) Vacancies in these offices shall be filled by appointment of the Governor, unless the voters provide otherwise in a system of merit selection.

Section 19. Transition Provisions, Tenure of Present Justices and Judges, and Jurisdiction of Present Courts.

(A) Tenure of Present Justices and Judges.

(1) Justices of the Supreme Court and Judges of the Court of Appeals in office at the time this Amendment takes effect shall continue in office until the end of the terms for which they were elected or appointed.

(2) All Circuit, Chancery, and Circuit-Chancery Judges in office at the time this Amendment takes effect shall continue in office as Circuit Judges until the end of the terms for which they were elected or appointed; provided further, the respective jurisdictional responsibilities for matters legal, equitable or juvenile in nature as presently exercised by such Judges shall continue until changed pursuant to law.

(3) Municipal Court Judges in office at the time this Amendment takes effect shall continue in office through December 31, 2004; provided, if a vacancy occurs in an office of a Municipal Judge, that vacancy shall be filled for a term which shall end December 31, 2004.

(B) Jurisdiction of Present Courts.

(1) The Jurisdiction conferred on Circuit Courts established by this Amendment includes all matters previously cognizable by Circuit, Chancery, Probate and Juvenile Courts including those matters repealed by Section 22 of this Amendment. The geographic circuits and subject matter divisions of these courts existing at the time this Amendment takes effect shall become circuits and divisions of the Circuit Court as herein established until changed pursuant to this Amendment. Circuit Courts shall assume the jurisdiction of Circuit, Chancery, Probate and Juvenile Courts.

(2) District Courts shall have the jurisdiction vested in Municipal Courts, Corporation Courts, Police Courts, Justice of the Peace Courts, and Courts of Common Pleas at the time this Amendment takes effect. District Courts shall assume the jurisdiction of these courts of limited jurisdiction and other jurisdiction conferred in this Amendment on January 1, 2005. City Courts shall continue in existence after the effective date of this amendment unless such City Court is abolished by the governing body of the city or by appropriate action of the General Assembly. Immediately upon abolition of such City Court, the jurisdiction of the City Court shall vest in the nearest District Court in the county where the city is located.

(C) Continuation of Courts. The Supreme Court provided for in this Amendment shall be a continuation of the Supreme Court now existing. The Court of Appeals shall be regarded as a continuation of the Court of Appeals now existing. All laws and parts of laws relating to the Amendment shall remain in full force and effect and shall apply to the Supreme Court and Court of Appeals, respectively, established by this Amendment until amended, repealed or superseded by appropriate action of the General Assembly or the Supreme Court pursuant to this Amendment. The Circuit Courts shall be regarded as a continuation of the Circuit, Chancery, Probate and Juvenile Courts now existing. Effective January 1, 2005, the District Courts shall be regarded as a continuation of the Municipal Courts. Corporation Courts, police courts, Justice of the Peace Courts and Courts of Common Pleas now existing. All the papers and records pertaining to these courts shall be transferred accordingly, and no suit or prosecution of any kind or nature shall abate criminal liabilities, prosecutions, judgments, decrees, orders, sentences, regulations, causes of action and appeals existing on the effective date of this Amendment shall continue unaffected except as modified in accordance with this Amendment.

Section 20. Prosecuting Attorneys.

Prosecuting Attorney shall be elected by the qualified electors of each judicial circuit. Prosecuting Attorneys shall have been licensed attorneys of this state for at least four years immediately preceding the date of assuming office. They shall be qualified electors within the judicial circuit from which they are elected and shall reside within that geographical area at the time of the election and during their period of service. They shall serve four-year terms.

Section 21. Effective Date.

This Amendment shall become effective on July, 2001.

Section 22. Repealer.

The following sections of Article 7 of the Constitution of the State of Arkansas are hereby repealed effective July 1, 2001; 1 through 18; 20 through 22; 24; 25; 32; 34; 35; 39; 40; 42; 44; 45; and 50.

ACA Title 16, Subtitles 1 – 7
Enabling Legislation for Amendment 80

Section 1. (a) All municipal courts now in existence shall be known as district courts and all judges of the former courts will be known as district judges.

(b) District courts shall have the jurisdiction vested in the presently established municipal courts.

(c) All fines, penalties and costs received by the district courts shall continue to be collected and distributed in the manner provided by current laws affecting municipal courts unless and until the General Assembly establishes a new method of distribution.

(d) All salaries, retirement benefits, programs, and monies of judges, clerks, and court employees of municipal courts will continue to be vested and paid to the judges, clerks, and court employees of district courts pending further acts of the General Assembly.

Section 2. A vacancy in a district court judgeship shall be filled in the same manner and subject to the same restrictions as for vacancies under Amendment 29 of the Arkansas Constitution. (ACA 16-17-132)

Prosecuting Attorneys.

Each judicial circuit has one prosecuting attorney who is elected by the people for a four-year term. Prosecuting attorneys must be United States citizens learned in the law, and residents of their respective circuits. Their salaries are paid by the State. It is the duty of the prosecuting attorney to commence and prosecute actions, both civil and criminal, in which the State or any county in the circuit may be involved. They also defend all suits brought against the State or county in their areas and give legal opinions and advice to all county officials. In absence of a county civil attorney, the prosecuting attorney serves as legal counsel to the Quorum Courts (the county legislative bodies). They are also responsible for the supervision and the keeping of records in connection with campaign finance disclosure. They may appoint deputies to assist them. Deputies are paid by the state through a cost sharing plan with the counties. This cost sharing plan was established by Act 1044 of 1999. The prosecuting attorneys have formed a State Prosecuting Attorneys Association, which holds seminars, short courses, prepares informational material for prosecutors' use and for law enforcement officers throughout the State. In 1975, the position of Prosecutor Coordinator was created to assist the prosecutors and the Prosecuting Attorneys Association in the in the execution of these tasks.

LIMITED JURISDICTION COURTS

Arkansas has five different categories of lower courts. All are created by authority of State law, but each kind is limited in two ways: in the geographical area involved (called territorial jurisdiction) and in the type of cases that can be tried (called subject matter jurisdiction).

A. The Circuit Courts in Arkansas comprise the second tier in the court system. Arkansas Constitutional Amendment 80, having taken effect on July 1, 2001, eliminated separate courts of law and courts of equity in Arkansas. Circuit courts are general jurisdiction trial courts. Effective January 1, 2002, circuit courts shall consist of five subject matter divisions: criminal, civil, probate, domestic relations, and juvenile. Judicial candidates for circuit judge are elected in nonpartisan elections and are required to have been licensed attorneys in the state for six years preceding the date of assuming office. Circuit Judges serve a six-year term.

Administrative Order Number 14
Administration of Circuit Courts

1. Divisions.

a. The circuit judges of a judicial circuit shall establish the following subject-matter divisions in each county of the judicial circuit: criminal, civil, juvenile, probate, and domestic relations. The designation of divisions is for the purpose of judicial administration and caseload management and is not for the purpose of subject-matter jurisdiction. The creation of divisions shall in no way limit the powers and duties of the judges to hear all matters within the jurisdiction of the circuit court.

b. For purposes of this order, "probate" means cases relating to decedent estate administration, trust administration, adoption, guardianship, conservatorship, commitment, and adult protective custody. "Domestic Relations" means cases relating to divorce, annulment, maintenance, custody, visitation, support, paternity, and domestic abuse. Provided, however, the definitions of "probate" and "domestic relations" are not intended to restrict the juvenile division of circuit court from hearing adoption, guardianship, support, custody, paternity, or commitment issues which may arise in juvenile proceedings.

c. Specialty dockets or programs, typically, employ a problem-solving approach with the judge supervising a treatment plan for a defendant that is designed and implemented by a team of court staff and health professionals. Examples include "drug courts," "mental health courts," "veterans courts," "DWI courts," "Hope courts," "smarter sentencing courts," and "swift courts." Specialty dockets or programs may be established within a subject-matter division of a circuit court if they are described in the circuit's administrative plan and approved by the supreme court.

2. Administrative Judges. In each judicial circuit in which there are two or more circuit judges, there shall be an administrative judge.

a. Means of Selection. On or before the first day of February of each year following the year in which the general election is held, the circuit judges of a judicial circuit shall select one of their number by secret ballot to serve as the administrative judge for the judicial circuit. In circuits with fewer than ten judges the selection must be unanimous among the judges in the judicial circuit. In circuits with 10 or more judges the selection shall require the approval of at least 75% of the judges. The name of the administrative judge shall be submitted in writing to the Supreme Court. If the judges are unable to agree on a selection, they shall notify the Chief Justice of the Supreme Court in writing and furnish information detailing their efforts to select an administrative judge and the results of their balloting. The Supreme Court shall then select the administrative judge. An administrative judge shall be selected on the basis of his or her administrative skills.

b. Term of Office. The administrative judge shall serve a term of two years and may serve successive terms. The administrative judge shall be subject to removal for cause by the Supreme Court. If a vacancy occurs in the office of the administrative judge prior to the end of a term, then within twenty days of such vacancy, the circuit judges in office at the time of such vacancy shall select an administrative judge to serve the unexpired term, and failing to do so, the Supreme Court shall select a replacement.

c. Duties. In addition to his or her regular judicial duties, an administrative judge shall exercise general administrative supervision over the circuit court and judges within his or her judicial circuit under the administrative

plan submitted pursuant to Section 3 of this Administrative Order. The administrative judge will be the liaison for that judicial circuit with the Chief Justice of the Supreme Court in matters relating to administration. In addition, the duties of the administrative judge shall include the following:

(1) Administrative Plan. The administrative judge shall insure that the administrative plan and its implementation are consistent with the requirements of the orders of the Supreme Court.

(2) Case Assignment. Cases shall be assigned under the supervision of the administrative judge in accordance with the circuit's administrative plan. The administrative judge shall assure that the business of the court is apportioned among the circuit judges as equally as possible, and cases may be reassigned by the administrative judge as necessity requires. A circuit judge to whom a case is assigned shall accept that case unless he or she is disqualified or the interests of justice require that the case not be heard by that judge.

(3) Information Compilation. The administrative judge shall have responsibility for the computation, development, and coordination of case statistics and other management data respecting the judicial circuit.

(4) Improvements in the Functioning of the Court. The administrative judge shall periodically evaluate the effectiveness of the court in administering justice and recommend changes to the Supreme Court.

d. One-judge circuit. A circuit judge in a one-judge circuit is an administrative judge. An administrative plan shall be submitted to address specialty court programs (see subsection (3)(c)(2) of this administrative order), state district judges (see subsection (3)(c)(3)), or district court plans (see subsection (3)(c)(4)) of this order.

3. Administrative Plan. The circuit judges of each judicial circuit by majority vote shall adopt a plan for circuit court administration. The administrative judge of each judicial circuit shall submit the administrative plan to the Supreme Court. The purpose of the administrative plan is to facilitate the best use of the available judicial and support resources within each circuit so that cases will be resolved in an efficient and prompt manner. The plan shall include the following:

a. Case Assignment and Allocation.

(1) The plan shall describe the process for the assignment of cases and shall control the assignment and allocation of cases in the judicial circuit. In the absence of good cause to the contrary, the plan of assignment of cases shall assume (i) random selection of unrelated cases; (ii) a substantially equal apportionment of cases among the circuit judges of a judicial circuit; and (iii) all matters connected with a pending or supplemental proceeding will be heard by the judge to whom the matter was originally assigned. For purposes of subsection 3(a)(1)(i), "random selection" means that cases assigned to a particular subject-matter division shall be randomly distributed among the judges assigned to hear those types of cases. For purposes of subsection 3(a)(1)(ii), "a substantially equal apportionment of cases" does not require that the judges among whom the cases of a division are assigned must hear the same percentage of such cases so long as the judges' overall caseloads are substantially equal.

(2) Cases in a subject-matter division may be exclusively assigned to particular judges, but such assignment shall not preclude judges from hearing cases of any other subject-matter division.

b. Caseload Estimate. The plan shall provide a process which will apportion the business of the circuit court among each of the judges within the judicial circuit on as equal a basis as possible. The plan shall include an estimate of the projected caseload of each of the judges based upon previous case filings. If, at any time, it is determined that a workload imbalance exists which is affecting the judicial circuit or a judge adversely, the plan shall be amended subject to the provisions of Section 4 of this Administrative Order.

c. Other Provisions.
(1) [Repealed].
(2) Specialty Dockets or Programs. The plan shall describe any special programs, dockets, or proceedings, including such things as the operation of a specialty docket or court program (see subsection (1)(c) of this administrative order). The plan shall: (A) describe the program and how it is operated; (B) provide the statutory or legal authority on which it is based; (C) certify that the program conforms to all applicable sentencing laws, including fines, fees, court costs, and probation assessments; (D) describe the program's use of court resources, including without limitation, prosecuting attorneys or public defenders, and the availability of such resources and how they will be provided; and (E) provide the source of funding for the programs.

(3) State District Court Judges. If state district court judges preside over circuit court matters pursuant to the provisions of Administrative Order No. 18, the plan shall (A) describe the cases or matters included; (B) state the judges participating and the assignment and allocation of cases to them; and (C) if specialty dockets or programs are included, provide the information required by subsection (3)(c)(2) of this administrative order.

(4) District Court Plans. Administrative plans prepared by State District Judges or Local District Judges pursuant to Administrative Order No. 18, section 9, shall be appended to the circuit court's administrative plan for submission to the supreme court under section (4) of this administrative order. The administrative judge and other circuit judges may endorse, object to, or otherwise comment on the district court's administrative plan.

(3) The Administrative Office of the Courts shall as soon as practical develop and make available to each judicial circuit a computerized program to assure (i) random assignment of cases where appropriate and (ii) a substantially equal apportionment of cases among the judges.

b. Caseload Estimate. The plan shall provide a process which will apportion the business of the circuit court among each of the judges within the judicial circuit on as equal a

basis as possible. The plan shall include an estimate of the projected caseload of each of the judges based upon previous case filings. If, at any time, it is determined that a workload imbalance exists which is affecting the judicial circuit or a judge adversely, the plan shall be amended subject to the provisions of Section 4 of this Administrative Order.

4. Supreme Court.

a. The administrative plan for the judicial circuit shall be submitted by the administrative judge to the Supreme Court by July 1 of each year following the year in which the general election of circuit judges is held. The effective date of the plan will be the following January 1. Until a subsequent plan is submitted to and published by the Supreme Court, any plan currently in effect shall remain in full force. Judges who are appointed or elected to fill a vacancy shall assume the caseload assigned to the judge they are replacing until such time a new administrative plan is required or the original plan is amended. Upon approval, the Supreme Court shall publish the administrative plan and a copy shall be filed with the clerk of the circuit court in each county within the judicial circuit and the Clerk of the Supreme Court. The process for the amendment of a plan shall be the same as that of the plan's initial adoption.

b. In the event the administrative judge is unable to submit a plan consistent with the provisions of this Administrative Order, the Supreme Court shall formulate a plan for the equitable distribution of cases and caseloads within the judicial circuit. The Supreme Court shall set out the plan in an order which shall be filed with the clerk of each court in the judicial circuit and the Clerk of the Supreme Court. The clerk shall thereafter assign cases in accordance with the plan.

c. In the event an approved plan is not being followed, a judge may bring the matter to the attention of the Chief Justice of the Arkansas Supreme Court by setting out in writing the nature of the problem. Upon receipt of a complaint, the Supreme Court may cause an investigation to be undertaken by appropriate personnel and will take other action as may be necessary to insure the efficient operation of the courts and the expeditious dispatch of litigation in the judicial circuit.

Specialty Court Programs

ACA 16-10-139. Evaluation and approval– Transfer

A specialty court program operated by a circuit court or district court must be approved by the Supreme Court in the administrative plan submitted under Supreme Court Administrative Order Nos. 14 and 18. The Specialty Court Program Advisory Committee shall evaluate and make findings with respect to all specialty court programs operated by a circuit court or district court in this state and refer the findings to the Supreme Court. A specialty court program shall be reevaluated every two (2) years after the initial evaluation. On motion of a specialty court program participant, a specialty court judge who presides over a specialty court program may by written order transfer responsibility for supervision and specialty court program enforcement of the specialty court program participant's case to another specialty court judge with the consent of the other specialty court judge. The specialty court program participant shall comply with the policies and procedures for the specialty court program to which the specialty court program participant's case is transferred. The specialty court judge to whom the specialty court program participant's case is transferred may impose sanctions on the specialty court program participant, including without limitation the imposition of a period of incarceration and the requirement of inpatient treatment under the written policies and procedures for the specialty court program to which the specialty court program participant's case has been transferred. If the specialty court judge to whom the specialty court program participant's case has been transferred determines that the specialty court program participant has successfully completed the specialty court program, the specialty court judge shall notify the transferring specialty court judge and request that the appropriate orders be entered in the specialty court program participant's case. If after a specialty court program participant's case is transferred, the specialty court team recommends that the specialty court program participant be removed from the specialty court program, the specialty court judge shall enter an order returning the specialty court program participant's case to the transferring specialty court program.

ACA 16-100-201. Authorization–Evaluation–Restriction on services and treatment.

(a) A judicial district may establish a mental health specialty court program, which shall consist of at least one (1) mental health specialty court, subject to approval by the Supreme Court in the administrative plan submitted under Supreme Court Administrative Order No. 14.

(b) A mental health specialty court program authorized under this subchapter is also subject to evaluation by the Specialty Court Program Advisory Committee under § 16-10-139.

(c)(1) A mental health specialty court may not order any services or mental health treatment under this subchapter unless:

(A) An administrative and programmatic appropriation has been made for services or mental health treatment under this subchapter;

(B) Administrative and programmatic funding is available for services or mental health treatment under this subchapter; and

(C) Administrative and programmatic positions have been authorized for services or mental health treatment under this subchapter.

(2) If the requirements of subdivision (c)(1) of this section are not met, a mental health specialty court may still order services or mental health treatment if the provider waives payment, or if the mental health specialty court program participant has private insurance that will pay for the services or mental health treatment.

ACA 16-100-203 Establishment of mental health specialty court.

(a) A mental health specialty court is a specialized court within the existing structure of the court system.

(b) A mental health specialty court program shall offer judicial monitoring of intensive mental health treatment and strict supervision of mental health specialty court program participants.
(c) The creation of a mental health specialty court and the appointment of a circuit judge to the mental health specialty court shall be approved by the administrative judge in each judicial circuit and made a part of the judicial circuit's administrative plan required by Supreme Court Administrative Order No. 14.

ACA 16-100-204. Administration of mental health specialty court program.

(a) A mental health specialty court program may require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial systems.
(b)(1) The administrative judge of the judicial district shall designate one (1) or more circuit judges to be mental health specialty court judges and to administer the mental health specialty court program.
(2) If a county is in a judicial district that does not have a circuit judge who is able to administer the mental health specialty court program on a consistent basis, the administrative plan for the judicial circuit required by Supreme Court Administrative Order No. 14 may designate a district court judge to be a mental health specialty court judge and to administer the mental health specialty court program.
(c) A mental health specialty court team shall be designated by a mental health specialty court judge and may include:
(1) A circuit judge;
(2) A prosecuting attorney;
(3) A public defender or private defense attorney;
(4) One (1) or more healthcare providers with experience in the field of mental health treatment;
(5) One (1) or more probation officers;
(6) One (1) or more private mental health treatment provider representatives with experience in the field of mental health treatment; and
(7) Any other individual determined necessary by the mental health specialty court judge.
(d) Each judicial district may develop a training and implementation manual for the mental health specialty court program with the assistance of the:
(1) Department of Human Services;
(2) Department of Health;
(3) Division of Community Correction;
(4) Administrative Office of the Courts; and
(5) Other federal, state, and local agencies, organizations, or entities with an established history of expertise in mental health conditions.

ACA 16-100-207. Mental health treatment under program--Failure to comply with program.

(a)(1) A mental health specialty court shall order mental health treatment for a mental health specialty court program participant for at least six (6) months.
(2) Any mental health treatment ordered under subdivision (a)(1) of this section shall meet the minimum standards of mental health treatment promulgated by the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services.
(b) A mental health specialty court program participant may be removed from a mental health specialty court program by the mental health specialty court following a hearing with notice and an opportunity for the mental health specialty court program participant to be heard, if:
(1) The mental health specialty court program participant:
(A) Knowingly fails to abide by the terms and conditions of the mental health specialty court program; or
(B) Is not suffering from a recognized mental illness in the opinion of a healthcare provider or mental health specialist assigned or ordered by the mental health specialty court to determine whether or not the mental health specialty court program participant suffers from a recognized mental illness; or
(2) The mental health specialty court finds that retaining the mental health specialty court program participant in a mental health specialty court program does not serve the best interests of justice, the public, the state, or the mental health specialty court program participant.
(c) If a mental health specialty court program participant is removed from a mental health specialty court program for any of the reasons set out under subsection (b) of this section, the mental health specialty court program participant's case shall be transferred to the appropriate court having jurisdiction.

ACA 16-100-208. Completion of program--Dismissal of case--Sealing of record.

(a) Upon the mental health specialty court's own motion or upon a request from a mental health specialty court program participant or his or her attorney, a mental health specialty court may order dismissal of the case against the mental health specialty court program participant and the sealing of the record if:
(1) The mental health specialty court program participant has successfully completed the mental health specialty court program, as determined by the mental health specialty court;
(2) The mental health specialty court program participant has received aftercare programming or a course of continuing mental health treatment if recommended by the mental health specialty court program participant's healthcare provider;
(3) The mental health specialty court has received a recommendation from the prosecuting attorney for dismissal of the case and the sealing of the record; and
(4) The mental health specialty court, after considering the mental health specialty court program participant's criminal history, determines that dismissal of the case and the sealing of the record are appropriate.
(b) Unless otherwise ordered by the mental health specialty court, sealing of the record under this section shall be as described in the Comprehensive Criminal Record Sealing Act of 2013, § 16-90-1401 et seq.
(c) If a mental health specialty court program participant has successfully completed the program and has his or her

case dismissed under this section, he or she may petition the mental health specialty court for relief from disability to restore the mental health specialty court program participant's right to purchase a firearm and to otherwise be removed from the Federal Bureau of Investigation's National Instant Criminal Background Check System database.

ACA 16-100-209. Costs and fees.

(a) The mental health specialty court may order the mental health specialty court program participant to pay:
(1) Court costs as provided in § 16-10-305;
(2) Healthcare and treatment costs not otherwise covered by the health insurance of the mental health specialty court program participant;
(3) Drug testing costs;
(4) A mental health specialty court program user fee;
(5) Necessary supervision fees, including any applicable residential treatment fees;
(6) Any fees determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1) that are to be paid to the Division of Community Correction;
(7) Global Positioning System monitoring costs; and
(8) Continual alcohol monitoring fees.
(b)(1) The mental health specialty court shall establish a schedule for the payment of costs and fees.
(2) The cost for health care, treatment, drug testing, continual alcohol monitoring if ordered, and supervision shall be set by the treatment and supervision providers respectively and made part of the order for payment of the mental health specialty court.
(3) Mental health specialty court user fees shall be set by the mental health specialty court.
(4) Health care, treatment, drug testing, continual alcohol monitoring if ordered, and supervision costs or fees shall be paid to the respective providers.
(5) Fees determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1) shall be paid to the division.
(6)(A) All court costs and mental health specialty court program user fees assessed by the mental health specialty court shall be paid to the circuit court clerk or district court clerk, as applicable, for remittance to the county treasury under § 14-14-1313.
(B) All installment payments shall initially be deemed to be collection of court costs under § 16-10-305 until the court costs have been collected in full with any remaining payments representing collections of other fees and costs as authorized in this section and shall be credited to the county administration of justice fund and distributed under § 16-10-307.
(C) Mental health specialty court program user fees shall be credited to a fund to be known as the “mental health specialty court program fund” and appropriated by the quorum court for the county in which the mental health specialty court program participant committed the offense for which he or she is charged for the benefit and administration of the mental health specialty court program.
(7) Court orders for costs and fees shall remain an obligation of the mental health specialty court program participant with mental health specialty court monitoring until fully paid.
(c) All costs and fees under this section may be fully or partially waived by the mental health specialty court upon a showing of indigency.

ACA 16-101-101 et. Seq.

A circuit court may establish a veterans treatment specialty court program, subject to approval by the Supreme Court in the administrative plan submitted under Supreme Court Administrative Order No. 14. This specialty court program is subject to evaluation by the Specialty Court Program Advisory Committee under § 16-10-139. A veterans treatment specialty court program may require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial system. The veterans treatment specialty court judge presiding over a veterans treatment specialty court program that has been approved by the Supreme Court may order a veterans treatment specialty court program participant to pay: Court costs as provided in § 16-10-305; Treatment costs; Drug testing costs; A veterans treatment specialty court program user fee; Necessary supervision fees, including any applicable residential treatment fees; A fee determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1) that is to be paid to the Division of Community Correction; Global Positioning System monitoring costs; and Continuous alcohol monitoring fees. If a judicial district chooses to create and administer a veterans treatment specialty court, subject to Arkansas Constitution, Amendment 80, the administrative judge of the judicial district shall designate one (1) or more circuit judges to be the veterans treatment specialty court judges and to administer the veterans treatment specialty court program. If a county is in a judicial district that does not have a circuit judge who is able to administer the veterans treatment specialty court program on a consistent basis, the administrative plan for the judicial circuit required by Supreme Court Administrative Order No. 14 and the administrative plan for the district court pursuant to Supreme Court Administrative Order No. 18 may designate a state district court judge to be a veterans treatment court specialty court judge and to administer the veterans treatment specialty court program.

Administrative Order Number 18
Administration of District Courts

This administrative order is promulgated pursuant to Ark. Const. Amend. 80, § 7; Ark. Code Ann. §16-17-704; and the Supreme Court's inherent rule-making authority. Procedural rules applicable to district courts are set out in the District Court Rules.

1. Divisions.
(a) The district court judges shall establish the following subject-matter divisions in each district court: criminal, civil, traffic, and small claims. For purposes of this administrative order, the term "traffic division" means

cases relating to a violation of a law regulating the operation of a vehicle upon a roadway.
(b) The designation of divisions is for the purpose of judicial administration and caseload management and is not for the purpose of subject-matter jurisdiction. The creation of divisions shall in no way limit the powers and duties of the judges to hear all matters within the jurisdiction of the district court.

2. Departments.
(a) Each department of a district court shall maintain its own docket, and the docket shall be heard at times and places as may be determined by the judge(s) of the district court. Except as authorized in subsection (2) (b) or as approved by the Supreme Court, each department of a district court shall hear cases in all of the subject matter divisions. "Department" is defined in Ark. Code Ann. § 16-17-901.
(b) If a district court's territorial jurisdiction is only city-wide and the district court has more than one department, the judges of the district court by unanimous written agreement may designate that cases of one or more of the subject matter divisions (criminal, civil, traffic, and small claims) be assigned to one or more of the departments.

3. Civil Jurisdiction. The district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:
(a) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars ($100), excluding interest, costs, and attorney's fees;
(b) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of five thousand dollars ($5,000), excluding interest, costs, and attorneys' fees;
(c) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of five thousand dollars ($5,000); and
(d) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of five thousand dollars ($5,000), excluding interest and costs.

4. Small Claims Division. The small claims division shall have the same jurisdiction over amounts in controversy as provided in subsection 3 of this administrative order. Special procedural rules governing actions filed in the small claims division are set out in Rule 10 of the District Court Rules. The following restrictions apply to litigation in the small claims division:
(a) Restriction on participation by attorneys. No attorney-at-law or person other than the plaintiff and defendant shall take part in the filing, prosecution, or defense of litigation in the small claims division. When any case is pending in the small claims division of any district court and the judge of the court determines that an attorney is representing any party in the case, the case shall immediately be transferred to the civil docket. However, it is not the intention of this provision and this provision shall not be construed, to abridge in any way the rights of persons to be represented by legal counsel.
(b) Entities restricted from bringing actions. No action may be brought in the small claims division by any collection agency, collection agent, or assignee of a claim or by any person, firm, partnership, association, or corporation engaged, either primarily or secondarily, in the business of lending money at interest. "Credit bureaus and collection agencies", by definition, shall include those businesses that either collect delinquencies for a fee or are otherwise engaged in credit history or business.
(c) Actions by and against corporations. (1) Corporations, other than those identified in subsection 4(b) of this administrative order, which are organized under the laws of this state and which have no more than three stockholders or in which eighty-five percent or more of the voting stock is held by persons related by blood or marriage within the third degree of consanguinity or any closely held corporations by unanimous vote of the shareholders may sue and be sued in the small claims division. (2) A corporation shall be represented in the proceedings by an officer of the corporation.

5. Assignment of Judges. See Administrative Order Number 16.

6. Jurisdiction of State District Court Judgeships. [This section (6) applies to State District Court Judgeships (“Pilot District Courts”) upon their effective date.] In addition to the powers and duties of a district court under this administrative order, a state district court shall exercise additional power and authority as set out in this section.

(a) Original Jurisdiction. A state district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:
(1) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars ($100), excluding interest, costs, and attorney's fees;
(2) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of twenty-five thousand dollars ($25,000), excluding interest, costs, and attorney’s fees;
(3) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of twenty-five thousand dollars ($25,000);
(4) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of twenty-five thousand dollars ($25,000), excluding interest and costs.

(b) Reference. A state district court judge may be referred matters pending in the circuit court. An individual matter or a category of case may be the subject of a reference. A state district court judge presiding over any referred matter shall be subject at all times to the superintending control of the administrative judge of the judicial circuit. The following matters pending in circuit court may be referred to a state district court judge:

(1) Consent Jurisdiction. Matters filed in the civil, domestic relations or probate division of circuit court upon the consent of all parties (see subsection (d) below);
(2) Protective Orders. Ark. Code Ann. §§ 9-15-201-217;
(3) Forcible Entry and Detainers and Unlawful Detainer. Ark. Code Ann. §§ 18-60-301-312;
(4) Other Matters. (A) Matters of an emergency or uncontested nature pending in the civil, domestic relations, or probate division of circuit court (such as, ex parte emergency involuntary commitments pursuant to Ark. Code Ann. § 20-47-209-210, decedent estate administration, uncontested divorces, and defaults) under guidelines and procedures set out in the judicial circuit's administrative plan; or (B) other matters if the justification for the reference and the procedures to be employed are sufficiently demonstrated in the administrative plan; and
(5) Criminal Matters. (A) Any of the following duties (the rules referenced below are the Arkansas Rules of Criminal Procedure) with respect to an investigation or prosecution of an offense lying within the exclusive jurisdiction of the circuit court:
(i) Issue a search warrant pursuant to Rule 13.1.
(ii) Issue an arrest warrant pursuant to Rule 7.1 or Ark. Code Ann.§ 16-81-104, or issue a summons pursuant to Rule 6.1.
(iii) Make a reasonable cause determination pursuant to Rule 4.1(e).
(iv) Conduct a first appearance pursuant to Rule 8.1, at which the judge may appoint counsel pursuant to Rule 8.2; inform a defendant pursuant to Rule 8.3; accept a plea of "not guilty" or "not guilty by reason insanity"; conduct a pretrial release inquiry pursuant to Rules 8.4 and 8.5; or release a defendant from custody pursuant to Rules 9.1, 9.2, and 9.3.
(v) Conduct a preliminary hearing as provided in Ark. Code Ann. § 16-93-307. If a person is charged with the commission of an offense lying within the exclusive jurisdiction of the circuit court, a state district court judge may not accept or approve a plea of guilty or nolo contendere to the offense charged or to a lesser included felony offense but, may accept or approve a plea of guilty or nolo contendere to a misdemeanor.

(B) If authorized by an Act of the General Assembly, a state district court judge may preside over a drug court program, probation revocation proceedings, or parole revocation proceedings.

(C) Other criminal matters may be referred if the justification for the reference and the procedures to be employed are sufficiently demonstrated in the administrative plan.

(c) Reference Process. Except for the exercise of consent jurisdiction which is governed by subsection (d), with the concurrence of a majority of the circuit judges of a judicial circuit, the administrative judge of a judicial circuit may refer matters pending in the circuit court to a state district court judge, with the judge's consent, which shall not be unreasonably withheld. A final judgment although ordered by a state district court judge, is deemed a final judgment of the circuit court and will be entered by the circuit clerk under Rule 58 of the Arkansas Rules of Civil Procedure. Any appeal shall be taken to the Arkansas Supreme Court or Court of Appeals in the same manner as an appeal from any other judgment of the circuit court. An order that does not constitute a final appealable order may be modified or vacated by the circuit judge to whom the case has been assigned as permitted by Rule 60 of the Arkansas Rules of Civil Procedure.

(d) Consent Process.
1. Notice. The circuit clerk shall give the plaintiff notice of the consent jurisdiction of a state district court judge when a suit is filed in the civil, domestic relations, or probate division of circuit court. The circuit clerk shall also attach the same notice to the summons for service on the defendant. Any party may obtain a "Consent to Proceed before a State District Court Judge" form from the Circuit Clerk's Office.

2. Consent. By agreeing to consent jurisdiction, the parties are waiving their right to a jury trial, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals.

3. Transfer. Once the completed forms have been returned to the circuit clerk, the circuit clerk shall then assign the case to a state district court judge and forward the consent forms for final approval to the circuit judge to whom the case was originally assigned. When the circuit judge has approved the transfer and returned the consent forms to the circuit clerk's office for filing, the circuit clerk shall forward a copy of the consent forms to the state district court judge to whom the case is reassigned. The circuit clerk shall also indicate on the file that the case has been reassigned to the state district court judge.

4. Appeal. The final judgment, although ordered by a state district court judge, is deemed a final judgment of the circuit court and will be entered by the circuit clerk under Rule 58 of the Arkansas Rules of Civil Procedure. Any appeal shall be taken to the Arkansas Supreme Court or Court of Appeals in the same manner as an appeal from any other judgment of the circuit court.

7. Small Claims Magistrate.

(a) At the request of the majority of the district judges of a district court, with the concurrence of a majority of the circuit court judges of a judicial circuit, the Administrative Judge of the judicial circuit may designate one or more licensed attorney(s) to serve as a Small Claims Magistrate to preside over the Small Claims Division of the district court. A Small Claims Magistrate shall be deemed the "judge" as that term is used in Rule 10 of the District Court Rules. A Small Claims Magistrate shall be subject to the superintending control of the district judges of the district court.
(b) A Small Claims Magistrate shall possess the same qualifications as a district court judge. The appointment shall be in writing and filed with the District Court Clerk.

8. Special Judges. [Repealed].

9. Administrative Plan.

(a) A state district court or a local district court shall prepare an administrative plan when the court operates a speciality court program (see section 10 of this administrative order) or when multiple judges preside in the district or the court has multiple venues in the district. With regard to the latter, the plan shall describe the types of cases assigned to the respective judges and the types of cases heard at the respective sites.

(b) The plan shall be forwarded to the administrative judge of the circuit court and appended to the circuit court's administrative plan for submission to the supreme court. District court plans follow the time lines set out in Administrative Order Number 14. Circuit court administrative plans are to be submitted to the supreme court by July 1 to be effective the following January 1 (see Administrative Order Number 14, section 4). Until a subsequent plan is submitted to and approved, any plan currently in effect shall remain in full force. Judges who are appointed or elected to fill a vacancy shall follow the plan until such time a new plan is required or the original plan is amended. Upon approval, the administrative plan shall be the same as that for the plan's initial adoption.

10. Specialty Dockets or Programs.

If a local district court or a state district court conducts a specialty docket or program, such as "DWI court," "drug court," "mental health court," "veterans court," "Hope court," "smarter sentencing court," and "swift court," the program must be described in the district court's administrative plan and approved by the supreme court. The plan shall (a) describe the program and how it is operated; (b) provide the statutory or legal authority on which it is based; (c) certify that the program conforms to all applicable sentencing laws, including fines, fees, court costs, and probation assessments; (d) describe the program's use of court resources, including without limitation, prosecuting attorneys or public defenders, and the availability of such resources and how they will be provided; and (e) provide the source of funding for the program.

ADMINISTRATIVE OFFICE OF THE COURTS

The Supreme Court is not only the highest appeals court in Arkansas, but the Constitution gives it "general superintending control over the administration of justice in all courts in the state of Arkansas" and declares that it "shall make rules regulating the practice of law and professional conduct of attorneys at law."(Amendment 28; ACA 16-10-101)

Under rules prescribed by the Supreme Court, the Chief Justice may require reports from all courts of the state and may issue such orders and regulations as may be necessary for the efficient operation of those courts to ensure the prompt and proper administration of justice and may assign, reassign, and modify assignments of judges of the circuit court, the chancery court, and the probate court to hold, upon a temporary basis, regular or special sessions for the transaction of civil or criminal business within any other such court.

Legislation in 1965 and 1989 authorized a Judicial Department, now the Administrative Office of the Courts, to assist the Chief Justice in carrying out his administrative responsibilities, and also authorized the Chief Justice, subject to the approval of the Supreme Court and the Judicial Council to appoint a Director of the Administrative Office of the Courts. Subsequent to the appointment the Director shall hold office at the pleasure of the Supreme Court.(ACA 16-10-102)

The principal functions of this office are:

(1) Examine the administrative methods of the courts and make recommendations to the Supreme Court for their improvement;

(2) Examine the state of the dockets of the courts, secure information as to their needs for assistance, if any, prepare statistical data and reports of the business of the courts, and advise the Supreme Court to the end, that proper action may be taken;

(3) Examine the estimates of the courts of the state for appropriations and present to the Supreme Court recommendations concerning them;

(4) Examine the statistical systems of the courts and make recommendations to the Supreme Court for a uniform system of judicial statistics;

(5) Collect, analyze, and report to the Supreme Court statistical and other data concerning the business of the courts;

(6) With the approval of the Supreme Court and at the request of the Judicial Council, the director shall act as secretary of the Judicial Council, and shall perform such duties as may be assigned to him;

(7) Examine the data processing needs of the courts and make recommendations to the Supreme Court as to the purchase and use of hardware and software for computer systems, telecommunications systems, and micro-filming systems, and provide education to the courts on the use of such systems so as to improve the quality and efficiency of justice in the state;

(8) Assist the Supreme Court in the operation of the Supreme Court Library; and

(9) Attend to the other nonjudicial business of the judicial branch under such rules as the Supreme Court may by order adopt; The director shall, with the approval of the Supreme Court, appoint such assistants as may be necessary. He shall be provided with such office facilities as may be required.

The director shall advise and assist clerks of trial courts in the keeping of records of their proceedings and shall make reports and recommendations in connection therewith to the Supreme Court, the trial judges, and the clerks of those courts.

The clerks, officers, and employees of the courts shall comply with all requests of the director for information and statistical data relating to the business of the courts and the expenditure of public funds for their maintenance and operation. The director shall notify the Supreme Court of any noncompliance with such requests.

These boards and committees include the State Board of Law Examiners which prepares the questions for the bar examination conducted twice yearly, grades the papers of those taking the examination, and certifies to the court the names of those who passed. It also investigates and recommends applicants for admission by reciprocity with other states. The Client Security Fund Committee is authorized to consider claims of clients who have suffered losses by reason of the dishonesty of attorneys who have represented them. The Committee on Professional Conduct receives and investigates complaints against attorneys who are charged with professional misconduct.

Other Supreme Court committees are involved with updating and revising the criminal code, instructions to the juries, the civil procedure code, and the Arkansas statutes.

OATH OF THE JURY

Once the jury has been formed, the clerk administers the oath.
A sample criminal oath is found in Ar. Code Ann. 16-89-109. It states:

"You, and each of you, do solemnly swear that you will well and truly try the case of the state of Arkansas against ___. And a true verdict render, unless discharged by the court or withdrawn by the parties."

The oath could similarly read:

"Do you and each of you solemnly swear that you will well and truly try the case of _____ vs. _____ and render a true verdict unless discharged by the Court or withdrawn by the parties?"

A sample civil oath is found in Ark. Code Ann. 16-30-103. It states:

"I do solemnly swear (or affirm) that I will well and truly try each and all of the issues submitted to me as a juror and a true verdict render according to the law and the evidence."

SAMPLE SCRIPTS

Voir Dire Oath

"Do each of you solemnly swear that you will truthfully answer all questions that may be asked of you by court or by counsel concerning your qualifications to serve as jurors of this case."

Oath of the Jury- Civil

"I do solemnly swear (or affirm) that I will well and truly try each and all of the issues submitted to me as a juror and a true verdict render according to the law and the evidence."

Oath of the Jury- Criminal

"You and each of you, do solemnly swear, that you will well and truly try the case of the State of Arkansas against A.B., and a true verdict render unless discharged by the court or withdrawn by the parties." (A.C.A. § 16-89-109)

Oath of the Grand Jurors

"Saving yourselves and fellow jurors, you do swear (or affirm) that you will diligently inquire of, and present all treasons, felonies, misdemeanors, and breaches of the penal laws over which you have jurisdiction, of which you have knowledge or may receive information."

Oath to Bailiff

"You solemnly swear that you will suffer no person to speak or communicate with the jury on any subject connected with the trial, nor do so yourself, except the mere showing of the place to be viewed, and return them into court without unnecessary delay, or at _____ (specified time)."

Oath to Interpreter

"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]?" (A.C.A. § 16-10-1105)

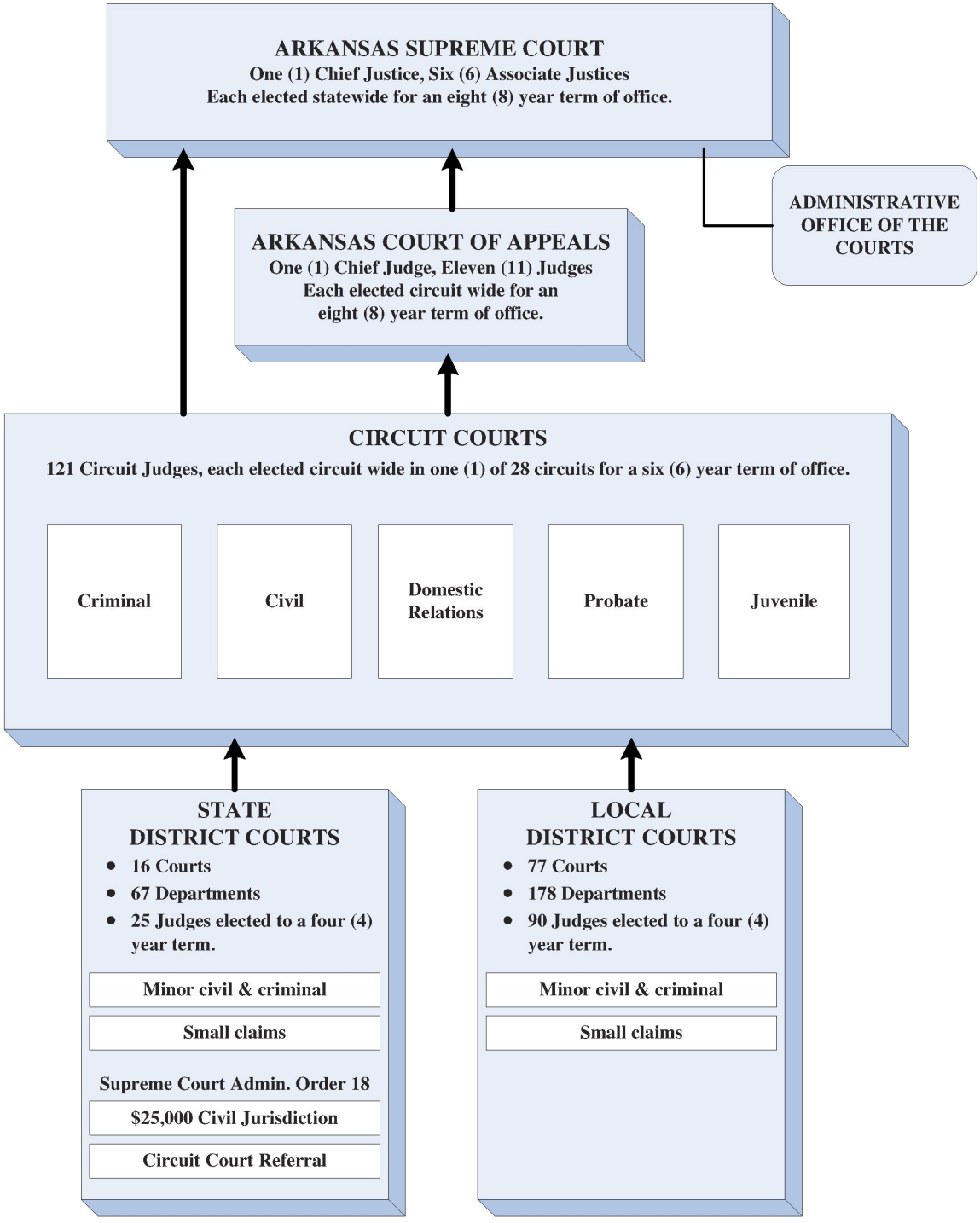
OATHS OF OFFICE FOR PUBLIC OFFICIALS

ACA 21-2-105. Administration of oaths generally.

(a)(1) The Governor shall take the oath of office before:
(A) A justice or judge of the:
(i) Supreme Court;
(ii) Court of Appeals;
(iii) Circuit court; or
(iv) District court;
(B) The county clerk; or
(C) The clerk of the circuit court.
(2) The justices of the Supreme Court, judges of the Court of Appeals, judges of the circuit courts, judges of the district court, Secretary of State, Treasurer of State, and Auditor of State shall take their oaths before:
(A) The Governor;
(B) A justice or judge of the:
(i) Supreme Court;
(ii) Court of Appeals;

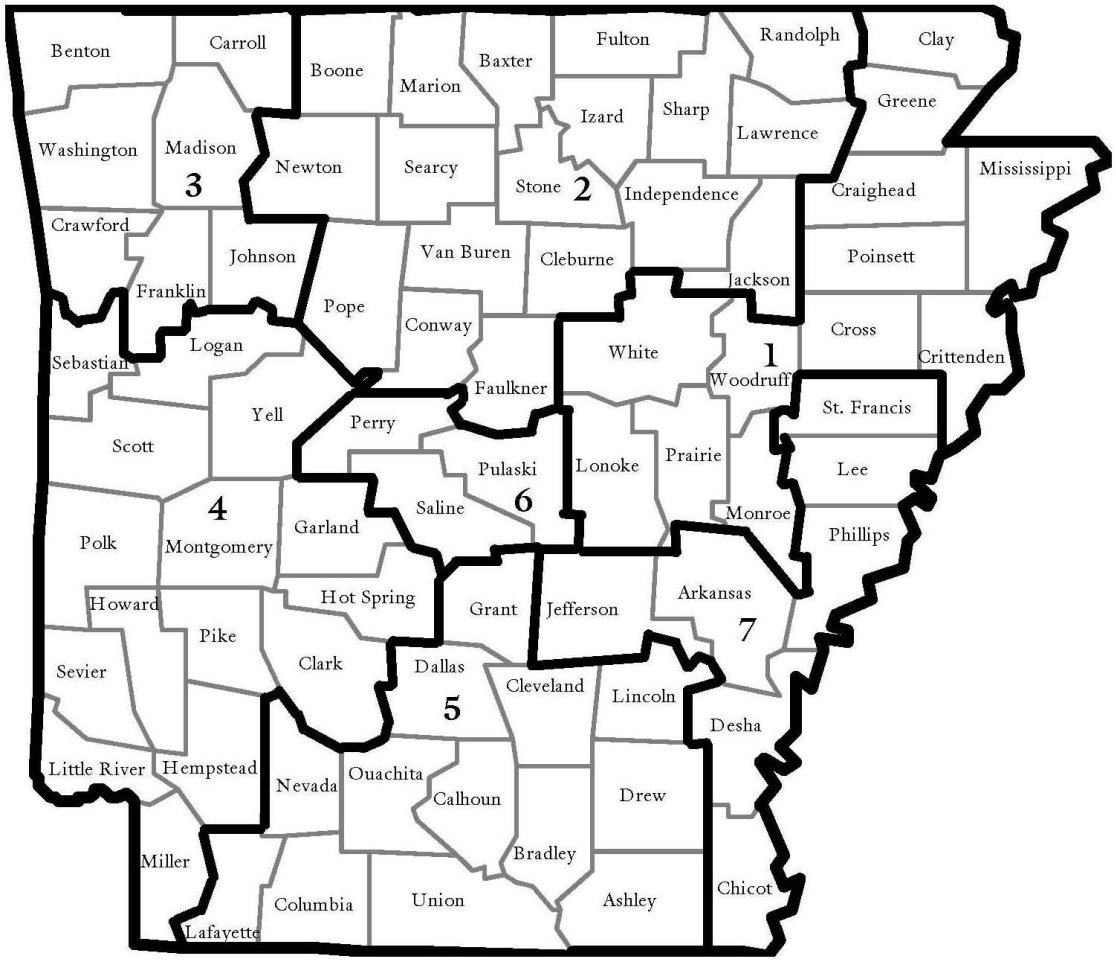
(iii) Circuit court; or
(iv) District court;
(C) The clerk of the county court; or
(D) The clerk of the circuit court.
(3) All other officers, both civil and military, shall take their oaths before:
(A) The Secretary of State or his or her official designee;
(B) A justice or judge of the:
(i) Supreme Court;
(ii) Court of Appeals;
(iii) Circuit court;
(iv) District court; or
(v) County court;
(C) The clerk of the county court;
(D) The clerk of the circuit court;
(E) A justice of the peace;
(F) A clerk of a city of the first class; or
(G) A recorder of a city of the second class or incorporated town.

ARKANSAS COURT STRUCTURE



State District Courts and Local District Courts as of 10/12/2012

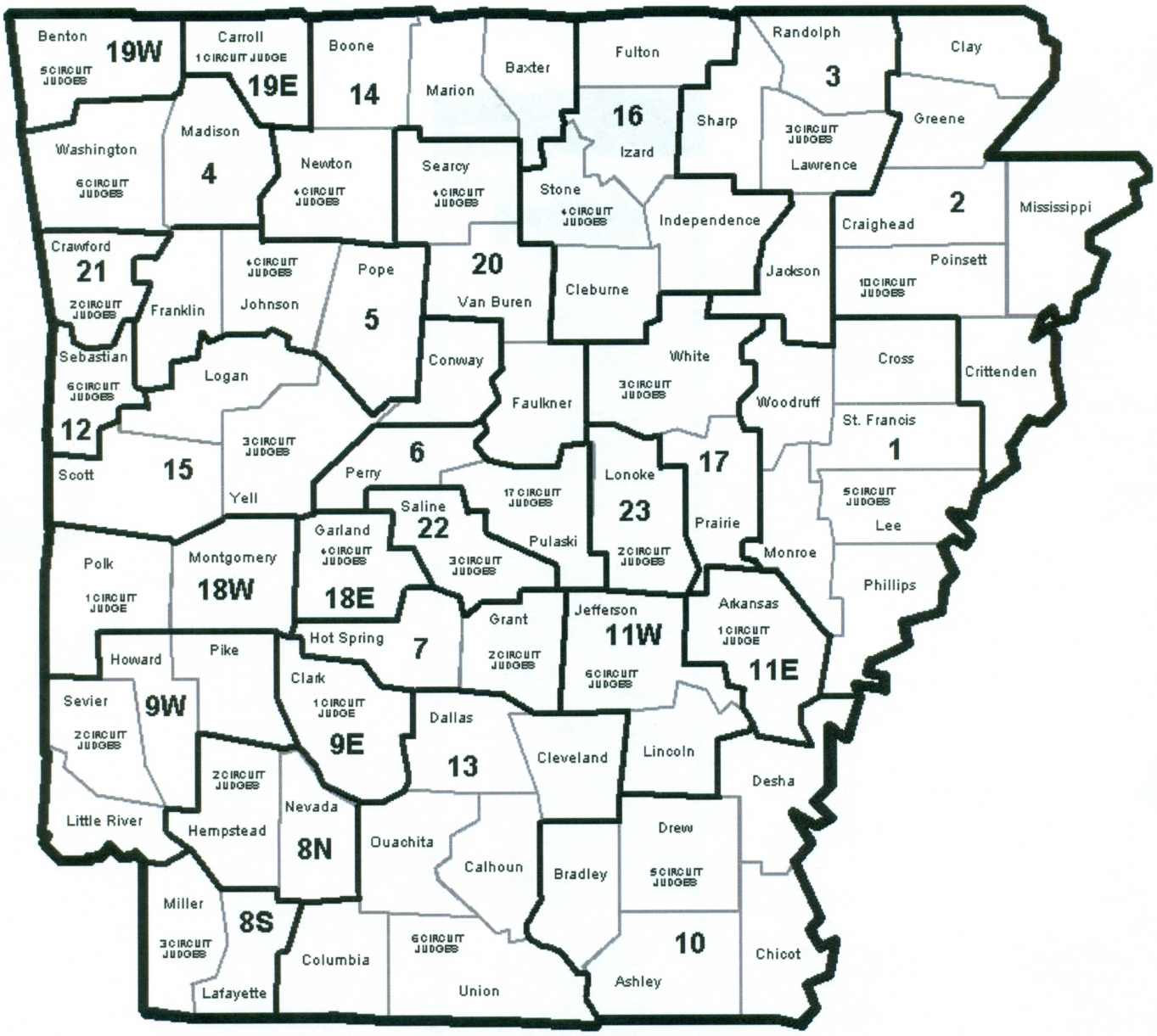
COURT OF APPEALS DISTRICTS



District	Position	Next Election
1	1	2014
	2	2012*
2	1	2018
	2	2012
3	1	2018
	2	2012*
4	1	2012
	2	2012
5		2012
6	1	2016
	2	2014
7		2016

*The person elected will serve the remaining two years of an eight-year term. There will be another election in 2014 for the next eight years.

STATE OF ARKANSAS' JUDICIAL CIRCUITS



28 Judicial Circuits

75 Counties

115 Circuit Judges

DOMESTIC ABUSE

Introduction

This section on Domestic Abuse legislation has been added intimately aware of the problems that can arise in a serious domestic dispute.

This section is to give you, as the Circuit Clerk, a quick reference to the Domestic Abuse Act of 1991 as codified and the legislation providing for the warrantless arrest and the crime of violation of an order of protection.

9-15-101. Purpose.

The purpose of this chapter is to provide an adequate mechanism whereby the State of Arkansas can protect the general health, welfare and safety of its citizens by intervening when abuse of a member of a household by another member of a household occurs or is threatened to occur, thus preventing further violence. The General Assembly has assessed domestic abuse in Arkansas and believes that the relief contemplated under this chapter is injunctive, and therefore, equitable in nature. The General Assembly of the State of Arkansas hereby finds that this chapter is necessary to secure important governmental interests in the protection of victims of abuse and the prevention of further abuse through the removal of offenders from the household and other injunctive relief for which there is no adequate remedy in current law. The General Assembly hereby finds that this chapter shall meet a compelling societal need and is necessary to correct the acute and pervasive problem of violence and abuse within households in this state. The equitable nature of this remedy requires the legislature to place proceedings contemplated by this chapter under the jurisdiction of the circuit courts.

9-15-102. Title.

This chapter shall be known and may be cited as "The Domestic Abuse Act of 1991".

9-15-103. Definitions.

As used in this chapter:

(1) “Commercial mobile radio service” means commercial mobile service as defined in 47 U.S.C. § 332;

(2) "County where the petitioner resides" means the county in which the petitioner physically resides at the time the petition is filed and may include a county where the petitioner is located for a short-term stay in a domestic violence shelter;

(3)(A) "Dating relationship" means a romantic or intimate social relationship between two (2) individuals that shall be determined by examining the following factors:

(i) The length of the relationship;

(ii) The type of the relationship; and

(iii) The frequency of interaction between the two

(B) "Dating relationship" does not include a casual relationship or ordinary fraternization between two (2) individuals in a business or social context;

(4) "Domestic abuse" means:

(A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or

(B) Any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state; and

(5) "Family or household members" means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, in-laws, any children residing in the household, persons who presently or in the past have resided or cohabited together, persons who have or have had a child in common, and persons who are presently or in the past have been in a dating relationship together.

(6) “In-laws” means persons related by marriage within the second degree of consanguinity.

(7) “Wireless telephone service provider” means a commercial mobile radio service provider or reseller.

9-15-201. Petition - Requirements generally.

(a) All petitions under this chapter shall be verified.

(b) The petition shall be filed in the county where the petitioner resides, where the alleged incident of abuse occurred, or where the respondent may be served.

(c)(1) A petition for relief under this chapter may be filed in the circuit court.

(2) A petition for relief under this chapter may be filed in a pilot district court if the jurisdiction is established by the Supreme Court under Amendment 80, Section 7 of the Arkansas Constitution and if the cases are assigned to the pilot district court through the Court Administrative Plan under the Arkansas Supreme Court Administrative Order No. 14.

(d) A petition may be filed by:

(1) Any adult family or household member on behalf of himself or herself;

(2) Any adult family or household member on behalf of another family or household member who is a minor, including a married minor;

(3) Any adult family or household member on behalf of another family or household member who has been adjudicated an incompetent; or

(4) An employee or volunteer of a domestic-violence shelter or program on behalf of a minor, including a married minor.

(e)(1) A petition for relief shall:

(A) Allege the existence of domestic abuse;

(B) Disclose the existence of any pending litigation between the parties; and

(C) Disclose any prior filings of a petition for an order of protection under this chapter.

(2) The petition shall be accompanied by an affidavit made under oath that states the specific facts and

circumstances of the domestic abuse and the specific relief sought.

(f) The petition may be filed regardless of whether there is any pending litigation between the parties.

(g) A person's right to file a petition, or obtain relief hereunder shall not be affected by his or her leaving the residence or household to avoid abuse.

9-15-202. Filing fees.

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

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

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

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

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

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

(2) This subsection does not prohibit a judge from assessing costs if the allegations of abuse are determined to be false.

(d)(1) An additional court cost of twenty-five dollars ($25.00) shall be assessed and remitted to the Administration of Justice Funds Section within the Department of finance and Administration by the court clerk for deposit as special revenues into the Domestic Violence Shelter Fund if a person is a convicted perpetrator of domestic abuse or is the respondent on a permanent order of protection entered by a court under the Domestic Abuse Act of 1991, § 9-15-101 et seq.

(2) When a convicted person is authorized to make installment payments under § 16-13-704, the court cost assessed under subdivision (h)(1) of this section shall be collected from the initial installment payment first.

(3) The court clerk shall disburse all court costs collected each month under subdivision (d)(1) of this section to the Administration of Justice Funds Section by the fifteenth working day of the following month.

9-15-203. Petition - Form.

(a) The circuit clerk shall provide simplified forms and clerical assistance to help petitioners with the writing and filing of a petition under this chapter if the petitioner is not represented by counsel.

(b) The petition form shall not require or suggest that a petitioner include his or her Social Security number or the Social Security number of the respondent in the petition.

(c)(1)(A) A petitioner may omit his or her home address or business address from all documents filed with the court.

(B) If a petitioner omits his or her home address, the petitioner shall provide the court with a mailing address.

(2) If disclosure of a petitioner's home address is necessary to determine jurisdiction or consider venue, the court may order the disclosure of the petitioner's home address:

(A) After receiving the petitioner's consent;

(B) Orally and in chambers, out of the presence of the respondent, and a sealed record to be made; or

(C) After a hearing, if the court takes into consideration the safety of the petitioner and finds the disclosure in the interest of justice.

(d) The petition may be in substantially the following form:

Petition for Order of Protection

Case No. _____

Petitioner's home address:

_____

_____

Petitioner

_____

_____

Date of Birth

Petitioner's work address:

vs.

_____

_____

Respondent

Respondent's home address:

_____
_____

_____
Date of Birth,
if known

Respondent's work address:
_____
_____

_____ I am the petitioner and _____ at least 18 years of age ____ under 18 but emancipated.

_____ I am filing on behalf of myself.

_____ I am filing on behalf of a family or household member who is:

_____ a minor(s): (list) _____

_____ an adjudicated incompetent person: (list) _____

_____ The respondent is _____ at least 18 years of age_____under 18 but emancipated.
_____ I am an employee or volunteer of a domestic violence shelter or program, and I am filing on behalf of a minor.

The respondent and petitioner (or victim if filing on behalf of a minor or incompetent person): (check all that apply)

_____ Are spouses;

_____ Are parent and child;

_____ Are former spouses;

_____ Have or have had a

_____ Are related by blood;

_____Currently reside together or cohabit;

_____Formerly resided together or cohabited;

_____ Are presently or in the past child in common; or have been in a dating relationship.

If order of protection of children is requested:

Children Date of Birth Address Relationship to Parties

_____
_____
_____
_____

The respondent has committed domestic abuse to the petitioner or victim by the following acts: (describe)

_____
_____
_____
_____

I am afraid of the respondent and: (describe)

_____
_____
_____

_____
_____
_____

_____ (1) There is an immediate and present danger of domestic abuse to me; or

_____ (2) The respondent is scheduled to be released from incarceration within thirty (30) days and upon the respondent's release there will be an immediate and present danger of domestic abuse to me.

The reasons are as follows: (describe)

_____
_____
_____
_____
_____

Petitioner requests that the court issue an ex parte order of protection with the following provisions: (check all that apply)

_____ Excluding the respondent from a shared residence or from the residence of the petitioner or victim. Address of residence:

_____ Excluding the respondent from the place of business, employment, school, or other location of the petitioner or victim. Address of residence:

_____

_____ Excluding the respondent from the place of business, employment, school, or other location of the petitioner or victim. Address of:

Place of business: _____
Employment: _____
School: _____
Other (identify): _____

Prohibiting the respondent, directly or through an agent, from contacting the petitioner or victim, except under the following conditions:

_____
_____
_____

_____ Awarding temporary custody of minor children as follows:
Child's Name and Name of Person to Receive Custody

_____
_____
_____
_____

_____ Requiring the respondent to pay child support in the amount of $_____ per child per month

_____ Requiring the respondent to pay spousal support in the amount of $_____ per month

_____ Excluding the petitioner's address from notice to the respondent_____ it is further requested that upon hearing, the court issue a full order of protection with the following provisions: (check all that apply)

_____ Excluding the respondent from the shared residence or from the residence of the petitioner or victim. Address of the residence: _____

_____ Excluding the respondent from the place of business, employment, school, or other location of the petitioner or victim. Address of:

Place of business: _____
Employment: _____
School: _____
Other (identify): _____

_____ Awarding temporary custody of minor children as follows:
Child's Name and Name of Person to Receive Custody

_____
_____
_____
_____
_____

_____ Requiring the respondent to pay child support in the amount of $_____ per child per month

_____ Requiring the respondent to pay spousal support in the amount of $ _____ per month

_____ Requiring the respondent to pay filing fees, service fees, court costs and petitioner's attorney fees.

_____ I am involved in pending litigation with the respondent in the case of:

Case No.: _____
Circuit or District Judge: _____
County or City. _____

_____ I have previously filed a petition for an order of protection against the respondent in the following case or cases:

Case No.: _____
Circuit Judge:_____
County: _____

The petitioner under oath states that the facts stated in the above petition are true according to the petitioner's best knowledge and belief.

Date_____

Petitioner's signature
STATE OF ARKANSAS
COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____
Notary Public

My Commission Expires:
_____

9-15-204. Hearing - Service.

(a)(1) When a petition is filed pursuant to this chapter, the court shall order a hearing to be held on the petition for the order of protection not later than thirty (30) days from the date on which the petition is filed or at the next court date, whichever is later.

(2) A denial of an ex parte temporary order of relief does not deny the petitioner the right to a full hearing on the merits.

(b)(1) Service of a copy of the petition, the ex parte temporary order of protection, if issued, and notice of the date and place set for the hearing described in subdivision (a)(1) of this section shall be made upon the respondent:

(A) At least five (5) days before the date of the hearing; and

(B) In accordance with the applicable rules of service under the Arkansas Rules of Civil Procedure.

(2) If service cannot be made on the respondent, the court may set a new date for the hearing.

(c) This section does not preclude the court from setting an earlier hearing.

9-15-205. Relief generally - Duration.

(a) At the hearing on the petition filed under this chapter, upon a finding of domestic abuse as defined in § 9-15-103, the court may provide the following relief:

(1) Exclude the abusing party from the dwelling that the parties share or from the residence of the petitioner or victim;

(2) Exclude the abusing party from the place of business or employment, school, or other location of the petitioner or victim;

(3)(A) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties.

(B)(i) If a previous child custody or visitation determination has been made by another court with continuing jurisdiction with regard to the minor children of the parties, a temporary child custody or visitation determination may be made under subdivision (a)(3)(A) of this section.

(ii) The order shall remain in effect until the court with original jurisdiction enters a subsequent order regarding the children.

(4) Order temporary support for minor children or a spouse, with such support to be enforced in the manner prescribed by law for other child support and alimony awards;

(5) Allow the prevailing party a reasonable attorney's fee as part of the costs;

(6) Prohibit the abusing party directly or through an agent from contacting the petitioner or victim except under specific conditions named in the order;

(7) Direct the care, custody, or control of any pet owned, possessed, leased, kept or held by either party residing in the household; and

(8)(A) Order other relief as the court deems necessary or appropriate for the protection of a family or household member.

(B) The relief may include, but not be limited to, enjoining and restraining the abusing party from doing, attempting to do, or threatening to do any act injuring, mistreating, molesting, or harassing the petitioner.

(b) Any relief granted by the court for protection under the provisions of this chapter shall be for a fixed period of time not less than ninety (90) days nor more than ten (10) years in duration, in the discretion of the court, and may be renewed at a subsequent hearing upon proof and a finding by the court that the threat of domestic abuse still exists.

9-15-206. Temporary order.

(a) When a petition under this chapter alleges an immediate and present danger of domestic abuse or that the respondent is scheduled to be released from incarceration within thirty (30) days and upon the respondent's release there will be an immediate and present danger of domestic abuse, the court shall grant a temporary order of protection pending a full hearing if the court finds sufficient evidence to support the petition.

(b) An ex parte temporary order of protection may:

(1) Include any of the orders provided in §§ 9-15-203 and 9-15-205; and

(2) Provide the following relief:

(A) Exclude the abusing party from the dwelling that the parties share or from the residence of the petitioner or victim;

(B) Exclude the abusing party from the place of business or employment, school, or other location of the petitioner or victim;

(C) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties;

(D) Order temporary support for minor children or a spouse, with such support to be enforced in the manner prescribed by law for other child support and alimony awards;

(E) Prohibit the abusing party directly or through an agent from contacting the petitioner or victim except under specific conditions named in the order; and

(F)(i) Order such other relief as the court considers necessary or appropriate for the protection of a family or household member.

(ii) The relief may include without limitation enjoining and restraining the abusing party from doing, attempting to do, or threatening to do an act injuring, mistreating, molesting, or harassing the petitioner.

(c) An ex parte temporary order of protection is effective until the date of the hearing described in § 9-15-204.

(d) Incarceration or imprisonment of the abusing party shall not bar the court from issuing an ex parte temporary order of protection.

9-15-207. Protection order - Enforcement - Penalties - Criminal jurisdiction.

(a) Any order of protection granted under this chapter is enforceable by a law enforcement agency with proper jurisdiction.

(b) An order of protection shall include a notice to the respondent or party restrained that:

(1) A violation of the order of protection is a Class A misdemeanor carrying a maximum penalty of one (1) year's imprisonment in the county jail or a fine of up to one thousand dollars ($1,000), or both;

(2) A violation of an order of protection under this section within five (5) years of a previous conviction for violation of an order of protection is a Class D felony;

(3) It is unlawful for an individual who is subject to an order of protection or convicted of a misdemeanor of domestic violence to ship, transport, or possess a firearm or ammunition under 18 U.S.C. § 922(g)(8) and (9) as it existed on January 1, 2019;

(4) A conviction of violation of an order of protection under this section within five (5) years of a previous conviction for violation of an order of protection is a Class D felony;

(5) A person who is a respondent or an enjoined party is restrained from harassing, stalking, or threatening a person named in an order of protection as a family or household member, a child of the family or household member, or a child of the respondent or enjoined party; and

(6) A person who is a respondent or an enjoined party is restrained from engaging in other conduct that would place a person named in an order of protection as a family or household member, a child of the family or household member, or a child of the respondent or enjoined party in reasonable fear of bodily injury.

(c) For respondents eighteen (18) years of age or older or emancipated minors, jurisdiction for the criminal offense of violating the terms of an order of protection is with the circuit court or other courts having jurisdiction over criminal matters.

(d)(1) In the final order of protection, the petitioner's home or business address may be excluded from notice to the respondent.

(2) A court shall also order that the petitioner's copy of the order of protection be excluded from any address where the respondent happens to reside.

(e) A law enforcement officer shall not arrest a petitioner for the violation of an order of protection issued against a respondent.

(f) When a law enforcement officer has probable cause to believe that a respondent has violated an order of protection and has been presented verification of the existence of the order of protection, the officer may arrest the respondent without a warrant whether or not the violation occurred in the presence of the officer if the order of protection was obtained according to this chapter and the Arkansas Rules of Criminal Procedure.

(g) An order of protection issued by a court of competent jurisdiction in any county of this state is enforceable in every county of this state by any court or law enforcement officer.

(h) An order of protection shall include either:

(1) A finding that the respondent presents a credible threat to the physical safety of a person named in an order of protection as a family or household member, a child of the family or household member, or a child of the respondent or enjoined party; or

(2) An explicit prohibition against the use, attempted use, or threatened use of physical force against the person named in the order of protection as a family or household member, a child of the family or household member, or a child of the respondent or enjoined party which would reasonably be expected to cause bodily injury.

9-15-208. Law enforcement assistance.

(a) When an order of protection is issued under this chapter, upon request of the petitioner the court may order a law enforcement officer with jurisdiction to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence or to otherwise assist in execution or service of the order of protection.

(b) The court may also order a law enforcement officer to assist petitioner in returning to the residence and getting personal effects.

9-15-209. Modification of orders.

Any order of protection issued by the court pursuant to petition filed as authorized in this chapter may be modified upon application of either party, notice to all parties, and a hearing thereon.

9-15-210. Contempt proceedings.

When a petitioner or any law enforcement officer files an affidavit with a circuit court which has issued an order of protection under the provisions of this chapter alleging that the respondent or person restrained has violated the order, the court may issue an order to the respondent or person restrained requiring the person to appear and show cause why he should not be found in contempt.

9-15-212. Effect of no contact order.

A no contact order shall prohibit the person from making contact, directly or through an agent, except under such conditions as may be provided in the order.

9-15-213. Police conduct and procedure.

All law enforcement officers shall follow the same procedures as outlined in § 16-90-1107.

9-15-214. Denial of relief prohibited.

The circuit court shall not deny a petitioner relief solely because the act of domestic or family violence and the filing of the petition did not occur within one hundred twenty (120) days.

9-15-215. Factors in determining custody and visitation.

(a) In addition to other factors that a circuit court shall consider in a proceeding in which the temporary custody of a child or temporary visitation by a parent is at issue and in which the court has made a finding of domestic or family violence, the court shall consider:

(1) As primary the safety and well-being of the child and of the parent who is the plaintiff of domestic or family violence; and

(2) The defendant's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to another person.

(b) If a parent is absent or relocates because of an act of domestic or family violence by the other parent, the absence or relocation is not a factor that weighs against the parent in determining custody or visitation.

(c) There shall be a rebuttable presumption that it is not in the best interest of the child to be placed in the custody of an abusive parent in cases where there is a finding by a preponderance of the evidence that a pattern of abuse has occurred.

9-27-325. Hearings—Generally.

(i)(1)(A) Except as provided by this section, all hearings involving allegations and reports of child maltreatment and all hearings involving cases of children in foster care shall be closed.
(B)(i) A member of the General Assembly may attend any hearing held under this subchapter, including a closed hearing, unless the court excludes the member of the General Assembly based on the:
(a) Best interest of the child; or
(b) Court's authority under the Arkansas Rules of Civil Procedure or the Arkansas Rules of Evidence.
(ii) Except as otherwise provided by law, a member of the General Assembly who attends a hearing in accordance with subdivision (i)(1)(B)(i) of this section shall not disclose information obtained during his or her attendance at the hearing.
(C)(i)(a) A Child Welfare Ombudsman may attend a hearing held under this subchapter, including a closed hearing.
(b) However, a court may exclude the Child Welfare Ombudsman from a hearing if:
(1) It is in the best interest of the child; or
(2) The reason for the exclusion is based on the authority of the court under the Arkansas Rules of Civil Procedure or the Arkansas Rules of Evidence.
(ii) Unless otherwise allowed by law, the Child Welfare Ombudsman shall not disclose information that he or she obtains through his or her attendance at a hearing held under this subchapter.
(D)(i) A relative, fictive kin, or individual with a connection to the family involved in a dependency-neglect proceeding may attend a hearing unless the court determines:
(a) The best interest of the child requires the relative, fictive kin, or individual with a connection to the family involved in the dependency-neglect proceeding to be excluded from the hearing; or
(b) It is within the authority of the court under the Arkansas Rules of Civil Procedure or the Arkansas Rules of Evidence to exclude the relative, fictive kin, or individual with a connection to the family involved in the dependency-neglect proceeding from the hearing.
(ii) The court shall confirm the identity of each relative, fictive kin, or individual with a connection to the family involved in the dependency-neglect proceeding to determine if the relative, fictive kin, or individual with a connection to the family involved in the dependency-neglect proceeding should be excluded from the hearing.
(iii) A relative, fictive kin, or individual with a connection to the family involved in the dependency-neglect proceeding who is permitted to attend a hearing shall not disclose any information obtained during the hearing.
(E)(i) The court may allow an individual with an interest in attending a closed hearing in a dependency-neglect proceeding to attend the hearing if:
(a) It is in the best interest of the child; and
(b) The individual demonstrates a sincere and legitimate need to attend the hearing as determined by the court.
(ii) An individual who attends a hearing in accordance with subdivision (i)(1)(E)(i) of this section shall not disclose any information obtained during the hearing.
(F) An individual who discloses information in violation of subdivisions (i)(1)(D)(iii) and (i)(1)(E)(ii) of this section is guilty of a Class C misdemeanor.

9-15-216. Mutual orders of protection - Separate orders of protection.

(a) Except as provided in subsection (b) of this section, a circuit court shall not grant a mutual order of protection to opposing parties.

(b) Separate orders of protection restraining each opposing party may only be granted in cases where each party:

(1) Has properly filed and served a petition for a protection order;

(2) Has committed domestic abuse as defined in § 9-15-103;

(3) Poses a risk of violence to the other; and

(4) Has otherwise satisfied all prerequisites for the type of order and remedies sought

9-15-217. Order of protection — Violations — Domestic violence surveillance program — Global positioning devices.

(a)(1)(A) A person who is charged with violating an ex parte order of protection under § 5-53-134 may be ordered as a condition of his or her release from custody to be placed under electronic surveillance at his or her expense until the charge is adjudicated.

(B) A person who is charged with violating a final order of protection under § 5-53-134 may be ordered as a condition of his or her release from custody to be placed under electronic surveillance at his or her expense until the charge is adjudicated.

(2) The court having jurisdiction over the charge may order the defendant released from electronic surveillance before the adjudication of the charge.

(b) A person who is found guilty of violating an order of protection may be placed under electronic surveillance at his or her expense as part of his or her

sentence for a minimum of four (4) months but not to exceed one (1) year.

(c) As used in this section, "electronic surveillance" means active surveillance technology worn by or attached to a person that is a single-piece device that immediately notifies law enforcement or other monitors of a violation of the distance requirements or locations that the defendant is barred from entering and may also include technology that:

(1) Immediately notifies the victim of any violation;

(2) Allows law enforcement or monitors to speak to the offender in some manner through or in conjunction with the device;

(3) Has a loud alarm that can be activated to warn the potential victim of the offender's presence in a place he or she is barred from entering;

(4) Is waterproof; and

(5) Can be tracked by either satellite or cellular phone tower triangulation.

ACA 5-53-134. Violation of an order of protection.

(a)(1) A person commits the offense of violation of an order of protection if:

(A) A circuit court or other court with competent jurisdiction has issued a temporary order of protection or an order of protection against the person pursuant to the The Domestic Abuse Act of 1991, § 9-15-101 et seq.;

(B) The person has received actual notice or notice pursuant to the Arkansas Rules of Civil Procedure of a temporary order of protection or an order of protection pursuant to the The Domestic Abuse Act of 1991, § 9-15-101 et seq.; and

(C) The person knowingly violates a condition of an order of protection issued pursuant to the Domestic Abuse Act of 1991, § 9-15-101 et seq.

(2) A person commits the offense of violation of an out-of-state order of protection if:

(A) The court of another state, a federally recognized Indian tribe, or a territory with jurisdiction over the parties and matters has issued a temporary order of protection or an order of protection against the person pursuant to the laws or rules of the other state, federally recognized Indian tribe, or territory;

(B) The person has received actual notice or other lawful notice of a temporary order of protection or an order of protection pursuant to the laws or rules of the other state, the federally recognized Indian tribe, or the territory;

(C) The person knowingly violates a condition of an order of protection issued pursuant to the laws or rules of the other state, the federally recognized Indian tribe, or the territory; and

(D) The requirements of § 9-15-302 concerning the full faith and credit for an out-of-state order of protection have been met.

(3)(A) A service member commits the offense of violation of a military order of protection if:

(i) The commanding general, a military judge, or a special courts-martial convening authority as authorized by § 12-64-406(b) issues a military order of protection against the service member.

(ii) the service member receives actual notice or other lawful notice of the military order of protection as authorized under United States Department of Defense Instruction 6400.06, as it existed on January 1, 201; and

(iii) the service member knowingly violates a condition of the military order of protection

(B) A prosecution against a service member for the offense of violation of a military order of protection does not prohibit the commanding general or military commander who issued the military order of protection from pursuing appropriate disciplinary action against the service member under the Military Code of Arkansas

(b)(1) Except as provided in subdivision (b)(2) of this section, violation of an order of protection under this section is a Class A misdemeanor.

(2) Violation of an order of protection under this section is a Class D felony if:

(A) The offense is committed within five (5) years of a previous conviction for violation of an order of protection under this section;

(B) The order of protection was issued after a hearing of which the person received actual notice and at which the person had an opportunity to participate; and

(C) The facts constituting the violation on their own merit satisfy the elements of any felony offense or misdemeanor offense, not including an offense provided for in this section.

(c)(1) A law enforcement officer may arrest and take into custody without a warrant any person who the law enforcement officer has probable cause to believe:

(A) Is subject to an order of protection issued pursuant to the laws of this state; and

(B) Has violated the terms of the order of protection, even if the violation did not take place in the presence of the law enforcement officer.

(2) Under § 9-15-302, a law enforcement officer or law enforcement agency may arrest and take into custody without a warrant any person who the law enforcement officer or law enforcement agency has probable cause to believe:

(A) Is subject to:

(i) An order of protection issued pursuant to the laws or rules of another state, a federally recognized Indian tribe, or a territory; or

(ii) A military order of protection; and

(B) Has violated the terms of the out-of-state order of protection, even if the violation did not take place in the presence of the law enforcement officer.

(3)(A) If a service member is in the custody of a law enforcement agency as authorized in subdivision (c)(2) of this section, the law enforcement agency shall notify the office of the Adjutant General of the Arkansas National Guard within twenty-four (24) hours from the time the service member was placed in the custody of the law enforcement agency.

(B)(i) The Arkansas National Guard shall take custody of the service member within forty-eight (48) hours from the time the service member was placed in the custody of the law enforcement agency

(ii) However, if the Arkansas National Guard does not take custody of the service member as required by subdivision (c)(3)(B)(i) of this section, the law enforcement agency shall release the service member.

(d) It is an affirmative defense to a prosecution under this section if:

(1) The parties have reconciled prior to the violation of the order of protection; or

(2) The petitioner for the order of protection:

(A) Invited the defendant to come to the petitioner's residence or place of employment listed in the order of protection; and

(B) Knew that the defendant's presence at the petitioner's residence or place of employment would be in violation of the order of protection.

(e) Any law enforcement officer acting in good faith and exercising due care in making an arrest for domestic abuse in an effort to comply with this subchapter shall have immunity from civil or criminal liability.

(f) As used in this section:

(1) "Military order of protection" means an official command directed at a service member for the purpose of preventing violent and threatening acts against a person who:

(A) Is the current or former spouse of the service member;

(B) Is or was a child, step-child, parent, step-parent, sibling, guardian, or ward of the service member;

(C) Is residing or cohabitating or in the past has resided or cohabitated with the service member'

(D) Has or had a child in common with the service member;

(E) Is or has been in a dating relationship with the service member as defined by § 9-15-103;

(F) Has had an intimate sexual relationship with the service member; or

(G) Has made allegations against the service member of violations of the punitive article of sexual assault as defined by § 12-64-852; and

(2) "Service member" means a person serving in:

(A) Any branch or reserve component of the United States Armed Forces; or

(B) The National Guard of any state.

ARKANSAS DOMESTIC VIOLENCE SHELTER ACT

ACA 9-6-103. Establishment – Purpose and criteria.

(a) The Department of Finance and Administration shall establish the Arkansas Domestic Violence Shelter Grant Program to assist in the funding of domestic violence shelters in Arkansas.

(b) The purpose and criteria of the program is to:

(1) Annually evaluate each shelter receiving funds under this chapter for compliance with the program, fiscal, and training requirements under this chapter;

(2) Promulgate rules for the evaluation of each shelter receiving funds under this chapter;

(3) Adopt a uniform system of recordkeeping to ensure the proper handling of funds by a shelter receiving funds under this chapter;

(4) Provide training and technical assistance to shelters receiving funds under this chapter to ensure minimum standards of service delivery;

(5) Serve as a clearinghouse for information relating to domestic abuse; and

(6) Provide educational programs on domestic abuse for the benefit of the general public, victims, specific groups of persons, and other persons as needed.

(c) The department shall establish rules to implement this chapter.

ACA 9-6-105. Determination of grant awards.

(a) The Department of Finance and Administration shall:

(1) Establish the criteria for grant applications and awards in accordance with § 9-6-103(b);

(2) Review and grant or deny all or part of a grant application submitted under this chapter in accordance with § 9-6-103(b); and

(3) Retain oversight of all grant expenditures under this chapter.

(b) A statewide domestic violence entity that is awarded a grant under this chapter shall use the moneys that the statewide domestic violence entity receives to distribute funds to shelters that meet the requirements of this chapter.

ACA 9-6-106. Operational requirements of shelters receiving domestic violence shelter funds.

A statewide domestic violence entity that receives a grant under this chapter shall distribute funds to a shelter if the shelter:

(1) Develops and implements a written nondiscrimination policy to provide services without regard to race, religion, color, age, marital status, national origin, ancestry, or sexual orientation;

(2) Provides a facility that is open, accessible, and staffed by an advocate or a volunteer each day of the calendar year and twenty-four (24) hours each day;

(3) Provides emergency housing and related supportive services in a safe and protective environment for victims of domestic abuse and their children;

(4)(A) Provides a crisis telephone hotline that is answered by an advocate or a volunteer who meets the training requirements under this chapter each day of the calendar year and twenty-four (24) hours each day.

(B) The crisis telephone hotline required under subdivision (4)(A) of this section shall not be answered by an answering machine, answering service, or mobile telephone voicemail;

(5)(A) Requires all advocates and volunteers who provide direct services to victims to sign a written confidentiality agreement that prohibits the release of:

(i) The name or other personal and identifying information about a victim served at the shelter; and

(ii) The name or other personal and identifying information about a family or household member of a victim served at the shelter.

(B) The confidentiality agreement required under subdivision (5)(A) of this section does not:

(i) Apply to an advocate who testifies in court under a lawfully issued witness subpoena; or

(ii) Prevent disclosure for federal grant review, audit, or reporting;

(6) Develops and implements a written plan for outreach efforts to aid victims of domestic violence;

(7) Provides peer support groups for victims;

(8) Provides assistance and court advocacy for victims seeking orders of protection; and
(9) Provides training and educational information on domestic violence for professionals, community organizations, and interested individuals.

ACA 9-6-107. Fiscal requirements.

A statewide domestic violence entity that receives a grant under this chapter shall distribute funds to a shelter if the shelter:
(1) Incorporates in this state as a private nonprofit corporation that is exempt from taxation under the Internal Revenue Code, 26 U.S.C. § 501(c)(3), and that has the primary purpose of providing services to victims of domestic abuse or domestic violence;
(2) Is governed by a board of directors;
(3) Develops and implements written personnel policies that state the shelter's employment practices;
(4) Develops and implements written procedures that conform with the uniform system of recordkeeping developed by the Department of Finance and Administration or its designee to ensure proper handling of funds; and
(5) Provides the department or its designee with statistical data that states the following:
(A) The type of services provided by the shelter; and
(B) The number of victims and children served each year.

ACA 9-6-108. Training requirements.

A statewide domestic violence entity that receives a grant under this chapter shall distribute funds to a shelter if the shelter:
(1)(A) Requires each member of its board of directors to attend an orientation that is administered by a statewide domestic violence entity and approved by the Department of Finance and Administration or its designee within six (6) months after joining the board of directors.
(B) The orientation required under subdivision (1)(A) of this section shall include an explanation of the dynamics of domestic violence and the role of a board member;
(2)(A) Requires each advocate and volunteer who provides direct services to victims to attend fifteen (15) hours of initial staff training approved by the department or its designee.
(B) The initial staff training required under subdivision (2)(A) of this section shall include without limitation the following topics of instruction:
(i) Crisis intervention;
(ii) Case management;
(iii) Safety planning;
(iv) Individual or group facilitation; and
(v) Proper procedure for answering the crisis telephone hotline; and
(3)(A) Requires each advocate who provides direct services to victims to attend ten (10) hours of continuing education annually that is approved by the department or its designee.
(B) The continuing education required under subdivision (3)(A) of this section shall include without limitation the following topics of instruction:
(i) Crisis intervention;
(ii) Case management;
(iii) Safety planning;
(iv) Individual or group facilitation; and
(v) The proper procedure for answering the crisis telephone hotline.

ACA 9-6-110. Reports.

The Secretary of the Department of Finance and Administration or his or her designee shall provide an annual report by October 1 of each year to the Chair of the Senate Interim Committee on Children and Youth and the Chair of the House Committee on Aging, Children and Youth, Legislative and Military Affairs containing the following information:
(1) The incidence of domestic violence in this state based on information obtained from shelters that receive funds under this chapter;
(2) A description of shelters that meet the requirements of and receive funds under this chapter; and
(3) The number of persons assisted by the shelters that receive funds under this chapter.

ACA 9-6-111. Disclosure information.

Information from files, reports, evaluations, inspections, or other sources that is received by the Department of Finance and Administration and its employees and designees or by a statewide domestic violence entity that receives funds under this chapter and its employees and designees is confidential and shall not be disclosed publicly in a manner that identifies an individual or facility.

Chapter Three - DESCRIPTION OF RECORD FILES (BOOKS)

This section was included to assist the newly elected Circuit Clerks by describing the commonly kept record files in the office of the Circuit Clerk. Each of the files or books described in this section are to be arranged in the proper manner as described by law.

ABSTRACTS OF EXECUTIONS - (ACA 16-66-115) A book containing an abstract of each execution issued, showing the date, names of parties, amount of debt, damages and cost, officer and county where directed, the return, and the book and page where the judgment requiring the execution is entered. Records are alphabetically cross-indexed by names of defendants and plaintiffs. In a limited number of counties, these records are maintained as a part of the case files or recorded in the Judgment Docket. Records of executions are permanently maintained.

ARMED FORCES - CERTIFICATES OF DISCHARGE - (ACA 12-62-411 and 14-2-102) A record book containing a complete copy of each discharge presented for recording, and an alphabetical index of the names. Discharge records are permanently maintained. (c)(1) A military service discharge record or DD Form 214, the Certificate of Release or Discharge from Active Duty of the United States Department of Defense, filed with the county recorder for a veteran discharged from service less than seventy (70) years from the current date shall be confidential, kept in a secure location, and may be viewed or reproduced only by: (A) The veteran; (B) The veteran's spouse or child; (C) A person with a signed and notarized authorization from the veteran; (D) A funeral director who: (i) Is licensed and regulated by the State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services under § 23-61-1101 et seq.; (ii) Is assisting with the veteran's funeral arrangements; and (iii) Presents a signed and notarized authorization from the veteran's spouse, child, or next of kin; (E) A county or state veterans' service officer who is assisting the veteran or the veteran's family with a veteran's benefit application; or (F) A person authorized by a court to view or copy the military service discharge record or DD Form 214 upon presentation of a court order. (2) The county recorder shall record the names and addresses of all persons viewing or copying a military service discharge record or DD Form 214 under this subsection. (3) No fee shall be charged for reproduction costs under this subsection. (4) Upon petition by a veteran or other requestor eligible to view the records who has a notarized authorization from the veteran, the court may order the removal of the records from the county recorder's record book. (d)(1) A military service discharge record for a veteran discharged from service more than seventy (70) years from the current date and filed with the county recorder shall be a public record. (2) No fee shall be charged for reproduction cost under this subsection. (e)(1) The county recorder may maintain a record book that contains any of the following information about veterans for public record: (A) Name; (B) Rank; (C) Unit of military service; (D) Dates of military service; (E) Medals conferred upon veterans; and (F) Awards conferred upon veterans. (2) If the county recorder does not maintain a record book, then upon specific request for the information, the county recorder shall review a military service discharge record or DD Form 214 and provide only the information in subdivision (e)(1) of this section to the requestor, without allowing the requestor to review the military service discharge record or DD Form 214.

CASH BOOK - (ACA 16-20-106 and 16-68-502) A record of all moneys received in payment for official acts, and all other sums of money received for whatever reason, belonging to the State or County should be kept. Each item listed and charged for separately. The manner of recording and title of the record varies from county to county; some counties record fees paid in the respective court docket and in addition, maintain a receipt ledger for other recording and filing fees.

ADMINISTRATIVE ORDER #2 - (a) Docket. The clerk shall keep a book known as a "civil docket," designated by the prefix "CV"; a book known as a "probate docket," designated by the prefix "PR"; a book known as a "domestic relations docket," designated by the prefix "DR"; a book known as a "criminal docket," designated by the prefix "CR"; and a book known as a "juvenile docket," designated by the prefix "JV". Each action shall be entered in the appropriate docket book. Cases shall be assigned the letter prefix corresponding to that docket and a number in the order of filing. Beginning with the first case filed each year, cases shall be numbered consecutively in each docket category with the four digits of the current year, followed by a hyphen and the number assigned to the case, beginning with the number "1". For example:

Criminal	CR2002-1
Civil	CV2002-1
Probate	PR2002-1
Domestic Relations	DR2002-1
Juvenile	JV2002-1

All papers filed with the clerk, all process issued and returns thereon, all appearances, orders, verdicts and judgments shall be noted chronologically in the dockets and filed in the folio assigned to the action and shall be marked with its file number. These entries shall be brief, but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process. The entry of an order or judgment shall show the date the entry is made. Where there has been a demand for trial by jury it shall be shown on the docket along with the date upon which demand was made. In counties where the county clerk serves as the ex officio clerk of any division of the circuit court, the filing requirement for any pleading, paper, order, judgment, decree, or notice of appeal shall be satisfied when the document is filed with either the circuit clerk or the county clerk.

(b) Judgments and Orders. (1) The clerk shall keep a judgment record book in which shall be kept a correct copy of every final judgment or appealable order, or order affecting title to or lien upon real or personal property, and any other order which the court may direct to be kept.

(2) The clerk shall denote the date and time that a judgment, decree or order is filed by stamping or otherwise marking it with the date and time and the word "filed." A judgment, decree or order is entered when so stamped or marked by the clerk, irrespective of when it is recorded in the judgment record book.

(3) If the clerk's office has a facsimile machine, the clerk shall accept facsimile transmission of a judgment, decree or order filed in such manner at the direction of the court. The clerk shall stamp or otherwise mark a facsimile copy as filed on the date and time that it is received on the clerk's facsimile machine during the regular hours of the clerk's office or, if received outside those hours, at the time the office opens on the next business day. The date stamped on the facsimile copy shall control all appeal-related deadlines pursuant to Rule 4 of the Arkansas Rules of Appellate Procedure - Civil. The original judgment, decree or order shall be substituted for the facsimile copy within fourteen days of transmission.

(4) At any time that the clerk's office is not open for business, and upon an express finding of extraordinary circumstances set forth in an order, any judge may make any order effective immediately by signing it, noting the time and date thereon, and marking or stamping it "filed in open court." Any such order shall be filed with the clerk on the next day on which the clerk's office is open, and this filing date shall control all appeal-related deadlines pursuant to Rule 4 of the Arkansas Rules of Appellate Procedure - Civil.

(c) Indices. Suitable indices of the civil, probate, domestic relations, criminal, and juvenile dockets and of every judgment or order referred to in Section (b) of this rule shall be kept by the clerk under the direction of the court.

(d) Other Books and Records. The clerk shall also keep such other books and records as may be required by law and as directed by the Supreme Court.

(e) Uniform Paper Size. All records prepared by the clerk shall be on 81/2" x 11" paper.

(f) Clerk Defined. When used herein, the term clerk refers to the clerks of the various circuit courts of the state; provided that in the event probate matters are required by law to be filed in the office of county clerk, then the term clerk shall also include the county clerk for this limited purpose.

(g) File Mark. (1) There shall be a two inch (2″) top margin on the first page of each document submitted for filing to accommodate the court's file mark. If the pleading or document must be filed in multi-parts because of size or for other reasons, the first page of each part must include the file name and file mark and shall clearly indicate the part number and number of parts (example, part 1 of 2).

CHILD SUPPORT RECORDS - (ACA 9-12-312) A record book containing a chronological list by case of all monetary transactions regarding payment of court ordered child support. Entries are alphabetically indexed and permanently maintained.

CRIMINAL INDICTMENTS - (ACA 16-85-409) A record book kept for the purpose of recording the arrest of any person indicted by the grand jury. Recorded from information form filed by the prosecutor. Recorded chronologically, indexed alphabetically and maintained permanently.

DEED RECORDS – (See generally, ACA 14-15-401 et seq.) Book of records containing exact transcripts of deeds and all other instruments affecting unencumbered title to real property. Entries are made chronologically by filing and consist of file number, names and addresses of grantor and grantee, description of property with a reference to the volume and page of plat book wherein recorded. Deed records are maintained permanently and cross-indexed alphabetically by names of grantor and grantee. Where land records are maintained in two or more books of record, a master index to land records is used.

LIEN BOOK - (ACA 18-47-204) (a) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (b) is presented to a filing officer who is:

(1) The Secretary of State, he shall cause the notice to be marked, held, and indexed in accordance with the provisions of § 4-9-403(4) of the Uniform Commercial Code as if the notice were a financing statement within the meaning of that code; or

(2) Any other officer described in § 18-47-202, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.

(b) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the Secretary of State for filing he shall:

(1) Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files; and

(2) Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

(c) If a refiled notice of federal lien referred to in subsection (a) or any of the certificates or notices referred to in subsection (b) is presented for filing to any other filing officer specified in § 18-47-202, he shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

(d) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this subchapter, or Act 314 of 1941 as amended [repealed], naming a particular person, and if a notice or certificate is on file, giving the

date and hour of filing of each notice or certificate. The fee for a certificate is three dollars ($3.00). Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of fifty cents ($ .50) per page.
Refer also to ACA 4-9-529 that provides remedies for unauthorized financing statement filings.

FINANCING STATEMENTS - (ACA 4-9-501 through 4-9- 520)
(a) Except as otherwise provided in subsection (b), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is: (1) the office designated for the filing or recording of a record of a mortgage on the related real property, if: (A) the collateral is as-extracted collateral or timber to be cut; or (B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or (2) through midnight, December 31, 2012, the office of the circuit clerk in the county in which the debtor is located in this state if the debtor is engaged in farming operations and the collateral is a farm-stored commodity financed by a loan through the Commodity Credit Corporation of the United States Department of Agriculture; or (3) the office of the Secretary of State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
(e)(1)(A) A filing officer may review a financing statement to determine if it should be refused for filing as fraudulent under this subsection.
(B) When reviewing a financing statement under subdivision (e)(1)(A) of this section, the filing officer shall consider the following factors, including without limitation whether:
(i) the financing statement is authorized under the Uniform Commercial Code;
(ii) the financing statement cites performance or nonperformance of official duties by a current or former employee or officer of a federal, state, county, or other local government entity without an accompanying, properly executed security agreement or judgment from a court with jurisdiction;
(iii) the financing statement identifies the secured party and debtor as being the same person;
(iv) there is sufficient proof that a debtor identified as a transmitting utility meets the definition of a transmitting utility as specified in the Uniform Commercial Code;
(v) the financing statement is remitted by or on behalf of an inmate in a correction facility without being accompanied by a sworn notarized statement signed by the debtor acknowledging that the person entered into a security agreement with the inmate and authorized the filing;
(vi) the financing statement is being filed for a purpose other than a transaction within the scope of the Uniform Commercial Code; and
(vii) the text within the financing statement contains language indicative of past fraudulent filings.
(2) If a filing official acting in good faith has reason to believe that the financing statement is filed for a fraudulent purpose, to promote or conduct an illegitimate object or purpose, or for the purpose of defrauding or harassing a person or entity, the filing official shall provide the reason to refuse the filing to:
(A) the director of the Business and Commercial Services Division of the office of the Secretary of State; and
(B) the general counsel for the Secretary of State.
(3) If the director and the general counsel concur in the filing official's reasoning, then written notice under signature of the director shall be sent by certified mail, return receipt requested, to the mailing address provided for the secured party of record, stating:
(A) the fact of and reason for refusal to file the financing statement;
(B) the need for the secured party to submit, within thirty (30) days of the date of the certified letter, documentation as to why the financing statement should not be refused for filing, including without limitation a properly executed security agreement or a judgment from a court with jurisdiction authorizing the filing; and
(C) legal penalties for filing fraudulent financing statements.
(4)(A) If the filing official determines that the secured party provided sufficient evidence within the thirty-day period specified in the certified letter demonstrating that the refused filing should have been accepted for filing, the filing office shall file the record with an effective date of the time that it was originally submitted for filing with an information statement indicating that the financing statement was filed under its initial filing date.
(B) If within the thirty-day period specified in the certified letter the secured party fails to respond or fails to provide sufficient evidence to support the effectiveness of the financing statement, then the filing office may refuse the record for filing. The financing statement record shall be void and have no force or effect on any person or persons named in the financing statement as related to the effectiveness of a record under this part.
(5) The filing office shall not return a fee paid for filing a statement which has been refused for filing as fraudulent.
(6) Neither the filing office nor an employee of the filing office shall be liable for the refusal to file financing statements in the lawful performance of the office or employee under this subsection.
(7) Regulated financial institutions, other lenders in the business of making loans or extending credit, and persons that regularly extend credit to agricultural producers are exempt from the requirements of this subsection.

JURY BOOK – Petit and Grand Juries (ACA 16-32-101; 16-32-201) The book wherein the names of prospective petit jurors and/or grand jurors are recorded after selection. All excuses granted by the Circuit Judge shall be noted in the jury book.

LIEN RECORD - (ACA 18-44-117; 18-47-201 through 18-47-207; and 18-48-203) A record of all liens filed against property located within the county, sometimes titled "Materialman's Liens." Book contains an abstract of each

lien filed in the office. Entries consist of date of filing, name of person imposing the lien, amount of lien, name of person against whose property the lien is filed, and a description of the property in question. For real property, a street address is not a sufficient description. The person laying or imposing the lien shall submit the fee required by § 21-6-306 to the clerk of the circuit court, and the fee shall be taxed and collected as other costs in case there is a suit on the lien. The clerk of the circuit court shall not file a lien account that does not contain the affidavits and attachments required by this section. Records are permanently maintained and indexed alphabetically.

LIS PENDENS SUITS - (ACA 16-59-101 through 16-59-107) A record book kept for the purpose of recording pending suits affecting the title or any lien on real estate or personal property in the county. Entries consist of the title of the cause, a description of the property to be affected, names of the parties, and name of the court where the suit is pending. Entries are made chronologically and indexed alphabetically. Records of Lis Pendens suits are permanently maintained.

MISCELLANEOUS RECORDS - (ACA 14-15-401, et seq) A book of record wherein all records not otherwise provided for are recorded. A non-inclusive list of such records would contain bills of sale, powers of attorney, and any other documents affecting title to property not included elsewhere. Miscellaneous records are permanently retained.

MORTGAGE RECORDS - (ACA 14-15-405 through 14-15-414) A record of mortgages of real property and release deeds located within the county. Entries are alphabetically indexed. Mortgage records are permanently retained.

NOTARY BOND RECORDS - (ACA 14-15-409 - 14-15-410, 21-14-101) A book containing records of Notary Public bond filings indexed alphabetically by the name of the person bonded. Entries contain a reference to the files wherein the original is stored.

OIL, GAS AND COAL LEASES - A record of leases of oil, gas, or coal rights on land located within the county. Entries are indexed alphabetically and maintained permanently.

SURVEYOR'S PLATS & NOTES - (ACA 26-26-801 - 26-26-802) A record book of the Circuit Clerk which contains a fair copy and transcript of every plat and the accompanying notes given to him by the County Surveyor. In some Arkansas counties, these may be maintained in two separate sets of records; one being survey records and the other a plat book. Entries are made by location in section, township and range, and are indexed alphabetically. Records are permanently maintained.

RECORDS: LIENS AND RELEASES – (ACA 18-46-115) At the expense of the county, the clerk of the circuit court in each county shall maintain a book record that is both designated and labeled "Medical, Nursing, Hospital, and Ambulance Service Provider Liens" and includes an index of properly labeled liens. A clerk shall make a record in the book record of liens filed in the order in which they are filed, noting the names and addresses of patients of practitioners, nurses, hospitals, ambulance service providers, other persons on whose behalf a notice of lien has been filed, tortfeasors, and insurers. If a clerk is authorized to electronically maintain records under § 13-4-301, he or she may maintain an electronic file only of the book record required under this subsection. On the presentation of a release of a lien, the clerk of the circuit court of the county in which the lien is filed and recorded shall: Note on the file and in the book record the date when the release was filed; and Note on the release the fact that it has been so recorded. A release so noted or recorded in the book record in the office of the clerk of the circuit court shall be prima facie evidence of the release of the lien. The clerk of the circuit court shall collect the fee as prescribed in § 21-6-306, § 21-6-402, or § 21-6-403, whichever is applicable, for the filing of the release of any lien and noting on the record and on the release the fact that the release has been so filed.

Chapter Four – UNIFORM COURT, RECORDING, AND COMMISSIONER FEES

RECORDER FEES

21-6-306. Recorders.

(a)(1) The uniform fees to be charged by the recorders in the various counties in this state shall be as follows:

(A) For recording deeds, deeds of trust, mortgages, release deeds, powers of attorney, plats, survey plats, notary bonds, foreign judgments, materialman's liens, and other recordable instruments, except as otherwise prescribed in this section, fifteen dollars ($15.00) for one (1) page, one (1) side only, and five dollars ($5.00) for each additional page;

(B) (i) For recording mortgage assignments, mortgage releases, mortgage modifications, correction deeds, and other instruments when multiple previously recorded instruments are listed for the purpose of assigning, releasing, modifying, or correcting the previously recorded instruments, an additional fee of fifteen dollars ($15.00) per instrument listed not to exceed three hundred dollars ($300) shall be charged.

(ii) However, the recorder shall not charge an additional fee under subdivision (a)(1)(B)(i) of this section for any reference to a previously recorded instrument for a purpose other than to assign, release, modify, or correct a previously recorded deed or other similar instrument; and

(C) Eight dollars ($8.00) for filing or recording a certificate of assessment or any other instrument not specified in this subsection.

(2) If the recorder waives the requirements of § 14-15-402(b)(1) for good cause, the instrument may be recorded for an additional fee of twenty-five dollars ($25.00).

(b)(1) All fees collected under this section shall be paid into the county treasury to the credit of the fund to be known as the "county recorder's cost fund".

(2) Moneys deposited in this fund shall be appropriated and expended for the uses designated in this section by the quorum court at the direction of the recorder.

(3) Appropriated moneys shall be placed into line items within the recorder's budget as approved by the quorum court.

(c)(1) All moneys collected by the recorder as a fee as provided in this section shall be used by the recorder's office to offset administrative costs.

(2)(A) At least twenty-five percent (25%) of the moneys collected annually shall be used to purchase, maintain, and operate an automated records system. The acquisition and update of software for the automated records system shall be a permitted use of these funds.

(B) At the discretion of the recorder, any funds not needed by the recorder for any of the purposes under this subdivision (c)(2) may be transferred to the county general fund.

(C) Any funds in excess of one million dollars ($1,000,000) held at any time in the county recorder's cost fund shall be transferred to the county general fund.

CIRCUIT COURT FEES AND COSTS

21-6-402. Circuit court clerks - Miscellaneous fees.

(a) (1) The fees to be charged by the clerks of the circuit courts for the following matters in the circuit courts in the state shall be as prescribed in this section.

(2) No portion of these fees shall be refunded.

(b) The fees shall be:

(1) For drawing and issuing, sealing any summons, subpoena $2.50
(2) For writs or executions $20.00
(3) For certificate and seal $5.00
(4) For making and preparing any transcript:
(A) For the first one thousand (1,000) pages; $2.50
(B) For pages one thousand one (1,001) through two thousand (2,000); $2.00
(C) For pages two thousand one (2,001) through three thousand (3,000); $1.50
(D) For pages three thousand one (3,001) through four thousand (4,000); and $1.00
(E) For any page over four thousand one (4,001); ..... $.50
(5) For indexing each page ..... $.25
(6) For certifying costs $2.50
(7) For authentication certificate $5.00
(8) For filing an application for appointment to serve civil process under Supreme Court Administrative Order Number 20 ..... $140.00
(9) For filing a renewal of an appointment to serve civil process under Supreme Court Administrative Order Number 20 ..... $50.00

(c) The fees to be charged by the circuit court clerks of this state to the Department of Finance and Administration shall be as follows:

(1) For filing a certificate of indebtedness issued by the Department of Finance and Administration $8.00
(2) For filing a release of a certificate of indebtedness $6.00
(3) For an execution on a certificate of indebtedness filed by the Department of Finance and Administration ... $10.00

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

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

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

(b) The uniform filing fees are:

(1) For initiating a cause of action in the circuit court, including appeals $150.00
(2) For filing a mortgagee's or trustee's notice of default and intention to sell pursuant to § 18-50-104 ..... $140.00
(3) For reopening a cause of action in the circuit court $50.00
(4) For any cause of action which by court order is transferred from any district or circuit court to a circuit court ..... $50.00.

(c) No fee shall be charged or collected by the clerks of the circuit courts when the court, by order, pursuant to Rule 72 of the Arkansas Rules of Civil Procedure, allows an indigent person to prosecute a cause of action in forma pauperis.

(d) No initial filing fee shall be charged for domestic violence petitions filed pursuant to § 9-15-201 et seq. Established filing fees may be assessed pursuant to §§ 5-26-310 and 9-15-202(c).

(e) No fee shall be charged or collected by the clerks of the circuit courts for reopening a cause of action in the circuit court under the following circumstances:

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

(2) An agreed order or an order of income withholding is presented to be filed, and no service of process is required; or A party to the original cause of action for whom a judgment for monetary damages was entered attempts to enforce the monetary judgment by filing a pleading or through other court action, if the pleading is filed or court action is taken within twelve (12) months of issuance of the final judgment in the case.

(f) No county shall authorize, and no circuit court clerk shall assess or collect, any other filing fees than those authorized by this section unless specifically provided by state law.

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

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

(i)

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

(2) To assert another claim:

(A) A separate case shall be opened;

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

(C) A filing fee shall be assessed.

ACA 16-65-114. Interests on judgments.

(a)(1) Except as provided in subdivision (a)(2) of this section, a judgment entered by a court shall bear post-judgment interest and, if appropriate under the facts of the case, prejudgment interest:

(A) In an action on a contract at the rate provided by the contract or at a rate equal to the Federal Reserve primary credit rate in effect on the date on which the judgment is entered plus two percent (2%), whichever is greater; and

(B) In any other action at a rate equal to the Federal Reserve primary credit rate in effect on the date on which the judgment is entered plus two percent (2%).

(2) Interest on a judgment shall not exceed the maximum rate permitted under Arkansas Constitution, Amendment 89.

(b) A judgment rendered or to be rendered against a county in the state on a county warrant or other evidence of county indebtedness shall not bear interest.

ACA 16-13-226. Installment payments by a criminal defendant ibn circuit court—Priority of payment.

(a) An installment payment by a criminal defendant to a circuit court shall initially be deemed to be a collection of court costs until the court costs have been collected in full, with any remaining installment payments representing collections of restitution, and then any applicable fines.

(b) If court costs, restitution, and fines are fully paid, all remaining installment payments shall be allocated to remaining amounts due as ordered by the circuit court.

(c) A municipal or county governing body that adopted municipal or county legislation before January 1, 2017, to provide an alternative method of installment payment allocation as then authorized by state law shall remain in effect until repealed by the municipal or county governing body.

ELECTRONIC RECORDING – THE AUTOMATION GRANT PROGRAM

21-6-306. Recorders.

(c)(2)(C) Any funds in excess of one million dollars ($1,000,000) held at any time in the county recorder's cost fund shall be transferred to the county general fund.

14-20-107. Appropriations for Association of Arkansas Counties.

(e) (1) There is created on the books of the Association of Arkansas Counties a trust fund to be known as the "Automated Records Systems Fund".

(2) (A) The Automated Records Systems Fund shall be funded by counties in Class 6 and Class 7 in the State of Arkansas.

(B) The county recorder of the Class 6 and Class 7 counties shall remit one dollar ($1.00) for each document recorded in the county recorder's office directly to the Automated Records Systems Fund on a monthly basis.

(3) (A) The Automated Records Systems Fund shall be administered by a committee composed of the county recorders of the counties in Class 6 and Class 7 to be known as the "Automated Records Systems Fund Committee".

(B) The committee shall meet biannually to review grant applications made by county recorders in Class 1 – Class 5 solely for purposes directly related to office automation.

(C) The committee shall not disburse any moneys from the Automated Records Systems Fund to counties in Class 6 and Class 7.

(D) The committee shall expend substantially all of the money from the fund on an annual basis.

(E) Each member of the committee may receive reimbursement in accordance with Section 25-16-901 et seq.

AFTER ELECTRONIC RECORDING

(a)

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

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

(2) Commissioners appointed to make sales of personal property under judicial decrees shall be allowed as compensation for such services the fee prescribed by the judge of the court that issued the decree.
(b) In lieu of the fees provided for in this section, the court may set reasonable fees for commissioners based upon services rendered on sales under thirty-five thousand dollars ($35,000).
(c) (1) If the circuit clerk's office is appointed as commissioner for a sale of real or personal property under judicial decree, the fee awarded to the circuit clerk's office under this section shall be:
(A) Collected by the circuit clerk and paid into the county treasury to the credit of a fund to be known as the "circuit clerk commissioner's fee fund"; and
(B) Used exclusively by the circuit clerk's office for the following purposes and in the following order:
(i) To offset administrative costs associated with the performance of the commissioner's duties; and
(ii) For general operational expenses of the office of circuit clerk.
(2) Moneys deposited into the fund shall be appropriated and expended for the uses designated in this section by the quorum court at the direction of the circuit clerk.

26-36-316. Collection assistance fee

(a) Upon effecting final setoff, the Revenue Division of the Department of Finance and Administration shall periodically write checks to the respective claimant agencies for the net proceeds collected on their behalf.
(b)(1) For purposes of this subchapter, five percent (5%) of the proceeds collected by the division through setoff shall represent the division's cost of effecting setoff, and these costs shall be charged to the respective claimant agency as a collection assistance fee.
(2) The collection assistance fees paid to the division shall be deposited into the State Treasury for credit to the Constitutional Officers Fund and the State Central Services Fund.

18-50-116. Miscellaneous provisions.

(a) The procedures in this chapter for the foreclosure of a mortgage or deed of trust shall not impair or otherwise affect the right to bring a judicial action to foreclose a mortgage or deed of trust.
(b) A notice of default and intention to sell shall be filed within the time the foreclosure of the mortgage or deed of trust by judicial action could have commenced.
(c)(1) The procedures in this chapter shall apply only if the mortgagee or beneficiary is a mortgage company as defined in § 18-50-101 or is a bank or savings and loan.
(2) This chapter shall not apply to a mortgage or a deed of trust encumbering trust property used primarily for agricultural purposes.
(d) Nothing in this chapter shall be construed to:
(1) Create an implied right of redemption in favor of any person; or
(2)(A) Impair the right of any person or entity to assert his or her legal and equitable rights in a court of competent jurisdiction.
(B) However, a claim or defense shall be asserted prior to the sale or the claim or defense is forever barred and terminated, except the mortgagor may assert the following against either the mortgagee or trustee:
(i) Fraud by any party; or
(ii) Failure to strictly comply with the provisions of this act.
(C) Any of the above claims or defenses may not be asserted against a subsequent purchaser for value of the property.
(D) Any claims or defenses for a violation of subdivision (d)(2)(B)(ii) of this section shall be asserted within thirty (30) days of the foreclosure sale to ensure the finality of sales that substantially comply with this chapter.
(e)(1) At any time prior to the delivery of the trustee's or mortgagee's deed, the trustee or mortgagee may set aside a sale conducted pursuant to this chapter by declaring the sale null and void and returning the purchase price to the highest bidder without any further liability to the bidder.
(2) In this event, the trustee or mortgagee shall file an affidavit declaring the sale null and void with the recorder of the county in which the trust property is located, and all terms and provisions of the mortgage or deed of trust shall be revived and reinstated as if no sale had occurred.

12-41-109. Use of federal relief or stimulus funds to pay outstanding court obligations

Unless prohibited by federal law, a person who is in the custody of a local or regional correctional facility for an offense committed in the state that receives any federal relief or stimulus funds from the United States Government is required to first use the federal relief or stimulus funds to pay off existing court fines, fees, costs, or restitution before he or she may use the federal relief or stimulus funds for any other purpose.

16-10-305. Court costs

(h)(1) An additional court cost of twenty-five dollars ($25.00) shall be assessed and remitted to the Administration of Justice Funds Section by the court clerk or designee under § 16-13-709(a) for deposit as special revenues into the Domestic Violence Shelter Fund if a person is convicted of a domestic abuse offense or is the respondent on a permanent order of protection entered by a court under the Domestic Abuse Act of 1991, § 9-15-101 et seq.
(2) When a convicted person is authorized to make installment payments under § 16-13-704, the court cost assessed under subdivision (h)(1) of this section shall be collected from the initial installment payment first.

(3) The court clerk or designee under § 16-13-709(a) shall disburse all court costs collected each month under subdivision (h)(1) of this section to the Administration of Justice Funds Section by the fifteenth working day of the following month.

Chapter Five - WORK PROCESS DESCRIPTIONS

This section of the manual is designed to assist Circuit Clerks, newly elected and experienced, with daily office operations. The processes enumerated were selected because they comprise the major functions of the Circuit Clerk's office.

In reading the work processes described on the following pages, it should be remembered that these are examples of ways to perform functions.

CASE FILING

PROCESS DESCRIPTION:

Step 1. INITIATING CAUSE OF ACTION:
a. Court action is initiated by the filing of a complaint/petition by Plaintiff. All complaint/petition documents are originated by the attorney representing the plaintiff in the case. The number of copies of the complaint/petition will vary in accordance with the number of parties named as defendants. Each defendant named is to be provided with a copy of the complaint/petition. Defendants or their representatives may receive service of the compliant in the following forms and fashions pursuant to ARCP 4:

ARCP Rule 4

(c) By Whom Served. Service of summons shall be made by (1) a sheriff of the county where the service is to be made, or his or her deputy, unless the sheriff is a party to the action; (2) any person appointed pursuant to Administrative Order No. 20 for the purpose of serving summons by either the court in which the action is filed or a court in the county in which service is to be made; (3) any person authorized to serve process under the law of the place outside this state where service is made; or (4) in the event of service by mail or commercial delivery company pursuant to subdivision (g)(1) and (2) of this rule, by the plaintiff or an attorney of record for the plaintiff.

In the **Juvenile Division**, proceedings are set by ACA 9-27-310. First, Juvenile proceedings shall be commenced by filing a petition with the clerk of the circuit court or by transfer by another court. The prosecuting attorney shall have sole authority to file a delinquency petition or petition for revocation of probation. Only a law enforcement officer, prosecuting attorney, DHS or its designee may file a dependency-neglect petition seeking ex-parte emergency relief.

Petitions for dependency-neglect or family in need of services may be filed by: (a) any adult; or (b) any member ten (10) years or older of the immediate family alleged to be in need of services.

Petitions for paternity establishment may be filed by: (a) biological mother; (b) a putative father (c) a juvenile; or (d) DHS.

A copy of any petition for dependency-neglect which requests that DHS take custody or provide family services shall be mailed to the Secretary of the Department of Human Services by the petitioner.

All juvenile defendants age ten (10) and above, any person having care and control of the juvenile, and all adult defendants shall be served with a copy of the petition and either a Notice of Hearing or Order to Appear in the manner provided by the Arkansas Rules of Civil Procedure.

In any case where there is probable cause to believe a juvenile is dependent-neglect or in need of services and that immediate emergency custody is necessary to protect the health or physical well-being of the juvenile from immediate danger or to prevent the juvenile's removal from the state, the court shall issue an ex parte order for emergency custody to remove the juvenile from the custody of the parent, guardian, or custodian and shall determine the appropriate plan for placement of the juvenile.

Immediate notice of the emergency order shall be given by the petitioner or by the court to the parents, guardians, or custodian and the juvenile. All defendants shall be served according to the Arkansas Rules of Civil Procedure or as otherwise provided by the court. (ACA 9-27-301 et seq)

There is created a Commission for Parent Counsel consisting of seven (7) members appointed to serve six-year staggered terms, each of whom shall serve until a qualified successor is appointed. The Commission for Parent Counsel shall enter into contracts with attorneys in order to provide counsel required by the circuit court in certain cases in the juvenile division of circuit court for a parent of a minor subject to a juvenile case. The Commission for Parent Counsel may employ or enter into independent professional service contracts with attorneys to represent a parent at the trial court level as well as at the appellate level. The Commission for Parent Counsel may establish rules not otherwise addressed by this subchapter for its own governing for the administrative affairs of the commission and to effectuate the intent of this subchapter. (9-27-701 et seq).

In the **Criminal Division** a court action is initiated by the filing of an Information which is a formal accusation of crime initiated by Prosecuting Attorney. An Information must be accompanied by an Affidavit showing cause for the issuance of Information and warrant, or a cause may initiated by a Grand Jury indictment, or a cause can be filed as an Appeal from an inferior court (i.e. municipal).

In the **Civil Division** a Court action is initiated by the filing of a complaint/petition by the plaintiff. All complaint/petitions are originated by the attorney representing a plaintiff in a case, or a case may be initiated by an appeal from a lower court (i.e. small claims).

Step 2. REVIEW FOR CORRECTNESS. Court Clerk reviews initiating documentation for correctness of form and for compliance with required information, and to insure that paper size requirements are met. (ARCP Rule 84)

Step 3. COLLECTION OF ADVANCE FILING FEES. Court Clerk receipts for advance filing fees or establishes such fees as an account receivable and enters notation of transaction in cash book. Advance filing fees are not collected in circuit criminal cases nor juvenile cases.

Step 4. CERTIFICATION OF FILING. Court Clerk affixes stamp "Filed for Record" on all copies of initiating document and notes time of day, date, and certifies filing by signature.

Step 5. ASSIGNMENT OF CASE NUMBER. Court Clerk assigns case number. Each case by court and division is assigned sequential filing number by year of filing Number is determined by number of last case filed.

Step 6. NOTIFICATION OF PLAINTIFF OR REPRESENTATIVE. Court Clerk mails or delivers a copy of petition or complaint to plaintiff or representative which illustrates "Filed for Record" entry and case number assignment. Process applies to Civil cases.

Step 7. PREPARATION OF COURT DOCKET SHEET. Court Clerk prepares docket sheet by noting case number, plaintiff, defendant(s), attorneys for plaintiff and defendant, type of court action, and the date of petition or complaint filed. The court docket sheet serves as the master index and summary of all events related to a case; and reflects the date of all case events, the type of action, instruments filed, instruments filed for record (recorded) and all court service (delivery of documents by County Sheriff) by date of issuance and date of service return.

Step 8. FILING OF DOCKET SHEET. Court Clerk places docket sheet in post binder. Placement is in numeric order sequence of case filing (case number). Post binders for docket sheets are maintained for both active cases and transfers (terminated cases). All docket sheets are filed in numeric order of case number in both active and transfer post binder files.

Step 9. COURT DOCKET INDEX. Upon completion of Court Docket Sheet, Court Clerk prepares case index. Case index is a component of the post binder docket sheet file and is arranged in separate alphabetical listings by plaintiff and defendant with case number reference.

Step 10. PREPARATION OF CASE FILE FOLDER. Court Clerk prepares case file folder noting case number and the name of the plaintiff or defendant on tab portion of folder. Notations of case number, names of plaintiff and defendant, attorneys and the date of case filing are made on the face of the case file folder.

The case file folder is the storage medium for all documents related to a court case. Upon completion of the case file folder, the Court Clerk places initiating documents into folder.

CASE INSTRUMENT FILED

PROCESS DESCRIPTION:

The term "instruments filed" includes all documents presented to the Court Clerk related to a specific case excluding documents "filed for record or recorded" and "writs issued" even though these two classifications are filed in literal sense. The distinction between "filed," "filed for record," and issued is basically related to the work tasks involved and, therefore, were separated for purposes of analysis.

"To File" a paper, on the part of a party, is to place it in the official custody of the clerk. "To File," on the part of the clerk, is to endorse upon the paper the date of its reception, and retain it in this office, subject to inspection by whomsoever it may concern.

Step 1. PRESENTING INSTRUMENT TO BE FILED. If the clerk's office has a facsimile machine, the clerk shall accept facsimile transmissions of any paper filed under this rule and may charge of a fee of $1.00 per page. Any signature appearing on a facsimile copy shall be presumed authentic until proven otherwise. The clerk shall stamp or otherwise mark a facsimile copy as filed on the date and time that it is received on the clerk's facsimile machine during the regular hours of the clerk's office or, if received outside those hours, at the time the office opens on the next business day. The judge may permit papers or pleadings to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk. If the judge permits filing by facsimile transmission, the provisions of subdivision (c)(2) of this rule shall apply. Every pleading, paper or other document required by this rule to be served upon a party or his attorney, shall contain a statement by the party or attorney filing same that a copy thereof has been served in accordance with this rule, stating herein the date and method of service and, if by mail, the name and address of each person served. All papers after the compliant required to be served upon a party or his attorney shall be filed with the clerk of the court either before service or within a reasonable time thereafter. The clerk shall note the date and time of filing thereon. However, proposed findings of act, proposed conclusions of law, trail briefs, proposed jury instructions, and responses thereto may but need to be filed unless ordered by the court. Depositions, interrogatories, requests for production or inspection, and answers and responses thereto shall not be filed unless ordered by the court. When such discovery documents are relevant to a motion, they or the relevant portions thereof shall be submitted with the motion and attached as an exhibit unless such documents have already been filed.

The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in the proper form. In counties where the county clerk serves as the ex officio clerk of any division of circuit court, the filing requirements for any pleading, paper, order, judgment, decree, or notice of appeal shall be satisfied when the document is filed with either the circuit clerk or the county clerk. (Arkansas Rules of Civil Procedure, Rule 5)

Step 2. ENDORSEMENT OF DELIVERY. Court Clerk endorses date of and affixes signature on both copies of the document filed and returns copy document to the party transacting the filing.

Step 3. DOCKET SHEET REGISTRATION. Court Clerk notes type of instrument filed and date of filing on court docket sheet.

Step 4. FILING INSTRUMENT IN CASE FILE FOLDER. Court Clerk places original of instrument filed in case file folder.

CASE INSTRUMENT RECORDED

PROCESS DESCRIPTION:

The term "filed for record" in normal usage means record or to commit to writing, to inscription, or transcribe and enter in a book. Documents subject to recording in Arkansas court administration is normally limited to orders of the court.

Practice in Arkansas is the maintenance of "recorded" documents in separate "books of record" for each court and each division of such courts; and the process of recording is performed by photocopy on special pre-punched recording paper which is placed in the respective "book of record" and indexed by book and page number.

Step 1. INSTRUMENT DELIVERED TO CLERK. Instrument to be recorded is normally executed by person other than Clerk and delivered to Clerk for recording.

Step 2. ENDORSEMENT OF DELIVERY. Court Clerk affixes stamp "Filed for Record" on the first page of document delivered and notes date, year, and time of receipt, and certifies filing by affixing signature.

Step 3. PHOTOCOPYING INSTRUMENT. Clerk removes appropriate number of recording paper pages from supplies and duplicates instrument on recording paper by photo static process.

Step 4. FILING RECORDED DOCUMENT. Clerk places photocopy of instrument in "book of record" noting book and page number of location on fact of original document and photocopy.

Step 5. INDEX REGISTRATION. Clerk registers recording transaction in index position (front) of "book of record" by the name of the Plaintiff and Defendant, alphabetically, the type of instrument recorded, and the book and page numeric location of the recorded instrument.

Step 6. DOCKET SHEET REGISTRATION. Clerk registers recording transaction on docket sheet by date, type of instrument recorded, and the book and page numeric location of the recorded instrument

Step 7. ORIGINAL INSTRUMENT FILED. Clerk places original instrument in case file folder.

ISSUANCE OF SUMMONS

PROCESS DESCRIPTION:

A summons is a type of writ, directed to the sheriff or other proper officer, requiring him to notify the person named that an action has been commenced against him in the court specified, and that he has 20 days if he is a resident of the State of Arkansas and 30 days if he is a non-resident of the State of Arkansas to enter a formal written answer to the complaint against him.

The service of writs in most civil actions may be performed by delivery of the document to either the party defendant or defendant's legal counsel and may be accomplished by mail; however, the summons is excluded from all forms of delivery except placement of the summons in the hands of party defendant.

The summons is originated by the Court Clerk based on a petition or complaint filed with the court and is executed in an original and two copies for in-state delivery and an original and three copies for out-of-county delivery.

Step 1. CASE FILING PROCESS COMPLETED.

Step 2. PREPARATION OF SUMMONS. Court Clerk prepares summons, which is a standard, printed form, by noting case number, the names of the plaintiff and defendant, the month, day, and year of issuance, the party summoned where there is more than one defendant, affixes the court seal, and signs the summons on all copies. (Rule 4(b) ARCP)

Official Form of Summons

The Supreme Court of Arkansas has adopted the following form of summons for use in all cases in which personal service is to be had pursuant to Rule 4(c), (d) and (e) of the Arkansas Rules of Civil Procedure. The form may be modified as needed in special circumstances. Additional notices, if required, should be inserted in the appropriate space. This form is not for use in cases of constructive service pursuant to Rule 4(f). The adoption of this form is in compliance with Rule 4(b) and does not modify or amend any part of that rule.

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS

SUMMONS

Plaintiff: _____

Court Division[or other Appropriate court data]

[If not represented by an attorney, give address]

vs.

Defendant: _____ Case Number:_____

Plaintiff's attorney: _____

[name and address] _____

THE STATE OF ARKANSAS TO DEFENDANT: _____

NOTICE

1. You are hereby notified that a lawsuit has been filed against you; the relief asked is stated in the attached complaint.

2. The attached complaint will be considered admitted by you and a judgment by default may be entered against you for the relief asked in the complaint unless you file a pleading and thereafter appear and present your defense. Your pleading or answer must meet the following requirements:

A. It must be in writing, and otherwise comply with the Arkansas Rules of Civil Procedure.

B. It must be filed in the court clerk's office within _____ days from the day you were served with this summons.

3. If you desire to be represented by an attorney you should immediately contact your attorney so that an answer can be filed for you within the time allowed.

4. Additional notices:

Witness my hand and the seal of the court this _____.
(date)

Address of Clerk's Office:

_____ _____
[SEAL] Clerk

(The appropriate return of service may be on the same page.)

NOTICE AND ACKNOWLEDGEMENT
FOR SERVICE BY MAIL

NOTICE

To: (insert the name and address of the person to be served.)

The enclosed summons and complaint are served pursuant to Rule 4(d)(8)(B) of the Arkansas Rules of Civil Procedure.

You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.

You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the sender within 20 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within the time specified in the summons. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint will have been mailed on (insert date).

_____
Signature

_____
Date of Signature

ACKNOWLEDGMENT OF RECEIPT
OF SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned matter at (insert address).

_____
Signature

_____
Relationship to Entity/
Authority to Receive Service
of Process

_____
Date of Signature

Step 3. DOCKET SHEET REGISTRATION. The Court Clerk notes summons issued and date of issuance on court docket sheet.

Step 4. FILING SUMMONS IN CASE FILE FOLDER. A single copy of each summons issued is placed in case file folder.

Step 5. SHERIFF TO ATTEND CLERK'S OFFICE TO RECEIVE PROCESS. The Court Clerk attaches a copy of petition or complaint to defendant's copy of summons and the sheriff or one of his/her deputies shall attend the Clerk's office daily to receive any process that may be issued. The Clerk shall deliver to him/her any remaining process remaining in his/her office (ACA 16-58-110)

Step 6. RETURN OF SUMMONS. Upon delivery of summons to defendant, County Sheriff notes the date of service or non-service and affixes signature on the original copy and returns such copy to the Court Clerk. Upon receipt of an executed summons, the Court Clerk:

a. enters date service returned on original copy and affixes signature;

b. notes date of return and whether service was or was not performed on the court docket sheet; and

c. places original copy of summons in case file folder.

ISSUANCE OF SUBPOENAS

PROCESS DESCRIPTION:

A subpoena is a mandatory writ or process directed to and requiring one or more persons to appear at a time and answer the matters charged against him, or them, or serve as a witness for a plaintiff or defendant in a case before the court.

The subpoena may be originated by the Court Clerk based on a petition or complaint filed with the court and subsequent procedures which may specify the subpoena of witnesses. The subpoena is executed in an original and two copies for in-county delivery and an original and three copies for out-of-county delivery.

Step 1. CASE FILING PROCESS COMPLETED.

Step 2. PREPARATION OF SUBPOENA. Court Clerk prepares subpoena, which is a standard, printed form, by noting case number, the names of the plaintiff and defendant, the month, day, and year of issuance, the party ordered to appear, affixes the court seal and signs the subpoena on all copies. The seal should be clear and legible, and capable of photographic reproduction. The impression of the seal by stamp shall be sufficient sealing in a situation in which sealing is required.

Step 3. DOCKET SHEET REGISTRATION. The Court Clerk notes subpoena issued, party and date of issuance on court docket sheet.

Step 4. FILING SUBPOENA IN CASE FILE FOLDER. A single copy of each subpoena issued is placed in case file folder.

Step 5. DELIVERY OF SUBPOENA TO COUNTY SHERIFF. The Sheriff receives original and one copy (in-county service) for delivery or mails original and two copies to respective agency for out-of-county delivery.

Step 6. RETURN OF SUBPOENA. Upon delivery of subpoena to witness, County Sheriff notes the date of service or non-service and affixes signature on the original copy and returns such copy to the Court Clerk. Upon receipt of an executed subpoena, the Court Clerk:

a. enters date of service returned on original copy and affixes signature;

b. notes date of return and whether service was or was not performed on the court docket sheet; and

c. places original copy of subpoena in case file folder.

ISSUANCE OF WARNING ORDER

PROCESS DESCRIPTION:

A warning order as used in Circuit Court is a public notice to a defendant whose address is unknown or who is believed to be a non-resident of the State. (See Arkansas Rules of Civil Procedure, Rule 4)

The warning order is a standard formatted printed form originated by the Court Clerk based on an "Affidavit for Warning Order" signed by the plaintiff and notarized. The order is executed in an original and one copy.

Step 1. AFFIDAVIT FOR WARNING ORDER FILED WITH COURT CLERK

Step 2. PREPARATION OF WARNING ORDER. Court Clerk prepares warning order by noting the names of the defendant and plaintiff, the date warning order issued, the case number, the party defendant, and affixes signature and seal of the court.

Step 3. DOCKET SHEET REGISTRATION. The Court Clerk notes warning order issued and date of issuance on case docket sheet.

Step 4. FILING WARNING ORDER IN CASE FILE FOLDER. The Court Clerk places copy of warning order along with the affidavit for warning order in file folder.

Step 5. DELIVERY OF ORIGINAL WARNING ORDER TO PUBLISHER. Court Clerk delivers original warning order to publisher for insertion in newspaper with general county circulation. Publication requirements are weekly for two consecutive weeks.

Step 6. FILING PROOF OF PUBLICATION. Upon completion of all public notice requirements, Publisher returns a proof of publication affidavit to the Court Clerk. Affidavit is placed in the case file folder by Court Clerk.

FILING BAIL BOND

PROCESS DESCRIPTION:

Bail is an amount of security set by a trial judge to be posted so that a person accused of a crime may be released from arrest, pending trial. Bond is the written promise of the securer to pay the amount set by the judge if the accused fails to appear for trial.

Step 1. RECEIPT OF BOND. Instrument is executed by person other than Clerk and delivered to Clerk for filing.

Step 2. DOCKET SHEET REGISTRATION. Clerk registers receipt of bond on case docket sheet.

Step 3. FILE ORIGINAL. Clerk files original in case file.

JURY ADMINISTRATION

PROCESS DESCRIPTION:

Step 1. RECEIPT OF MASTER JURY LIST. Clerk receives the master voters registration list from County Clerk, then upon order of the Circuit Judge, she is given a series of numbers to make a random selection from the voters list to compile the master July list or the voters list can be submitted to the Jury Commissioners for their selections for the Master Jury List.

Step 2. ALPHABETIZE LIST. Clerk arranges names of prospective jurors alphabetically and assigns each a consecutive number.

Step 3. STORE LIST. Clerk stores list under lock, insuring that all names on the list remain completely confidential until such time as they may be called to sit as jurors.

Step 4. TRIAL JURY LIST. On case docketing days, trial judge chooses markers numbered to correspond with master jury list until a number of prospective jurors sufficient for the cases docketed have been chosen. Clerk records numbers of markers as they are chosen.

Step 5. COMPILING TRIAL JURY LIST. Clerk matches recorded marker numbers to numbered names on master jury list, and compiles list of prospective jurors for cases docketed.

Step 6. NOTIFICATION OF PROSPECTIVE JURORS. Clerk provides the Sheriff with the names of prospective jurors and the Sheriff shall summon them by (1) notice dispatched by first class mail, with return receipt requested, delivered to addressee only; or (2) notice given personally on the telephone; or (3) service of summons personally or by such other methods as are permitted or prescribed by law. (ACA 16-32-106)

NOTE: See ACA 16-31-101 et seq and ACA 16-32-201 et seq

ACA 16-31-103. Exemptions from service.

(a) As used in this section, "adjournment sine die" means the adjournment of the General Assembly without the establishment of a day certain for reconvening.
(b) A person may be excused from serving as a grand or petit juror or a jury commissioner for such period as the court deems necessary or may have his or her service deferred to another specified term of court when the state of his or her health or that of his or her family reasonably requires his or her absence, or when, for any reason, his or her own interests or those of the public will, in the opinion of the court, be materially injured by his or her attendance.
(c) If a member of the General Assembly is summoned for service on a petit or grand jury in circuit court within thirty (30) days preceding the convening of the General Assembly or at any time during a regular, extraordinary, or fiscal session, he or she is entitled to a deferment of that service until thirty (30) days after adjournment sine die of the General Assembly.
(d) A person who is eighty (80) years of age or older may voluntarily exempt himself or herself from or decline to participate in jury service at any time.

COURT CASE TERMINATION

PROCESS DESCRIPTION:

Step 1. RECEIPT OF JUDGMENT. Original judgment is received from the court.

Step 2. ENDORSEMENT OF DELIVERY. Clerk affixes stamp "Filed" on the first page of judgment noting date and time of delivery, certifies filing by affixing seal of court and signing, and notes book and page of Judgment Record Book wherein recorded.

Step 3. PHOTOCOPYING JUDGMENT. Clerk makes photocopy of judgment.

Step 4. FILING RECORDED DOCUMENT. Clerk places photocopy of judgment in Judgment Record Book.

Step 5. INDEX REGISTRATION. Clerk registers recording transaction in index of Judgment Record Book, alphabetically cross-indexing by name of plaintiff and name of defendant, noting book and page location of recording.

Step 6. DOCKET SHEET REGISTRATION. Check registers recording of Judgment on docket sheet noting book and page of Judgment Record Book wherein recorded.

Step 7. TRANSFER DOCKET SHEET. Clerk removes docket sheet from active case docket and places in "disposed of" case docket, arranging chronologically by case number.

Step 8. MASTER INDEX REGISTRATION. Clerk registers case termination in Court Docket Index listing alphabetically by name of plaintiff and name of defendant, with reference to case file drawer.

Step 9. ORIGINAL DOCUMENT FILED. Clerk files original judgment in case file folder.

JUROR REIMBURSEMENT

PROCESS DESCRIPTION

16-34-103. Per diem compensation for jurors and prospective jurors.

(a) Any person who receives official notice that he or she has been selected as a prospective juror or who is chosen as a juror is eligible to receive per diem compensation for service if:

(1) The person actually appears at the location to which the juror or prospective juror was summoned; and

(2) The person's appearance is duly noted by the circuit clerk.

(b) (1) The per diem compensation payable to any person who is eligible for payment under subsection (a) of this section and who is selected and seated to serve as a member of a grand jury or petit jury is fifty dollars ($50.00) per day.

(2) Any person who is eligible for payment under subsection (a) of this section and who is excused or otherwise not selected and seated as a member of a grand jury or petit jury shall be provided per diem compensation of not less than fifteen dollars ($15.00) as established by ordinance of the county quorum court.

16-34-104. Mileage reimbursement for jurors.

In the event and to the extent that a county quorum court adopts by ordinance a policy for reimbursement of mileage costs for jurors, any person who is eligible to receive per diem compensation under § 16-34-103 and whose primary place of residence is outside the city limits of the city where the court that summoned the juror or prospective juror is located may receive, in addition to the per diem compensation, a mileage reimbursement payment for mileage from and to his or her home by the most direct and practicable route at the rate prescribed by the county.

16-34-106. Payment by county — Reimbursement by state.

(a) The per diem compensation under § 16-34-103 shall be paid promptly to each juror or prospective juror by a county from funds appropriated for that purpose by the quorum court.

(b) (1) (A) The state shall reimburse a county for a portion of the costs incurred for a payment under § 16-34-103(b)(1) if the county makes a request under subdivision (b)(3) of this section.

(B)(i) If funds are available, the state shall reimburse a county for the cost of a prospective juror orientation for a juror eligible for payment under § 16-34-103(b)(2) up to fifteen dollars ($15.00) if the county makes a request under subdivision (b)(3) of this section

(ii) the reimbursement under this subdivision (b)(1)(B) shall not exceed the minimum per diem compensation under § 16-34-103(b)(2)

(2) The Administrative Office of the Courts shall administer the state reimbursement to a county under subdivision (b)(1) of this section.

(3) A county may request reimbursement for costs incurred for a payment under § 16-34-103(b)(1) or § 16-34-103(b)(2) on a quarterly basis as follows:

(A) On or before May 1 of each year for costs incurred between January 1 and March 31 of that year;

(B) On or before August 1 of each year for costs incurred between April 1 and June 30 of that year;

(C) On or before December 1 of each year for costs incurred between July 1 and September 30 of that year; and

(D) On or before February 1 of each year for costs incurred between October 1 and December 31 of the prior year.

(4) The Administrative Office of the Courts shall consult with the Division of Legislative Audit and shall prescribe the information that shall be documented and certified by a county in order to receive reimbursement under subdivision (b)(1) of this section.

16-34-107. Donation of per diem compensation and mielage reimbursement.

(a) A person eligible to receive per diem compensation or mileage reimbursement, or both, under this chapter may donate the per diem compensation or mileage reimbursement, or both, that he or she receives to an eligible nonprofit entity.

(b)(1)(A) The Administrative Office of the Courts shall compile a list of eligible nonprofit entities to which a person receiving per diem compensation or mileage reimbursement, or both, under this chapter may make his or her donation under this section.

(B)(i) In compiling the list of eligible nonprofit entities described under subdivision (b)(1)(A) of this section, the office shall consult with the Supreme Court and the Arkansas Judicial Council, Inc., to determine the eligible nonprofit entities under this section.

(ii) The office is encouraged to seek input through public comment while compiling the list of eligible nonprofit entities.

(2) An eligible nonprofit entity should have as one (1) of its primary goals the providing of:

(A) Crime victim assistance or counseling;

(B) Services for abused or neglected children;

(C) Shelter for victims of domestic violence;

(D) Services for veterans; or

(E) Legal education for students seeking a Juris Doctor degree.

(c) The office shall offer guidance on procedures for making, collecting, and distributing donations under this section.

JUDGMENT NOTATIONS AND SATISFACTIONS

PROCESS DESCRIPTION:

A judgment satisfaction is a document filed in the office of the Circuit Clerk by an attorney in a civil case, which indicates that the monetary or other settlement decreed by the judge has been received in full. In some instances rather than file a document, the attorney will appear in the Clerk's office to verify that satisfaction of judgment has

been made and request that a marginal notation to that effect be added to the Judgment Records, which he then signs in the presence of the Clerk.

Step 1. INSTRUMENT DELIVERED TO CLERK. Judgment satisfaction is delivered by attorney to Clerk for recording.

Step 2. COLLECTION OF RECORDING FEES. Clerk receipts for recording fees or establishes such fees as an account receivable and enters notation of transaction in cash book.

Step 3. ENDORSEMENT OF DELIVERY. Clerk affixes stamp "Filed for Record" on each page of Satisfaction noting date and time of delivery, certifies filing by affixing seal of Court and signing, and notes book and page of Judgment Record wherein filed.

Step 4. PHOTOCOPYING INSTRUMENT. Clerk makes necessary copy or copies of document.

Step 5. FILING RECORDED DOCUMENT. Clerk places photocopy of document in Judgment Record Book.

Step 6. INDEX REGISTRATION. Clerk registers recording to transaction in index of Judgment Record Book, alphabetically cross-indexing by name of plaintiff and name of defendant, noting book and page location of recording.

Step 7. NOTE ON JUDGMENT. Clerk notes on case judgment in Judgment Record Book page and book of Judgment Records where Satisfaction document is recorded.

Step 8. DOCKET SHEET REGISTRATION. Clerk registers recording transaction on docket sheet noting date and book and page of Judgment Record Book wherein Satisfaction document is recorded.

Step 9. ORIGINAL INSTRUMENT FILED. Clerk files original Satisfaction document in case file folder.

FILING FOR RECORD

PROCESS DESCRIPTION: (ACA 14-15-401 et seq.)

All recordings of documents relating to ownership, use or unencumbered title to real property are performed by the same basic process of indexing but utilize separate "books of record" for the storage of the documents recorded. “Books” in this instance also means data stored in digital format. A non-inclusive instruments list included in this work process would include warranty deeds, quit claim deeds, Executor or Fiduciary deed, mortgages, deeds of trust, release deeds, leases, easements, right of ways, contracts of sales, power of attorney or mineral leases.

Step 1. INSTRUMENT DELIVERED. Instrument to be recorded is originated by person other than Clerk and delivered to Clerk by mail or by person or by personal representative of party recording instrument.

Step 2. COLLECTION OF RECORDING FEES. Clerk receipts for recording fees or establishes such fees as an account receivable and enters notation of transaction in cash book. (See ACA 21-6-306)

Step 3. CHECKING INSTRUMENT: Before placing "File of Record" marks on an incoming instrument, the Clerk shall check the filing document for required information to insure that the document has all the information on the face of the instrument to make it eligible for recordation, (i.e. who prepared the instrument, name and address of the grantor and grantee, and the affidavit stating that the correct amount of revenue stamps are affixed (ACA 26-60-101 et seq.) and that it is properly acknowledged.

Step 4. CERTIFICATION OF FILING. Clerk affixes stamp "Filed for Record" on all pages of instrument and notes month, day, year, and time filed, and affixes signature of Clerk.

Step 5. MASTER INDEX REGISTRATION. Clerk registers filing transaction in Master Index Book by date received, name of grantor, name of grantee, type of instrument, name of person delivering instrument to be recorded, instrument to be recorded, and notes sequential entry number on face of instrument to be recorded. Master Index Book entries are prenumbered by printer in sequential order.

Step 6. BOOK OF RECORD INDEX NUMBER ASSIGNED. The separate Books of Record for each category of instrument are the storage medium containing the true copy of the instrument recorded. Each book is titled, deed book, etc., and numbered in sequential series, with each page of recorded text assigned a sequential number. Clerk determines the appropriate book of record for the class of instrument to be recorded, the number of pages required to record the instrument, and notes the sequential page(s) and book number for subsequent entry on Certificate of Record.

Step 7. CERTIFICATE OF RECORD PREPARED. A Certificate of Record is prepared for person transacting the instrument to be recorded by noting date and time instrument filed, the Book of Record book and page number, the date certificate issued, and affixing the seal and signature of the Clerk.

Step 8. PHOTOCOPYING INSTRUMENT. Clerk removes appropriate number of recording pages from Book of Record and duplicates instrument by photo static process. Two additional copies of instrument are photocopied on plain paper for distribution to Assessor and County Clerk.

Step 9. DIRECT INDEX REGISTRATION ENTRY. Clerk makes entry in Direct Index Book by noting name of grantor, grantee, month, day, and year filed, type of instrument, and book and page number location of instrument in Book of Record.

Step 10. INDIRECT INDEX REGISTRATION ENTRY. Clerk makes entry in Indirect Index Book by noting name of grantee, grantor, month, day, and year filed, type of

instrument, and by book and page number of location of instrument in Book of Record.

Step 11. FILING RECORDING. Clerk places photocopy of instrument in appropriate Book of Record.

Step 12. MASTER INDEX CROSS REFERENCE ENTRY. Clerk notes book, book and page number location of recorded instrument in Master Index Book by original entry.

Step 13. ABSTRACTOR COPY OF INSTRUMENT. Original instrument may be provided to Abstractor for photocopying and returned to Clerk. However, it is usually a better idea to give your abstractor a copy while retaining the original for your records.

Step 14. ORIGINAL INSTRUMENT DELIVERED TO PARTY DESIGNATED. The Clerk delivers original copy of recorded instrument along with Certificate of Recording to person delivering instrument for recording or to person designated by deliverer.

Step 15. DISTRIBUTION OF COPIES. Clerk delivers copy of instrument to Assessor and County Clerk.

REAL PROPERTY TRANSACTIONS
LIEN FILING/TERMINATION

PROCESS DESCRIPTION:

All recordings and releases of liens on real property are performed by the same basic process of indexing.

Step 1. INSTRUMENT DELIVERED. Instrument to be recorded is originated by person other than Clerk and delivered to Clerk by mail or by person or by personal representative of party recording instrument.

Step 2. COLLECTION OF RECORDING FEES. Clerk receipts for recording fees or establishes such fees as an account receivable and enters notation of transaction in cash book. (See Chapter 4 of this manual for recording fees.)

Step 3. CERTIFICATION OF FILING. Clerk affixes stamp "Filed for Record" on all pages of instrument and notes month, day, year, and time filed, and affixes signature of Clerk.

Step 4. MASTER INDEX REGISTRATION. Clerk registers filing transaction in Master Index Book by date received, name of grantor, name of grantee, type of instrument, name of person delivering instrument to be recorded, and notes sequential entry number on face of instrument to be recorded. Master Index Book entries are pre-numbered by printer in sequential order.

Step 5. BOOK OF RECORD INDEX NUMBER ASSIGNED. The separate Books of Record for each category of instrument are the storage medium containing the true copy of the instrument recorded. Each book is titled, deed book, etc., and numbered in sequential series, with each page of recorded text assigned a sequential number. Clerk determines the appropriate book of record for the class of instrument to be recorded, the number of pages required to record the instrument, and notes the sequential page(s) and book number for subsequent entry on Certificate of Record.

Step 6. PHOTOCOPYING INSTRUMENT. Clerk removes appropriate number of recording pages from Book of Record and duplicates instrument by photo static process. Two additional copies of instrument are photocopied on plain paper for distribution to Assessor and County Clerk.

Step 7. FILING RECORDING. Clerk places photocopy of instrument in appropriate Book of Record.

Step 8. ORIGINAL INSTRUMENT DELIVERED TO PARTY DESIGNATED. The Clerk delivers original copy of recorded instrument along with Certificate of Record to person delivering instrument for recording or to person designated by deliverer.

FINANCING STATEMENTS

PROCESS DESCRIPTION:

A financing statement is a form of personal property lien under the provisions of the Uniform Commercial Code and is required to be filed for certain classes of goods sold on extended payment terms. (ACA 4-9- 401 et seq)

4-9-501. Filing office. - [EDITORS' NOTE: THE TEXT OF THIS SECTION IS EFFECTIVE JANUARY 1, 2010.]

(a) Except as otherwise provided in subsection (b), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) the office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut; or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) through midnight, December 31, 2012, the office of the circuit clerk in the county in which the debtor is located in this state if the debtor is engaged in farming operations and the collateral is a farm-stored commodity financed by a loan through the Commodity Credit Corporation of the United States Department of Agriculture; or

(3) the office of the Secretary of State, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

A. INITIAL FILING:

Step 1. INSTRUMENT DELIVERED. Financing Statement is delivered to Clerk by mail or personal representative of the financing agent.

Step 2. COLLECTION OF FILING FEES. Clerk receipts for filing fee or establishes such fee as an account receivable and enters notations of transaction in cash book. (See pages 4-1 through 4-3 of this manual for recording fees.)

Step 3. CERTIFICATE OF FILING. Clerk affixes stamp "Filed for Record" on original and all copies, notes month, day, hour, and year, and signs all copies.

Step 4. MASTER INDEX REGISTRATION. Clerk registers filing transaction in Master Financing Statement Index Book by name of debtor and noting sequential number of entry on copies of financing statement.

Step 5. DEBTOR'S MASTER INDEX REGISTRATION. Clerk registers filing in debtor's master index by name and address of secured party and/or assigned party, the date filed, the master index registration number, and a short description of the property covered by agreement.

Step 6. STORAGE OF ORIGINAL STATEMENT. Clerk places original copy of statement in file cabinet in numeric sequence of master index registration number.

Step 7. DUPLICATE COPIES OF FINANCING STATEMENT RETURNED. Clerk delivers by mail or other means, duplicate copies of statement to each party of the agreement

.

B. CONTINUATION FILING. Continuations of the term of an original financing statement is filed in the same manner as the original filing, but is assigned a numeric index number in the order of filing and requires marginal notations of a continuation to be made on Master Index Registration and Debtor's Master Index Registration entries of the original filing.

C. ASSIGNMENTS. Assignment of a lien is filed in the same manner as the original filing and retains the same numeric index number of the original filing. Marginal notations are made in both Master Index Register and Debtor Index Register at place of original filing noting assignment and numeric location of assignment entry.

D. TERMINATIONS. Terminations are executed by the following process:

(1) receipt of cash book entry.

(2) termination of copy of original statement and duplicate copies are stamped "Filed for Record," signed by the Clerk, and notation made of master index register index number of initial filings.

(3) marginal notation of termination is made in Debtor's Index by noting date of termination and signing entry.

(4) original financing statement is removed from file, the date of termination and signature of Clerk is noted, and original is delivered to the secured party.

(5) termination copy of financing statement is then placed in file in same numeric position of executed statement.

MISCELLANEOUS INSTRUMENT RECORDING

PROCESS DESCRIPTION:

True miscellaneous filings are timber deeds, power of attorneys, contracts of sale, Bill of Sales, leases, etc. All filings for record of miscellaneous instruments are performed by the same basic functions, but may utilize separate books of record. A rule of thumb for these filings are if they DON'T FIT in any of the other books. (Some offices have only one book for everything)

Step 1. RECEIPT OF INSTRUMENT. Instrument to be recorded is originated by person other than Clerk and delivered to Clerk.

Step 2. VERIFY RECORDING. Where required, Clerk notes date of filing and affixes seal on document verifying that instrument is on record, and returns document verifying same to person having instrument recorded. Example: identification card of Notary Public.

Step 3. CERTIFICATION OF FILING. Clerk stamps "Filed" on the first page of instrument being recorded, records date of filing and affixes seal of court.

Step 4. RECORDING INFORMATION. Clerk records information from instrument into appropriate book of record and indexes alphabetically by name of person requiring instrument to be recorded.

Step 5. FILE ORIGINAL. Clerk stores original instrument in appropriate file.

OTHER DUTIES OF THE OFFICE

PROCESS DESCRIPTION:

FINES – ABSTRACT. At the close of the term of each circuit court, the clerk of the court shall furnish to the clerk of the county court an official abstract of all fines, penalties, and forfeitures adjudged against defendants during the term of the circuit court. (b) The abstract shall contain the style of each case, the full name of the parties, and amount of each fine, and the penalty and forfeiture separately. (ACA 16-92-114)

ENHANCEMENT OF THE RATE OF COLLECTION OF FINE REVENUE: For purposes of this section, the term "fine" or "fines" means all monetary penalties imposed by the district courts of this state, which include fines payable to the county general fund, the city general fund, and other

state agencies, court costs, probation fees, and public service work supervisory fees. The Supreme Court Committee on Automation shall prescribe, in cooperation with the Administrative Office of the Courts, the Division of Legislative Audit, the Association of Arkansas Counties, and the Arkansas Municipal League, appropriate forms for the reporting and allocation of all fines and such other information relevant to the income received by the various state, county, and city entities from district courts. Each district court in this state, if requested, shall provide this information to the committee for the twelve-month period immediately preceding the installation of the computer hardware and software as required by contract for the District Court Automation System. The state agency or entity which receives fine revenue from a district court in which this system is installed may contract with the vendor or private contractor selected by the Supreme Court Committee on Automation to pay a percentage of any increased fine revenue to the vendor or private contractor to be used for the maintenance and operation of the system. The percentage to be received by the vendor or private contractor shall be agreed upon in advance by the state agency or entity affected. The county quorum court or the governing body of the city in which a court having the system installed is located, or both, may contract with the vendor or private contractor selected by the committee to pay a percentage of any increased fine revenue to the vendor or private contractor to be used for the maintenance and operation of the system. The percentage to be received by the vendor or private contractor shall be agreed upon in advance by the county quorum court or the governing body of the city in which the court is located, or both. Each district court in which the system is installed shall submit a report to the state agency or entity affected, either the county quorum court or the governing body of the city in which the court is located, or both, for each twelve-month period immediately following installation of the system. This report shall be compared to the fine revenue received for the twelve-month period immediately preceding installation of the system which shall be the base year. The dollar amount of increase in fine revenue in each of the twelve-month periods immediately following installation of the system shall be compared to the twelve-month period immediately preceding installation. The dollar amount of increase in fine revenue as determined in this section shall be the basis for determining the funds due the vendor or private contractor for each year that the system is in operation. This amount shall be determined within forty-five (45) days after the end of the twelve-month period. Within sixty (60) days after the twelve-month period, each court in which the system is installed shall remit to the vendor or private contractor one-twelfth (1/12) of the amount as determined in this subdivision (c)(3) of this section for the succeeding twelve (12) months. (ACA 16-92-117).

FILING OF PLATS: Whenever a plat is tendered for recordation, it must be accompanied by a copy, which is transmitted to the County Assessor showing book and page where the original plat is recorded.

FILING OF LIENS: Types of liens filed in Circuit Clerk's office, Federal Tax Liens, Hospital Liens, and Mechanic's Lien. (ACA 18-40-101 et seq.)

FILINGS OF FOREIGN JUDGMENTS: Requirements for filing of foreign judgments: (a) a judgment obtained in an Inferior Court (i.e. municipal or small claims court) may be filed upon the presentation of a certified copy of the judgment entered in the lower court; or (b) a judgment rendered in any court in the State of Arkansas may be lodged upon receipt of certified copy from the originating court; or (c) a judgment rendered in a court outside the State of Arkansas, that has been authenticated.

ACA 16-66-601. Definition.

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

ACA 16-66-602. Filing and status of foreign judgments.

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

ACA 16-66-603. Notice of filing.

(a) At the time of the filing of the foreign judgment, the judgment creditor or his lawyer shall make a file with the clerk of the court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment
creditor.

(b) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment debtor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

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

ACA 16-66-604. Stay.

(a) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be

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

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

ACA 16-66-605. Fees.

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

ACA 16-66-606. Optional procedure.

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

ACA 16-66-607. Uniformity of interpretation.

This subchapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

ACA 16-66-608. Short title.

This subchapter may be cited as the "Uniform Enforcement of Foreign Judgments Act".

Arkansas Crime Information Center Forms

Please refer to the Arkansas Crime Information Center, http://acic.org/Pages/forms.aspx for access to forms regarding Act 1460 " An Act to Establish the Comprehensive Criminal Record Sealing Act of 2013; To Amend, Consolidate, Clarify, and Simplify the Process for Sealing A Person's Criminal Record Under Certain Circumstances; and For Other Purposes."

ACA 16-90-1413. Procedure for sealing of records.

(a)(1) A person who is eligible to have a record sealed under this subchapter may file a uniform petition in the circuit court or district court in the county where the offense was committed and in which the person was convicted for the offense he or she is now petitioning to have sealed.
(2) Except as provided in § 16-90-1405, if a person has previously petitioned the court for the sealing of a record and that petition was subsequently denied, the person may not file a uniform petition under this subchapter regarding that record until one (1) year has passed since the denial of the previous petition.
(b)(1)(A) A copy of the uniform petition shall be served upon the prosecuting attorney for the county in which the uniform petition is filed and upon the arresting agency, if the arresting agency is a named party, within three (3) days of the filing of the uniform petition.
(B) It is not necessary to make the arresting agency a party to the action.
(2)(A) The prosecuting attorney may file a notice of opposition with the court for a uniform petition seeking to seal a record of an eligible misdemeanor conviction or violation setting forth reasons for the opposition to the sealing within thirty (30) days after receipt of the uniform petition or after the uniform petition is filed, whichever is the later date.
(B)(i) If notice of opposition is not filed, the court may grant the uniform petition.
(ii) If notice of opposition is filed, the court shall set the matter for a hearing if the record for which the uniform petition was filed is eligible for sealing under this subchapter unless the prosecuting attorney consents to allow the court to decide the case solely on the pleadings.
(3)(A) The prosecuting attorney may file a notice of opposition with the court for a uniform petition seeking to seal a record of an eligible felony conviction setting forth reasons for the opposition to the sealing within thirty (30) days after receipt of the uniform petition or after the uniform petition is filed, whichever is the later date.
(B) If the prosecuting attorney files a notice of opposition with the court, the court may set the matter for a hearing.
(C) The court may grant the uniform petition only after the hearing described in subdivision (b)(3)(B) of this section has been conducted.
(c)(1) The court may grant or deny a uniform petition at any time after the thirty-day period described in subdivision (b)(3)(A) of this section has expired.
(2) If the court determines that the record shall be sealed under the standards of § 16-90-1415, the uniform order described in § 16-90-1414 shall be entered and filed with the circuit court clerk or district court clerk, as applicable.
(d)(1) A court clerk with whom a uniform order is filed shall certify copies of the uniform order to the prosecuting attorney who filed the underlying charges, the arresting agency, the Arkansas Crime Information Center, and, if applicable, any district court where the person appeared before the transfer or appeal of the case to circuit court.
(2) The Administrative Office of the Courts shall only accept certified copies of the uniform orders filed in circuit court.
(e)(1) The circuit court clerk, the district court clerk, and, if applicable, the district court clerk where the person appeared before the transfer or appeal of the case to circuit court shall:
(A) Remove all petitions, orders, docket sheets, receipts, and documents relating to the record;
(B) Place the records described in subdivision (e)(1)(A) of this section in a file; and
(C) Sequester the records described in subdivision (e)(1)(A) of this section in a separate and confidential holding area within the clerk's office.
(2)(A) A docket sheet shall be prepared to replace the sealed docket sheet.

(B) The replacement docket sheet shall contain the docket number, a statement that the record has been sealed, and the date that the order to seal the record was issued.
(3) All indices to the file of the person with a sealed record shall be maintained in a manner to prevent general access to the identification of the person.
(f) The prosecuting attorney shall:
(1) Remove the entire case file and documents or other items related to the record;
(2) Place the records described in subdivision (e)(1)(A) of this section in a file; and
(3) Sequester the records described in subdivision (e)(1)(A) of this section in a confidential holding area within his or her office.
(g) The arresting agency shall:
(1) Remove its entire record file and documents or other items relating to the record, including any evidence still in the arresting agency's possession;
(2) Place the records described in subdivision (e)(1)(A) of this section in a file; and
(3) Sequester the records described in subdivision (e)(1)(A) of this section in a confidential holding area within the arresting agency.
(h) Upon notification of a uniform order, all circuit clerks, district clerks, arresting agencies, and other criminal justice agencies maintaining records in a computer-generated database shall either segregate the entire record, including receipts, into a separate file or ensure by other electronic means that the sealed record shall not be available for general access unless otherwise authorized by law.

ACA 16-90-1416. Release of sealed records.

(a) The custodian of a sealed record shall not disclose the existence of the sealed record or release the sealed record except when requested by:
(1) The person whose record was sealed or the person's attorney when authorized in writing by the person;
(2) A criminal justice agency, as defined in § 12-12-1001, and the request is accompanied by a statement that the request is being made in conjunction with:
(A) An application for employment with the criminal justice agency by the person whose record has been sealed; or
(B) A criminal background check under the Polygraph Examiners Licensing Act, § 17-39-101 et seq., or the Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act, § 17-40-101 et seq.;
(3) A court, upon a showing of:
(A) A subsequent adjudication of guilt of the person whose record has been sealed; or
(B) Another good reason shown to be in the interests of justice;
(4) A prosecuting attorney, and the request is accompanied by a statement that the request is being made for a criminal justice purpose;
(5) A state agency or board engaged in the licensing of healthcare professionals;
(6) The Arkansas Crime Information Center; or
(7) The Arkansas Commission on Law Enforcement Standards and Training.

ACA 16-90-1405. Eligibility to file a uniform petition to seal a misdemeanor offense.

(2) A new uniform petition to seal a misdemeanor violation of driving or boating while intoxicated, § 5-65-103, until after the applicable lookback periods under § 5-65-111 have elapsed.

ACA 16-90-1406. Felony convictions eligible for sealing.

(a) Unless prohibited under § 16-90-1408 and regardless of when the felony occurred, a person may petition a court to seal a record of a conviction immediately after the completion of the person's sentence for:
(1) A nonviolent Class C felony or nonviolent Class D felony;
(2) An unclassified felony;
(3) An offense under the Uniform Controlled Substances Act, § 5-64-101 et seq., that is a Class A felony or Class B felony;
(4) Solicitation to commit, attempt to commit, or conspiracy to commit the substantive offenses listed in subdivisions (a)(1)-(3) of this section; or
(5) A felony not involving violence committed while the person was less than eighteen (18) years of age.
(b) Unless prohibited under § 16-90-1408, a person may petition a court with jurisdiction to seal a record of a conviction under this section after five (5) years have elapsed since the completion of the person's sentence for a violent Class C felony or a violent Class D felony.
(c)(1)(A) The petitioner can have no more than one (1) previous felony conviction.
(B) For the sole purpose of calculating the number of previous felony convictions under this section, all felony offenses that were committed as part of the same criminal episode and for which the person was convicted are a single conviction.
(2) The fact that a prior felony conviction has been previously sealed shall not prevent the prior felony conviction's counting as a prior felony conviction for the purposes of this subsection.

ACA 16-90-1407. Special procedures for sealing a felony controlled substance possession conviction.

A person may petition the court to seal a record of a felony conviction for possession of a controlled substance, § 5-64-419, or counterfeit substance, § 5-64-441, upon the completion of the person's sentence if, prior to sentencing:
(1) An intake officer appointed by the court, where applicable, determines that the person has a drug addiction and recommends the person as a candidate for residential drug treatment;
(2) The court places the person on probation and includes as part of the terms and conditions of the probation that:
(A) The person successfully complete a drug treatment program approved by the court; and
(B) The person remain drug-free until successful completion of probation; and
(3) The person successfully completes the terms and conditions of the probation.

16-90-1408. Felony convictions ineligible for sealing.

(a) A record of a conviction of any of the following offenses is not eligible to be sealed under this subchapter:
(1) A Class Y felony, Class A felony, or Class B felony, except as provided in § 16-90-1406;
(2) Manslaughter, § 5-10-104;
(3) An unclassified felony if the maximum sentence of imprisonment for the unclassified felony is more than ten (10) years;
(4) A felony sex offense; or
(5) A felony involving violence under § 5-4-501(d)(2).
(b)(1) A felony traffic offense committed in any type of motor vehicle if the person was a holder of a commercial learner's permit or commercial driver license at the time the felony offense was committed is not eligible for sealing under this subchapter.
(2) As used in this subsection, "traffic offense" does not include a parking violation, vehicle weight violation, or vehicle defect violation.

ACA 16-90-1417- Effect of Sealing

(2) This subchapter does not prevent the use of the record of a prior conviction otherwise sealed under this subchapter for the following purposes:
(A) A criminal proceeding for any purpose not otherwise prohibited by law;
(B) Determination of offender status under the former § 5-64-413;
(C) Habitual offender status, § 5-4-501 et seq.;
(D) Impeachment upon cross-examination as dictated by the Arkansas Rules of Evidence;
(E) Healthcare professional licensure by a state agency or board;
(F) Any disclosure mandated by Rule 17, 18, or 19 of the Arkansas Rules of Criminal Procedure; or
(G) Determination of certification, eligibility for certification, or of the ability to act as a law enforcement officer, by the Arkansas Commission on Law Enforcement Standards and Training.

ACA 16-90-1502. Compilation of pending misdemeanor offenses

(a) A person who is incarcerated in the Department of Corrections may request of the department and shall be provided by the department a complete compilation of all outstanding arrest warrants, criminal summons, and pending misdemeanor cases for that person.
(b) The department shall provide information under subsection (a) of this section from information made available to the Arkansas Crime Information Center and the Administrative Office of the Courts.

ACA 16-90-1503. Option to resolve pending misdemeanor matters

(a) As used in this section, "assistance" means the Department of Corrections shall make available means of communication between a person, the prosecuting attorney, the court, local law enforcement agencies, and the person's attorney, if applicable, to help facilitate the entry of pleas remotely from the department, addressing outstanding misdemeanor arrest warrants, and, when required by the court, attendance at the court for the purposes of entry of pleas, hearings, or trials.
(b)(1) A person incarcerated in the department, with the assistance of the department, may petition a court for a quick resolution of a misdemeanor offense pending in the court.
(2) The person may also request to be served with any outstanding misdemeanor arrest warrant in order to begin the process of resolving the misdemeanor arrest warrant.
(3) Upon request to the court with jurisdiction over the outstanding misdemeanor offense, the court may require the misdemeanor arrest warrant to be served by the staff of the department.
(c) Local law enforcement agencies with jurisdiction over the outstanding misdemeanor offense shall also help facilitate transportation of the person to and from the department to the court when the court requires it for trial.

ACA 16-90-1504. Remote pleading permitted

(a) Subject to the rules of the judiciary and the local rules of the court, a person who has opted to resolve pending misdemeanor matters under this subchapter may still be permitted to enter remotely a plea of guilty or nolo contendere to any outstanding or pending misdemeanor charges from where he or she is incarcerated.
(b) A remote plea may be given only through a real-time medium with both an audio and visual feed.

ACA 16-90-1505. Negotiated pleas to run concurrent.

(a) A negotiated plea entered into between the state and a person may be imposed using the procedures under § 5-4-403.
(b)(1) The court is also encouraged to refrain from fining a person and instead sentence the person to a period of incarceration only.
(2) This subchapter does not limit a court's ability to impose a financial obligation against any person who has been convicted of an offense.

ACA 16-93-303. Probation—First time offenders

(a)(1)(A)(i) When an accused enters a plea of guilty or nolo contendere prior to an adjudication of guilt, the circuit court or district court, in the case of a defendant who previously has not been convicted of a felony, without making a finding of guilt or entering a judgment of guilt and with the consent of the defendant, may defer further proceedings and place the defendant on probation for a period of not less than one (1) year, under such terms and conditions as may be set by the circuit court or district court.
(ii) A sentence of a fine not exceeding three thousand five hundred dollars ($3,500) or an assessment of court costs against a defendant does not negate the benefits provided by this section or cause the probation placed on the defendant under this section to constitute a conviction except under subsections (c)-(e) of this section.

(B) However, a person who is found guilty of or pleads guilty or nolo contendere to one (1) or more of the following offenses is not eligible for sealing of the record under this subchapter:
(i) An offense that requires the person to register as a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901 et seq.;
(ii) Public sexual indecency, § 5-14-111;
(iii) Indecent exposure, § 5-14-112;
(iv) Bestiality, § 5-14-122;
(v) Exposing another person to the human immunodeficiency virus, § 5-14-123; or
(vi) A serious felony involving violence or a felony involving violence as provided in § 5-4-501.

ACA 5-4-706. Local cybercrime fee.

(b) In addition to any other fee authorized or required by law, a circuit court shall assess an additional fee of up to five hundred dollars ($500) for each applicable felony conviction for an offense that the trier of fact finds:
(1) Involved the use of a computer, an electronic device, or the internet; and
(2) The investigation of which expended specialized law enforcement personnel or materials designed to investigate offenses involving a computer, an electronic device, or the internet.
(c)(1)(A) A fee provided for under subsection (b) of this section and collected in a circuit court shall be remitted by the tenth day of each month to a special cybercrime fee law enforcement fund to be administered by the prosecuting attorney.
(B) The special cybercrime fee law enforcement fund shall consist of moneys obtained under this section or as otherwise provided for by law.

ACA 18-12-108 Scrivners Affidavits

(a) As used in this section, "scrivener's affidavit" means a sworn and acknowledged affidavit relating to:
(1) The identification, marital status, heirship, relation, death, or the time of death of a person who is a party to an instrument affecting the title to real property;
(2) The identification of a corporation or other legal entity that is a party to an instrument affecting the title to real property; or
(3) The legal description to real property.
(b) A scrivener's affidavit may be executed and recorded by a:
(1) Licensed attorney who prepared the original instrument;
(2) Licensed attorney who represents a party to the original instrument;
(3) Party to the original instrument if the party prepared the original instrument; or
(4) Current employee of a title company that completed the form of the original instrument.
(c) A scrivener's affidavit shall:
(1) Be sworn to and acknowledged before a person authorized to administer an oath under the laws of this state;
(2) Conspicuously identify in its title that it is a "Scrivener's Affidavit"; and
(3) Contain the following information concerning the original instrument:
(A) The name of the person or entity that completed or prepared the original instrument;
(B) The names of all parties to the original instrument;
(C) The recording information, including the recording date of the original instrument; and
(D) A brief description of each error that the scrivener's affidavit is designed to correct.
(d) A scrivener's affidavit may be prepared in substantially the following form:
"SCRIVENER'S ERROR AFFIDAVIT

(e) A scrivener's affidavit that complies with this section in substantially the form provided by subsection (d) of this section or in a custom form shall be:
(1) Recorded by the county recorder in the land records of the county where the real property is located;
(2) Indexed by the county recorder in the general index under the names of the original parties to the instrument as they are identified in the scrivener's affidavit; and
(3) Admissible as evidence to the same extent as a deed or other instrument recorded pursuant to § 18-12-201 et seq. in an action involving the instrument to which it relates or the title to the real property affected by the instrument.
(f)
(1) Except as provided in subdivisions (f)(2) and (3) of this section, notice of the corrective information provided by the scrivener's affidavit is effective at the time the scrivener's affidavit is recorded.
(2) If an error contained in a scrivener's affidavit is of an obvious nature, notice of the corrective information provided by the scrivener's affidavit is effective at the time the original instrument being corrected was recorded.
(3) Subdivision (f)(2) of this section does not apply to a bona fide purchaser for value of real property.

ACA 18-12-501. Acknowledgement and recording.

(a) A power of attorney, containing a power to convey real estate as agent or attorney for the owner of the real estate or to execute as agent or attorney for another person a deed or instrument in writing that conveys real estate, or whereby real estate is affected in law or equity, shall be acknowledged or proved and certified and recorded with a deed that the agent or attorney shall make as a result of the power of attorney.
(b) A power of attorney shall be proved or acknowledged before the same courts or officers that are authorized by this act to take probate of deeds conveying real estate.

5-4-207. Installment payments–Request for temporary acceptance.

(a)(1) If a defendant is paying a fine or costs as the result of a felony conviction in installments as authorized under § 5-4-202(b), the defendant may contact the entity with the responsibility to collect the fines or costs and request that the entity permit a lower installment payment based upon a demonstration of hardship.

(2)(A) Lower installment payments may be accepted by the entity with the responsibility to collect the fines or costs under subdivision (a)(1) of this section for no more than three (3) consecutive months.
(B) A request for and acceptance of lower installment payments in excess of or more than three (3) months shall be made by order of the circuit court.
(b)(1) A defendant shall not request permission under subsection (a) of this section if the defendant's failure to pay is attributable to the defendant's:
(A) Purposeful refusal to obey the sentence of the court; or
(B) Refusal or failure to make a good-faith effort to obtain the funds required for payment.
(2)(A) If a defendant becomes delinquent in his or her installment payments and a warrant is issued for the defendant's arrest, the bond amount set by the court shall not exceed ten percent (10%) of the amount of the defendant's arrearage.
(B) However, a defendant is not delinquent during a period in which he or she:
(i) Has had his or her installment payment amount lowered as provided under subsection (a) of this section; and
(ii) Is making installment payments in accordance with the lower payments as temporarily authorized under subsection (a) of this section.
(c)(1) An inmate in the Department of Corrections upon request is permitted to file in the circuit court in which the inmate has outstanding fines, court costs, fees, or restitution obligations notice to the circuit court of his or her incarceration and to seek temporary abatement or the imposition of reduced installment payments during the period of his or her incarceration.
(2) An inmate in the department upon request may be allowed to make arrangements during the time period six (6) months or less before his or her release from custody to file in the circuit court in which the inmate has outstanding fines, court costs, fees, or restitution obligations notice to the circuit court of his or her impending release from incarceration and to seek temporary abatement or the imposition of reduced installment payments during the six-month period immediately following the scheduled release from incarceration.
(d)(1) If the circuit court determines that a hearing is necessary, a hearing under this subsection may be conducted.
(2) The preferred method to conduct the hearing is by telephone, video conference, or other electronic means.

NOTARY PUBLIC

21-14-101. Appointment and commission.

(a)(1) The Secretary of State may appoint and commission an individual person as a notary public in this state.
(2) A notary public may perform notarial acts in any part of the state for a term of ten (10) years, beginning on the date of commission or the date of renewal of a commission issued by the Secretary of State.
(b) Every applicant for appointment and commission as a notary public shall complete an application to be filed with the Secretary of State stating:
(1) That he or she is:
(A) One (1) of the following:
(i) A bona fide citizen of the United States;
(ii) A permanent resident alien who shall file with his or her application a recorded Declaration of Domicile;
(iii) A legal resident of Arkansas;
(iv) A legal resident of an adjoining state and employed or operating a business in the State of Arkansas; or
(v)(a) A nonresident spouse of a United States military service member employed or operating a business in Arkansas.
(b) One (1) copy of a United States Department of Defense DD Form 1173 or a United States Department of Defense DD Form 1173-1, otherwise known as a “Uniformed Services Identification and Privilege Card”, shall be included with his or her application under this subsection;
(B) Eighteen (18) years of age or older; and
(C) Able to read and write English;
(2) The address of his or her place of employment, business, or residence in this state;
(3) That during the past ten (10) years, his or her commission as a notary public has not been revoked; and
(4) That he or she has not been convicted of a felony.
(c) The application shall be sent to the Secretary of State with a fee of twenty dollars ($20.00) for the notary public commission.
(d) The Secretary of State may require the applicant to demonstrate that he or she has reviewed the law concerning notaries public and understands the duties of a notary public.
(e) Every notary public shall file in the office of the recorder of deeds for the county where the notary public resides or in the case of a legal resident of an adjoining state or nonresident spouse of a United States military service member, in the county in Arkansas of his or her place of employment or business, either:
(1) A surety bond executed by a surety insurer authorized to do business in Arkansas to the state for the faithful discharge of the notary public's duties in the sum of seven thousand five hundred dollars ($7,500), to be approved by the Secretary of State; or
(2) A surety contract guaranteeing the notary public's faithful discharge of his or her duties executed to the State of Arkansas for not more than an aggregate seven thousand five hundred dollars ($7,500), issued by a general business corporation validly organized and formed under the laws of this state pertaining to domestic corporations and which:
(A) Has previously registered with the Insurance Commissioner on forms prescribed by the commissioner evidencing the corporation's purpose to issue only surety contracts for notaries public pursuant to the provisions of this section;
(B) Has previously deposited and thereafter maintains with the commissioner securities in the sum of not less than ten thousand dollars ($10,000) executed to the State of Arkansas that are issued by a nonaffiliated corporate entity and are approved by the commissioner; and
(C) Is not otherwise transacting any insurance business in this state that requires compliance with the provisions of the Arkansas Insurance Code.
(f)(1) The obligation of an issuer of a bond required by subsection (e) of this section:

(A) Shall be solely to the State of Arkansas; and
(B) Is solely for the benefit of the State of Arkansas.
(2) Under no circumstances shall the aggregate liability of the issuer exceed the amount of the bond.
(3) An employer shall not cancel a surety bond of a current or former employee even if the employer paid for the surety bond on behalf of the employee.
(g)(1) Every notary public shall sign the following declaration in the presence of the circuit clerk for the county where the notary public resides or if a legal resident of an adjoining state or a nonresident spouse of a United States military service member, the circuit clerk for the county in Arkansas of his or her place of employment or business:
"I, (name of notary), solemnly swear or affirm that I have carefully read the notary laws of this state, and I will uphold the Constitutions of the United States and the State of Arkansas and will faithfully perform to the best of my ability all notarial acts in accordance with the law. (Signature of notary)
Subscribed and sworn to before me (name of circuit clerk), Circuit Clerk for the County of (name of county), State of Arkansas, on this _____ day of _____, (year). (Signature of circuit clerk)".
(2) The notary public shall send an executed and signed original of the declaration to the Secretary of State.
(h) The Secretary of State shall issue a commission number to each new notary public and to each notary public who renews his or her commission.

21-14-102. Change of residence.

(a)(1) Upon receiving notification of a change of residency, the Secretary of State shall transfer a notary public's appointment and commission to the new county of residence in instances in which a person appointed and commissioned a notary public under § 21-14-101 changes residence to a county within this state other than the county where the notary public resided on the date of commission.
(2) Upon receiving notification of a change in place of employment, the Secretary of State shall transfer a notary public's appointment and commission to the new county of employment in the case of a legal resident of an adjoining state or a nonresident spouse of a United States military service member changing his or her place of employment to a county within this state other than the county where the notary public was employed on the date of commission.
(b) The original bond or certified copy of the original bond from the original county of residence shall also be filed by the notary public in the new county of residence or if the notary public is a legal resident of an adjoining state or a nonresident spouse of a United States military service member, in the new county of employment in Arkansas.

ACA 21-14-304. Registration and application.

(a)(1) The Secretary of State shall require a notary public to register the capability to notarize electronically or online before performing an electronic notarial act.
(2) A person who seeks to become an electronic notary public or an online notary public shall submit to the Secretary of State:
(A) An application stating the intent to become an electronic notary public or an online notary public on a form provided by the Secretary of State;
(B) An attestation that he or she has not been convicted of a felony; and
(C) A filing fee of twenty dollars ($20.00).
(b) An applicant shall:
(1) Successfully complete an approved training course provided by the Secretary of State; and
(2)(A) Pass an examination approved by the Secretary of State.
(B) An applicant may attend the examination up to two (2) times in a twelve-month period.
(C) If the applicant does not pass the examination during the time period in subdivision (b)(2)(B) of this section, he or she shall repeat the application process under this section.
(c) The Secretary of State shall promulgate rules to enforce the requirements under subdivision (a)(1) of this section.

21-14-307. Physical proximity of signers of electronic documents required

(a) An electronic notary public shall not perform an electronic notarial act if the document signer does not appear in person before the electronic notary public at the time of the electronic notarial act.
(b)(1) The methods for identifying a document signer for an electronic notarial act shall be the same as the methods required for a paper-based notarization under this chapter.
(2) The electronic notary public shall not under any circumstances base identification merely upon familiarity with the electronic signature of the signer or an electronic verification process that authenticates the electronic signature of the signer when the signer is not in the physical presence of the electronic notary public.
(c) This section does not apply to online notarial acts as described in § 21-14-309.

21-14-309. Online notarization process

(a) An electronic notary public may perform an online notarial act through a solution provider by means of communication technology under this subchapter if:
(1) The online notary public is physically located within this state but regardless of whether or not the principal is a remotely located individual at the time of the online notarial act;
(2) The online notary public:
(A) Is able to verify the principal's identity according to subsection (c) of this section;
(B) Is able to reasonably confirm that a record before the notary public is the same record on which the principal made a statement or on which the principal executed a signature; and
(C) Creates an audio-visual recording of the performance of the online notarial act or designates an individual to do this on behalf of the online notary public;

(3) For a remotely located individual located outside the United States, an online notary public confirms that the record:
(A) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or
(B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and
(4) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.
(b)(1) In performing an online notarial act, a notary public shall verify the identity of a person creating an electronic signature at the time that the electronic signature is taken by using communication technology that meets the requirements of this subchapter.
(2) Identity may be verified by:
(A) A notary public's personal knowledge of the person creating the electronic signature;
(B) Satisfactory evidence of the identity of the principal from a credible witness; or
(C) Each of the following:
(i) Remote presentation by the person creating the electronic signature of a government-issued identification credential, including without limitation a passport or a state-issued driver's license, that contains the signature and a photograph of the person;
(ii) Credential analysis; and
(iii) Identity proofing.
(c) A notary public shall take reasonable steps to ensure that the communication technology used in an online notarial act is secure from unauthorized interception.
(d) The electronic notarial certificate for an online notarial act shall include a notation that the notarization is an online notarization.

21-14-310. Electronic record of online notarial acts

(a)(1) An electronic notary public performing an online notarial act shall keep a secure electronic record of electronic documents notarized.
(2) The electronic record shall contain for each online notarial act:
(A) The date and time of the online notarial act;
(B) The type of online notarial act;
(C) The type, the title, or a description of the electronic document or proceeding;
(D) The printed name and address of each principal involved in the transaction or proceeding;
(E) Evidence of identity of each principal involved in the transaction or proceeding in the form of:
(i) A statement that the person is personally known to the online notary public;
(ii) A notation of the type of identification document provided to the online notary public;
(iii) A record of the identity verification made under § 21-14-309, if applicable; or
(iv) The following:
(a) The printed name and address of each credible witness swearing to or affirming the person's identity; and
(b) For each credible witness not personally known to the online notary public, a description of the type of identification documents provided to the online notary public;
(F) A recording of any video and audio conference that is the basis for satisfactory evidence of identity and a notation of the type of identification presented as evidence;
(G) An audio and video copy of the performance of the notarial act; and
(H) The fee, if any, charged for the notarization.
(b) A notary public shall take reasonable steps to:
(1) Ensure the integrity, security, and authenticity of online notarial acts;
(2) Maintain a backup for the electronic record required by subsection (a) of this section; and
(3) Protect the backup record from unauthorized use.
(c) The electronic record required by subsection (a) of this section shall be maintained for at least five (5) years after the date of the transaction or proceeding.

21-14-311. Termination of electronic notary public's commission

(a)(1) Except as provided by subsection (b) of this section, an electronic notary public whose commission terminates shall destroy the coding, disk, certificate, card, software, or password that enables electronic affixation of the electronic notary public's official electronic signature or seal.
(2) An electronic notary public shall certify his or her compliance with subdivision (a)(1) of this section to the Secretary of State.
(b) A former electronic notary public whose commission terminated for a reason other than revocation or a denial of renewal is not required to destroy the items described in subsection (a) of this section if the former online notary public is recommissioned as an electronic notary public with the same electronic signature and seal within three (3) months after the former electronic notary public's former commission terminated.

21-14-312. Wrongful possession, concealment, or destruction of software or hardware–Criminal offense.

(a) A person who, without authorization, knowingly obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, or hardware enabling an online notary public to affix an official electronic signature or seal commits an offense.
(b) An offense under this section is a Class D felony.

21-14-313. Recording of electronic record.

(a) If a law requires as a condition for recording that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by use of a paper copy of an electronic document that complies with this subchapter.
(b) If a law requires, as a condition for recording, that a document be signed, then the requirement is satisfied by an electronic signature.
(c)(1) A requirement that a document or a signature associated with a document be notarized, acknowledged,

verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature.
(2) A physical or electronic image of a stamp, impression, or seal is not required to accompany an electronic signature if the online notary public has attached a notarial certificate that meets the requirements of this chapter.

16-13-708. Revocation of registration or license

(a)(1) A court may request in writing and under certification that the Department of Finance and Administration revoke, suspend, or refuse to renew the motor vehicle registration or driver's license of a person who has failed to make satisfactory arrangements for the payment of a court-ordered fine.
(2) However, the court shall not make a request to the department as described under subdivision (a)(1) of this section before the court has scheduled a hearing to address the person's nonpayment of the court-ordered fine and the person has failed to appear at the hearing.
(3) The court may issue an order for a restricted driving permit in accordance with § 27-16-916.
(b) For driver's license revocation, suspension, or nonrenewal, the court must provide the department with the reason for the revocation, suspension, or nonrenewal, the amount the person owes the court, and the person's full name, date of birth, and last known address.
(c) For motor vehicle registration revocation, suspension, or nonrenewal, the court must provide the department with the reason for the revocation, suspension, or nonrenewal, the amount the person owes the court, and the person's full name and the license plate number or vehicle identification number of the person's vehicle.
(d)(1) An acquittal or a dismissal of a charge of failure to pay a fine or failure to appear at a hearing to address nonpayment of a fine that is used as the basis to revoke, suspend, or refuse to renew the person's driver's license or motor vehicle registration shall reverse the revocation of, suspension of, or refusal to renew the person's driver's license or motor vehicle registration under this section.
(2) Upon an acquittal or dismissal of a charge as described in subdivision (d)(1) of this section, the Office of Driver Services shall reinstate the person's driver's license or motor vehicle registration without charging a reinstatement fee, and the charge shall not be used to determine the number of previous offenses when administratively revoking, suspending, or refusing to renew the person's driver's license in the future.

16-17-131. Failure to appear–Required appearance–Suspension of driver's license

(a) A person required to appear before a district court in this state, having been served with any form of notice to appear for any criminal offense, traffic violation, or misdemeanor charge, shall appear at the time and place designated in the notice.
(b)(1) If a person has failed to appear in district court, the district court may suspend the person's driver's license if the district court:
(A) Orders the suspension to begin thirty (30) days after the date of the order if the person fails to make arrangements to appear; and
(B) Transmits a copy of the order electronically, by fax, or by letter to the Office of Driver Services.
(2) The Department of Finance and Administration shall notify the person by first class mail sent to the person's last known address that he or she risks having his or her driver's license suspended if the person does not make arrangements with the district court to appear within thirty (30) days of the date of the order suspending the driver's license.
(3)(A) If the person makes sufficient arrangements within thirty (30) days to appear, the district court shall issue a new order stating that the person's driver's license is not suspended as directed under subdivision (b)(1) of this section.
(B) The district court shall transmit a copy of the order rescinding the suspension of the person's driver's license to the department electronically, by fax, or by letter.
(C) Upon receipt of the order, the department shall immediately reinstate the person's driver's license and shall not require a reinstatement fee.
(c)(1)(A) If the person makes arrangements with the district court within thirty (30) days of the date of the notice and appears at the arranged time and location, the district court shall not suspend the person's driver's license.
(B) However, if the person fails to make arrangements to appear within thirty (30) days, the driver's license may be suspended until the person appears and completes the sentence ordered by the district court.
(2) To suspend a driver's license, the district court must provide the department with the reason for the suspension and the person's full name, date of birth, and last known address.
(3) The district court may issue an order for a restricted driving permit in accordance with § 27-16-916.
(d) After the person satisfies all requirements of the sentence, the department shall assess the current fees for reinstatement of a driver's license.
(e)(1) An acquittal or a dismissal of a charge of failure to appear that is used as the basis to suspend the person's driver's license shall reverse the suspension of the person's driver's license under this section.
(2) Upon an acquittal or dismissal of a charge as described in subdivision (e)(1) of this section, the office shall reinstate the person's driver's license without charging a reinstatement fee, and the charge shall not be used to determine the number of previous offenses when administratively suspending the person's driver's license in the future.

27-16-916. Other driver's license suspensions–Restricted driving permits.

(a) Unless the person is eligible for a restricted driver's license as provided under this title, a district court may authorize a restricted driving permit upon the suspension of

a person's driver's license under § 16-13-708 or § 16-17-131 and may permit a person whose driving privileges are suspended to drive to and from the following:
(1) A mandatory court appearance;
(2) A program or place where a court has ordered the person's presence or attendance;
(3) A place of employment or as required in the scope of employment;
(4) A scheduled session or meeting of a support or counseling organization;
(5) An educational institution for the purpose of attending a class if the person is enrolled in a course of study or program of training at the educational institution;
(6) The educational institution or childcare facility of the person's child or children;
(7) A treatment program for persons who have addiction or abuse problems related to a substance or controlled substances;
(8) A doctor, hospital, or clinic appointment or admission for medical treatment or care for an illness, disease, or other medical condition of the person or a family member;
(9) A location for the enrollment, compliance, and participation in a specialty court program if the person is accepted into a specialty court program; and
(10) Any other location the court finds reasonable and necessary.
(b)(1) A district court issuing a restricted driving permit under this section shall prepare and transmit to the Department of Finance and Administration an order for a restricted driving permit within three (3) business days after the entry of the order.
(2) The department shall transmit to the Arkansas Crime Information Center an order for a restricted driving permit within three (3) business days after receipt of the order from the district court.

Chapter Six – COURT RULES

RULES OF APPELLATE PROCEDURE – CIVIL

RULE 1. SCOPE OF RULES.

These rules shall govern the procedure in civil appeals to the Arkansas Supreme Court or Court of Appeals. Whenever the words Supreme Court appear in these rules, the words Court of Appeals shall be substituted in applying the rules in a case in which jurisdiction of the appeal is in the Court of Appeals under Rule 1-2 of the Rules of the Supreme Court and Court of Appeals.

RULE 2. APPEALABLE MATTERS; PRIORITY.

(a) An appeal may be taken from a circuit court to the Arkansas Supreme Court from:

(1) A final judgment or decree entered by the circuit court;

(2) An order which in effect determines the action and prevents a judgment from which an appeal might be taken, or discontinues the action;

(3) An order which grants or refuses a new trial;

(4) An order which strikes out an answer, or any part of an answer, or any pleading in an action;

(5) An order which vacates or sustains an attachment or garnishment;

(6) An interlocutory order by which an injunction is granted, continued, modified, refused, or dissolved, or by which an application to dissolve or modify an injunction is refused;

(7) An interlocutory order appointing a receiver, or refusing to wind up a pending receivership or to take the appropriate steps to accomplish the purposes thereof, such as directing a sale or other disposal of property held thereunder;

(8) An order which disqualifies an attorney from further participation in the case;

(9) An order granting or denying a motion to certify a case as a class action in accordance with Rule 23 of the Arkansas Rules of Civil Procedure;

(10) An order denying a motion to dismiss or for summary judgment based on the defense of sovereign immunity or the immunity of a government official;

(11) An order or other form of decision which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties in a case involving multiple claims, multiple parties, or both, if the circuit court has directed entry of a final judgment as to one or more but fewer than all of the claims or parties and has made an express determination, supported by specific factual findings, that there is no just reason for delay, and has executed the certificate required by Rule 54(b) of the Rules of Civil Procedure;

(12) An order appealable pursuant to any statute in effect on July 1, 1979, including Ark. Code Ann. § 16-108-228 (formerly § 16-108-219) (an order denying a motion to compel arbitration or granting a motion to stay arbitration, as well as certain other orders regarding arbitration) and 28-1-116 (all orders in probate cases, except an order removing a fiduciary for failure to give a new bond or render an accounting required by the court or an order appointing a special administrator); and

(13) A civil or criminal contempt order, which imposes a sanction and constitutes the final disposition of the contempt matter.

(b) An appeal from any final order also brings up for review any intermediate order involving the merits and necessarily affecting the judgment. An appeal from an order disposing of a postjudgment motion under Rule 4 brings up for review the judgment and any intermediate order involving the merits and necessarily affecting the judgment, as well as the order appealed from.

(c) Except as provided in Rule 6-9 of the Rules of the Supreme Court and Court of Appeals, appeals in juvenile cases shall be made in the same time and manner provided for appeals from circuit court.

(1) In delinquency cases, the state may appeal only under those circumstances that would permit the state to appeal in criminal proceedings.

(2) Pending an appeal from any case involving a juvenile out-of-home placement, the circuit court retains jurisdiction to conduct further hearings.

(3) In juvenile cases where an out-of-home placement has been ordered, orders resulting from the hearings set below are final appealable orders:

(A) adjudication and disposition hearings;

(B) review and permanency planning hearings if the court directs entry of a final judgment as to one or more of the issues or parties and upon express determination supported by factual findings that there is no just reason for delay of an appeal, in accordance with Ark. R. Civ. P. Rule 54(b); and

(C) termination of parental rights.

(d) All final orders awarding custody are final appealable orders.

(e) Appeals in criminal cases have priority over all other business. With respect to civil cases, appeals under subdivisions (a)(6), (a)(7), (a)(9), (c)(3), and (d) of this rule take precedence.

(f)(1) The Supreme Court may, in its discretion, permit an appeal from an order pursuant to Rule of Civil Procedure 37 compelling production of discovery or an order denying a motion to quash production of materials pursuant to Rule 45 when the defense to production is any privilege recognized by Arkansas law or the opinion-work-product protection. A petition for permission to appeal must be filed with the Supreme Court within 14 calendar days after the order is entered. The circuit court's order shall be supported by factual findings and shall address the factors (a-f) listed below. The decision of the Supreme Court to grant permission to appeal will be guided by:

(a) the need to prevent irreparable injury;

(b) the likelihood that the petitioner's claim of privilege or protection will be sustained;

(c) the likelihood that an immediate appeal will delay a scheduled trial date;

(d) the diligence of the parties in seeking or resisting an order compelling the discovery in the circuit court;

(e) the circuit court's written statement of reasons supporting or opposing immediate review; and

(f) any conflict with precedent or other controlling authority as to which there is substantial ground for difference of opinion.

(2) The petition must address the factors listed in subdivision (f)(1) and shall be limited to 10 pages exclusive of supporting materials. Petitioner shall attach in an addendum sufficient supporting documentation from the circuit court record for the Supreme Court to understand the dispute and the issues that would be presented in the permissive appeal. A party may file a response within 10 calendar days after the petition is served. Any response shall also be limited to 10 pages exclusive of any supplementary addendum. Replies and petitions for rehearings shall not be allowed.

(3) Neither the petition nor the grant of permission for an appeal shall delay any scheduled trial or lower-court proceeding unless the circuit court or the Supreme Court orders. If the Supreme Court grants the petition, the petitioner must file a notice of appeal with the circuit clerk within 10 calendar days of the Supreme Court's order and file the record on appeal within 30 calendar days from the entry of the order allowing the appeal.

RULE 3. APPEAL — HOW TAKEN.

(a) Mode of obtaining review. The mode of bringing a judgment or order to the Supreme Court or Court of Appeals for review shall be by appeal. An appeal from any final order also brings up for review any intermediate order involving the merits and necessarily affecting the judgment. An appeal from an order disposing of a postjudgment motion under Rule 4 brings up for review the judgment and any intermediate order involving the merits and necessarily affecting the judgment, as well as the order appealed from.

(b) How taken. An appeal shall be taken by filing a notice of appeal with the clerk of the circuit court that entered the judgment, decree, or order from which the appeal is taken. In counties where the county clerk serves as the ex officio clerk of any division of the circuit court, the filing requirement shall be satisfied when the notice of appeal is filed with either the circuit clerk or the county clerk. Failure of the appellant or cross-appellant to take any further steps to secure review of the judgment or decree appealed from shall not affect the validity of the appeal or cross-appeal, but shall be ground only for such action as the appellate court deems appropriate, which may include dismissal of the appeal or cross-appeal. If, however, the record on appeal has not been filed pursuant to Rule 5 of these rules, the circuit court in which the notice of appeal was filed may dismiss the appeal or cross-appeal upon petition of all parties to the appeal or cross-appeal accompanied by a joint stipulation that the appeal or cross-appeal is to be dismissed.

(c) Joint or consolidated appeals. If two or more persons are entitled to appeal and their interests are such as to make joinder practicable, they may file a joint notice of appeal or may join in the appeal after filing separate, timely notices of appeal and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the Supreme Court upon its own motion or upon motion of a party.

(d) Cross-appeals. A cross-appeal may be taken by filing a notice of cross-appeal with the clerk of the circuit court that entered the judgment, decree or order being appealed.

(e) Content of notice of appeal or cross-appeal. A notice of appeal or cross-appeal shall:

(i) specify the party or parties taking the appeal;

(ii) designate the judgment, decree, order or part thereof appealed from;

(iii) designate the contents of the record on appeal;

(iv) state that the appellant has ordered the transcript, or specific portions thereof, if oral testimony or proceedings are designated, and has made any financial arrangements required by the court reporter pursuant to Ark. Code Ann. § 16-13-510 (c);

(v) state whether the appeal is to the Court of Appeals or to the Supreme Court; and if to the Supreme Court, the appellant shall designate the applicable subdivision of Arkansas Supreme Court and Court of Appeals Rule 1-2(a), which gives the Supreme Court jurisdiction. This declaration shall be for the purpose of placing the case with one court or the other for preliminary administration. It shall not preclude the appellant from filing his or her brief pursuant to Arkansas Supreme Court and Court of Appeals Rules 4-3 and 4-4 in the alternative court if that is later determined by the appellant to be appropriate; and

(vi) state that the appealing party abandons any pending but unresolved claim. This abandonment shall operate as a dismissal with prejudice effective on the date that the otherwise final order or judgment appealed from was entered. An appealing party shall not be obligated to make this statement if the party is appealing an interlocutory order under Arkansas Rule of Appellate Procedure–Civil 2(a)(2)–(a)(13), Arkansas Rule of Appellate Procedure–Civil 2(c), or Arkansas Supreme Court and Court of Appeals Rule 6-9(a), or is appealing a partial judgment certified as final pursuant to Arkansas Rule of Civil Procedure 54(b).

(f) Service of notice of appeal or cross-appeal. A copy of the notice of appeal or cross-appeal shall be served by counsel for appellant or cross-appellant upon counsel for all other parties by any form of mail which requires a signed receipt. If a party is not represented by counsel, notice shall be mailed to such party at his last known address. Failure to serve notice shall not affect the validity of the appeal.

(g) Abbreviated record; statement of points. If the appellant does not designate for inclusion the complete record and all the proceedings and evidence in the action, he shall serve with his notice of appeal and designation a concise statement of the points on which he intends to rely on the appeal.

RULE 4. APPEAL — WHEN TAKEN.

(a) Time for filing notice of appeal. Except as otherwise provided in subdivisions (b) and (c) of this rule, a notice of appeal shall be filed within thirty (30) days from

the entry of the judgment, decree or order appealed from. A notice of cross-appeal shall be filed within ten (10) days after receipt of the notice of appeal, except that in no event shall a cross-appellant have less than thirty (30) days from the entry of the judgment, decree or order within which to file a notice of cross-appeal. A notice of appeal filed after the circuit court announces a decision but before the entry of the judgment, decree, or order shall be treated as filed on the day after the judgment, decree, or order is entered.

(b) Extension of time for filing notice of appeal.

(1) Upon timely filing in the circuit court of a motion for judgment notwithstanding the verdict under Rule 50(b) of the Arkansas Rules of Civil Procedure, a motion to amend the court's findings of fact or to make additional findings under Rule 52(b), a motion for a new trial under Rule 59(a), or any other motion to vacate, alter, or amend the judgment made no later than 10 days after entry of judgment, the time for filing a notice of appeal shall be extended for all parties. The notice of appeal shall be filed within thirty (30) days from entry of the order disposing of the last motion outstanding. However, if the circuit court neither grants nor denies the motion within thirty (30) days of its filing, the motion shall be deemed denied by operation of law as of the thirtieth day, and the notice of appeal shall be filed within thirty (30) days from that date.

(2) A notice of appeal filed before disposition of any of the motions listed in paragraph (1) of this subdivision shall be treated as filed on the day after the entry of an order disposing of the last motion outstanding or the day after the motion is deemed denied by operation of law. Such a notice is effective to appeal the underlying judgment, decree, or order. A party who also seeks to appeal from the grant or denial of the motion shall within thirty (30) days amend the previously filed notice, complying with Rule 3(e). No additional fees will be required for filing an amended notice of appeal.

(3) Upon a showing of failure to receive notice of the judgment, decree or order from which appeal is sought, a showing of diligence by counsel, and a determination that no party would be prejudiced, the circuit court shall, upon motion filed within 180 days of entry of the judgment, decree, or order, extend the time for filing the notice of appeal for a period of fourteen (14) days from the day of entry of the extension order. Notice of any such motion shall be given to all other parties in accordance with Rule 5 of the Arkansas Rules of Civil Procedure. Expiration of the 180-day period specified in this paragraph does not limit the circuit court's power to act pursuant to Rule 60 of Arkansas Rules of Civil Procedure.

(c) Exception for election cases. If a statute of this State pertaining to elections prescribes a time period for taking an appeal, the period so prescribed shall apply in any case subject to the statute.

(d) When judgment is entered. A judgment or order is entered within the meaning of this rule when it is filed in accordance with Administrative Order No. 2(b).

RULE 5. RECORD — TIME FOR FILING.

(a) When filed. The record on appeal shall be filed with the clerk of the Arkansas Supreme Court and docketed therein within 90 days from the filing of the first notice of appeal, unless the time is extended by order of the circuit court as hereinafter provided. When, however, an appeal is taken from an interlocutory order under Rule 2(a)(6) or (7), the record must be filed with the clerk of the Supreme Court within thirty (30) days from the filing of the first notice of appeal.

(b) Extension of time. (1) If any party has designated stenographically reported material for inclusion in the record on appeal, the circuit court, by order entered before expiration of the period prescribed by subdivision (a) of this rule or a prior extension order, may extend the time for filing the record only if it makes the following findings:

(A) The appellant has filed a motion explaining the reasons for the requested extension and served the motion on all counsel of record;

(B) The time to file the record on appeal has not yet expired;

(C) All parties have had the opportunity to be heard on the motion, either at a hearing or by responding in writing;

(D) The appellant, in compliance with Rule 6(b), has timely ordered the stenographically reported material from the court reporter and made any financial arrangements required for its preparation; and

(E) An extension of time is necessary for the court reporter to include the stenographically reported material in the record on appeal or for the circuit clerk to compile the record.

(2) In no event shall the time be extended more than seven (7) months from the date of the filing of the first notice of appeal.

(3) If the appellant has obtained the maximum seven-month extension available from the circuit court, or demonstrates (by affidavit or otherwise) an inability to obtain entry of an order of extension, then before expiration of the period prescribed by subdivision (a) of this rule or a prior extension order, the appellant may file with the clerk of the Supreme Court a petition for writ of certiorari pursuant to Rule 3-5 of the Rules of the Supreme Court and Court of Appeals.

(c) Partial record. Prior to the time the complete record on appeal is filed with the clerk of the Arkansas Supreme Court as provided in this rule, any party may docket the appeal to make a motion for dismissal or for any other intermediate order by filing a partial record with the clerk. At the request of the moving party, the clerk of the circuit court that entered the judgment, decree, or order from which the appeal is taken shall certify the portion of the record designated by that party as being a true and correct copy. It shall be the responsibility of the moving party to transmit the certified partial record to the clerk of the Arkansas Supreme Court.

RULE 6. RECORD ON APPEAL.

(a) Composition of record. The record shall be compiled in accordance with the rules of the Arkansas Supreme Court and Court of Appeals.

(b) Transcript of proceedings. On or before filing the notice of appeal, the appellant shall order from the reporter a transcript of such parts of the proceedings as he has designated in the notice of appeal and make any financial arrangements required by the court reporter

pursuant to Ark. Code Ann. § 16-13-510(c). If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or contrary thereto, he shall include in the record a transcript of all evidence relevant to such finding or conclusion. If the appellant has designated less than the entire record or proceeding, the appellee, if he deems a transcript of other parts of the proceedings to be necessary, shall, within ten (10) days after the filing of the notice of appeal, file and serve upon the appellant (and upon the court reporter if additional testimony is designated) a designation of the additional parts to be included. The appellant shall then direct the reporter to include in the transcript all testimony designated by appellee.

(c) Record to be abbreviated. All matters not essential to the decision of the questions presented by the appeal shall be omitted. Formal parts of all exhibits and more than one copy of any document shall be excluded. Documents shall be abridged by omitting all irrelevant and formal portions thereof. For any infraction of this rule or for the unnecessary substitution by one party of evidence in question and answer form for a fair narrative statement proposed by another, the appellate court may withhold or impose costs as the circumstances of the case and discouragement of like conduct in the future may require; and costs may be imposed upon offending attorneys or parties. Where parties in good faith abbreviate the record by agreement or without objection from opposing parties, the appellate court shall not affirm or dismiss the appeal on account of any deficiency in the record without notice to appellant and reasonable opportunity to supply the deficiency. Where the record has been abbreviated by agreement or without objection from opposing parties, no presumption shall be indulged that the findings of the circuit court are supported by any matter omitted from the record.

(d) Statement of the evidence or proceedings when no report was made or the transcript is unavailable. If no report of the evidence or proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best means available, including his recollection. The statement shall be served on the appellee, who may serve objections or proposed amendments thereto within ten (10) days after service upon him. Thereupon the statement and any objections or proposed amendments shall be submitted to the circuit court for settlement and approval and as settled and approved shall be included in the record on appeal by the clerk of the circuit court that entered the judgment, decree, or order from which the appeal is taken.

(e) Correction or Modification of the Record. If any difference arises as to whether the record truly discloses what occurred in the circuit court, the difference shall be submitted by motion to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the circuit court before the record is transmitted to the appellate court, or the appellate court on motion, or on its own initiative, may direct that the omission or misstatement shall be corrected, and if necessary, that a supplemental record be certified and transmitted. All other questions as to form and content of the record shall be presented to the appellate court. No correction or modification of the record shall be made without prior notice to all parties.

(f) Access to parts of record under seal. When the record contains materials under seal, all counsel of record and pro se litigants shall have access to all parts of the record including the material under seal. For good cause shown on the motion of any party, the appellate court may modify the terms of access.

RULE 7. CERTIFICATION AND TRANSMISSION OF RECORD.

(a) Certification. The clerk of the circuit court that entered the judgment, decree, or order from which the appeal is taken shall certify the record as being a true and correct copy of the record as designated by the parties.

(b) Format. Records shall be in the electronic format identified below. However, any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be provided the record in conventional paper format unless he or she requests an electronic record. To the extent possible, conventional paper records shall be organized and paginated in the same manner as an electronic record.

(1) The record shall be saved as searchable and bookmarked portable document format (PDF) files. Bookmarks shall be made to each document in the record and the at the beginning of each witness's testimony.

(2) The PDF page numbers shall correspond to the record page numbers.

(3) If there is a transcribed portion of the record, that transcribed portion shall be saved and paginated as a separate PDF file pursuant to Rule 3-1(f) of the Arkansas Rules of Appellate Procedure--Civil.

(4) If either the circuit clerk's portion or the court reporter's portion of the electronic record is 30 megabytes or larger, that portion shall be divided into separate files for purposes of filing, and each file shall be less than 30 megabytes. The name of each PDF volume shall indicate the page numbers of the record contained in that volume.

(5) If the record contains exhibits or other items that cannot be digitized, those exhibits that were not digitized shall be filed conventionally, and the rest of the record shall be filed electronically and shall include a log describing those items that were not digitized.

(c) Transmission. After the record has been duly certified by the clerk, it shall be the responsibility of the appellant to transmit such record to the clerk of the appellate court for filing and docketing.

RULE 8. STAY PENDING APPEAL.

(a) Supersedeas defined; necessity. A supersedeas is a written order commanding appellee to stay proceedings on the judgment, decree or order being appealed from and is necessary to stay such proceedings.

(b) Supersedeas; by whom issued. A supersedeas shall be issued by the clerk of the circuit court that entered the judgment, decree or order being appealed from unless the record has been lodged with the appellate court in which event the supersedeas shall be issued by the clerk of the appellate court.

(c) Supersedeas bond. (1) Whenever an appellant entitled thereto desires a stay on appeal, he shall present to the court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be to the effect that appellant shall pay to appellee all costs and damages that shall be affirmed against appellant on appeal; or if appellant fails to prosecute the appeal to a final conclusion, or if such appeal shall for any cause be dismissed, that appellant shall satisfy and perform the judgment, decree or order of the circuit court. However, the maximum bond that may be required in any civil action under any legal theory shall be limited to twenty-five million dollars ($25,000,000), regardless of the amount of the judgment.

(2) If a party proves by a preponderance of the evidence that the party who has posted a bond in accordance with paragraph (1) of this subdivision (c) is purposely dissipating or diverting assets outside of the ordinary course of its business for the purpose of evading ultimate payment of the judgment, the court may enter orders as are necessary to prevent dissipation or diversion, including requiring that a bond be posted equal to the full amount of the judgment.

(d) Proceedings against sureties. If security is given in the form of a bond or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the circuit court and irrevocably appoints the clerk of the circuit court that entered the judgment, decree, or order as his agent upon whom any papers affecting his liability on the bond or undertaking may be served. His liability may be enforced on motion in the circuit court without the necessity of an independent action. The motion and such notice of the motion as the circuit court prescribes shall be filed with the clerk, who shall forthwith mail copies to the sureties if their addresses are known.

RULE 9. EXTENSION OF TIME WHEN CLERK'S OFFICE IS CLOSED.

Whenever the last day for taking any action under these rules or under the Rules of the Supreme Court and Court of Appeals falls on a Saturday, Sunday, legal holiday, or other day when the clerk's office is closed, the time for such action shall be extended to the next business day.

RULE 10. UNIFORM PAPER SIZE.

All notices of appeal, motions, orders, records, transcripts, and other papers required or authorized by these rules shall be on 8-1/2" x 11" paper.

RULE 11. CERTIFICATION BY PARTIES AND ATTORNEYS; FRIVOLOUS APPEALS; SANCTIONS.

(a) The filing of a brief, motion or other paper in the Supreme Court or the Court of Appeals constitutes a certification of the party or attorney that, to the best of his knowledge, information and belief formed after reasonable inquiry, the document is well grounded in fact; is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; is not filed for an improper purpose such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and that the document complies with the requirements of Rule of Civil Procedure 5(c)(2) regarding redaction of confidential information. A party or an attorney who files a paper in violation of this rule, or party on whose behalf the paper is filed, is subject to a sanction in accordance with this rule.

(b) The Supreme Court or the Court of Appeals shall impose a sanction upon a party or attorney or both for (1) taking or continuing a frivolous appeal or initiating a frivolous proceeding, (2) filing a brief, motion, or other paper in violation of subdivision (a) of this rule, (3) prosecuting an appeal for purposes of delay in violation of Rule 6-2 of the Rules of the Supreme Court and Court of Appeals, and (4) any act of commission or omission that has an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. For purposes of this rule, a frivolous appeal or proceeding is one that has no reasonable legal or factual basis.

(c) Sanctions that may be imposed for violations of this rule include, but are not limited to, dismissal of the appeal; striking a brief, motion, or other paper; awarding actual costs and expenses, including reasonable attorneys' fees; imposing a penalty payable to the court; awarding damages attributable to the delay or misconduct; and, where there has been delay, advancing the case on the docket and affirming.

(d) A party may by motion request that a sanction be imposed upon another party or attorney pursuant to this rule, or the court may impose a sanction on its own initiative. A motion shall be in the form required by Rule 2-1 of the Rules of the Supreme Court and Court of Appeals, with citations to the record where appropriate, and will be called for submission three weeks after filing. The opposing party may file a response within 21 days of the filing of the motion. If the court on its own initiative determines that a sanction may be appropriate, the court shall order the party or attorney to show cause in writing why a sanction should not be imposed on the party or attorney or both.

RULE 12. SUBSTITUTION OF PARTIES

(a) *Death of party*. (1) If a party dies before the record has been filed in the appellate court or the appellate court has otherwise acquired jurisdiction of the case, substitution of parties is governed by Rule 25 of the Rules of Civil Procedure.

(2) If a party dies after the appellate court acquires jurisdiction of the case, the decedent's personal representative may be substituted as a party on motion filed with the Clerk of the Supreme Court and Court of Appeals by the personal representative, by any party, or by the attorney for the deceased party. The motion of a party or of the attorney for the deceased party must be served on the representative. If there is no personal representative of the deceased party, any party or the attorney for the deceased party may suggest the death on the record, and, unless within 90 days after the death is suggested on the record a motion is filed to substitute the deceased party's heirs, devisees, personal representative, or special administrator, the court may take appropriate action, including dismissal of the appeal as to the deceased party.

(b) *Transfer of interest*. If an interest of a party is transferred, the action may be continued by or against the original party unless the court, on motion, orders the transferee to be substituted in the action or joined with the original party.

(c) *Incompetency*. If a party becomes incompetent, the court may, on motion, permit the action to be continued by or against the party's representative.

(d) *Public Officers; Death or Separation from Office*. (1) When a public officer is a party to an action in his or her official capacity and during its pendency dies, resigns, or otherwise ceased to hold office, the action does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of the substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

(2) When a public officer sues or is sued in his or her official capacity, the officer may be described as a party by the officer's official title rather than by name; but the court may require that the officer's name be added.

RULES OF APPELLATE PROCEDURE – CRIMINAL

RULE 1. RIGHT OF APPEAL.

(a) Right of appeal. Any person convicted of a misdemeanor or a felony by virtue of trial in any circuit court of this state has the right to appeal to the Arkansas Court of Appeals or to the Supreme Court of Arkansas. An appeal may be taken jointly by codefendants or by any defendant jointly charged and convicted with another defendant, and only one (1) appeal need be taken where a defendant has been found guilty of one (1) or more charges at a single trial. Except as provided by ARCrP 24.3(b) there shall be no appeal from a plea of guilty or nolo contendere.

(b) Precedence. Appeals in criminal cases shall take precedence over all other business of the Supreme Court. Appeals under RAP-Civ 2(a)(6), (7), and (9) shall take next precedence in the Supreme Court.

(c) Death of defendant. Upon the death of a defendant, the appeal shall not abate. The appeal shall continue on the relation of a representative party as provided in Ark. R. Civ. P. 25(a).

RULE 2. TIME AND METHOD OF TAKING APPEAL.

(a) Notice of Appeal. Within thirty (30) days from

(1) the date of entry of a judgment, or

(2) the date of entry of an order denying a post-trial motion under Ark. R. Crim. P. 33.3 , or

(3) the date a post-trial motion under Ark. R. Crim. P. 33.3 is deemed denied pursuant to subsection (b)(1) of this rule, or

(4) the date of entry of an order denying a petition for post-conviction relief under Ark. R. Crim. P. 37, the person desiring to appeal a circuit court judgment or order or both shall file with the clerk of the circuit court a notice of appeal identifying the parties taking the appeal and the judgment or order or both being appealed. The notice shall also state whether the appeal is to the Court of Appeals or to the Supreme Court; and if to the Supreme Court, the appellant shall designate the applicable subdivision of Supreme Court Rule 1-2 (a) which gives the Supreme Court jurisdiction. This declaration shall be for the purpose of placing the case with one court or the other for preliminary administration. It shall not preclude the appellant from filing his or her Brief pursuant to Supreme Court Rules 4-3 and 4-4 in the alternative court if that is later determined by the appellant to be appropriate.

(b) Time for Filing. (1) A notice of appeal filed after the trial court announces a decision but before the entry of the judgment or order shall be treated as filed on the day after the judgment or order is entered. Upon timely filing in the trial court of a post-trial motion, the time for filing a notice of appeal shall be extended for all parties. The notice of appeal shall be filed within thirty (30) days from entry of the order disposing of the last motion outstanding. However, if the trial court neither grants nor denies the motion within thirty (30) days of its filing, the motion shall be deemed denied by operation of law as of the thirtieth day, and the notice of appeal shall be filed within thirty (30) days from that date.

(2) A notice of appeal filed before disposition of any post-trial motions shall be treated as filed on the day after the entry of an order disposing of the last motion outstanding or the day after the motion is deemed denied by operation of law. Such a notice is effective to appeal the underlying judgment or order. A party who also seeks to appeal from the grant or denial of the motion shall within thirty (30) days amend the previously filed notice, complying with subsection (a) of this rule. No additional fees will be required for filing an amended notice of appeal.

(3) *Inmate Filing. If a person confined in a correctional or detention facility files a pro se notice of appeal from a judgment of conviction in circuit court or from a circuit court judgment denying postconviction relief under Arkansas Rule of Criminal Procedure 37, and the notice is not timely under subdivision (a) or (b) of this rule, it shall be deemed filed on the date of its deposit in the facility's legal mail system if the following conditions are satisfied*:

(i) on the date the notice of appeal is deposited in the mail, the appellant is confined in a state correctional facility, a federal correctional facility, or a regional or county detention facility that maintains a system designed for legal mail; and

(ii) the notice of appeal is filed pro se; and

(iii) the notice of appeal is deposited with first-class postage prepaid, addressed to the clerk of the circuit court; and

(iv) the notice of appeal contains a notarized statement by the appellant as follows:

"I declare under penalty of perjury:

that I am incarcerated in _____ [*name of facility*];

that I am filing this notice of appeal pro se;

that the notice of appeal is being deposited in the facility's legal mail system on _____ [*date*];

that first-class postage has been prepaid; and

that the notice of appeal is being mailed to _____ [*list the name and address of each person served with a copy of the notice of appeal*].

_____
(Signature)
[NOTARY]"

The envelope in which the notice of appeal is mailed to the circuit clerk shall be retained by the circuit clerk and included in the record of the appeal.

(c) Certificate That Transcript Ordered. (1) If oral testimony or proceedings are designated, the notice of appeal shall include a certificate by the appealing party or his attorney that a transcript of the trial record has been ordered from the court reporter, and, except for good cause, that any financial arrangements required by the court reporter pursuant to Ark. Code Ann. 16-13-510(c) have been made. If the appealing party is unable to certify that financial arrangements have been made, then he shall attach to the notice of appeal an affidavit setting out the reason for his inability to so certify. A copy of the notice of appeal shall be mailed to the court reporter.

(2) Alternatively, the notice of appeal shall include a petition to obtain the record as a pauper if, for the purposes of the appeal, a transcript is deemed essential to resolve the issues on appeal.

(3) It shall not be necessary to file with either the notice of appeal or the designation of contents of record any portion of the reporter's transcript of the evidence of proceedings.

(d) Notification of Parties. Notification of the filing of the notice of appeal shall be given to all other parties or their representatives involved in the cause by mailing a copy of the notice of appeal to the parties or their representatives and to the Attorney General, but failure to give such notification shall not affect the validity of the appeal.

(e) Failure to Pursue Appeal. Failure of the appellant to take any further steps to secure the review of the appealed conviction shall not affect the validity of the appeal but shall be grounds only for such action as the Supreme Court deems appropriate, which may include dismissal of the appeal. The Supreme Court may act upon and decide a case in which the notice of appeal was not given or the transcript of the trial record was not filed in the time prescribed, when a good reason for the omission is shown by affidavit. However, no motion for belated appeal shall be entertained by the Supreme Court unless application has been made to the Supreme Court within eighteen (18) months of the date of entry of judgment or entry of the order denying postconviction relief from which the appeal is taken. If no judgment of conviction was entered of record within ten (10) days of the date sentence was pronounced, application for belated appeal must be made within eighteen (18) months of the date sentence was pronounced. The court may equitably toll this 18-month deadline if the defendant has pursued his or her rights diligently and some extraordinary circumstance stood in his or her way.

(f) Dismissal of Appeal. If an appeal has not been docketed in the Supreme Court, the parties, with the approval of the trial court, may dismiss the appeal by stipulation filed in that court or that court may dismiss the appeal upon a motion and notice by the appellant.

RULE 3. APPEAL BY STATE.

(a) An interlocutory appeal on behalf of the state may be taken only from a pretrial order in a felony prosecution which (1) grants a motion under Ark. R. Crim. P 16.2 to suppress seized evidence, (2) suppresses a defendant's confession, or (3) grants a motion under Ark. Code Ann. section 16-42-101(c) to allow evidence of the victim's prior sexual conduct. The prosecuting attorney shall file, within ten (10) days after the entering of the order, a notice of appeal together with a certificate that the appeal is not taken for the purposes of delay and that the order substantially prejudices the prosecution of the case. Further proceedings in the trial court shall be stayed pending determination of the appeal.

(b) Where an appeal, other than an interlocutory appeal, is desired on behalf of the state following either a misdemeanor or felony prosecution, the prosecuting attorney shall file a notice of appeal within thirty (30) days after entry of a final order by the trial judge.

(c) When a notice of appeal is filed pursuant to either subsection (a) or (b) of this rule, the clerk of the court in which the prosecution sought to be appealed took place shall immediately cause a transcript of the trial record to be made and transmitted to the attorney general, or delivered to the prosecuting attorney, to be by him delivered to the attorney general. If the attorney general, on inspecting the trial record, is satisfied that error has been committed to the prejudice of the state, and that review by the Supreme Court is desirable under this rule, he make take the appeal by filing the transcript of the trial record with the clerk of the Supreme Court within sixty (60) days after the filing of the notice of appeal.

(d) The Supreme Court will not consider an appeal filed under either subsection (a)(1) or (2) or subsection (b) of this rule unless the correct and uniform administration of the criminal law requires review by the court.

(e) A decision by the Arkansas Supreme Court sustaining in its entirety an order appealed under subsections (a)(1) and (a)(2) shall bar further proceedings against the defendant on the charge; however, a decision sustaining an order appealed under subsection (a)(3) shall not bar further proceedings against the defendant on the charge.

RULE 4. TIME FOR FILING RECORD, CONTENTS OF RECORD.

(a) Generally. Except as provided in this rule, matters pertaining to several appeals, the docketing, designation, abbreviation, stipulation, preparation, and correction or modification of the record on appeal, as well as appeals where no stenographic record was made, shall be governed by the Rules of Appellate Procedure--Civil and any statutes presently in force which apply to civil cases on appeal to the Supreme Court.

(b) When Filed. When an appeal is taken by the defendant, the record on appeal shall be filed with the clerk of the appellate court and docketed therein within ninety (90) days from the filing of the notice of appeal,1 For purposes of determining the date of filing of a notice of appeal, Arkansas Rule of Appellate Procedure--Criminal

2(b) shall apply. The time for filing the record with the clerk of the appellate court may be extended by the circuit court as provided in subsection (c).

(c) Extension of time.

(1) If any party has designated stenographically reported material for inclusion in the record on appeal, the circuit court, by order entered before expiration of the period prescribed by subdivision (b) of this rule or by a prior extension order, may extend the time for filing the record. A motion by the defendant for an extension of time to file the record shall explain the reasons for the requested extension, and a copy of the motion shall be served on the prosecuting attorney. The circuit court may enter an order granting the extension if the circuit court finds that all parties consent to the extension and that an extension is necessary for the court reporter to include the stenographically reported material in the record on appeal. If the prosecuting attorney does not file a written objection to the extension within ten (10) days after being served a copy of the extension motion, the prosecuting attorney shall be deemed to have consented to the extension, and the circuit court may so find. If the prosecuting attorney files a written objection to the extension within ten (10) days after being served a copy of the extension motion, the circuit court may not grant the extension unless the circuit court makes the following findings:

(A) The defendant has filed a motion explaining the reasons for the requested extension and has served a copy of the motion on the prosecuting attorney;

(B) The time to file the record on appeal has not yet expired;

(C) All parties have had the opportunity to be heard on the motion, either at a hearing or by responding in writing;

(D) The defendant has timely ordered the stenographically reported material from the court reporter and either (i) made any financial arrangements required for preparation of the record, or (ii) filed a petition to obtain the record as a pauper; and

(E) An extension of time is necessary for the court reporter to include the stenographically reported material in the record on appeal.

(2) In no event shall the time for filing the record be extended more than seven (7) months from the date of the entry of the judgment or order, or from the date on which a timely post-judgment motion is deemed to have been disposed of under Arkansas Rule of Appellate Procedure--Criminal 2(b), whichever is later.

(3) If the appellant has obtained the maximum seven-month extension available from the circuit court, or demonstrates (by affidavit or otherwise) an inability to obtain entry of an order of extension, then before expiration of the period prescribed by subdivision (b) of this rule or a prior extension order, the appellant may file with the clerk of the appellate court a petition for writ of certiorari pursuant to Rule 3-5 of the Rules of the Supreme Court and Court of Appeals.

(d) Exhibits. Photographs, charts, drawings and other documents that can be inserted into the record shall be included. Documents of unusual bulk or weight shall not be transmitted by the trial court clerk unless the clerk is directed to do so by a party or by the clerk of the appellate court. Physical evidence, other than documents, shall not be transmitted unless directed by an order of the appellate court. If the record contains photographs, DVDs, or any other visual medium alleged by either party to the appeal to constitute child pornography, a motion to seal the record, stating the reason therefor, shall accompany the record when it is filed with the clerk of the appellate court.

(e) Record for Preliminary Hearing in Appellate Court. Prior to the time the complete record on appeal is settled and certified as herein provided, either party to the appeal may docket the appeal in order to make in the appellate court a motion for dismissal, for a stay pending appeal, for fixing or reducing bail, to proceed in forma pauperis, or for any intermediate order. The clerk of the trial court, at the request of the moving party, shall certify and transmit to the clerk of the appellate court a copy of such portion of the record of proceedings as may be available or needed for the purpose.

(f) Subsections (b) and (c) of this rule shall not apply to an appeal by the state pursuant to Rule of Appellate Procedure-Criminal 3.

RULE 5. NO BOND FOR COSTS.

There shall be no bond for costs as a prerequisite for the appeal of either a felony or misdemeanor conviction.

RULE 6. BAIL ON APPEAL.

(a) The appeal bond provided for in this rule shall be filed in the office of the clerk of the court in which the conviction is had, and a copy thereof shall be attached to the bill of exceptions and shall be made a part of the transcript to be filed in the Supreme Court.

(b)(1) When a defendant has been found guilty, pleaded guilty, or pleaded nolo contendere to an offense other than one specified in subsection (b)(2) or (b)(3) of this section, and he is sentenced to serve a term of imprisonment, and he has filed a notice of appeal, the trial court shall not release the defendant on bail or otherwise pending appeal unless it finds:

(A) By clear and convincing evidence that the defendant is not likely to flee or that there is no substantial risk that the defendant will commit a serious crime, intimidate witnesses, harass or take retaliatory action against any juror, or otherwise interfere with the administration of justice or pose a danger to the safety of any other person; and

(B) That the appeal is not for the purpose of delay and that it raises a substantial question of law or fact.

(2) When the defendant has been found guilty, pleaded guilty, or pleaded nolo contendere to capital murder, the trial court shall not release the defendant on bail or otherwise, pending appeal or for any reason.

(3) When the defendant has been found guilty, pleaded guilty, or pleaded nolo contendere to murder in the first degree, rape, aggravated robbery, or causing a catastrophe, or kidnapping or arson when classified as a Class Y felony, and he has been sentenced to death or imprisonment, the trial court shall not release him on bail or otherwise, pending appeal or for any reason.

(c)(1) If an appeal bond is granted by the trial court, it shall be conditioned on the defendant's

surrendering himself to the sheriff of the county in which the trial was held upon the dismissal of the appeal or upon the rendition of final judgment upon the appeal. The trial court may also condition release by imposing restrictions specified in ARCrP 9.3 or other restrictions found reasonably necessary.

(2) Following the affirmance or reversal of a conviction, or the dismissal of an appeal, the Clerk of the Supreme Court shall immediately make and forward to the clerk of the circuit court of the county in which the defendant was convicted a certified copy of the mandate of the Supreme Court.

(3) The circuit clerk, upon receipt of a mandate affirming the conviction, shall immediately file the mandate and notify the sheriff and the bail bondsman or, in appropriate cases, other sureties on the bail bond that the defendant should be surrendered to the sheriff as required by the terms of the bail bond.

(4) If the defendant fails to surrender himself to the sheriff in compliance with the conditions of his bond, the sheriff shall notify the clerk of the circuit court, and the circuit court shall direct that fact to be entered on its records and shall adjudge the bail bond of the defendant, or the money deposited in lieu thereof, to be forfeited.

(5) The defendant having failed to surrender, the circuit clerk shall immediately issue a summons against the sureties on the bail bond requiring them to appear and show cause why judgment should not be rendered against them for the sum specified in the bail bond on account of the forfeiture thereof, which summons shall be made returnable and shall be executed as in civil actions, and the action shall be docketed and shall proceed as an ordinary civil action.

(6) The summons may be served as provided by law in any place in which the sureties may be found, and the service of the summons on the defendant or defendants shall give the court complete jurisdiction of the defendant and cause.

(7) No pleadings on the part of the state shall be required in such cases.

(d) The circuit court in which the defendant was convicted shall retain jurisdiction to hear and decide any motion to revoke the bail of a defendant set at liberty pursuant to this rule, even if the record on appeal has been lodged with the Supreme Court or the Court of Appeals.

(e) If the court in which the defendant was convicted refuses to grant an appeal bond, and an appeal bond shall thereafter be granted by any Justice or Justices of the Supreme Court, the bond shall be conditioned that, upon the dismissal of the appeal or the rendition of the final judgment therein by the Supreme Court, the defendant shall surrender himself as provided in this rule in execution of the judgment.

RULE 7. APPEAL AFTER CONFINEMENT.

If a judgment of confinement in a detentional facility operated by the state has been executed before notice of appeal is given, the defendant shall remain in the detentional facility during the pendency of the appeal, unless discharged by the expiration of his term of confinement or by pardon or parole, or admitted to bail by the trial court prior to the docketing of the appeal in the Supreme Court. If the trial court or a Justice or Justices of the Supreme Court admit the defendant to bail pending appeal, the commitment by which the sentence was carried into execution may be recalled. Upon a reversal, if a new trial is ordered, the defendant shall be removed from the detentional facility and returned to the custody of the sheriff of the county in which the sentence was imposed.

RULE 8. EXCEPTIONS AND MOTION FOR NEW TRIAL UNNECESSARY.

Motions for New Trial. It shall not be necessary to file a motion for new trial to obtain review of any matter on appeal. If a motion for new trial is submitted to the trial court, on appeal the appellant shall not be restricted to a consideration of matters assigned therein. Formal exceptions to rulings or orders of the trial court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objections to the action of the court and his grounds therefore; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

RULE 9. ACQUITTAL BARRING PROSECUTION.

A judgment in favor of the defendant that operates as a bar to future prosecution of the offense shall not be reversed by the Supreme Court.

RULE 10. AUTOMATIC APPEAL AND MANDATORY REVIEW IN DEATH-SENTENCE CASES; PROCEDURE ON AFFIRMANCE.

(a) Automatic appeal. (1) Upon imposing a sentence of death, the circuit court shall order the circuit clerk to file a notice of appeal on behalf of the defendant within thirty (30) days after entry of judgment. The notice of appeal shall be in the form annexed to this rule. The court reporter shall transcribe all portions of the criminal proceedings consistent with Article III of the Rules of the Supreme Court and shall file the transcript with the circuit clerk within ninety (90) days after entry of the judgment. Within thirty (30) days after receipt of the transcript, the circuit clerk shall compile the record consistent with Article III and shall file the record with the clerk of the Arkansas Supreme Court for mandatory review consistent with this rule and for review of any additional issues the appellant may enumerate. [Form: Clerk's Notice of Appeal HTML, WP5.1]

(2) *Extension of time.*

(A) If the court reporter needs an extension of time to file the transcript, the court reporter shall notify the circuit court and all parties explaining the reasons for the requested extension. A party has ten (10) days to file an objection, in which case the circuit court shall provide all parties the opportunity to be heard, either at a hearing or by responding in writing. Otherwise, the court may proceed to decide on the extension.

(B) The court may order an extension if it finds, in writing, (i) the time to file the record on appeal has not yet expired and (ii) an extension of time is necessary for the court reporter to file the transcript. The court must enter its extension order before the end of the 90-day period afforded the court reporter in Rule 10(a) or by a prior extension order.

(C) This subdivision, 10(a)(2), supersedes Rule 4(c)(1), but Rule 4(c)(2) and (3) otherwise remain applicable.

(b) Mandatory Review. Whenever a sentence of death is imposed, the Supreme Court shall review the following issues in addition to other issues, if any, that a defendant may enumerate on appeal. Counsel shall be responsible for abstracting the record and briefing the issues required to be reviewed by this rule and shall consolidate the abstract and brief for such issues and any other issues enumerated on appeal. The Court shall consider and determine:

(i) pursuant to Rule 4-3(h) of the Rules of the Supreme Court and Ark. Code Ann. § 16-91-113(a), whether prejudicial error occurred;

(ii) whether the trial court failed in its obligation to bring to the jury's attention a matter essential to its consideration of the death penalty;

(iii) whether the trial judge committed prejudicial error about which the defense had no knowledge and therefore no opportunity to object;

(iv) whether the trial court failed in its obligation to intervene without objection to correct a serious error by admonition or declaring a mistrial;

(v) whether the trial court erred in failing to take notice of an evidentiary error that affected a substantial right of the defendant;

(vi) whether the evidence supports the jury's finding of a statutory aggravating circumstance or circumstances; and

(vii) whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor.

(c) Procedure on Affirmance. When a judgment of death has been affirmed, the denial of post-conviction relief has been affirmed, or a mandate has been returned from the United States Supreme Court, and the day of execution has passed, the Clerk of the Supreme Court shall transmit to the Governor a certificate of the affirmance or return of mandate and judgment, to the end that a warrant for the execution of the judgment may be issued by the Governor. Such certificate shall operate to dissolve any stay of execution previously entered by the Supreme Court or any stay of execution previously entered by a circuit court pending disposition of a petition for post-conviction relief.

RULE 11. PROCEEDINGS ON REVERSAL.

Upon a mandate of reversal ordering a new trial being filed in the clerk's office of the circuit court in which the judgment of confinement in the penitentiary was rendered and executed, the clerk shall deliver to the sheriff a copy of the mandate and precept, authorizing and commanding him to bring the defendant from the penitentiary to the county jail, which shall be obeyed by the sheriff and keeper of the penitentiary.

RULE 12. DEDUCTION OF CONFINEMENT UNDER PRIOR CONVICTION.

If the defendant upon the new trial is again convicted, the period of his former confinement in the penitentiary shall be deducted by the court from the period of confinement fixed in the last verdict of conviction.

RULE 13. JUDGMENT FOR COSTS.

On the affirmance of a judgment, where the appeal is taken by the defendant, and on the reversal of an appealable order where the appeal is taken by the state, a judgment for costs shall be rendered against the defendant.

RULE 14. MATTERS TO BE CONSIDERED ON APPEAL.

The Supreme Court need only review those matters briefed and argued by the appellant, provided that where either a sentence for life imprisonment or death was imposed, the Supreme Court shall review the entire record for errors prejudicial to the right of the appellant.

RULE 15. ACTION TO BE TAKEN ON APPEAL.

A conviction shall be reversed and a new trial ordered where the Supreme Court finds that the conviction is contrary to the Constitution or the laws of Arkansas, or for any reason determines that the appellant did not have a fair trial. Where appropriate, the Supreme Court shall reverse the conviction and order the appellant discharged. In all other cases, the conviction must be affirmed or affirmed as modified.

RULE 16. TRIAL COUNSEL'S DUTIES WITH REGARD TO APPEAL.

(a) (i) Trial counsel, whether retained or court-appointed, shall continue to represent a convicted defendant throughout any appeal to the Arkansas Supreme Court or Arkansas Court of Appeals, unless permitted by the trial court or the appellate court to withdraw in the interest of justice or for other sufficient cause. (ii) If no notice of appeal of a conviction has been filed with the trial court, the trial court shall have exclusive jurisdiction to relieve counsel and appoint new counsel. A motion filed with the trial court to be relieved as counsel or a motion to the trial court for appointment of counsel shall clearly state that no notice of appeal has been filed with the trial court. (iii) If a notice of appeal of a conviction has been filed with the trial court, the appellate court shall have exclusive jurisdiction to relieve counsel and appoint new counsel. A motion filed with the appellate court to be relieved as counsel or a motion filed with the appellate court for appointment of counsel shall clearly state that a notice of appeal has been filed with the trial court and shall further state the date on which the notice of appeal was filed.

(b) If court appointed counsel is permitted to withdraw in the interest of justice or for other sufficient cause in a direct appeal of a conviction or in an appeal in a postconviction proceeding under Ark. R. Crim. P. 37.5, new

counsel shall be appointed promptly by the court exercising jurisdiction over the matter of counsel's withdrawal.

(c) If court appointed counsel is permitted to withdraw in the interest of justice or for other sufficient cause from an appeal in a postconviction proceeding other than a postconviction proceeding under Ark. R. Crim. P. 37.5, new counsel may be appointed in the discretion of the court exercising jurisdiction over the matter of counsel's withdrawal.

(d) If pursuant to Ark. Code Ann. 16-13-506(b), the state has paid the court reporter for the transcript that is filed as part of the record with the appellate court and the defendant thereafter moves to substitute retained counsel for appointed counsel, the court may, as a condition of granting the motion, require the defendant to reimburse the state for the cost of the transcript.

RULE 17. TIME EXTENSION WHEN LAST DAY FOR ACTION ON SATURDAY, SUNDAY OR HOLIDAY.

Whenever the last day for taking any action under these rules or under the Rules of the Supreme Court and Court of Appeals falls on a Saturday, Sunday, or legal holiday, the time for such action shall be extended to the next business day.

RULE 18. UNIFORM PAPER SIZE.

All notices of appeal, motions, orders, records, transcripts, and other papers required or authorized by these rules shall be on an 81/2" x 11" paper.

Rule 19. Motions Requesting Copy of Record or Brief

(a) A convicted offender who seeks, at public expense, a copy of an appellate brief, the trial record, or a transcript must file a motion in the Supreme Court stating that he or she has requested the documents from his or her counsel and that counsel did not provide the documents. In addition, if the moving party seeks a photocopy (as opposed to a disk or other electronic medium), he or she must demonstrate some compelling need for the brief, record, or transcript.

(b) A copy of the motion shall be served on counsel who prepared or filed the documents. Within 20 days of such service, counsel shall file a response. If the requested documents were not provided to the client, the response shall either commit to provide the requested documents or provide good cause why counsel will not provide the documents.

(c) An attorney has an obligation under Ark. R. Prof'l Conduct 1.16(d) to surrender documents such as an appellate brief, record or transcript to the client. This obligation requires the attorney to provide only what already exists in his or her possession. But if the attorney possesses paper copies that have been requested, the attorney must supply those paper copies. The attorney's obligation is determined by Ark. R. Prof'l Conduct 1.16(d), and this rule is not intended to enlarge or diminish the obligation.

DISTRICT COURT RULES

RULE 1. SCOPE OF RULES.

(a) Except as provided in subdivision (b), these rules shall govern the procedure in all civil actions in the district courts and county courts (hereinafter collectively called the "district courts") of this state. They shall apply in the small claims division of district courts except as may be modified by Rule 10 of these rules.

(b) These rules shall not apply to an appeal of a tax assessment from an equalization board to the county court. Rule 9 of these rules, however, shall apply to a tax-assessment appeal from county court to circuit court.

(c) Where applicable and unless otherwise specifically modified herein, the Arkansas Rules of Civil Procedure and the Arkansas Rules of Evidence shall apply to and govern matters of procedure and evidence in the district courts of this State. Actions in the small claims division of district court shall be tried informally before the court with relaxed rules of evidence, see Rule 10(d)(2) of these rules.

(d) Rules specific to criminal proceedings in district court shall so indicate, and in such cases, such rules shall apply to actions pending in city courts.

(e) Other matters affecting district courts may be found in Administrative Order Number 18.

RULE 2. JURISDICTION AND VENUE UNAFFECTED.

(a) These rules shall not be construed to extend or affect the jurisdiction of the district courts of this State or the venue of actions therein.

(b) There shall be no jury trials in district court. In order that the right of trial by jury remains inviolate, all appeals from judgment in district court shall be de novo to circuit court.

RULE 3. COMMENCEMENT OF ACTION.

A civil action is commenced by filing a complaint with the clerk of the proper court who shall note thereon the date and precise time of filing. However, an action shall not be deemed commenced as to any defendant not served with the complaint, in accordance with these rules, within 120 days of the date on which the complaint is filed, unless within that time and for good cause shown the court, by written order or docket entry, extends the time for service.

RULE 4. COMPLAINT.

A complaint shall be in writing and signed by the plaintiff or his or her attorney, if any. It shall also: (a) state the names of the parties, the nature and basis of the claim, and the nature and amount of the relief sought; (b) warn the defendant to file a written answer with the clerk of the court, and to serve a copy to the plaintiff or his or her attorney, within 30 days after service of the complaint upon him; (c) warn the defendant that failure to file an answer may result in a default judgment being entered against him; (d) recite the address of the plaintiff or his or her attorney, if any; and (e) contain a proof of service form which shall be completed by the person serving the defendant. No separate summons is required.

COMPLAINT - FORM

_____ Court of _____, Arkansas

_____, Plaintiff vs. No. _____

_____, Defendant

Plaintiff's Address: _____

Defendant's Address:_____

Nature of Claim: _____

Nature and Amount of Relief Claimed:
_____
_____
_____
_____

Date Claim Arose: _____

Factual Basis of Claim:
_____

Plaintiff's Attorney, if any, and Address:
_____
_____
_____

_____
[Signature of Attorney, if any, or of Plaintiff]

SUMMONS AND NOTICE TO DEFENDANT

You are hereby warned to file a written answer with the clerk of the court within 30 days after the date that you receive this complaint and to send a copy to the plaintiff or to his or her attorney. If you do not file an answer within 30 days, or if you fail to file an answer, a default judgment may be entered against you.

_____
[Signature of Clerk or Judge]

PROOF OF SERVICE

STATE OF ARKANSAS
CITY OF _____

I, _____, hereby certify that I served the within complaint on the defendant, _____, at o'clock _____.m. on _____ 2_____, by [state method of service].

_____
[Signature and Office, if any]

Subscribed and sworn to before me this _____ day of _____ 2_____,
[To be completed if service is by someone other than sheriff or constable.]

_____
Notary Public or Court Clerk

My Commission Expires: _____

RULE 5. SERVICE OF COMPLAINT.

(a) By Whom Served. A copy of the complaint shall be served upon each defendant by a sheriff or constable or any other person permitted to make service under Rule 4(c) of the Arkansas Rules of Civil Procedure.

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

RULE 6. CONTENTS OF ANSWER; TIME FOR FILING.

(a) Contents of Answer. An answer shall be in writing and signed by the defendant or his or her attorney, if any. It shall also state: (1) the reasons for denial of the relief sought by the plaintiff, including any affirmative defenses and the factual bases therefor; (2) any affirmative relief sought by the defendant, whether by way of counterclaim, set-off, cross-claim, or third-party claim, the factual bases for such relief, and the names and addresses of other persons needed for determination of the claim for affirmative relief; and (3) the address of the defendant or his or her attorney, if any.

(b) Time for Filing Answer or Reply. A defendant shall file an answer with the clerk of the court within thirty (30) days after the service of the complaint upon the defendant. An answer to a cross-claim and a reply to a counterclaim shall be filed with the clerk of the court within 20 days of the date that the pleading asserting the claim is served. A copy of an answer or reply shall also be served on the opposing party or parties in accordance with Rule 5(b) of the Rules of Civil Procedure.

ANSWER AND AFFIRMATIVE RELIEF - FORM

_____ Court Of _____, Arkansas

_____, Plaintiff vs. No. _____

_____, Defendant

Defendant's Address_____

Reasons for Denial of Plaintiff's Claim:

_____

Affirmative Defenses:

_____

_____

Nature and Amount of Affirmative Relief Sought:

_____

_____

Date Affirmative Claim Arose:

_____

Factual Basis of Affirmative Claim:

_____

_____

Names and Addresses of Other Persons Needed for Determination of Affirmative Claim:

_____

_____

_____

Defendant's Attorney, if any, and Address:

_____

_____

_____

_____

_____

[Signature of Attorney, if any, or of Defendant]

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing answer was served on [plaintiff or attorney for plaintiff, as appropriate] on the _____ date of _____, 2 ____, by [state method of service used, e.g., hand delivery, mail, commercial delivery service].

_____

[Signature of Defendant or Defendant's Attorney]

RULE 7. JURISDICTION — EFFECT OF COUNTERCLAIM, CROSS-CLAIM, OR THIRD-PARTY CLAIM — TRANSFER.

(a) Subject Matter Jurisdiction. The civil jurisdiction of district courts is set out in Administrative Order Number 18.

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

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

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

RULE 8. JUDGMENTS — HOW ENTERED.

(a) By Default. When a defendant has failed to file an answer or reply within the time specified by Rule 6(b), a default judgment may be rendered against him.

(b) Upon the Merits. Where the court has decided the case, it shall enter judgment in favor of the prevailing party for the relief to which he is deemed entitled.

(c) Docket Entry. The court shall timely enter in the docket the date and amount of the judgment, whether rendered by default or upon the merits.

(d) Judgment Lien. A judgment entered by an inferior court in this state shall not become a lien against any real property unless a certified copy of such judgment, showing the name of the judgment debtor, the date and amount thereof, shall be filed in the office of the circuit clerk of the county in which such land is situated.

RULE 9. APPEALS TO CIRCUIT COURT.

(a) Time for Taking Appeal From District Court. Within 30 days of the docket entry awarding judgment entered in accordance with Rule 8(c) of these rules, regardless of whether a written judgment is otherwise entered or filed, appeals in civil cases from district court to circuit court shall be filed with the clerk of the circuit court having jurisdiction of the appeal. The 30-day period is not extended by a motion for new trial, a motion to amend the court's findings of fact or to make additional findings, or any other motion to vacate, alter or amend the judgment.

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

(c) Procedure on Appeal From District Court.

(1) All the parties shall assert all their claims and defenses in circuit court. Within 30 days after a party serves upon counsel for all other parties, and upon any party not represented by counsel, certified copies of the district court docket sheet or district court record and a certified copy of the district court complaint or claim form, the party who was the defendant in district court shall file its answer, motions, and claims within the time and manner prescribed by the Arkansas Rules of Civil Procedure and the case shall otherwise proceed in accordance with those rules.

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

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

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

(d) Supersedeas Bond on Appeal From District Court. Whenever an appellant entitled thereto desires a stay on appeal to circuit court in a civil case, he shall present to the district court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be to the effect that appellant shall pay to appellee all costs and damages that shall be affirmed against appellant on appeal; or if appellant fails to prosecute the appeal to a final conclusion, or if such appeal shall for any cause be dismissed, that appellant shall satisfy and perform the judgment, decree, or order of the inferior court. All proceedings in the district court shall be stayed from and after the date of the court's order approving the supersedeas bond.

(e) Special Provisions For Appeals From County Court to Circuit Court. Unless otherwise provided in this subdivision, the requirements of subdivisions (a), (b), (c), and (d) govern appeals from county court to circuit court. A party may take an appeal from the final judgment of a county court by filing a notice of appeal with the clerk of the circuit court having jurisdiction over the matter within thirty (30) days from the date that the county court filed its order with the county clerk. A certified copy of the county court's final judgment must be attached to the notice of appeal. In the circuit-court proceeding, the party who was the petitioner or plaintiff in county court shall have all the obligations of the plaintiff in a case that has been appealed from district court to circuit court. If there were no defendants in the county-court proceeding, then the petitioner/plaintiff shall name all necessary, adverse parties as defendants in its complaint filed in circuit court.

(f) Administrative Appeals.

(1) If an applicable statute provides a method for filing an appeal from a final decision of any governmental body or agency and a method for preparing the record on appeal, then the statutory procedures shall apply.

(2) If no statute addresses how a party may take such an appeal or how the record shall be prepared, then the following procedures apply.

(A) Notice of Appeal. A party may appeal any final administrative decision by filing a notice of appeal with the clerk of the circuit court having jurisdiction of the matter within thirty (30) days from the date of that decision. The notice of appeal shall describe the final administrative decision being appealed and specify the date of that decision. The date of decision shall be either the date of the vote, if any, or the date that a written record of the vote is made. The party shall serve the notice of appeal on all other parties, including the governmental body or agency, by serving any person described in Arkansas Rule of Civil Procedure 4(d)(7), by any form of mail that requires a return receipt.

(B) The Record on Appeal. Within thirty (30) days after filing its notice of appeal, the party shall file certified copies of all the materials the party has or can obtain that document the administrative proceeding. Within thirty (30) days after these materials are filed, any opposing party may supplement the record with certified copies of any additional documents that it believes are necessary to complete the administrative record on appeal. At any time during the appeal, any party may supplement the record with a certified copy of any document from the administrative proceeding that is not in the record but the party believes the circuit court needs to resolve the appeal.

(C) Procedure on Appeal. As soon as practicable after all the parties have made their initial filing of record materials, the court shall establish a schedule for briefing, hearings, and any other matters needed to resolve the appeal.

RULE 10. APPLICABILITY OF OTHER RULES.

(a) Commencement of action — Form of claim and notice to defendant.

(1) Actions in the small claims division of district court shall be commenced whenever the claimant or the personal representative of a deceased claimant shall file with the clerk of the court a claim in substantially the following form:

In the District Court of_____, State of Arkansas
Small Claims Division

_____Plaintiff vs No. _____

_____
Defendant

Defendant's
Address:_____

Nature of Claim:_____

Nature and Amount of Relief Claimed:_____

Date Claim Arose:_____

Factual Basis of Claim:_____

_____
Signature of Plaintiff

_____
Plaintiff's Address

SUMMONS AND NOTICE TO DEFENDANT

You are hereby warned to file a written answer with the clerk of this court within thirty (30) days after you receive this claim and forward a copy to the plaintiff at the address above or a default judgment may be entered against you.

_____
(Signature of Clerk or Judge)

_____
District Court Clerk

Address: _____
_____
_____

RETURN OF SERVICE

STATE OF ARKANSAS
COUNTY OF _____

I, _____, certify that I served the within Claim Form on the defendant, _____, at _____ o'clock _____.m. on _____, 2_____, by_____
_____
(Show manner of service)

_____
Name and Office, if any

Subscribed and sworn to before me this _____ day of_____, 2_____, (To be completed if service by other than a Sheriff, Constable, or Clerk)

_____
Notary Public

My commission expires:_____

(2) Preparation, etc., of claim form. The plaintiff shall prepare the claim form as is set forth in this rule. The claim form shall be presented by the plaintiff in person. Upon receipt of the claim form and filing fee, the clerk shall file the claim form and proceed to assist the plaintiff in obtaining service on the defendant. In all cases, a copy of the answer in substantially the same form as set forth in this rule shall be included by the clerk with the claim form to be served on the defendant.

(3) Service of process.

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

(B) The clerk shall enclose a copy of the claim form in an envelope addressed to the defendant at the address stated in the claim form, prepay the postage, the cost of which may be collected from the plaintiff at time of filing, and mail the envelope to the defendant by certified mail and request a return receipt from addressee only. The clerk shall attach to the original claim form the receipt for the certified letter and the return card thereon or other evidence of service of the claim form. No separate summons is required.

(C) Service hereunder shall be in accordance with Rule 4 of the Arkansas Rules of Civil Procedure.

(b) Answer by defendant. A defendant shall file an answer with the clerk of the court within thirty (30) days after the service of the claim form upon the defendant. The defendant shall mail a copy of the answer to the plaintiff.

(c) Form of answer - Affirmative relief. The defendant shall file with the clerk of the court his or her answer and assert any affirmative relief he or she may claim in substantially the following form:

In the District Court of _____
Small Claims Division

_____
Plaintiff

Vs No. _____

_____
Defendant

Defendant's Address: _____
_____
_____

Reason for Denial of Plaintiffs Claim:_____
_____
_____

Nature and Amount of Affirmative Relief (if any)_____
_____

Date Affirmative Claim Arose: _____

Factual Basis of Affirmative Claim: _____
_____

_____
Signature of Defendant

(d) Taking of evidence - Third-party practice.

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

(2) Actions in the small claims division of district court shall be tried informally before the court with relaxed rules of evidence.

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

(4) No new parties shall be brought into an action in the small claims division of district court, and no party shall be allowed to intervene.

(e) Judgments and orders - Awarding of costs - Appeals.

(1) The judge may give judgment and make such orders as to time of payment or otherwise as may be deemed by him or her to be right and just. However, judgments and orders shall be in writing and entered upon

the official record in the same manner as other judgments and orders of the district court.

(2) No prejudgment attachment or prejudgment garnishment shall issue in any suit in the small claims division of district court.

(3) Proceedings to enforce or collect a judgment shall be in all respects as in other cases, except that security interests may be proved at the same time as the proof of the claim. The order of judgment may include an order of delivery directing the sheriff to deliver the property subject to the security interests to the plaintiff. If the court issues an order of delivery, no further action shall be necessary on the part of the plaintiff to obtain possession of the property.

(4) Except as otherwise ordered by the court, no execution or enforcement proceedings shall issue on any judgment until after the expiration of ten (10) days from the entry thereof.

(5) The prevailing party in an action in the small claims division of district court is entitled to costs of the action, including the costs of service and notice directing the appearance of the defendant and the costs of enforcing any judgment rendered in the action.

(6) Appeals may be taken from the judgment rendered in the small claims division of district court in the same manner as other civil appeals are taken from district courts.

(f) Restrictions on participation by attorneys. See Administrative Order Number 18.

RULE 11. UNIFORM PAPER SIZE.

All briefs, motions, pleadings, records, transcripts, and other papers required or authorized by these rules shall be on 81/2" by 11" paper.

Chapter Seven - RECORD RETENTION SCHEDULE

13-4-201. Electronic reproduction of court records.
Court clerks and any other public officers whose duty it is to make and maintain court records are authorized to use and employ an approved system of photographic recording, photostatic recording, microfilm, microcard, miniature photographic recording, digital compact disc, optical disc, and any other process that accurately reproduces or forms a durable medium for reproducing the original.

13-4-202. Requirements for format and storage of records. When equipment necessary for such methods of recording is used to record court records, it shall meet all of the following requirements:

(1) The information retained shall be in a usable and accessible format capable of accurately reproducing the original over the time periods specified in § 13-4-301 et seq.;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect those records against media destruction or deterioration and information loss; and

(4) A retention conversion-review schedule shall be established to ensure that electronically or optically stored information is reviewed for data conversion or recertification at least one (1) time every five (5) years or more frequently when necessary to prevent the physical loss of data or technological obsolescence of the medium.

13-4-204. Destruction of original.
(a) When any document is recorded by the means prescribed by § 13-4-201, the paper original may be destroyed unless the document is over fifty (50) years old and handwritten or has been determined to be of historical value by the Arkansas State Archives.

(b) If the paper original does not meet these criteria, the electronically stored document shall be considered the "original" document and shall be treated as such when proffered with the recorder's certification.

13-4-301. - Retention required — Destruction — Electronic reproduction.
(a)(1) A county shall maintain the records named in this subchapter for the period of time provided for in this subchapter, after which time the records may be destroyed.

(2)(A) the records named in this subchapter shall not be destroyed until at least on (1) year after an audit by Arkansas Legislative Audit or a private audit is completed and approved.

(B) A record named in this subchapter that is over fifty (50) years old shall not be destroyed before written notice by the custodian of the records and describing the scope and nature of the records in question has been furnished to the Arkansas State Archives, at least sixty (60) days before the destruction of the records.

(b)(1) If a record is photographically or electronically transferred to other media of a permanent nature, the original documents may be destroyed, except that no handwritten records over fifty (50) years old shall be destroyed.

(2) A county record that is photographically or electronically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in this section and §§ 13-4-302 – 13-4-308;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established by each county official to ensure that electronically or optically stored information, for recrods required to be kept permanently, is reviewed for data conversion at least one (1) time every four (4) yers or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

(d) Before a record is destroyed, the custodian of the record shall document the date and type of document.

(e) Records not addressed explicitly under this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas Legislative Audit or any private auditor is completed and approved.

13-4-302. Court records.
If a county of the State of Arkansas maintains records for the county courts, the county shall maintain these records as follows:

(1)(A) For circuit court, civil and criminal, domestic relations, and probate records:

(i) The county shall permanently maintain:

(a) Complete case files and written exhibits for all courts;

(b) Case indices for all courts;

(c) Case dockets for all courts;

(d) Grand jury reports;

(e) Grand juror lists;

(f) Petit jury lists in criminal cases;

(g) Original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a criminal case; and

(h) All probate records required to be maintained under § 28-1-108;

(ii) The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

(a) Records and reports of costs; and

(b) Fees assessed and collected; and

(iii) The county shall maintain for three (3) years, after audit by Arkansas Legislative Audit:

(a) Canceled checks;

(b) Bank statements;

(c) Petit jury lists in civil cases and original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a civil case; and

(d) Served and quashed warrants.

(B) The county shall maintain records of the juvenile division of circuit court, in accordance with § 9-27-309 and other provisions of Title 9 and the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;

(2) For county court records:

(A) The county shall permanently maintain:

(i) County court records;

(ii) Cemetery permits;

(iii) Statements of receipt and expenditures; and

(iv) County improvement district reports; and

(B) The county shall maintain for ten (10) years, after audit by Arkansas Legislative Audit:

(i) County court files;

(ii) County general claims dockets;

(iii) County road claims dockets;

(iv) Contracts for lease-purchase on rental payments;

(v) County school board financial reports;

(vi) Solid waste disposal revenue bonds; and

(vii) Allocations of state funds for solid waste disposal; and

(3) For quorum court records:

(A) The county shall permanently maintain:

(i) Ordinance, appropriation ordinance, and resolution registers;

(ii) Records of proceedings;

(iii) Codification of ordinances;

(iv) Registers of county advisory and administrative boards;

(v) Appointments to subordinate service districts; and

(vi) Quorum court minutes; and

(B) The county shall maintain for one (1) year the county treasurer's monthly financial report.

13-4-303. County Tax and assessment records.

All counties of the State of Arkansas shall maintain county tax and assessment records as follows, if they are currently being maintained:

(1) For tax and assessment records:

(A) Permanently maintain:

(i) Real estate, personal, and mineral tax book;

(ii) Delinquent real estate;

(iii) Personal property list;

(iv) Lands forfeited to the state, and minerals;

(v) Land book of state and federally owned lands;

(vi) Clerk's deed of land sold for taxes;

(vii) Journal of proceedings of the county equalization board;

(viii) Final settlement of tax books; and

(ix) Original charge for all taxing units and certification;

(B) Maintain for seven (7) years:

(i) Real estate and personal assessment record;

(ii) Real estate and personal tax receipts recorded in tax books; and

(iii) Redemption certificate;

(C) Maintain for five (5) years after rollback is complete: Certification of tax adjustment for public utilities and regulated carriers (computation of utility tax);

(D) Maintain for three (3) years:

(i) Delinquent personal tax settlement;

(ii) Land redemption report;

(iii) State lands distribution; and

(iv) Monthly tax distribution;

(E) Maintain for one (1) year, after audit by the Division of Legislative Audit:

(i) Valuation of real and personal property of utilities; and

(ii) Real and personal property tax correction forms;

(2) (A) For county assessor's records, maintain for five (5) years:

(i) Real estate appraisal card after reappraisal;

(ii) Lists of names of taxpayers furnished to assessor by school boards;

(iii) The personal, commercial, and industrial assessment forms; and

(iv) Inactive homestead credit documents.

(B) Prior to destruction of these forms, they will be made available to the county collector;

(3) For county collector's records:

(A) Maintain permanently:

(i) Certified delinquent real estate list with publication certificate;

(ii) Certified delinquent list for real estate forfeited to the Commissioner of State Lands with publication certification;

(iii) Personal property tax book;

(iv) Certified delinquent personal property list; and

(v) Delinquent ad valorem tax lists for oil and gas interests;

(B) Maintain for ten (10) years: Tax settlements;

(C) Maintain for seven (7) years:

(i) Real estate redemption certificates;

(ii) Cash receipts and disbursement journal; and

(iii) Collector's copy of tax receipts; and

(D) Maintain for three (3) years:

(i) Daily collection reports; and

(ii) Distraint of goods and garnishment to pay delinquent personal taxes.

13-4-304. Financial records.

All counties of the State of Arkansas shall maintain financial records for the county as follows, if they are currently being maintained:

(1) FICA — Social Security and federal income tax records maintained per federal regulations;

(2) State Income Tax records maintained per state law and regulations;

(3) Wage garnishments maintained until after a lien is satisfied;

(4) (A) Maintain for seventy-five (75) years:

(i) Payroll records and ledger; and

(ii) Retirement records;

(B) Maintain for ten (10) years:

(i) Appropriation journal (record of disbursements); and

(ii) Warrant register or check disbursement record;

(C) Maintain for seven (7) years:

(i) County general claims certificate or invoice;

(ii) County road claims certificate or invoice; and

(iii) County school claims certificate or invoice;

(D) Maintain for five (5) years:

(i) Unemployment insurance state contribution; and

(ii) Workers' compensation insurance payment; and

(E) Maintain for three (3) years:

(i) Warrants or checks, or both, with documentation;

(ii) Bank records for trust, agency, fee, and court accounts (bank statements and cancelled checks); and

(iii) Receipt books and disbursement journal;

(5) For county treasurer's records:

(A) Maintain permanently: account ledgers for all accounts on the books of the treasurer;

(B) (i) Maintain for three (3) years:

(a) Receipt books;

(b) Bank statements and cancelled checks;

(c) Treasurer's monthly bank reconciliations;

(d) Treasurer's monthly financial report to the quorum court and the prosecuting attorney;

(e) Delinquent real estate and state land redemption distribution reports;

(f) Delinquent personal distribution reports;

(g) County officials' monthly reports; and

(h) District court monthly reports.

(ii) Official records of the treasurer that are necessary for audit purposes are not required under this section may be destroyed three (3) years or more after an audit is completed and approved by Arkansas Legislative Audit or by a private auditor.

.

13-4-305. Recorder's records.

All counties of the State of Arkansas shall maintain county recorder's records for the county as follows, if they are currently being maintained:

(1) Maintain permanently:

(A) Deeds, mortgages, assignments, and all other conveyance records;

(B) Forfeited land records;

(C) Timber, mineral, oil and gas deeds and leases;

(D) Surveys;

(E) Subdivision plats;

(F) Lien records;

(G) Military discharge records; and

(H) Indices to all records; and

(2) Maintain for ten (10) years: Notary public bonds and official appointment bonds.

13-4-306. Voter registration and election records.

All counties shall maintain county voter registration and election records for the county as follows, if the records are currently being:

(1) Maintained permanently:

(A) Voter registration record files;

(B) Maps of election precincts from the county board of election commissioners;

(C) Certificates of election; and

(D) Ordinance election results; and

(2) (A) Maintained for ten (10) years, after cancelled: A person's voter registration record and reason for cancellation of a person's voter registration.

(B) Maintained for ten (10) years:

(i) Minutes of the board of election commissioners; and

(ii) Election files.

(C) Maintained for five (5) years:

(i) Petition, certificate, and notices for ordinance;

(ii) Political practice pledges;

(iii) Campaign contribution and expenditure sheets;

(iv) Code of ethics statements; and

(v) Financial disclosures.

(D) Maintained for two (2) years:

(i) Acknowledgement notices giving the disposition of a person's voter registration application;

(ii) Precinct voter registration lists prepared for each election;

(iii) Confirmation notices mailed by a county clerk to confirm a voter's change of residence or name;

(iv) Confirmation return cards received in response to a confirmation notice;

(v) Absentee ballot applications and lists, except where litigation follows or federal law governs; and

(vi) voter registration cards; and

(E) Until an election is certified to the Secretary of State under § 7-5-701, all unused ballots

13-4-307. Marriage records — License and bond records.

All counties of the State of Arkansas shall maintain county marriage records, licenses, and bonds records for the county as follows, if they are currently being maintained:

(1) Maintain permanently:

(A) Marriage record and index;

(B) Clerical licenses and credentials;

(C) Medical license for physicians, physical therapists, podiatrists, osteopaths, and chiropractors; and

(D) Record of marks and brands;

(2) Maintain for seven (7) years:

(A) Surety bonds for county and township officials (until 1986);

(B) County employees blanket bonds;

(C) Oaths and bonds of county officials, Deputies, school supervisors, etc.; and

(3) Maintain for one (1) year:

(A) Notice of intention to wed;

(B) Going-out-of-business sale license;

(C) Bond for going-out-of-business sale license;

(D) Transient merchant license;

(E) Transient merchant license bond;

(F) Garnishment bonds; and

(G) Mercury refiners license.

13-4-308. Corporation records.

All counties of the State of Arkansas shall maintain corporation records for the county, if they are currently being maintained, permanently as follows:

(1) Articles of incorporation;
(2) Certificate of business under assumed name;
(3) Articles of amendment;
(4) Registration of fictitious names of corporation;
(5) Articles of merger or consolidation;
(6) Change of registered office or agent;
(7) Authorized share of stock;
(8) Cancellation of shares; and
(9) Certificate of dissolution of corporation.

28-1-108. Recordkeeping requirements.

The following records of the court shall be maintained:

(1) An index in which files pertaining to estates of deceased persons shall be indexed under the name of the decedent, and those pertaining to guardianships under the name of the ward. The file and docket number shall be shown after the name of each file;

(2) A docket in which shall be listed in chronological order under the name of the decedent or ward all documents filed or issued and all orders made pertaining to the estate, including:

(A) The dates thereof;

(B) The names and addresses of fiduciaries and of attorneys for parties in interest when and as known to the clerk;

(C) Reference to the volume and page of any record which shall have been made of the document or order; and

(D) Other data as the court may direct;

(3) A record of wills, properly indexed, in which shall be recorded all wills admitted to probate with the certificate of probate thereof;

(4) Other records as may be required by law or the court.

ACA 14-2-305. Recording of documents.

(a) In this section, "paper document" means a document that is received by the county recorder in a form that is not electronic.

(b) A county recorder:

(1) who implements any of the functions listed in this section shall do so in compliance with standards established by the Electronic Recording Commission.

(2) may receive, index, store, archive, and transmit electronic documents.

(3) may provide for access to, and for search and retrieval of, documents and information by electronic means.

(4) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index.

(5) may convert paper documents accepted for recording into electronic form.

(6) may convert into electronic form information recorded before the county recorder began to record electronic documents.

(7) may accept electronically any fee, tax, or revenue stamp that the county recorder is authorized to collect.

(8) may agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees, taxes, or revenue stamps.

(9)(A) may enter into an agreement with a private entity to perform the duties under this section, including without limitation receiving, reviewing, scanning, and transmitting documents for electronic recording.

(B) An agreement under subdivision (b)(9)(A) of this section shall be a uniform agreement reviewed and formally approved by the commission.

ACA 9-28-217. Juvenile records confidentiality.

(a) Except as provided in subsection (c) of this section, reports, correspondence, memoranda, case histories, or other material that personally identifies a juvenile, including protected health information, compiled or received by a juvenile detention facility, a community-based provider for the Division of Youth Services, or the Division of Youth Services shall be confidential and shall not be released or otherwise made available except to the following persons or entities and to the extent permitted by federal law:
(19)(A) The Department of Corrections for the purpose of creating a risk assessment, classification plan, or supervision plan for each juvenile who: (i) Has an extended juvenile jurisdiction designation; and (ii) Comes under the supervision or enters into the custody of the Department of Corrections as an adult from the Division of Youth Services.

ACA 9-27-309. Confidentiality of records

(e) This section does not apply to nor restrict the use or publication of statistics, data, or other materials that summarize or refer to any records, reports, statements, notes, or other information in the aggregate and that do not refer to or disclose the identity of any juvenile defendant in any proceeding when used only for the purpose of research and study. (f) This subchapter does not preclude prosecuting attorneys or the court from providing information, upon written request, concerning the disposition of a juvenile who has been adjudicated delinquent to: (1) The victim or his or her next of kin; or (2) The school superintendent of the school district or the designee of the school superintendent of the school district to which the juvenile transfers, in which the juvenile is enrolled, or from which the juvenile receives services. (g) The prosecuting attorney shall notify the school superintendent or the designee of the school superintendent of the school district to which the juvenile transfers, in which the juvenile is enrolled, or from which the juvenile receives services if the juvenile is adjudicated delinquent for: (1) An offense for which the juvenile could have been charged as an adult; (2) An offense involving a

deadly weapon under § 5-1-102; (3) Kidnapping under § 5-11-102; (4) Battery in the first degree under § 5-13-201; (5) Sexual indecency with a child under § 5-14-110; (6) First, second, third, or fourth degree sexual assault under §§ 5-14-124 – 5-14-127; or (7) The unlawful possession of a handgun under § 5-73-119. (i)(1) If a juvenile is arrested for unlawful possession of a firearm under § 5-73-119, an offense involving a deadly weapon under § 5-1-102, or battery in the first degree under § 5-13-201, the arresting agency shall orally notify the superintendent or the designee of the superintendent of the school district to which the juvenile transfers, in which the juvenile is enrolled, or from which the juvenile receives services of the offense for which the juvenile was arrested or detained within twenty-four (24) hours of the arrest or detention or before the next school day, whichever is earlier. (2)(A) The superintendent of the school district to which the juvenile transfers, in which the juvenile is enrolled, or from which the juvenile receives services shall then immediately notify: (i) The principal of the school; (ii) The resource officer of the school; and (iii) Any other school official with a legitimate educational interest in the juvenile. (B) The arrest information shall: (i) Be treated as confidential information; and (ii) Not be disclosed by the superintendent or the designee of the superintendent to any person other than a person listed in subdivision (i)(2)(A) of this section. (C) A person listed in subdivision (i)(2)(A) of this section who is notified of the arrest or detention of a juvenile by the superintendent or the designee of the superintendent shall maintain the confidentiality of the information he or she receives. (3) The arrest information shall be used by the school only for the limited purpose of obtaining services for the juvenile or to ensure school safety.

Chapter Eight- County Lines Articles and FAQs

County Lines Articles:

Smooth, Effective Meetings

They don't just happen!

By: Eddie A. Jones

County Government Consultant

Most likely you've sat in dismay – maybe you've even been appalled or, depending on your position, embarrassed while a meeting tumbled off into nowhere. You know what happened: stories, side issues, chit chat and "stuff" overran the good intentions of those who were trying to accomplish something.

It may be that the Chair and/or the participants were not properly prepared for the meeting. However, the meeting may have started with a clear goal with a real agenda and with at least a majority of the participants prepared. But somehow it ended up a failure. Why? The reason is that a meeting can be led or misled from any chair in the room. Individual contributions, or the lack thereof, determine the net result produced in a public meeting – or a meeting of any kind.

During my thirty-plus years in county government work I have attended literally hundreds of quorum court meetings and I have chaired dozens of meetings in various capacities. I have seen the good, the bad and the ugly. Let's take a look at what it takes to have smooth effective meetings. We are talking in particular about quorum court meetings or other county government public meetings. But, most of what we say will be applicable to almost any kind of meeting where business is being conducted. We are going to be looking from both sides of the table. It takes not only a competent and prepared Chair – but participants that are prepared and ready to take care of business in a professional manner.

One of the most difficult tasks for an elected official is being called upon to run a public meeting, be it a County Quorum Court meeting, a Committee thereof, or some other type of county government public meeting or hearing. In Arkansas you must understand not only the Open Meetings Law (Freedom of Information Laws ACA 25-19-101, et seq), but also your own rules of order. Many people are under the misconception that Roberts Rules of Order are the mandatory rules of order in Arkansas county government – but that is not so. Every quorum court in Arkansas is authorized under ACA 14-14-801(b)(12) and ACA 14-14-904(e) to provide for their own organization and management and to determine their own rules of procedure, except as otherwise provided by law. Most counties do find that Roberts Rules of Order is a good starting point and an adequate default in the event that its own adopted rules of procedure do not address an issue. In that case it is imperative that the county actually have a copy of Roberts Rules or Order on hand to serve as a reference and guide.

According to Arkansas law, specifically ACA 14-14-904(d), the county judge is the presiding officer, or Chair, of the quorum court without a vote but with the power of veto. However, in the absence of the county judge, a quorum of the justices by majority vote shall elect one of their number to preside or chair the meeting but without the power of veto. A justice retains the right to vote on a measure even though he or she is serving as Chair. So, it behooves the county judge and each member of the quorum court to be prepared and ready to conduct a great meeting – smooth and effective.

The legalities of the Open Meetings Law and your own rules of procedure are not everything you need to know. There is a part of presiding over a meeting that is not in a law or rule. For lack of a better term it amounts to *style.* American Poet, Robert Frost defined style as *"the mind skating circles around itself as it moves forward".* Even the most competent elected official armed with a complete knowledge of the Open Meetings Law (FOIA) and Roberts Rules or Order can find themselves on the verge of panic while trying to chair a meeting. One word of advice can aid in avoiding this public calamity – RESPECT. Let me further expand on the term "respect" by using an acrostic.

R – Responsibility – The Chair is Responsible for implementing the rules that have been established. Responsibility lies with the Chair to clarify roles and rules, to follow the agenda, to be fair but firm and to keep the meeting moving.

E – Ethics – Rightly or wrongly the Chair is always held to a higher standard than the other members of the body, and projecting the air of a higher Ethical standard is crucial to a cooperative environment.

S – Succinct – Often less is more and making comments and rulings in a direct and Succinct manner helps avoid the sin of sermonizing to members of the body.

P – Predictability Principal – Prior Proper Planning Prevents Poor Performance – A successful meeting does not just happen, but rather requires, above all, that the Chair be prepared for what is to come.

E – Engage – The Chair is responsible for Engaging ALL of the stakeholders in any public meeting. Leaving any of the stakeholders out of the process is a recipe for discord and disaster.

C – Coordinate not Control – The proper goal of the Chair is to Coordinate the rules with the competing interest, not to Control the outcome of the meeting. A controlling Chair will invite stern and vocal opposition and impair the ability of the meeting to accomplish any of its goals.

T – Time – In short, starting a meeting late and wasting time during a meeting are both rude. It's rude to your colleagues, citizens and staff. The Chair has the primary responsibility to call the meeting to order on time and to make sure that the meeting moves forward in a timely manner. Don't wait on the perpetual tardy. Suggest a new motto: **5 minutes early is the new on-time.** Start every meeting promptly and people will soon realize that you mean what you say.

Following these suggestions will foster respect both for the Chair and for the body as a whole. Ralph Waldo Emerson said, "Men are respectable only as they respect."

What if you're a participant and not the Chair – in this case a quorum court member not acting as Chair? Here's how to make sure that your participation contributes to an effective meeting.

1) Focus on the issue.

Avoid stories, jokes, and unrelated topics. These waste time, distract the attendees, and sometimes mislead. Save the fun and trivia for social events when it's more appropriate and will be appreciated.

2) Take a moment to organize your thoughts before speaking.

Then express your idea simply, logically and concisely. People are more receptive to ideas they understand – plus long complex explanations bore people.

3) Use positive comments in the meeting.

Negative comments create defensive reactions or even retaliations that take people away from solutions. Negative comments also make you appear mean, uncooperative, weak, or even incompetent.

4) Test your comments.

Before speaking, ask yourself, "Does this contribute to an effective meeting?" If you sense it subtracts, keep your mouth shut.

5) Respect others.

Different views force us to think. After all, if we were all the same, they would need only one of us. So, accept what others say as being valid from their viewpoint. Work to understand why others are expressing ideas that you find disagreeable.

6) Take a rest.

If you notice that you are speaking more than anyone else in a meeting, stop and let others talk. You're either dominating the meeting with monologues or conducting a conversation with a minority of the participants. In either case, you're preventing the other attendees from participating.

These are but a few of the things you can do as a quorum court member to contribute to a productive meeting.

I want to discuss a few other things that I have not yet touched on. These tips are primarily for the Chair of the meeting. But, remember that could be a member of the Quorum Court in the absence of the County Judge.

- **Summarize** – After each agenda point, summarize the key decisions, opinions and actions. It's your job to make sure those decisions and actions are clearly understood and that they are moving in the right direction to accomplish the meeting's objectives. It is also a good idea, especially when there has been lengthy discussion on a complicated issue, for the Chair to summarize with clarity the question being voted on.
- **Don't be afraid to say you don't know** – Hopefully, you'll have done your research before the meeting starts but there's always a chance that someone will hit you with an issue you know nothing about. If this happens, remain calm. Use the old trick of repeating the question or using a phrase such as "that's a very interesting point". This gives you a few seconds to get your answer straight in your mind, reducing the possibility of stuttering or sounding unsure. If you don't know the answer, admit it. Say, "I wasn't aware of that particular issue, does anyone else here have any knowledge about it?" If nobody else speaks up, ask the questioner to see you after the meeting to give you some background. It could well be something important and even if it's not, you'll look good in front of your audience.
- **Thank your audience –** Always thank attendees once the meeting is finished. It is common courtesy and people appreciate it.

Here is something else that is very important – keeping a good and accurate record of the meeting. We call it "taking minutes". It's a boring job but someone's got to do it. Under Arkansas law the secretary of the Quorum Court is the County Clerk unless the court, through ordinance, decides to hire someone else from the staff of either the County Clerk or the County Judge [ACA 14-14-902(a)(1)(2)(3)(A)(B)(C)].

Taking minutes may not be the most glamorous job in the world but it's absolutely necessary to avoid conflict and mixed messages later on. Here's how to produce a good set of minutes.

Minutes need to be:

- Accurate. They must be a true record of what occurred. That means no drifting off during finer points of discussion.
- Clear and unambiguous. Minutes cannot be open to interpretation or discussion. Otherwise, they're pointless.
- Consistently structured. Decide on a structure (bullet points or numbers are the most common) and stick to it. Your minutes will be a lot easier to ready and they will look a lot more professional.
- Brief. You should summarize discussions and decisions rather than attempt to get them down verbatim.

It's also vital that whoever takes the minutes understands the subject. A confused note taker will produce confused minutes. If something is not clear, ask for clarification from the speaker or the Chair. It could save a lot of time, confusion or disagreement later on.

The Association of Arkansas Counties has a Justice of the Peace Procedural Manual on their web site under "publications" that contains a Procedural Guide for Arkansas County Quorum Court Meetings. This guide is found in Chapter 6 of the manual and is recommended reading and study for every Quorum Court Justice and every County Judge.

I leave you with this last thought for a smooth and effective public meeting. The "attitude" and "temper" should be checked at the door. Arthur Gordon relates this personal story, "At a turbulent meeting once I lost my temper and said some harsh and sarcastic things. The proposal I was supporting was promptly defeated. My father who was there, said nothing, but that night, on my pillow I found a marked passage from Aristotle: Anybody can become angry – that is easy, but to be angry with the right person and to the right degree and at the right time and for the right purpose, and in the right way – that is not within everybody's power and is not easy."

Debate – The Lost Art!

By: Eddie A. Jones
County Government Consultant

Many types of debate exist – parliamentary debate, Oxford-style debate, public debate, policy debate, classic debate and the list continues. And there is a different set of ground rules for every style of debate. For this article, as it relates to good county government, I want you to think of debate in its general context – which is a method of interactive and representational argument. And, I don't use the term "argument" in a negative way but in the manner of properly and professionally discussing the various sides of an issue. Oh, by the way, there are always multiple sides to an issue and there is nearly always more than one way to solve a problem. When I have learned it has been from those who have disagreed with me. You never learn from those who always agree with you.

How many times have you seen this scenario? A citizen approaches a county justice or a county judge and asks what future action the county quorum court is going to take on a particular issue. When the elected official expressed his or her position on the issue, a position that was contrary to the citizen's, the citizen walked away. Many probably think that is the way it should work – the official's way is "the way" come what may. But, is that the way we really want it? This scenario simply reminds me that far too often many of us would prefer to only hear answers that align with or affirm our own thoughts and positions, rather than engage in a thoughtful discussion about the issue in order to understand and consider opposing views. It also reminds me of the Aesop quote, "He that always gives way to others will end in having no principles of his own."

Today's fast-paced culture helps promote a less-engaged citizenry – or at best, engaged citizenry without full knowledge of the facts. E-mail, Twitter, Facebook and news channels with constant scrolling tickers at the bottom of every television screen allow us to scan and receive information quickly, but not with in-depth knowledge about the subject matter. The truth of the matter is our fickle brains favor this simplicity by arranging information into categories to save us thinking time……just another result of our fast-paced life style. These shortcuts that we use to make sense of the world shape our perception of it. When it comes to understanding issues, this can lead citizens, as well as elected officials, to reach conclusions about issues even when they have not been exposed to the "facts".

Here's an example: A recent sampling of the public in one area of the state showed strong opposition to studying the consolidation of 911 dispatch. This sampling of public sentiment indicated a service citizens clearly value. But it also points out that an opinion was formed prior to any in-depth dialogue about the study, which could provide an opportunity to consider options in how the service is provided.

Many issues are not fully understood by citizens or there is no immediate concern. For instance, a decision to build a law enforcement center complex and jail may elicit more citizen response, positive or negative, because it is immediate and may appear to be a simple, straightforward decision. In contrast, discussion of a long-range strategic plan that provides guidance to the county officials may appear to be too complex or too far off in the future to be of interest to the public. The lack of interest does not diminish the need for a county long-range strategic plan – but serves as an admonition to county leaders to develop a way to garner the interest and input of the citizenry. The French moralist and essayist, Joseph Joubert said, "It is better to debate a question without settling it than to settle a question without debating it."

The most interesting and influential thinker of the fifth century was Socrates, the classical Greek Athenian philosopher. He sought genuine knowledge by asking questions of his fellow citizens. He knew that these questions were hard to answer, and he thought it would be better to have people discuss the answers together, so that they might come up with more ideas. If I have learned anything in life, it is – that to ignore the facts does not change the facts. And the fact is, some people outside the county courthouse have good ideas and they need to be incorporated into the discussion when making decisions that affect all your citizens.

Deep and profound debate, as was the case in the time of Socrates, may be hard to achieve in today's world, but county government officials need to continue to encourage proper citizen participation. One of the benefits of citizen participation is an increased understanding of problems and possible solutions leading to better decisions being made. In addition, citizens need to communicate with their elected representatives with an open mind. When we are open, we give

people room to release their fixed positions and consider alternatives. Remember, "There is no conversation more boring than the one where everybody agrees."

Public Speaking is a Necessity for County Officials!

By: Eddie A. Jones
County Government Consultant

Speech is power; speech is to persuade; to convert, to compel – so said Ralph Waldo Emerson many years ago.

Public speaking is looked upon with dreadful fear by the vast majority – even those who really need to use the medium. It's the last thing on earth that many want to do.

During my years of maturing in public office when I was faced with that fear I liked to tell myself: "I don't feel like it, I don't want to – but I'm going to do it anyway." There is something about recognizing our lack of motivation and then choosing to be responsible that helps us follow through. We have an important county message to share – both to the public and in testimony before legislative committees!

For the past 45 years the Association of Arkansas Counties has served as the statewide official voice for Arkansas county government. But, you – the county elected officials are the voice for county government in your county and many times during legislative sessions. That's why it is so important for county officials to take every opportunity given or even make your own opportunity to spread the "county message".

We need more county officials willing to go to the podium and "proclaim the message". County government has a great cause and a great message to tell. And when people understand what county government does and how it relates to them they are more willing to help.

Many times elected officials find themselves wanting to take the back seat and let someone else drive because of fear of taking the political risk of getting behind the wheel and taking the lead. If you find yourself thinking that way try to keep in mind the words of William Penn, an early champion of democracy and religious freedom. Mr. Penn said, "Right is right, even if everyone is against it, and wrong is wrong, even if everyone is for it." There is always a tactful approach even for the most controversial issues. As a county leader – you need to step forward.

Many of you probably feel that you are not capable of conveying your thoughts in a manner that would achieve the results you desire. The fact is, you will improve with practice – but you have to start first. Someone once made the profound statement, "It's not what you say but how you say it". And there's a lot of truth to it. Until you get better at the "what" at least be good at the "how". Be passionate about county government.

Of course, we should be good at the "what", too. I believe in the importance of researching the subject and then clearly and precisely making the point when the opportunity presents itself. Being a county official affords you the privilege to speak at many programs and functions – and even before legislative committees. Each opportunity to speak gives you the chance to get better at the art of public speaking.

I have had many opportunities to hone my speaking skills. Although I studied speech and public speaking in school; completed communication skills classes; spent 30 years in broadcasting interacting with a radio audience; and have given dozens of speeches during my 32 years in county government - I am rarely satisfied with my presentation. "There are always three speeches for every one you actually gave. The one you practiced, the one you gave, and the one you wish you gave." I want to learn how to better present county government. I want to be clear and concise. How about you?

You are strong and confident in other areas of your life, and you can be strong and confident as a speaker, too. You can develop skills and even learn to have fun giving engaging presentations on county government that inform, motivate and yes - even entertain.

Inspirational author Barry Neil Kaufman once wrote, "A loud voice cannot compete with a clear voice." Our success in county government does not depend on what we say or how often we say it, but rather on what our people and our legislators hear. Public speaking is vital for county officials.

Being an Effective Public Speaker

No doubt your ability to communicate more effectively will be enhanced if you know how to gather and organize information for your speech; if you learn the proper structure of a presentation; how to improve your vocal variety; how to gesture more effectively; proper body movement, facial expressions, eye contact and walking patterns; how to handle questions; and maybe as important as anything – overcoming speaker anxiety. That's quite a list – and yes, there is a lot to learn to be a good and effective public speaker. But, you have to start if you ever want to arrive.

It is a common misconception that certain people are born good speakers. Yes, some people have a gift of gab and seem natural at it. But make no mistake: Becoming a confident public speaker is achieved only by the desire to become a better speaker, followed by focused effort and a lot of practice.

Professional speakers NEVER stop practicing and honing their speaking skills. If you are like most people, you did not have a great first-time public speaking experience, and the thought of speaking in front of people scares you to death. Well,

according to the Book of Lists, public speaking is the greatest of all fears – number 1 on the list! The fear of dying is number seven on the list. So, apparently most people would rather die than get up in front of a group of people to speak.

If you feel this way, you're not alone. Many professional speakers and famous presenters will freely admit to nervousness and stage fright. In fact, you need just a bit of "nervousness" to be your best – to keep you sharp and on your toes. But you have to be in control – not your nerves. Learning specific techniques to improve your public speaking can help eradicate your fear and help you succeed.

Here are some proven tips on how to control your butterflies and give better presentations:

1. **Know your material.** Know more about your subject than you include in your speech or presentation – over prepare. You may need the additional information if you open up for questions and answers. Not only should you know your material – but convey the material in an interesting way so that people retain some of what you said. Three ways to do that is use conversational language (it flows better), use humor and personal stories. Well executed humor and stories hold the power to deliver messages in an entertaining fashion and can jolt us into seeing things from a broader perspective. It can even enliven dull topics, diffuse tense situations and help the speaker connect with the audience. Once you get people laughing they're listening and you can sell your message. Just make sure your humor and stories are appropriate.
2. **Practice!** There is no magic formula for becoming a polished public speaker. Those of you who play a musical instrument know you do not become proficient without practice. I used to roll my eyes when my mom told me to practice the piano for an hour after school before I did anything else. I later came to appreciate her instruction and the time spent in practice. To learn to play the piano, you have to play the piano. To learn to speak, you have to speak. You know the old cliché "How do you get to Carnegie Hall? – Practice, practice, practice." Public speaking demands the same level of practice. And yes, you rehearse out loud. That way you hear yourself and it is easy to detect what needs to be changed.
3. **Know your audience.** Greet some of the audience members as they arrive. It is easier to speak to a group of friends than to strangers – or at least to people to whom you have made some kind of connection.
4. **Know the room.** Arrive early, walk around the speaking area and practice using the microphone and any visual aids you may be using in the presentation. [Now you know why you can greet the audience as they arrive – because you're already there checking things out…..trying to minimize any mishaps.]
5. **Relax.** Easier said than done – but RELAX! The four things I have already mentioned should help you relax. But there are additional relaxation techniques such as slow deep breathing; possibly a brisk walk to loosen up your entire body and get your blood flowing; positive self-talk; and there are many others. The very best thing in my opinion is BE PREPARED. Preparation is key to any good speech.
6. **Realize that people want you to succeed.** Audiences don't want to be bored to death. They want you to be interesting, stimulating, informative and entertaining. They're rooting for you.
7. **Don't apologize for being nervous.** Most of the time your nervousness will not show. If you don't refer to it, most won't notice. "There are only two types of speakers in the world anyway – the nervous and liars."
8. **Concentrate on your message – not the medium.** Your nervous feelings dissipate when you focus your attention away from your anxieties and concentrate on your message and your audience, not yourself.
9. **End with a memorable conclusion.** The conclusion is the final component of your speech or presentation. A speech is structured with an introduction, the body, and the conclusion. The conclusion needs to serve as a review of your message. Those listening tend to remember the last words they hear you say, so it's vital that your key message is restated in your conclusion. As you put the finishing touches on your speech, make sure your presentation comes full circle by relating your conclusion back to your introduction – tie it together. And close with a quote or a story leaving the audience with a visual image of your message. Although your conclusion is short, its significance is important. This is your last chance to drive your message home and leave a lasting impression.

Big Public Speaking Mistakes

Why is it that intelligent people end up boring their audiences? They fail to recognize that public speaking is an acquired skill that improves with practice and honest feedback. Let me share with you some of the biggest public speaking mistakes.

- **Starting with a whimper.** Do not start with a whimper – a start like the "dead-fish handshake". Start with a bang! Give the audience a startling statistic, an interesting quote, a news headline, a funny story – something powerful that will get their attention immediately.
- **Attempting to imitate other speakers.** Be yourself – although in an enthusiastic way. Authenticity is lost when you are not yourself.
- **Failing to "work" the room.** If you don't take time to mingle before the presentation, you lose an opportunity to enhance your credibility with your listeners.
- **Failing to use relaxation techniques.** If you're nervous and tense do whatever it takes – listening to music, breathing deeply, shrugging your shoulders – to relieve and release nervous tension.
- **Speaking without passion.** The more passionate you are about your topic, the more likely your audience will act on your suggestions.

- **Ending a speech with questions and answers.** It is fine and many times appropriate to have a segment of questions and answers – but, as the speaker, always have the last word. After the Q and A, tell a story that ties in with your main theme, or summarize your key points. Conclude with a quote or call to action.
- **Failing to prepare.** If you don't leave a good impression you have hurt your credibility and failed. So over prepare and rehearse well enough to ensure you'll leave a good impression! "If you don't know what you want to achieve in your presentation your audience never will." [Harvey Diamond]

Testifying in a Legislative Committee or Speaking One-on-One to Legislators

Much of what I have said already concerning Public Speaking is apropos and can be used, with some obvious modification, in testifying before a legislative committee.

The first thing to remember is that "you are the expert". If you're testifying before a legislative committee on a county government bill – you will probably know more about the subject than anyone sitting on the committee. That should reduce the "fear factor" – but don't let it make you over confident.

Here are a few things to remember when testifying before a committee at the Capitol:

- Don't speak until recognized by the chair. Once recognized introduce yourself, your office and your county. This is required and will become a part of the committee record.
- Be over prepared on the subject matter. Chance favors the prepared mind – so be prepared.
- Don't talk the bill to death. Adequately cover the merits of your bill – or the demerits if you're speaking against a bill. Remember to include a brief introduction, the body or main points pro or con, and a "zinger" but short conclusion – something for them to remember you by…..but don't take too much time.
- Committee members will many times have questions concerning the bill. Answer all questions fully and truthfully.
- In making your presentation before a committee only speak about the bill itself. Stay away from public policy debates. It is the legislature's prerogative to set and establish state policy.
- Don't argue with members or become publicly angry if they toss a few spears your way. Just catch them and go on. That works much more to your advantage. Continue to press your points in a positive manner.
- Gauge the pulse of the committee before testifying. Get to the committee room early. Talk to as many of the committee members as possible. They should know who you are and your mission before you ever sit down to testify.
- Be courteous. Yes, always be courteous – even when you are not treated with the same courtesy.
- When you're finished be sure to thank the Chair and members of the committee for the opportunity to testify.

Earlier I quoted Ralph Waldo Emerson – "Speech is power; speech is to persuade; to convert, to compel." And that is exactly what you want and need to do as county elected officials when you're making a speech; testifying before committee; or simply talking to your constituents or to legislators individually. Use you power to persuade, convert and compel them to understand county issues and to adopt them as priorities.

How do you do that? You know your stuff – and it takes time and study to get there. Remember – (1) Know your material; (2) Practice; (3) Know your audience; (4) Relax; (5) Concentrate on your message; and (6) End with a bang! Always end with a memorable conclusion!

In 1961 Oklahoma's powerful Senator Bob Kerr asked President Kennedy if he could have a few minutes of his time. Kerr was upset that JFK was going to veto the recently passed bill to bar the importation of zinc. Kerr was strongly supported by zinc manufacturers in western Oklahoma. Kennedy received him at the Oval Office with aide Mike Feldman and Ted Sorensen and said, "Bob, I'm sorry but it's a bad bill."

Mr. President, could I speak to you privately? There are a few things you may not understand about the legislation."

"Sure, Bob, but it's not going to change my mind. I've been briefed pretty thoroughly by Ted and Mike."

When Sorensen and Feldman left the room, Kerr drawled, "Mr. President, you are my leader and I will abide by your decision."

"Bob, I appreciate that."

"But, Mr. President, my people were pretty mad when Ike vetoed that same bill, and I'll have to go back to Oklahoma and spend full-time defending your action."

Again the President said, "I really appreciate that."

"But, Mr. President, you understand that means if I'm away in Oklahoma, your tax bill, which lies in the Finance Committee which I chair, will never come to the floor."

"Well, Bob – this is the first time anyone ever really explained the zinc bill to me – I'll sign it."

Like Bob Kerr, I think it is time for county officials to "really explain" the facts - proclaim the county message. You do that through confident speaking. And you become confident by doing it over and over – practice, practice, and practice some more. You persevere and become that dazzling diamond. And we all know that a diamond is simply a piece of coal that stuck to the job! It became something it did not start out to be – and you can, too. You can be a confident speaker! "Aspire to inspire before you expire!"

Leadership - The Learned Art

A shared point of view –
By: Eddie A. Jones
County Government Consultant

I have heard so many county officials say, "I'm not a politician and I'm not a leader." Whether you realized it or not – when you took on the mantle of county constitutional officer you shouldered the responsibility of leadership! That's right, leadership for a certain segment of county government and because of your elected status – leadership as a community leader. Dwight D. Eisenhower, President of the United States when I was a kid in the 50's, said, "Leadership is the art of getting someone else to do something you want done because he wants to do it". Leadership is a "learned art". Leadership is mostly the art of doing simple things very well, including the ability to generate the desire in other people to do their best because of your leadership style.

1. County Constitutional Officers are the elected leaders of their counties.

As elected leaders, you are first and foremost expected to lead. After being elected, one quickly learns that leadership in the public sector is different than leadership in the private sector. Leadership in the public sector is truly a team effort. Getting elected to office is one thing – being an effective public sector leader is another.

It is imperative to lead with courage! That means speaking of the "unmentionables" – even taxes or cut backs; making the hard decisions that are known to be politically charged; and speaking the truth about everything.

Followers want leaders who will make the tough decisions and not procrastinate by studying everything to death. They want leaders of principle who take risks to stand for what is right. And they want a climate where truth is not an aberration but is the norm and is not only encouraged but expected. They want leaders who will appreciate such honesty, even about themselves.

2. Modern day government is complex, demanding, and changing.

Modern day county government is big business. Serving in public office is very challenging. The needs and demands for services are growing and the resources available are very limited. The laws, rules and regulations are complex and changing. The jobs of County Judge, Sheriff, County Clerk, Circuit Clerk, Treasurer, Assessor, Collector, and Coroner can be complex, demanding, changing, time consuming and often times frustrating. I believe county officials need all the help they can get.

To support and assist county officials in their complex role as leaders, over the years more and more counties have created the positions of Administrative Assistant, or Chief Deputy. One of the main functions of these positions is to help counties function more effectively.

An elected county official should be very deliberate in choosing the "second in command" for their office. Choosing a person with education in public administration and / or years of practical experience in management roles in both the public and private sector will be a great asset to the county.

It is extremely important to be able to trust your "next in command" and all those on your work force. In fact, if you cannot trust the people who work for you – you don't need them. However, if you trust people, they usually prove you're right. Breaking out of our natural distrust of people to trust the people who work for us will prove to be a useful and progressive change. It will let us unleash people with talent and let them rise to levels that no one had expected, simply by challenging them.

3. Leadership starts with a positive attitude.

Leaders deal with possibilities and hope. The first essential of leadership is to have the desire to lead and make a positive impact. A leader needs self-confidence that he or she can make a positive difference. A leader must have integrity. Like professionals who excel in other fields, I believe leaders need to study leadership to improve their overall effectiveness.

No one is born a leader. Leadership is a learned skill. Learning leadership is easier for some than for others. To quote the scripture of St. Matthew, "If the blind lead the blind, both shall fall into the ditch". Take the time to learn through reading, through application, through leadership classes and through continuing education offered for your office in county government. Learning helps produce the confidence that every leader needs.

Most of us carry around a satchel full of childhood insecurities. You, as the leader carry that satchel of insecurities and so do those that work for you. How do you want to be treated? I think I know the answer. So, instead of tearing them down to make them into robots – show them that you trust and believe in them. Show me a leader who ignores the power of praise, and I'll show you a lousy leader. Praise is infinitely more productive than punishment. Ovid, the Roman poet said, "A ruler [leader] should be slow to punish and swift to reward."

Recall how you feel when your own boss (the electorate) tells you, "Good job." Do your people and yourself a favor. Say it in person. Press the flesh. When your employees do a good job – tell them. Be an encourager. It is not only good for them, it's good for you, too. Little things make big successes! Bill Bradley, a professional basketball player when I was in high school and later a U.S. Senator, said, "Leadership is unlocking people's potential to become better."

4. Leadership simplified.

It's been said that most organizations are overly managed and under led. Leadership in the simplest form is moving the organization, county, or department forward from Point A to Point B. Point A being the current situation – i.e. facing reality. Where are we today? What's working well? What's not working well? What are we not doing we should be doing? What are we

currently doing we should not be doing? What are our strengths, weaknesses, opportunities, and threats? Point B being where do we want to go? What is our mission and what are our goals?

Leadership in counties can also be looked at by referencing different levels of leadership:

- Level 4 is looking at the "big picture": the county's vision, goals and values, and overall culture.
- Level 3 is developing overall strategy and allocating resources to achieve the goals.
- Level 2 is the overall management of the workforce and day-to-day activities.
- Level 1 is the daily actions of the county's employees.

Counties need leadership, energy and commitment at all levels. The best leaders take complexity and bring simplicity to it. Let's call it focus or prioritization, but it is a quality that county leaders need to have.

5. Running a county is a team effort.

All effective teams have three elements in common. Let's call them the ABC's of an effective team.

A. They have clearly defined goals.
B. They have clarified roles, responsibilities, and expectations.
C. They have positive working relationships.

Getting results in a well-run organization consists of three steps. Step 1 is defining the goals to be achieved. Step 2 is developing action plans to achieve the goals. And, Step 3 is implementing the plans.

Who gets all this done – the leader or the team? It takes the leader and the others – which make the team. Credit should not normally go to one person. Jealousy and envy are powerful emotions and, if acted upon, can cause serious problems. Leaders must always watch out for them. A jealous leader may behave in ways that inhibit and paralyze his or her subordinates, who eventually turn off, tune out and shut down. The antidote lies in making the people who work for you know they are needed and highly valued. Help them believe in that wonderful old truism, "A rising tide lifts all boats." A county's success is a collective achievement.

6. Improving the effectiveness of the county team.

We are all a work in progress. Improving the effectiveness of county government requires a team effort. The County Judge (the Chief Executive of the county), the other county constitutional officers (the rest of the Executive team), and the Quorum Court (the legislative arm of county government and guardian of the public purse) need to do a better job of clarifying goals and roles, and working together as a team.

The Quorum Courts need to spend more time on major issues and less time on minor issues. More time being visionary and looking at the big picture developing consensus on goals and collaborating with other units of government, and less time micromanaging.

County Constitutional Officers, Chief Deputies, and Department Heads all need to continually work on broadening leadership knowledge and improving leadership skills and focusing on carrying out policy and delivering service as determined by the state and county legislative bodies.

7. Leaders have certain competencies.

The very best leaders possess two competencies: ***a resolute and unflinching focus on the purpose of the organization [county] coupled with a deep sense of humility*** – according to Jim Collins in his widely acclaimed book *Good to Great.* That's all. The leadership competency that is valued above all others is that of discipline – self-discipline and organizational discipline to understand and to keep focused on the purpose of county government in general and your office in particular and to resolutely eschew arrogance in favor of humility. Arrogant self-promotion in a leader will always be a stumbling block for results.

Although I have talked much about the "team effort" and the "county team" – there are a couple of things that the leader needs to focus on being competent at that no one else can do. One is to **grow the next generation of leaders** for county government. Putting people in challenging and different work situations and coaching them is something only a leader can do. Be a mentor, be a teacher, and above all things be an example.

The leader should also **shape the culture of the office.** The basic assumptions of how things work here, what is important, what is valued, what differences there are between the values espoused and actually lived out by the leader – these are all elements of organization culture. It is the leader's job to understand what the workplace culture is, how to change it if necessary, and then use that culture toward excellent performance for the service of others. The workplace culture either makes or breaks the organization. A good culture provides the impetus for employees to give their all and do their best.

8. Skills and attributes of the leader.

A long list of skills and attributes of the real leader could be developed. Any list would probably include things like: consensus builder; team builder and mentor; change agent; facilitator; bearer of ethical standards; and champion of new technologies. I must mention something that many would leave off the list – but that I believe to be of utmost importance.

General Bill Creech who revolutionized the Air Force approach to quality expressed his view of how to lead people by one simple maxim: ***let your people know that you care about them, that you love them.*** With it, you have great latitude for forgiveness; without it, nothing else is important in leading people. Take interest in your workers as real people – not just employees. The point is have the self-discipline to express sincere care about others. Be the kind of leader that people would follow voluntarily; even if you had no title or position.

As you answer the challenges of leadership in your county and as you continue to develop yourself as a leader, remember the words of John Maxwell, "A leader is one who knows the way, goes the way, and shows the way." This type of

leader produces other leaders by leaving behind other men and women with the conviction and will to carry on. Best of success with your journey toward improved leadership and county effectiveness.

That's my point of view!

Fraud and Ethical Lapses – There's No Place for It

By: Eddie A. Jones
County Government Consultant

Working for the People is a Public Trust

Government fraud, in essence, refers to illegal acts that intentionally divest the government of funds through deception or scams. When the government gets swindled, taxpayers pay the price.

In my opinion, government fraud is a serious crime and should be pursued to the fullest extent of the law. In many government fraud cases, both criminal and civil charges are brought against the defendant. As Thomas Jefferson said, "When man assumes a public trust he should consider himself a public property."

In the past couple of years ethics violations, criminal investigations and criminal charges have become more common in Arkansas government – both at the state and local levels. This should not be! As elected officials and employees of government you are keepers of the public trust – a public trust created by a strict code of conduct that is a part of law.

Since I have a county government background, most of what I say in this article is directed toward county officials and employees – but, in many cases would be applicable to other levels of government.

Arkansas Code Annotated 14-14-1202 establishes in law "ethics for county government officers and employees." The initial sentence of that law simply says, "The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees of county government." So, not only are county officials bound by an ethics code – but employees are, too.

This law goes on to set forth the "Rules of Conduct" and establishes the procedure for removal from office or employment. In my opinion, the breach of this "public trust" by an elected official should cause an immediate rendering of a resignation.

There is no place in government, at any level, for anything but the highest ethical standards, a strong work ethic, and a heart for service.

Fraud Increases during an Economic Downturn

One of the most recent reports released by the Association of Certified Fraud Examiners (ACFE) estimated that U.S. organizations lose 5% of their annual revenues to fraud. Workplace fraud schemes occur across all types of organizations including corporations, small businesses, not-for-profit organizations and government.

I do not believe internal fraud or employee theft is widespread in Arkansas county government – because I believe that for the most part county elected officials and county employees are people of integrity. However, sadly it is not uncommon anymore to read the morning paper or hear a news report concerning an elected official or employee who has been charged with some type of fraud crime.

As a county constitutional officer, the last thing you want to have happen under your watch is theft of county funds. Some think, "It would not happen in our community." Unfortunately, ***it*** happens. And, when it does occur, it can be traumatic for the community where it occurs. Therefore, to be proactive and prevent theft and fraud, it is important to have sound internal controls in place.

In an economic downturn, studies show that there is an increase in fraud. County officials play an important role in ensuring that proper internal control policies and procedures are developed and consistently implemented to protect tax dollars. You want to implement procedures that reduce the risk of theft and increase the chance of early detection. A county official that has no desire or sees no need in implementing proper internal control policies will bear watching.

It is bad enough when an employee commits fraud – but when an elected official commits fraud it is the epitome of hypocrisy. A person who runs for office has actually asked the public to vote for them – to put their trust in them. You have both a moral and legal obligation to serve with integrity. Your constituents deserve officials they can trust and depend on to always do the right thing.

Types of Theft and What to Watch For

The most commonly reported offenses in the government and public administration sector, according to ACFE, were billing schemes, skimming, theft of non-cash assets, theft of cash on hand, procurement fraud, payroll fraud and expense reimbursement fraud. Sound familiar?

- In billing schemes, the person causes the government to issue a payment by submitting invoices for fictitious goods or services, inflated invoices, or invoices for personal purchases. An example would include "phantom vendors" – where a person creates a shell company and bills the employer for nonexistent services.

- "Skimming" involves taking cash before it is recorded on the books and records. An example would be an official or employee accepting payment from a customer but not recording the payment and keeping the cash.
- "Theft of cash on hand" cases refer to taking cash kept at the government office.
- "Theft of non-cash assets" include the taking or use of county property for personal use. This would include taking office supplies, janitorial supplies, equipment, postage, and the list goes on. If it is county property it is not the property of an official or employee for personal use or personal gain.
- An example of "procurement fraud" is a company using bribes to win a contract even when it did not make the lowest or best bid. Or it could include billing the county for incomplete work, inflating the cost of labor or supplies, and issuing kickbacks. [These schemes can get rather elaborate and do not seem to be as prevalent as they were in years past.]
- "Payroll fraud" includes claims of overtime or comp time for hours not actually worked, or the addition of "ghost employees" to the payroll. Payroll fraud can get very complicated and creative. There are counties that can vouch for the creativeness of payroll fraud.
- Expense reimbursement cases include filing false expense reports, claiming nonexistent meals, mileage, etc.

Theft and fraud may take several forms. It may be as simple as an official or employee writing a check to himself/herself, but recording in the county records that the check was written to a vendor. It may involve a failure to deposit all county funds into county accounts. It may involve submitting personal expenses as employee expenses, or altering invoices presented to the county for payment. The most common fraud for small organizations involves check tampering. This occurs when only one individual has access to the checkbook and also the responsibility for recording payments and/or reconciling the bank statements. Small office operations, where a limited staff can make it difficult to segregate duties, can be particularly susceptible to this type of fraud.

You may think these types of things don't really happen – but they do! Sometimes they happen because – frankly some people are not honest. Others are in dire straits financially and they think they'll just "borrow" a little for a while. Of course, even these normally trustworthy people have a lapse in "honesty" or they would not steal. As George Knight said, "Dishonesty is never impulsive."

It has been said many times that we almost force our local and state officials to be dishonest because we pay them so little for what we expect from them. While this may be true anecdotally and low pay in many areas should be addressed – this situation should never be the reason for doing wrong.

How Fraud Happens

An ACFE study confirmed that in fraud, the more authority a person has, the greater the loss. This makes sense because a person with more authority has greater access to resources and the greater ability to override controls in order to conceal the fraud.

The study also found a direct correlation between the length of time an employee has been employed and the size of the loss. An employee's tenure is likely related both to trust and to opportunity. The more trust placed in an employee, the greater the person's opportunity to commit fraud. Long-term employees may also be the most familiar with gaps in the office operations and controls, which may help them avoid detection more easily.

Of course, every organization wants to have some long-time, trusted employees – but when the public trust is at stake *everyone* must be accountable.

Procedures to Reduce the Risk of Theft

To reduce the risk of theft, every county should implement basic safeguards. *An environment of accountability should be created.*

Segregation of Duties. Simply put, no official or employee should be in a position to commit an irregularity and then conceal it. To help prevent that from happening, responsibilities in financial transactions should be divided amongst more than one person, or segregated. An example of segregation of duties taken from everyday life is a movie theater, where one person sells tickets and another person collects the tickets. This separation of duties helps prevent the person selling the tickets [the one handling the money] from: (1) collecting the price of the ticket, but allowing entry without a ticket – allowing the ticket seller to pocket the ticket payment without being detected; or (2) allowing entrance without the purchase of a ticket.

Examples of incompatible duties that should be performed by separate individuals are:

- Receipting collections, posting collections and making bank deposits;
- Signing checks and reconciling the bank accounts.

Even with personnel cuts, financial duties should remain segregated. Counties may need to be creative and segregate duties by involving employees who have not previously played a role in financial transactions. For those offices with only two employees – the official and one employee – regularly switch office duties and look over each other's work. With offices with only one person – well, just remember you have been entrusted to do what is right. Don't mess it up!

Internal Control Procedures. Many internal control procedures are common-sense methods used to track county funds. Here are a few procedures that may help prevent thefts or allow earlier detection of thefts:

- Have checks written to the county;
- Endorse checks for deposit as they are received;

- Make daily deposits;
- Reconcile receipts with deposits;
- Contact your bank or banks to: prohibit cash withdrawals and check cashing from the county account, and be sure authorized signatures are up-to-date;
- Do not pre-sign any checks;
- Reconcile bank statements regularly. With on-line banking you can do it daily in a matter of minutes; and
- Require detailed original receipts for the reimbursement of employee expenses.

And remember, under Arkansas law, financial institutions must provide government entities either the cancelled checks or optical images of both the front and back of the checks. By comparing the cancelled checks with your financial records, discrepancies may be detected.

Internal control procedures help reduce the opportunity for fraud to be committed.

Red Flags in Detecting Theft and Fraud

Theft can result from poor segregation of duties. Possible indicators of theft, or "red flags", include instances when an employee:

- Takes records home;
- Takes on duties that should be segregated;
- Works hours when others are absent;
- Refuses to take vacations or time off.

Theft can also result from noncompliance with internal control procedures. Some red flags to watch out for:

- Submitting copies, rather than original invoices for payment, may indicate that an altered document is being submitted;
- Deposits are late;
- Receipts are not reconciling with deposits;
- Checks are written out of sequence.

Most fraudsters in government are first time offenders with clean employment histories. The vast majority of fraudsters in county government had never before been charged or convicted of a fraud-related offense and had never been punished or terminated by an employer for fraud-related conduct. It is noteworthy that most who are charged with some type of theft or fraud displayed one or more behavioral red flags that are often associated with fraudulent conduct. The most commonly observed behavioral warning signs are these:

- Living beyond means;
- Financial difficulties;
- Unusually close association with vendors or customers; and
- Excessive control issues.

Situations involving cash transactions present special risks and require extra diligence. Even small offices or departments must implement basic safeguards to reduce theft.

Exposing Fraud

Frauds are generally ongoing crimes that can continue for months or even years before they are detected. According to the report issued by the ACFE frauds reported lasted a median of 18 months before being detected. Some of you may remember an incident in Arkansas county government that happened a number of years ago. A county official took a large amount of money on a year-end transaction for ten years in a row before being detected by the Division of Legislative Audit. An audit procedure was put in place after that which keeps that type of fraud from going undetected.

The most common method of detecting fraud is by a tip or complaint – when another person becomes suspicious of fraudulent activity and notifies someone. Frauds are also detected by internal and external audit, internal controls, and even by accident. While external audits, such as the ones Arkansas counties are subject to by the Division of Legislative Audit, serve an important purpose and can have a strong preventive effect on potential fraud, their usefulness as a means of uncovering fraud is somewhat limited. In other words, don't rely on the audit as your primary fraud detection method. Among the most effective internal controls a workplace can employ are *job rotation* and *mandatory vacation*.

The study and report also showed that over half of the tips were from fellow employees. This reinforces the need for county government to maintain open channels of communication so employees are comfortable bringing forward their concerns. I do understand, however, that when the fraud is being perpetrated by the county official the willingness of the employee to come forward is somewhat dampened – but it is still the right thing to do.

Fraud is preventable and can be stopped through strong internal controls and internal and external audits. Fostering an atmosphere of open communication with county staff can also be a strong measure to prevent and detect fraud. I have always heard "honesty pays" – but, according to Kin Hubbard, "it doesn't pay enough to suit some people." And because of that it behooves us all in government to spend the extra time and make the special effort to guard the public treasury in order to preserve the public trust.

A Special Note to County Officials

I served as an elected county official for many years, so I understand the gargantuan responsibility – the load you must bear. Many times without proper compensation for the job and too many times without a sufficient appropriation to properly carry out the functions of your office. But you have sworn to carry out the duties of your office and to uphold the laws of this country, this state and your county. To do that you must know what the laws are.

The laws governing Arkansas county government are expansive and to know the law it takes relentless study. Learning the law and applying the law are two different things. Learning the law is attained knowledge – but it takes wisdom to apply it correctly and efficiently and impartially. It takes effort, but seek wisdom – search for it. Wisdom is simply the proper application of knowledge. Knowing the law that governs you and the laws that you are to administer in the operation of your office will keep you from making ethical missteps and be a reminder of the public trust reposed in you. As Davis Starr Jordan, founding president of Stanford University said, "Wisdom is knowing what to do next; virtue is doing it."

Serving as an elected county official is a sacred responsibility and your personal and professional integrity should be paramount. Even if you don't get caught doing wrong – you have still done wrong and broken the trust the people have placed in you. And, as the old saying goes, "Men are not punished for their sins, but by them." No truer words have ever been spoken than the words of Martin Luther King, Jr. when he said, "The time is always right to do what is right."

"Every job is a self-portrait of the person who does it. Autograph your work with excellence."

FAQ Positions and Topics

This section presents the FAQs (Frequently asked questions) in general and specifically for each elected position. Please refer to the Association of Arkansas Counties website for the complete answers to the questions presented. (http://www.arcounties.org/faq/general-faqs)

General FAQs:

Do county elected officials and county employees receive retirement credit for a bonus or lump sum payment?

Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?

Is county government exempt from paying sales taxes?

Is a county liable for paying the normal fees to a county employee for serving as a juror or a prospective juror? If so, is the county allowed to deduct those fees from the regular salary of the county employee? Does the county have to bear all of the cost?

May a retiring county official or employee keep county health care insurance coverage upon and during retirement? Can they keep dependent coverage and is it mandatory for the county to allow retirees continued health care insurance coverage?

County Judge FAQs:

Why do counties of Arkansas pay workers compensation premiums for volunteer firefighters since they are not employees of the county?

Is it correct that a county can only appropriate 90% of the anticipated revenues of the county each year and, if so, why? What happens to the 10% of the revenue that is not appropriated?

Can 911 revenues be used for anything other than equipment and salaries?

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

What is the proper procedure for the establishment and use of the County Collectors Automation Fund?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

What sources of revenue are produced by the Sheriff and identify any Special Revenue Funds that are used for the Sheriffs operation and how the revenue is generated for these special revenue funds?

How many years can a county legally go back to make a refund of property taxes paid in error?

How many years can a county legally go back to make a refund of property taxes paid in error?

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county's financial responsibility in the cost of the operation of a public defender's office?

Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge Fund is it legal to transfer Road and Bridge funds or money from other county funds to County General to supplement general operations?

Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so is there any limitation on that authority?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even they choose to decrease the salaries?

County Clerk FAQs:

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county's financial responsibility in the cost of the operation of a public defender's office?

Since County General funds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and bridge fund is it legal to transfer Road and bridge funds or money from other county funds to County General to supplement general operations?

Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?

Circuit Clerk FAQs:

Is a county liable for paying the normal fees to a county employee for serving as a juror or a prospective juror? If so, is the county allowed to deduct those fees from the regular salary of the county employee? Does the county have to bear all the cost?

What is the proper method for the establishment and operation of the County Recorders Cost Fund?

Treasurers FAQs:

What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?

When a county receives unclaimed property proceeds from the Auditor of States office, which county fund should it be receipted to, how can the money be used, and does the county have any future liability for the unclaimed proceeds?

What funds are devoted to the Treasurers Automation Fund and what are considered legal expenditures from this fund?

What is the proper method for the establishment and operation of the County Recorders Cost Fund?

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

What is the proper procedure for the establishment and use of the County Collectors Automation Fund?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

What sources of revenue are produced by the Sheriff? Identify any Special Revenue Funds that are used for the Sheriffs operation and how the revenue is generated for these special revenue funds.

How many years can a county legally go back to make a refund of property taxes paid in error?

How many yeas can a county legally go back to make a refund of property taxes paid in error?

Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?

The District Court system is one for which both counties and municipalities have financial responsibilities. What is the financial responsibility of county government as it concerns District Court?

What is a county's financial responsibility in the cost of the operation of a public defender's office?

Since County General finds are transferred to other county funds to supplement the operations of particular county funds, such as the Road and Bridge Fund is it legal to transfer Road and Bridge funds to money from other county funds to County General to supplement general operations?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even if they choose to decrease the salaries?

Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?

Assessor FAQs:

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Assessors in Arkansas receive funding from the end-of-the-year certified excess funds in the State Property Tax Relief Fund. How should these funds be handled at the county level? If the county level fund has a balance at the end of the year does it carry over?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

Sheriff FAQs:

Can 911 revenues be used for anything other than equipment and salaries?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

What sources of revenue are produced by the Sheriff? Identify any Special Revenue Funds that are used for the Sheriff's operation and how the revenue is generated for these special revenue funds?

County Lines FQAs:

How do I subscribe to County Lines Magazine?

How do I submit news and story ideas for County Lines, the AAC's quarterly magazine?

Justice of the Peace FAQs:

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?

Is it correct that a county can only appropriate 90% of the anticipated revenues of the county each year and, if so, why? What happens to the 10% of the revenue that is not appropriated?

Can a Justice of the Peace be paid a monthly salary for serving the county as a district official? In addition to serving as Justice of the Peace, can a Justice be paid for serving as an employee of the county or for any other service performed for the position?

What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?

What is the proper procedure for the establishment and use of the County Collectors automation Fund?

Is it a requirement of law for a county to fund a county jail operation and what are some of the main sources of revenue for county jail operations?

Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?

What sources of revenue are produced by the Sheriff? Identify any Special Revenue Funds that are used for the Sheriffs operation and how the revenue is generated for these special revenue funds.

Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so, is there any limitation on that authority?

Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even if they choose to decrease the salaries?

County Collectors FAQs:

On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Doe the registered voters of a county have to approve the tax levy?

What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?

What is the proper procedure for the establishment and use of the County Collectors Automation Fund?

How many years can a county legally go back to make a refund of property taxes paid in error?

How many years can a county legally go back to make a refund of property taxes paid in error?

Do personal property taxes have to be collected at the same time that real estate taxes are collected? If so, are there any exceptions?

May a newspaper charge for other parts of the required publication of delinquent taxes, such as headers and etc., in addition to the legal fees of $1.50 per tract per insertion for delinquent real estate and $1.25 per name per insertion for delinquent personal?

Chapter Nine- ATTORNEY GENERAL OPINIONS

The Attorney General's Office has created a body of opinions concerning the Freedom of Information Act ("FOIA") in application to county offices and public records of county officials. The subject of the request and the published opinion by number are provided below. These opinions may greatly assist the office in your county in making decisions concerning the FOIA. You may review and retrieve the entire opinion identified by going to the Attorney General's website: http://www.arkansasag.gov/opinions/. Additionally, this section provides other helpful Attorney General opinions regarding the elected position discussed in this manual.

Circuit Clerk Records
See Ops. Att'y Gen. 2003-203 (Formatting of and fees for records)

FOIA Generally
See Ops. Att'y Gen. 2003-006 (Application of ACA 25-19-108 to counties)
See Ops. Att'y Gen. 2005-298 (Response to absence of records)
See Ops. Att'y Gen. 2008-162 (Digital pictures of records)
See Ops. Att'y Gen. 99-134 (Records on county web site/fees)
See Ops. Att'y Gen. 2000-096 (Discussion of "meetings" under FOIA)
See Ops. Att'y Gen. 2001-382 (Location/Access to meetings)
See Ops. Att'y Gen. 2002-092 (Meetings)

FOIA – Personnel Records Generally
See Ops. Att'y Gen. 1999-398 (Job applications and resumes)
See Ops. Att'y Gen. 2000-058 (Harassment complaints)
See Ops. Att'y Gen. 2000-201 (Internal affairs investigatory files)
See Ops. Att'y Gen. 2000-242 (Suspension letters)
See Ops. Att'y Gen. 2001-130 (Access)
See Ops. Att'y Gen. 2001-368 (Employee objections to release)
See Ops. Att'y Gen. 2002-043 (Payroll, status change, benefits package information)
See Ops. Att'y Gen. 2003-055 (Privacy interests)
See Ops. Att'y Gen. 2003-352 (Time cards)
See Ops. Att'y Gen. 99-168 (Notification to subject of records

OTHER ATTORNEY GENERAL OPINIONS

Attorney General Opinion No. 2012-117: A custodian or requesting party seeking to ascertain whether a custodian's decision is consistent with the FOIA under ACA 25-19-105(c) must supply the AG with: (a) a copy of the request or what records specifically are being requested; (b) what records, if any, the custodian intends to release; and (c) what factual determinations went into both the custodian analysis or the requesting party's position. Frequently, the AG is not provided any of the foregoing necessary information and is unable to determine whether the decision of the custodian is consistent with the FOIA. Similarly, under Attorney General Opinion No. 2012-113 the AG was unable to determine if the custodian was acting consistent with the FOIA because no party supplied the documents or information required as explained by Attorney General Opinion No. 2012-117, above. There was apparently blanket request to the former employer for the release of the entire employment file of a former employee. There was apparently a blanket response by the employee that the request was an unwarranted invasion of privacy.

Parties seeking rulings by the AG under must supply the necessary information. Under Attorney General Opinion No. 2012-115 the custodian supplied the proper documents and information and was deemed correct in releasing the interview questions submitted to applicants. However, the public has an interests in knowing the most qualified applicant was hired and therefore the scores of the person hired to the interview questions should be released and not redacted. Attorney General Opinion No. 2012-123 the AG determined from submission of the necessary information that the custodian's decision to not release an employee evaluation that did not according to the custodian play a part in the subject termination. Under Attorney General Opinion No. 2012-144 the AG agreed with the custodian's decision to release a transcription of two emails by a former employee, one to department heads and one to the employees generally, tendering his resignation. However, the Ag found that the redactions made by the custodian were inconsistent with the FOIA. Resignation letters are generally subject to release under the FOIA, however, the custodian may be able redact certain information as an unwarranted invasion of privacy. Because the two resignation letters were not provided and the release of information to the requesting party was a transcription of the two emails, the AG could not determine that the custodian acted inconsistent with the FOIA. At a minimum the amount of information deleted shall be indicated on the released portion of the record, and if feasible at the place the redaction was made. The use of a transcription was inconsistent with these methods of disclosure and redaction under the FIOA.

Attorney General Opinion No. 2012-112: Upon request, it is the duty of the Attorney General to determine if a decision of a custodian is consistent with the FOIA. The AG says that records generated as part of an investigation may be considered employee evaluations or job performance records and may be exempt from release under the FOIA and may constitute an unwarranted invasion of privacy. The Attorney General's office and commentators have typically classified that personnel files typically include: employment applications, school transcripts, payroll-related documents such as re-classifications, promotions, demotions, transfer records, health and life insurance forms, performance evaluations, recommendation letters, etc. However, notwithstanding the exemption, ACA 25-19-105(c)(1) provides that employee evaluations may be subject to release upon final administrative resolution of any suspension or termination at which the records form a basis for the decision to suspend or terminate the employee and there is a compelling public interest. Compelling public interests involve violations of public trust or gross incompetence; the existence of a public controversy; and the employees position within the agency. Custodians may consistent with the FOIA clearly withhold employee evaluations of low level employees not suspended or terminated. However, in the context of law enforcement officers, the level or ranking of the employee has less weight and the public interest is greater. Whether or not an employee was directly or indirectly involved in an incident is relevant and may turn on whether there are allegations of a single event or multiple events. See also: Attorney General Opinions 2012-105.

Attorney General Opinions: 2012-111, 2012-110, 2011-156 and 2011-058: Reflect disclosure of the names of county employees or list of county employees is generally not protected. The AG has explained that the General Assembly has refrained from establishing a protection from releasing an employee's name on the basis of "harassment exception" or "increased risk of harm exception".

Attorney General Opinion No. 2012-143: The Workers Compensation Commission determines whether an employer qualifies as an "extra-hazardous" employer. ACA 11-10-314 provides an exemption for disclosure of the confidential data filed with the Workforce Services Commission concerning "extra-hazardous" employer status. This exception is located under a separate section of the Arkansas Code from the FOIA, Freedom of Information Act, ACA 25-19-101 et seq. The AG noted that in 2009 the General Assembly attempted to mandate that creation of any new record or public meeting exceptions to the FOIA after July 1, 2009 must explicitly state that the record or meeting is exempt from the FOIA, ACA

25-19-10 et seq. The exception to the FOIA under ACA 11-10-314 is clearly valid since it was adopted prior to July 1, 2009. However, the AG noted that attempts by the legislature to bind subsequent legislatures are called "entrenchment rules"; and that the validity of the 2009 entrenchment rule on the FOIA is questionable.

During the 2013 regular session Act 411 of 2013 explicitly amended the FOIA, Freedom of Information Act, ACA § 25-19-105(b)(13), concerning examination and copying of public records to protect the personal contact information of nonelected government employees. The amendment specifically exempts from disclosure home or mobile telephone numbers, personal email addresses, and home addresses of nonelected county or government employees. Act 411 seeks to protect privacy of nonelected employees and is effective August 16th as per ATTORNEY GENERAL OPINION NO. 2013-049.

Attorney General Opinion No. 2012-055: The Fair Labor Standards Act applies to counties but does not require an employee to be paid overtime compensation unless the employee actually works in excess of forty hours in the work week. The Arkansas Minimum Wage Act also imposes minimum requirements. The AG says however that a county may have a general personnel policy of paying workers leave time that is based on the same rate or schedule that would apply as if they had worked those days (say a pay schedule that includes (5) five days a week at (9) nine hours a day which equals (5) five hours at the overtime rate of time-and-a-half). Neither the FLSA or the Arkansas Minimum Wage Act presents an impediment to a general county pay policy. The quorum court of the county as per Amendment 55 of the Arkansas Constitution is required by ordinance fix the number and compensation of deputies and county employees; and ACA 14-14-805 assigns to the Quorum Court general authority to adopt a personal policy of a general nature. The AG said counties have some flexibility to set a lower threshold for overtime than the Federal or State laws so long as the threshold is the same for employees under a general personnel policy. {Please note that each constitutional officer is responsible for documenting overtime of their employees. Also, commissioned law enforcement officers are allowed to work a 28 day, 171 hour schedule for overtime or a 7 day, 43 hour schedule. As per the FSLA commissioned law enforcement officers may not accumulate more than 480 compensatory hours}.

Attorney General Opinion Nos. 2011-075 and 2011-079: Act 558 of 2011 amended ACA 24-4-402, effective January 1, 2012, to provide that an APERS employers will be responsible for employer contributions to APERS for retired employees that have returned to work and members on the Deferred Retirement Option plan ("DROP"). The Attorney General determined that the act applies prospectively to all employees that returned to work and employees on the DROP Plan as of the effective date of the act or thereafter. Employers will not owe employer contributions retroactively. Employees that have retired and returned to work or that have joined the DROP will not owe employee contributions to APERS.

Attorney General Opinion No. 2010-169: The Attorney General made clear that under the Freedom of Information Act a county assessor or public official may not charge citizens of Arkansas for access and copies to public records on a website maintained by the assessor and not charge county residents. The plan of the custodian to eliminate the fee based solely on whether the persons making the request are in-county residents is inconsistent with the Freedom of Information Act.

Attorney General Opinion No. 2011-054: ACA 6-14-106 provides that the annual school elections must be held within the district. However, ACA 7-5-418 which addresses early voting does not expressly impose any such requirement, but states that early voting shall be conducted in the same manner as voting on election day. The Attorney General agreed that the Washington County Election Commission was correct in their decision to not conduct a special election in Rogers and Bentonville because those offices are not located within the Springdale School District. While the law is not explicit, the General said the law and common sense support the

conclusion that early voting or special elections for schools should be conducted in the district. The General further noted that nonetheless so long as there was not a requirement that all early voting be conducted outside, some voting outside the district will likely survive challenge in court.

Attorney General Opinion No. 2012-103: In response to the question "Is it permissible (legal) for a city clerk or county clerk to redact personal information (or any information) from a Statement of Financial Interest (SFI) once it has been filed with the clerk's office?" The Attorney General responded, "I can state, however, that in my opinion the official with whom the form is filed plainly lacks authority to redact information that is required to be included on the form. Additionally, as a general matter, I believe other redactions will be suspect, absent a specific basis in law for such action."

Attorney General Opinion No. 97-115: An agency is not required under FOIA to provide online or remote access to public records, though computerized information is generally considered a "record" for FOIA purposes. However, FOIA also requires "reasonable" public access to records and in an age where records are becoming more computerized, it could be argued that online access is "reasonable."

Attorney General Opinion No. 96-259: FOIA does not address whether clerks may charge for copies of requested documents because the act does not require that physical copies must be provided; "the act merely grants citizens the right to inspect and copy records." AG Opinion No. 94-282.If an agency does provide copies upon request, they may charge a fee which is "reasonably" related to the actual copying costs. The fee may not exceed these actual costs. It is conceivable that some documents may be more costly to print than others, so the custodian of the records may charge different amounts for different documents requested, only according to the actual cost of their printing.

However, absent a specific statute, an agency may not charge a fee for the actual time spent in retrieving the records. Because complying with requests for public records is the statutory duty of the custodian of those records and because public employees are paid a salary for performing duties set forth by law, charging a fee for the performance of a required duty is impermissible. Additionally, a custodian of public records may not legally require a requestor of documents to supply her own copying device because that interferes with her right to copy a record. AG Opinion No. 88-354.

Attorney General Opinion 2021-083: A document must be disclosed in response to a FOIA request if all three of the following elements are met. First, the FOIA request must be directed to an entity subject to the act. Second, the requested document must constitute a public record. Third, no exceptions allow the document to be withheld.

Attorney General Opinion 2021-042: instituting practices based on critical race theory, professed "antiracism," or associated ideas can violate Title VI, the Equal Protection Clause, and Article II of the Arkansas Constitution.

Attorney General Opinion 2020-041: answers the question of whether the records of county coroners regarding people who have died of COVID-19, or whose deaths are COVID-19 related, are subject to public disclosure and release under the Arkansas FOIA? Section 14-15-304 makes that report-and medical information quoted therein-subject to public disclosure. Any medical information gathered during the investigation that is not quoted in the report is plainly exempt from disclosure.

Attorney General Opinion 2020-014: An online voter registration system would not fit within the current framework of the registration system created by Amendment 51.

Attorney General Opinion 2019-045: If someone on probation tests positive for marijuana, the circuit court does not have automatically revoke probation. It is in the judge's discretion whether to revoke probation or not.

Attorney General Opinion 2017-028: Clarifies Article 7, section 53 of the Arkansas Constitution. Explains that a circuit clerk is prohibited from being appointed or elected to any civil office in Arkansas. A civil office position is a continuing duty defined by the rules prescribed by the government and not a contract, which one is appointed by the government to perform. The office is created by law with the tenure, compensation, and duties of the position usually also fixed by law. Other typical factors signifying a public office include the taking of an oath of office, the receipt of a formal commission, and the giving of a bond, although. No single factor, however, is conclusive on its own.

Attorney General Opinion 2018-014: It is likely that a city police officer holds a civil office under Article 7, section 53 of the Arkansas Constitution. However, it does not render a civil officer ineligible for elected county office. Rather, this provision bars sitting county officers from being appointed or elected to a new civil office. It does not bar a city officeholder from running for and serving in one of the listed county offices.

Attorney General Opinion 2019-052: A circuit court may not consider a criminal defendant's retention of private counsel or otherwise not having proved indigency as a factor when deciding whether to order a mental examination as to either the defendant's fitness to proceed or as to the affirmative defense of a lack of criminal responsibility. A trial court may consider a criminal defendant's indigency status when deciding to order a subsequent evaluation or evaluations paid for by the state. If a criminal defendant wishes to procure his own evaluation, then, and at the court's discretion, the defendant will be responsible for the expense.

Chapter Ten - GLOSSARY OF TERMS

Prefatory Note: The definitions that follow are intended as everyday statements of the meanings of the terms listed below, in alphabetic order. These definitions are not intended to be profound legal definitions, but are, instead, made everyday definitions for working use by the members of the staff in the Clerk's office. Where the same term has different uses in different connections, it is so indicated.

ABANDONMENT - As to children, the complete failure of parents or other persons to take care of a child or children.

ABSTRACT - A short written statement, abbreviating some other document.

ACCOMPLICE - A person who helps another person to commit a crime.

ACCOUNT - A listing or statement of financial items.

ACCOUNTING - A type of lawsuit in which it is sought to make a party give a financial history, in full detail, item by item, of a series of transactions over a period of time.

ACKNOWLEDGMENT - A sworn statement by a person who executed some document, admitting that he did execute it.

ACQUITTAL - A finding by a court or jury that one accused of crime is not guilty.

ACTION - A term used synonymously with lawsuit or legal proceedings.

ADJOURNMENT - A Court's stopping its business as of that time and continuing over to some other time.

ADMINISTRATIVE APPEAL - A legal proceeding in which a determination by some administrative agency or body is reconsidered by a Court.

ADMINISTRATOR - The person in charge of managing the estate of a deceased per- son in a case where there is no Will.

ADMINISTRATIX - The same as Administrator, but used where the person is female.

ADMISSION - In criminal cases, a statement by the accused agreeing to some point of fact or action on his part; in civil cases, a statement by a party to the case agreeing to the truth of some matter or matters stated in another party's pleadings.

ADOPTION - A legal proceeding by which a child or other person is declared to be the legal child of another who is not his blood parent.

ADVERSE PARTY - The person on the other side of a lawsuit.

ADVERSE POSSESSION - Hold possession of real property against the wishes, and denying the rights of another person.

AFFIDAVIT - A sworn statement of some fact or facts.

AFFIDAVIT OF SERVICE - A sworn statement that the one making the statement served some document on another person, at a time and place stated. Includes personal service, service by publication, and service by mail, etc.

AFFIRMATIVE DEFENSE - A pleading in a lawsuit which claims, for defense of the action, new or additional facts not previously stated in the case which provide a legal defense to that party (defendant) if proven to be true.

ALIMONY - A Court's award to a wife or husband of money or property for his/her support; which is referred to as "alimony pendente lite," or "alimony p.d.l," if awarded before the final judgment in the case, and which is a judgment in the amount stated.

ALLEGE - To claim, state, or assert. A complaint alleges facts which may or may not be found to be true at a trial.

ALLOCUTION - In criminal cases, affording opportunity to the convicted person to state to the Court any reason he may have why sentence should not be pronounced on him, according to law.

AMENDMENT - A change in a pleading or document

ANNULMENT - A lawsuit asking the Court's determination that a marriage is void. (Ark. Stat. 9- 12-201)

ANSWER - The pleading which responds to the petition in a civil suit.

APPEAL - Asking a higher Court to review a judgment or order of a lower Court or agency.

APPEAL BOND - A bond given as part of an appeal, to prevent any action on the judgment until the appeal is decided by the higher Court. Also called Supersedeas Bond.

APPEARANCE - Any action or document filed, by a party to a lawsuit, which amounts to his acknowledgment that he is legally in the case.

APPELLANT - The person who files an appeal.

APPELLEE - The person in an action against whom an appeal is taken.

ARBITRATION - The submission, by agreement of the parties, of some dispute to agreed persons other than a Court, which will make a decision on the

ARGUMENT - In jury trials, the speeches made by the lawyers for each side, to the jury, at the close of the case; in other uses, the speeches made by lawyers to the Judge in support of some matter or attacking some matter.

ARRAIGNMENT - An appearance by a defendant in a criminal case before the Court where he is formally told the nature of the charges against him and is given his opportunity to plead guilty or not guilty.

ARREST - The action (usually of a law officer) of taking a person into custody and holding him for Court action.

ARREST OF JUDGMENT - A suspension by the Court of a judgment pending determination of some other matter.

ASSIGNEE - A person to whom some right, or privilege, or property is transferred.

ASSIGNEE FOR BENEFIT OF CREDITORS - An assignee who receives property from someone in financial difficulty for the purpose of managing the property to pay the creditors as best as possible.

ATTACHMENT - A Court Order for the seizure of some property to be brought before the Court for the Court's decision as to what is to be done.

ATTESTATION - A witnessing of a signature to a document; also signing it to further witness the original signature.

ATTORNEY - Actually, any agent for another person, but more commonly used as meaning a lawyer.

AUTHENTICATION - A statement that a document or record is valid and truthful, or otherwise legally effective.

BAIL - Security posted so that a person accused of crime may be released from arrest pending trial (sometimes called "bail bond").

BENCH WARRANT - An Order by a Court for the arrest of some person, issued while Court is in session, usually because of some urgent situation such as the person's failure to appear.

BILL OF PARTICULARS - A written document filed by a party to give further detail as to the facts mentioned in a pleading previously filed by him.

BOND - A written promise to pay money on conditions stated; in criminal cases this word is used interchangeably with "bail."

BRIEF - A document filed by a lawyer in a lawsuit arguing to the Court that some matter should be decided a certain way, and supporting that argument by statements from precedent cases which show the law applicable.

BURDEN OF PROOF - The duty of a party in a lawsuit is to present evidence sup- porting a fact or facts that are in dispute.

CAUSE OF ACTION - A statement of facts in a pleading which, if proven, will entitle that person to some judicial action against another person.

CERTIORARI - A legal proceeding by which the record of proceeding in the same matter in a lower Court or Agency is reviewed by a higher Court; sometimes used to refer to the opening writ which begins such an action.

CHALLENGES - A disqualification of a juror from a jury panel at the beginning of a case asserted by one of the lawyers in the case.

CHANGE OF NAME - A lawsuit whose purpose is to legally change the name of a person.

CHANGE OF VENUE - A procedure to change the place of trial from that County or Court to another County or Court.

CHARGE - In grand jury procedures, the instructions of the Judge to the members of the Grand Jury as to their functions and duties; in criminal cases, the statement of the offense which the defendant is supposed to have committed.

CIVIL ACTION - A lawsuit to determine such things as rights, privileges, duties, ownership of property, or claims for damages between two or more persons.

CLASS ACTION - A lawsuit in which one or more persons claims to represent, or is stated to represent, a group or class of persons, all of whom have a similar interest or status in regard to the subject of the lawsuit.

COMMISSION - An Order of a Court authorizing the Court's appointee to do something.

COMMITMENT - A Court's Order directing the imprisonment of a person to a hospital, institution, prison or penal institution, etc.

COMPLAINT - The first pleading filed by a party which starts a civil action.

CONDEMNATION - A civil action whose purpose is to acquire the ownership of property, for public use, without the owner's consent, but on payment of compensation fixed by the Court.

CONFESSION - An admission by a person that he has committed some crime; in civil cases, sometimes used improperly for an admission of one or more facts made in open Court.

CONFESSION OF JUDGMENT - An admission, usually in writing, made by a person who also thereby authorizes entry of a certain stated judgment against him without trial.

CONSERVATOR - A person appointed by the Probate Court to manage property of a person who is incompetent because of advanced age or physical disability.

CONSOLIDATION - An action of a Court or on consent of the parties to a lawsuit by which two or more lawsuits are joined together for argument or trial.

CONTEMPT - A person's action which disregards the order or authority of a Court. Setting a case or procedure over to another time.

CONTRACT - An agreement between two or more persons to do, or not to do something

CONVERSION - A taking of personal property of another for the personal use or benefit of the taker.

CONVICTION - A finding of guilty in a criminal trial.

CORPORATION - A legal person; that is, an organization which, by proper legal procedure, has been constituted as an entity, and enabled to do business or conduct activities as if a natural person.

COSTS - The legal fees or charges which the law permits a Court to assess in a lawsuit or criminal action.

COUNSEL - A lawyer who advises a person; sometimes used to denote a person's lawyer in an action; in the form "of counsel," used to indicate a lawyer who comes into an existing lawsuit to work with and advise another lawyer.

COUNT - A separate claim for relief in a civil action.

COUNTERCLAIM - A pleading in which a defendant in a civil action asserts a claim for relief against the person who brought the action originally.

COUNTY - A political subdivision of the State authorized by law or by charter to perform governmental functions within its area.

COURT - An agency of the State created or authorized by the Constitution, which is charged with the function of adjudicating disputes between persons in civil actions; or of adjudicating guilt or innocence of persons in criminal actions. It is sometimes used interchangeably with "Judge."

COURT OF APPEALS - The intermediate appellate court between Supreme Court and general jurisdiction courts. It hears appeals from the Circuit Courts, Chancery Courts, and Probate Courts, and "administrative agencies when authorized by Supreme Court rules.

CRIMINAL ACTION - A lawsuit to determine the guilt or innocence of a person charged with violation of the criminal laws.

CROSS-CLAIM - A procedure in a civil action by which one plaintiff asserts a claim for relief against another plaintiff, or one defendant against another defendant.

CROSS-EXAMINATION - Questions asked of witness at a trial by the lawyer for the other side; that is, the side which did not bring the witness before the Court.

CUSTODY - In criminal cases, placing a person under arrest or otherwise in charge of law officers; in civil actions as to children, control, in the nature of parental control over children, including a responsibility to take care of the children.

DAMAGES - The harm suffered by a person because another person has breached his rights in some way or other; also, the amount of money which a Court directs to be paid to compensate for such harm.

DECEDENT - A person who has died.

DECLARATORY JUDGMENT - A civil action to secure from a Court a judgment declaring rights, privileges and duties, as among one or more persons, in relation to the matters involved.

DECREE - A term synonymous with "judgment," but more commonly used in relation to the final decision of a Chancery Court.

DEFAULT - A failure to take some required action in a lawsuit, such as failure to file an answer to a complaint.

DEFAULT JUDGMENT - A judgment entered against a person on his default.

DEFENDANT - In civil cases, the party who is sued; in criminal cases, the party who is charged with breaking the criminal law.

DEFENSE - A claim of certain facts or legal rules which a defendant claims pre- vent him from being held liable in a civil action, or from being found guilty in a criminal action.

DEFINITE STATEMENT - A motion for more definite statement asks the court to require a pleading to be stated in more detail so that it can be better understood. (Arkansas Rules of Civil Procedure, Rule 12(e).

DELINQUENT JUVENILE - A person who has not reached his eighteenth (18th) birth- day who has committed an improper action violating the law in some manner.

DEPOSITION - A procedure by which a witness is examined, under oath, before trial.

DEVISE - A gift of real property by a last will and testament.

DEVISEE - The person to whom a devise is given.

DIRECTED VERDICT - An instruction by the Judge to the Jury that, for reasons of law, the Jury must find its verdict a certain way.

DISCHARGING AN ATTACHMENT - An order or judgment of a Court, dismissing an attachment previously granted.

DISCOVERY - In general, proceedings before trial to find evidence or proof which may be used at trial.

DISMISSAL - An order or judgment of a Court dropping the case or claim.

DISQUALIFICATION - A procedure by which a party to a case asks to have it changed to another Judge for one of the permissible reasons.

DISSOLVING INJUNCTION - An order or judgment of a Court dismissing an injunction previously granted.

DISTRICT COURT - A Court that has jurisdiction over civil actions in smaller amounts than the Circuit Court, and over criminal actions for misdemeanors only (and certain other fields of action), which is generally considered to be the Court below the Circuit Court in the judicial ladder.

DIVISION - In a County where there is more than one Judge or Chancellor, the section of the Circuit or Chancery Court presided over by a particular Judge or Chancellor.

DIVORCE - A judgment of a Court ending a marriage.

DOCKET - A list of cases pending before a Court; a trial docket is a list of cases set for trial.

DOCUMENTARY EVIDENCE - Documents introduced as evidence during a trial.

EJECTMENT - A lawsuit to secure a Court judgment directing a person to remove from real estate, and permit another person to take possession of it.

ELECTION CONTEST - A lawsuit challenging an election.

EMINENT DOMAIN - The power of the State or other authorized agency to take property by condemnation.

ENTRY OF APPEARANCE - Usually a document acknowledging the appearing of a person in a lawsuit; may also be any other action which constitutes an appearance.

EQUITY - Fairness; Chancery Courts are known as courts of equity. They have jurisdiction over cases wherein certain types of equitable relief are requested.

ESCHEAT - Passing of some kind of property to the State because there is no person entitled to inherit it.

EVIDENCE - Some kind of proof presented at a trial.

EXECUTION - An order or writ of a Court to its Sheriff authorizing him to seize and sell property of a judgment debtor, to pay the judgment.

EXECUTOR - The person appointed by the Probate Court to manage the Estate of a deceased person who left a Will.

EXECUTRIX - The same as Executor, but female.

EXEMPLARY DAMAGES - Special damages which may be awarded by a Court in certain cases, because of deliberate or reckless wrongdoing; see also "Punitive Damages."

EXHIBITS - A document or object produced at a trial as part of the proof.

EX PARTE - A legal proceeding in which there is no adversary, but only the person who brings the proceeding; refers also to orders entered before the opposing party has had an opportunity to respond.

EXPERT WITNESS - A witness in a lawsuit, who qualifies as having professional or technical knowledge on some matter, and because of such qualification, is permitted to state his opinions.

EXTRADITION - A procedure for moving a person accused of a criminal act from the state in which he is arrested to another state, or county, where the act occurred, and where he is to be brought to trial.

FALSE IMPRISONMENT - A civil action for damages brought because the plaintiff has allegedly been improperly imprisoned or confined.

FEES - In relation to lawyers, the amount paid them for their services.

FELONY - A major crime which, in general, is a crime important enough to be punishable by a sentence of a year or more in the State penitentiary.

FIDUCIARY - In general, any person having a special duty of good faith and confidence to another person; sometimes used as synonymous with "Trustee;" sometimes used to mean the holder of funds under some special trust relationship with another person.

FINDINGS OF FACT - A Court's statement as part of its judgment after a non-jury trial of what facts it finds to have been proven as true.

FINDINGS OF LAW - A Court's statement, as part of its judgment in a non-jury trial, of the applicable rules of law in the particular case and the legal positions of the parties.

FORECLOSURE - A court procedure by which mortgaged property is sold to pay the mortgage. It ends the right of the mortgagor to the property.

FOREIGN CORPORATION - A corporation originally incorporated in another state.

GARNISHMENT - A procedure by which any debt or salary owed to a judgment debtor is seized and placed under Court Control to be given to the judgment creditor.

GENERAL DENIAL - In civil actions, the usual answer filed to a petition; a denial of the material facts claimed by the petition

GRAND JURY - A group of citizens chosen by the proper legal procedure, whose function it is to investigate any possible wrongdoing in the community, the proper performance of public office, and almost any other matter they may choose; they are not a trial jury.

GUARDIAN - A person appointed by the Probate Court to manage the property (and sometimes to take care of the person) of a minor or incompetent.

GUARDIAN AD LITEM - A temporary guardian, appointed by the Court, to represent the interests of a minor or incompetent who is involved in the case.

HABEAS CORPUS - A legal procedure to cause the release of some person who is being held by another person; the holding may, or may not be an arrest or holding by a law officer.

HEARING - Sometimes used as synonymous with "trial;" used, in general, for any proceeding before a Court in which evidence is heard, but also used for argument of a motion or other legal matter before a Court where no evidence is heard.

HEARSAY - A witness' statement at a trial of something a third person told him.

HEIR - A person who, under the applicable rules of law, is entitled to inherit from another person if that person dies intestate (having made no will).

INCOMPETENT - A person who, under the applicable rules of law and on the facts, is incapable of managing his or her affairs.

INDICTMENT - A finding by a Grand Jury that it believes the stated person has committed the stated crime.

INDIGENT - Generally, a person unable to provide his own financial needs.

INFANT - A person who has not reached his eighteenth (18th) birthday; as here used, synonymous with "minor."

INFORMATION - A document filed by the Prosecuting Attorney in which he accuses a person of having committed a crime.

INJUNCTION - An order or judgment of a Court, instructing a person to do, or not to do, the matters stated; also used as the name of the type of civil action in which such an order is requested.

INSANE - A mental condition that makes a person unfit to enjoy liberty of action because his behavior is unreliable and he is a danger to himself or others. In law it means the person has no legal responsibility or capacity.

INSTRUCTIONS - The statements by a Trial Court, to a Jury, of the applicable rules of law in that case.

INTEREST - The charge for the use of money which is legally allowable, usually expressed as a percentage; also, a claim of ownership in property by a person.

INTERLOCUTORY INJUNCTION - An injunction temporarily issued by a Court, not as final judgment, but to hold the situation as it is until there can be a final judgment.

INTERLOCUTORY JUDGMENT - A partial judgment in a civil action issued by a Court while it proceeds to consider the remainder of the case.

INTERPLEADER - A procedure by which a person holding property, which is claimed by more than one other person, brings all the claimants into Court, so that the Court may determine which one is entitled to have the property.

INTERROGATORIES - A series of questions filed by one party to a case, which another party must answer in writing, and under oath, as part of the record of the case.

INTERVENE - A procedure by which a person not a party to a civil action asks permission to come into the case and be a party.

INTESTATE - One who has died without a Will; also used as an adjective.

JEOPARDY - Subjection to a criminal charge.

JOINDER - In the same civil action, bringing together more than one claim by the same party, or more than one party in, or subject to, the same claim.

JUDGE - The state officer who presides as the legally trained person in charge of a trial, and who makes the final judgment therein, with or without a jury, as the case may be.

JUDGMENT - The final decision of the Judge as to the rights of the parties in a lawsuit.

JUDGMENT CREDITOR - A person who has already secured a judgment against another person.

JUDGMENT DEBTOR - A person against whom a judgment has already been entered.

JUDICIAL NOTICE - A rule of evidence that permits a Judge to take a matter into consideration without formal proof in the case before him because that matter is of such general knowledge as to require no proof.

JURISDICTION - The general field of action which a particular Court has, as permitted by applicable law; the power of a Judge to do, or not to do, a particular act; the geographical area within which a particular governmental body or agency may act.

JUROR - A member of a jury, or a member of a jury panel prior to selection of the jury from the panel.

JURY - A group of citizens, usually twelve in number, who determine issues of fact in a particular trial (but see "Grand Jury," differently) in Circuit Court.

JURY PANEL - A group of citizens from whom the final Jury is selected in a particular case; sometimes also used to mean the entire, large number of citizens who are called to the Courthouse to make up the entire group by jury panels at that trial docket.

JUVENILE - A person who has not reached his eighteenth (18th) birthday.

JUVENILE COURT - A Court which considers matters affecting juveniles, such as juvenile delinquency and neglected children.

LEGACY - A gift of personal property to a person by the Will of another person; sometimes used to refer to such property itself.

LEGATEE - A person to whom a legacy is given.

LETTERS OF ADMINISTRATION - The appointment by the Probate Court of a person to be the administrator of an estate where the deceased died without a will. Also used to refer to the certificate or document of appointment.

LETTERS OF TESTAMENTARY - Formal instrument of authority and appointment given to an executor of an estate (where there was a Will).

LEVY - The act of seizure of property by a Sheriff under Court Order, such as an execution, to raise money to pay a judgment.

LIBEL - A written statement by one person against another person, which defames that other person, contrary to law; also, the civil action in which damages for such defaming is sought.

LIEN - A claim of ownership, or partial ownership, in the property of another, according to applicable law or contract; also, a partial ownership in property, which legally follows as the result of a judgment or other Court action; a charge against property to secure a debt.

LIFE ESTATE - Ownership of property for a period of a lifetime only.

LIMITATION - A statute of or limitation of action; state which cancels a right to sue another person or to bring a criminal proceedings against a person, after the stated period of time.

LIS PENDENS - A document filed as a public record, stating that a suit is pending that involves title to property. The purpose is to preserve rights in the property while the suit is pending.

MALICIOUS PROSECUTION - A civil action to secure damages against another person who is alleged to have brought a lawsuit without proper foundation or right.

MANDAMUS - An order of a Court, or a judgment, which commands a public officer, to do, or not to do, a certain action as part of that person's administrative duty.

MECHANIC'S LIEN - A civil action, wherein one who has helped to repair machinery or construct or improve a building asserts a lien on the property because he has not been paid for his work; also used to describe the claim itself.

MINOR - Any person who has not reached his eighteenth (18th) birthday.

MISDEMEANOR - A criminal act where the maximum punishment is less than a year in prison.

MISTRIAL - A trial that has been terminated before its normal conclusion.

MOTION - A request by a party to an action that the Court make a ruling or order.

MOTION FOR PRODUCTION - A request by a party to an action that the Court order the other party to produce, for the inspection or use in evidence of the first party, some document, object, or thing.

MUNICIPAL CORPORATION - A governmental body which performs municipal functions such as city, town, or village.

NEGLIGENCE - Doing something which reasonable carefulness under applicable rules of law would have required you not to do, or vice versa.

NEW TRIAL - A retrial of a case which has already been through a trial because of some error in the first trial; also used to describe the motion which requests the Court to order a new trial.

NEXT FRIEND - In a civil action, a person appointed by the Court to protect the interests of a minor who brought the suit.

NOLO CONTENDERE - In United States Courts, a plea of no contest to a criminal charge in relation to, and usable in that case only.

NONRESIDENT - A person who does not legally reside in Arkansas.

NONSUIT - Although this is an obsolete term, it is still used as equivalent to "dismissal," especially in relation to a plaintiff whose case is dismissed.

NOTARY PUBLIC - One appointed under state law as authorized to administer an oath to other persons on affidavits and other documents.

NOTICE - A document advising another person of some required action, such as notice of hearing of motion; also used to mean that a person has had knowledge of

something which already happened, or of some interest in property which another person claims.

NUNC PRO TUNC - Literally "now for then;" generally, a Court action as of one day, in correction of something which was done, or should have been done, at an earlier time.

OFFER OF JUDGMENT - A document filed by a defendant in a civil action in which he admits that a judgment may be entered against him, but usually for a smaller or lesser claim than that stated in the petition; sometimes relates to a verbal statement to that effect, usually in open court.

OPEN COURT - A Court in session and doing its business in the courtroom.

OPENING STATEMENT - In a trial, the beginning statement of a lawyer of what he expects to prove in that trial.

ORDER - A direction by a Court that something be done; also, ruling by a Court, usually on some motion or technical matter which is a part of the procedure in a case.

PANEL - See "Jury Panel."

PARDON - The Governor's action freeing a person convicted of crime from punishment or liability.

PAROLE - A release from jail or prison on the stated conditions after only part of a sentence is served.

PAROLE EVIDENCE - Evidence given by word of mouth at a trial.

PARTY - A person who is a plaintiff or defendant in a lawsuit.

PARTITION - A civil action in which a partial owner of property asks the Court to separate the interest of various owners; this may mean sale of the property under Court supervision, with division of the proceeds as the Court determines, according to the legal rights of the parties.

PARTNERSHIP - An agreement of more than one person to carry on a business together, as joint ownership, as declared by the agreement.

PAUPER - A person unable to pay the costs in a lawsuit, or counsel fees.

PEACE OFFICER - Usually used as synonymous with "policeman," but actually includes other public officers whose duties involve protecting the public against crime.

PEREMPTORY CHALLENGE - The absolute right of a party in an action to disqualify a juror from the panel without any reason.

PERSONAL PROPERTY - Everything that may be owned except real estate.

PETITION FOR REVIEW - A petition filed, whose purpose is to ask the Court to review the decision of an administrative agency under the Administrative Procedure Act.

PETIT JURY - A trial jury.

PLAINTIFF - The person who brings or files a civil action.

PLEA - A statement by a defendant in a criminal action that he is guilty or not guilty.

PLEADING - A document filed by a party to an action in which he states his claim, answer or defense.

POLLING THE JURY - At the conclusion of a trial, a party or attorney may ask each juror to state his individual verdict in the case.

PRAYER FOR RELIEF - In a civil action, that part of the complaint that tells the Court what the party filing the action is asking the Court to do.

PRELIMINARY HEARING - In felonies, a preliminary proceeding before a Judge which is not a full trial, in which the Judge determines only whether there is probably enough evidence to support the criminal charges so that the defendant should be required to go to trial.

PRE-TRIAL CONFERENCE - A procedure by which the Judge and the lawyers confer before trial, to see if some of the facts can be agreed on or anything else done to simplify or shorten the trial.

PRIMA FACIE EVIDENCE - Evidence which is sufficient to support the claim or charge unless rebutted by controverting evidence.

PROBATE COURT - The Court that supervises the administration of guardianships, estates of decedents, and similar matters.

PROBATION - A Court order that permits a person convicted of a crime to serve his sentence under the supervision of a Probation Officer rather than go to prison.

PROCESS - A means used by a court to obtain jurisdiction over a person or property

PROHIBITION - An order or judgment of a Court, which commands a person or lower court or agency not to do something.

PUBLICATION - An advertisement in a newspaper of notice of some kind in a case.

PUNITIVE DAMAGES - Damages which may be awarded in a civil action where the defendant is found to have committed a wrong against the plaintiff, willfully or deliberately or maliciously. They are in addition to actual damages.

QUASH - A Court order canceling some previous document or procedure.

QUIET TITLE - A civil action to have the Court decide who owns real estate.

QUO WARRANTO - A civil action to challenge the right of some person20-27 to hold a public or private office, or of some governmental body or agency to perform a particular function, or to exist.

REAL PARTY IN INTEREST - The person who has the legal right to enforce a claim.

REBUTTAL - Evidence introduced to contradict or offset another party's evidence.

RECEIVER - A person appointed by a Court to hold and manage property, subject to the Court's orders.

RECOGNIZANCE - Bail bond; a bond for release of the defendant in a criminal action; also used when the court permits the defendant to be released without bond on his promise that he will be present at trial.

REDELIVERY BOND - A bond posted to prevent the sheriff from taking possession of property by execution or attachment; or to have property returned that has been attached or executed upon.

REFEREE - A person appointed by the court pursuant to statute to hear evidence and make a recommendation for the Court's final decision in a particular case.

REMAND - Sending a case back to a lower court or agency for reconsideration.

REMITTITUR - A Court order requiring the successful party in an action for damages give up a certain amount of the money awarded by the jury on condition that if he refuses to do so a new trial will be granted.

REPLEVIN - A civil action to recover the possession of property; also used to mean the order or writ by which the property is seized pending Court determination.

REPLY - An answer to a set-off or counterclaim in a civil action.

RECISSION - A civil action asking the Court declare a contract void; that is, as if the contract had never been made.

RES GESTAE - A term used in relation to evidence to indicate generally, things that happened at the same time and place as the incident that is the subject of the suit.

RESIDENT - One who lives within the jurisdiction and has certain privileges and responsibilities.

RES JUDICATA - Something which has already been ruled on by a Court, so that no further debate or adjudication on that matter is permitted.

RESPONDENT - The defendant in certain special proceedings, such as quo warranto, mandamus, and others.

RESTRAINING ORDER - A Court order forbidding a person to do a threatened act until a hearing may be held and the Court can decide the matter.

RETURN - A written document filed in a case stating whether or not service of process has been accomplished; usually filed by the Sheriff.

REVIVOR - A procedure allowing a lawsuit to proceed after the death of a party.

RULES - Administrative directions by a Court which are not in a particular case, but apply to the general matters of procedure before that Court.

SATISFACTION OF JUDGMENT - A document filed by a judgment creditor to show in the Court record that the judgment has been paid or complied with.

SEARCH WARRANT - An order of a Court authorizing a Peace Officer to enter some place or premises to search for stated objects or things.

SENTENCE - The judgment of a Court in a criminal case stating defendant's punishment.

SEPARATE MAINTENANCE - A civil action that does not end a marriage, but asks the Court to order the husband or wife to provide a stated amount of support for the spouse and family after a separation.

SERVICE - Delivery of a summons or other document, such as a motion or pleading, in the manner provided by law; service of documents which are considered as "process" must generally be by the Sheriff, but service of other documents is generally by the lawyers, personally, by mail, or otherwise, as permitted.

SEVERANCE - A Court order directing that two counts of a complaint in a civil action, or that two criminal charges against the same person, or charges against different persons in a criminal action, be tried separately.

SHOW CAUSE - An order of a Court to a person to appear before the Court at a stated time to inform the Court of that person's side of a case, so that the Court may decide whether or not to do something; usually used in injunction, mandamus, and prohibition.

SLANDER - A verbal defamation of another person; the civil action to recover damages for such improper action.

SPECIFIC PERFORMANCE - A civil action asking the Court to require the defendant to comply with the terms of a contract, such as to convey land.

STAY - A suspension order by a Court; that is, an order which declares that something may remain undone, or not acted on, for a given period of time.

STIPULATION - A written or verbal agreement of lawyers in a case that certain stated facts are true.

SUBPOENA - An order of a Court commanding a person to appear at a trial as a witness.

SUBPOENA DUCES TECUM - (Literally "bring with you") A subpoena that commands a witness to bring documents or things to the trial to be used in evidence.

SUMMARY JUDGMENT - A motion procedure in civil actions asking the Court to give final judgment on the ground that there are no questions of fact so that there is no need for a trial; and the Court may decide the matter on the accepted facts by determining the applicable law.

SUMMONS - In civil actions, the document that notifies a defendant that a lawsuit has been filed against him; in criminal actions, the document which notifies a defendant that a misdemeanor charge has been filed against him.

SUPPLEMENTARY EXAMINATION - A procedure by which a judgment debtor is brought before the Court, and required to answer questions as to his ability to pay the judgment.

SUPREME COURT - The highest Court in the Arkansas judicial ladder; it hears some of the appeals from the Circuit or Chancery Courts but other appeals go to the Court of Appeals; there are involved rules as to what cases go to which Courts.

SUPPRESS - In criminal actions, a request or motion to the Court that the prosecuting governmental agency be prevented from introducing into evidence certain things, objects, or documents, because they were illegally or improperly obtained.

SURETY - A person who promises to pay a sum of money if someone else (called the principal) fails to do something; the obligation of the surety is usually expressed by a bond.

SUSPENDED SENTENCE - In a criminal action, the order of a Court that allows a defendant who pleads, or is found guilty, of an offense to be released without a judgment of sentence being entered and without supervision.

TAXING COSTS - The process by which the Clerk calculates how much Court costs are due in a particular case.

TEMPORARY INJUNCTION - An injunction entered by a Court, not as a final judgment, but at the early stages of a case to keep things as they are and prevent something from being done, or not done, until the Court can make its final judgment.

TERM OF COURT - Dates set by the legislature when the Court is required to be in session.

TESTATOR - A male person who makes a Will.

TESTATRIX - A female person who makes a Will.

TESTAMENTARY DISPOSITION - Disposing of property by a Will; or the particular disposition of a particular piece of property by a Will.

TESTAMENTARY TRUSTEE - A Trustee appointed under a Trust created in a Will.

TESTIMONY - The statements of a witness in open Court, or at a deposition, given under oath, as part of the proof.

THIRD PARTY DEFENDANT - A defendant in a civil action, not on the original complaint filed by the plaintiff, but on a claim filed by another party.

THIRD PARTY PLAINTIFF - In a civil action, a defendant who files a claim against a person who is not already a party to the action.

TIME TO PLEAD - The period of time allowed by the applicable Rules to file a pleading in a case.

TORT - A legal wrong or injury, not necessarily criminal.

TRANSCRIPT - An official statement of proceedings in a Court.

TRANSFER OF INTEREST - A change of ownership or interest in property.

TRIAL - The procedures before a Court in which evidence on both sides is produced, so that the Court or jury may be informed of the facts of the case and make its decision thereon.

TRIAL DOCKET - A list of cases that are waiting trial in a particular Court; sometimes the list of cases to be called on a particular day.

TRUE BILL - A finding by a Grand Jury, generally synonymous with "indictment."

TRUSTEE - A person under a legal duty to manage property, not for his own interests, but for the benefit of another.

UNDERTAKING - Usually used as synonymous with "bond."

USURY - Interest in a greater amount than allowed by law.

VENUE - The place of trial; also used to mean the geographic area within which a given Court may act, although this use is more properly called

VERDICT - The decision of a Jury at the end of a case.

VERIFICATION - A statement as to the truth, correctness, or authenticity of a document, usually under oath.

WAIVER - Intentional giving up of something.

WARD - A person under guardianship.

WARD OF THE COURT - A person who, for some reason, in some proceeding, has been placed under the continuing control of a Court.

WARRANT - A Court order directing a Peace Officer to arrest a person on a stated criminal charge; see also "Search Warrant."

WILL - A document in which a person directs how his property shall be disposed of after his death.

WILL CONTEST - The civil action which challenges the validity of a Will.

WITNESS - A person who gives testimony at a trial; also a person who observes the execution of a Will; also, generally, a person who observes some happening.

WRIT - Used generally to describe all sorts of Court orders, mostly process of one kind or another.