

# ARKANSAS COUNTY CLERKS 2018 PROCEDURES MANUAL



**Association of Arkansas Counties**

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## FOREWORD

This County 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 2017 legislative session and includes a description of the duties, responsibilities, and procedures of the County 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.

A handwritten signature in black ink that reads "Chris Villines". The signature is written in a cursive, flowing style.

Chris Villines  
Executive Director

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# 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 few. Counties may provide for the establishment of 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 districts 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. 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.

4. 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.). For example, the county board of election commissioners is responsible for conducting logic and accuracy testing on election media (ACA 7-5-515).

With the passage of Act 633 of 2017, a voter must now present photo ID when voting. This act amended the Arkansas Constitution, Amendment 51. It also provides that if there is a question as to a voter's eligibility, their ballot will be considered a provisional ballot until the board of election commissioners decides whether it should be counted. If a vote is not counted, the board must notify the person who cast the vote (ACA 7-5-902). A voter may request a voter verification card, which is a form of photo ID, from the Secretary of State (ACA 7-5-324).

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). 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 April, one-fourth being due between April and 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, and not within one of the exceptions to the requirement 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 1 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 duty of the county assessor is to appraise and assess all real property between the first Monday of January and July 1, 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 January 1 (ACA 26-26-1201).

The assessor must make an abstract of assessment showing the total assessed value of the county. On August 1, 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 to the Arkansas Constitution, a 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 may exercise no authority unrelated to county affairs (ACA 14-14-806).

The quorum court's powers include, but are not limited to, the power to: A) Levy 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 County Clerk is an elected official in county government. The Constitution of the State of Arkansas provides for the election of the County 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. All Constitutional Officers are required to have a faithful performance bond to guarantee his/her proper performance of the duties. This may be accomplished either through the State Fidelity Bond Program, which covers all employees on the payroll, or a Fidelity Bond purchased for the officer. He/she must also take the constitutional oath of office. Before entering their duties, the County Clerk shall take, before some person authorized by law to administer oaths, the following oath:

"I, \_\_\_\_\_, do swear that I will perform the duties of an election official of this election according to law and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same, and that I will not disclose how any voter shall have voted, unless required to do so as a witness in a judicial proceeding or a proceeding to contest an election." (ACA 7-4-110)

The County 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 County 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 County 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 County Clerk is to be operated according to the office budget which is established annually by the Quorum Court of the County. In general, the County Clerk's duties are divided into six areas: Probate Court, Quorum and County Court, voter registration and absentee voting, recording and issuing of licenses and other records, tax books and board of equalization and financial records.

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 related to adoptions and guardianship cases within the county.

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 14-14-903).

As Clerk of the County Court, the County Clerk maintains the County Court record. This record includes all business of the County Court which includes items such as: annexations, incorporations, county purchases, election results, proclamations, levy of taxes, board appointments, bonds, improvement districts, right of way acquisition, contracts, and agreements signed by County Judge, etc.

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.

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 the tax books, he/she 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 County Clerk is the official bookkeeper of county government and usually handles the payroll for all county employees. 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 monies received and credits the treasurer with all monies 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 monies 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). Counties shall use the modified accrual accounting basis for audit purposes (ACA 14-71-101).

The records which are kept by the County Clerk are vital to the efficient and effective operation of county government. Thus, it is necessary that these records be accurately recorded and well maintained.

## Chapter Three – TIMETABLE

### GENERAL TIMETABLE

This section was included to assist newly elected County Clerks by outlining the most pertinent activities of the office and placing them in a calendar format. This will allow the County Clerk or a member of his or her staff to review the major activities of the office and insure they are completed in a timely fashion.

The various activities and reports are listed in the month in which they should take place and the appropriate reference is made to the Arkansas Code Annotated [ACA] for each one. Several items recur every month and are thus listed in each month's activities.

### JANUARY

Receive in January annually from the Board of Commissioners of the Cemetery Improvement District the Financial Report (ACA 20-17-1114).

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

Annually, from January 1 to June 1, the County Clerk shall receive a correct map or plan of each coal mine in the county and correct and confirm the records to the existing maps (ACA 11-7-303).

Quarterly, the Collector shall make a detailed report to the Clerk of the County of the privilege taxes/licenses issued by him/her during the quarter. It should show the number and date of the license, the name of the license, the privilege for which it was granted and the amount collected for it (ACA 26-76-105).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

On or before the first Monday of July, October, January and April of each year, the clerk of the County Court shall audit the accounts of constables and other collecting officers and open a separate account with each of the officers in a book (ACA 16-96-401).

The County Clerk or the Deputy Clerk unless otherwise provided for the county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30<sup>th</sup>) day of each calendar month, the records of

marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

### FEBRUARY

On or before February 1 of each year, the preparer of tax books of each county shall make out and deliver the tax books of his or her county to the collector with the preparer's warrant attached, under his or her hand and the seal of his or her office, authorizing the collector to collect the taxes. The collector shall give a receipt for the tax books, in which the amount of the different taxes shall be separately stated, and the county clerk shall file the receipt in the records of the county (ACA 26-28-108).

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

The County Clerk or the Deputy Clerk unless otherwise provided for the county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30<sup>th</sup>) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

Pay over all funds to county treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

### MARCH

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

By March 15, the clerk of the county court shall cause to be published one (1) time in one (1) newspaper published in the county the annual financial report of the county. If no newspaper is published in the county, then the clerk shall cause the annual financial report to be published one (1) time in the newspaper having the largest circulation in the county (ACA 14-21-102(b)(1)(A)(B)).

The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

## **APRIL**

On or before the first Monday of July, October, January and April of each year, the clerk of the County Court shall audit the accounts of constables and other collecting officers and open a separate account with each of the officers in a book (ACA 16-96-401).

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

Quarterly the Collector shall make a detailed report to the Clerk of the County of the privilege taxes/licenses issued by him during the quarter. It should show the number and date of the license, the name of the license, the privilege for which it was granted and the amount collected for it (ACA 26-76-105).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

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Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

## **MAY**

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The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of

marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

## **JUNE**

Annually from January first to June first the county clerk shall receive a correct map or plan of each coal mine in the county and correct and confirm the record to the existing maps (ACA 11-7-303).

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

## **JULY**

On or before the first Monday of July, October, January and April of each year, the clerk of the county court shall audit the accounts of constables and other collecting officers and open a separate account with each of the officers in a book (ACA 16-96-401).

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

Quarterly the Collector shall make a detailed report to the Clerk of the County of the privilege taxes/licenses issued by him during the quarter. It should show the number and date of the license, the name of the license, the privilege for which it was granted and the amount collected for it (ACA 26-76-105).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform

all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

On or before July 31, the assessor shall deliver the personal property assessment report or roll book to the county clerk, to be arranged in alphabetical order according to school districts and showing separately in alphabetical order the persons residing outside of incorporated cities and towns and of persons who are residents of incorporated cities and towns of the same school district (ACA 26-26-716(a)(2)).

## **AUGUST**

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

The county equalization board shall meet on August 1 of each year at the office of either the clerk of the county court or the office of the county assessor. However, if August 1 falls on a Saturday, a Sunday, or a legal holiday, the meeting shall be held on the next business day which is not a Saturday, a Sunday, or a legal holiday (ACA 26-27-309).

Each year, the assessor shall, on or before the third Monday in August, file with the county clerk his/her report of assessment of all real property of the county situated within the boundaries of any city or town and additions thereto which have been regularly platted into lots and blocks (ACA 26-26-716(a)(1)(A)).

The clerk of the county court or the clerk's designee shall serve as secretary of the equalization board of the clerk's county and shall keep a complete and accurate journal of its proceedings and perform such other duties as may be by law required by the board. In addition, within ten (10) days after the appointment of the equalization board for the clerk's county, the clerk or the clerk's designee shall file from time to time with the Assessment Coordination Department a statement showing the name and address of each member of the board. When any change in the personnel of the county board is made, the county clerk shall immediately so advise the Arkansas Public Service Commission (ACA 26-27-307).

The assessor delivers to the clerk of the board of equalization (County Clerk) the completed assessment tax records on or before the first day of August of each year showing the total assessment of the county as made by the county assessor (ACA 26-26-1103).

Pay over all funds belonging to the county or its subdivisions that are by law required to be paid into the county treasury to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

## **SEPTEMBER**

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

## **OCTOBER**

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

All ad valorem taxes levied on real and personal property by the several county courts of the state when assembled for the purpose of levying taxes, except taxes on the property of utilities and carriers and all ad valorem taxes on real property held in escrow, shall be due and payable on and from the first business day in March to and including October 15 in the year succeeding the year in which the levy is made (ACA 26-35-501(a)(1)).

On or before the first Monday of July, October, January and April of each year, the clerk of the county court shall audit the accounts of constables and other collecting officers and open a separate account with each of the officers in a book (ACA 16-96-401).

Quarterly the Collector shall make a detailed report to the Clerk of the County of the licenses issued by him during the quarter. It should show the number and date of the license, the name of the license, the privilege for which it was issued and the amount collected for it (ACA 26-76-105).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the

thirtieth (30th) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

## **NOVEMBER**

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

The Quorum Court, at its regular meeting in November of each year, shall levy the county, municipal and school taxes for the current year; and, before the end of each fiscal year the county shall make appropriations for the expenses of county government for the following year provided that nothing in this Section shall prohibit the Quorum Court from making appropriation amendments at any time during the fiscal year (ACA 14-14-904).

The County Clerk shall file with the State Equalization Board a final abstract of the tax books unless otherwise ordered, on or before the second Monday in November of each year (ACA 26-27-321).

The County Clerk shall receive from the State Equalization Board a record of proceedings as affects his county in which property, the assessed valuation has been by the board ordered increased or decreased on or before the third Monday in November. The County Clerk shall add or deduct from the valuation of any property, as adjusted by the local assessment and equalization officials such percentage or amount as the board might so order and shall enter the adjusted or equalized valuation in the proper record and extend taxes thereon (ACA 26-27-204(b)(1-2)).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of

marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

## **DECEMBER**

On the first of each month or within five days thereafter, transmit to the State Treasurer all fees collected on behalf of the Children's Trust Fund (ACA 9-30-109(b)).

In counties where the fees are entered for a solid waste management system on the tax records for yearly collection or if the periodic fees and service charges are more than ninety (90) days delinquent or are delinquent as of the date set by the Quorum Court by ordinance, the fees and service charges shall be entered on the tax records of the county by the county clerk and shall be collected by the county collector with the personal property taxes or with real property taxes from the owner of the property in accordance with a county ordinance, except as provided in ACA 8-6-212 (b)(1)(B)(ii) (ACA 8-6-212(b)(3)(A)).

The fees and service charges to be collected shall be certified to the county clerk by December 1 each year by an appropriate municipal official or the (ACA 8-6-212)(3)(B).

All County Tax Collector's Settlements shall be made and filed with the county court before the fourth Monday of December (ACA 26-39-301, 26-39-401 and 26-39-402).

It is hereby made the duty of the county courts to pass upon the settlements of county collectors and to approve, reject or restate the same on or before the thirty-first (31) of December of each year. Failure of the County Judge to so approve, reject or restate the settlements of the county collectors within this period of time shall constitute a misfeasance in office and shall be a violation punishable by a fine of one hundred dollars (\$100) or removal from office (ACA 26-39-301, 26-39-401 and 26-39-402).

Pay over all funds to the County Treasurer on the first of each month or within ten working days thereafter (ACA 26-39-201).

The County Clerk and/or Deputy Clerk, unless otherwise provided for by county ordinance, shall attend all regular and special meetings of the Quorum Court and shall perform all administrative and record keeping duties and other duties required by the Quorum Court (ACA 14-14-902).

Every official issuing marriage licenses shall complete and forward to the Division of Vital Records on or before the thirtieth (30th) day of each calendar month, the records of marriages filed with him or her during the preceding calendar month (ACA 20-18-501).

## Chapter Four - DESCRIPTION OF RECORD FILES

This section was included to assist newly elected County Clerks by describing the commonly kept record files in the office of the County Clerk. The following is a description of the records that are kept in most County Clerk's offices around the State. These records are not necessarily required by law to be kept in this format, but are kept in this manner as a practice of good office management.

The duties of the office of County Clerk are divided into six (6) fairly distinct areas for purposes of understanding and discussion:

- I. Probate Court
- II. Quorum and County Court
- III. Voter Registration and Absentee Voting
- IV. Recording and Issuing of Licenses and other Records
- V. Tax Books and Board of Equalization
- VI. Financial Records

### **OUTLINE OF RECORD FILES**

#### I. Probate Court Clerk

- A. Master Probate File
- B. Probate Court Index
- C. A Separate Book or Extra Copy
- D. Fees
- E. Probate Court Records

#### II. Quorum and County Court Clerk

- A. Quorum Court Clerk
  1. Ordinance and Resolution Numbering System
  2. Ordinance and Resolution File
  3. Ordinance and Resolution Register
  4. Quorum Court Minutes
- B. County Court Clerk
  1. County Court Record Book (Extra Copy)
  2. County Court Record File (Original)
  3. Register of Board Appointments
  4. Wet-Dry Election Results

#### III. Voter Registration and Absentee Voting

- A. Voter Registration Records
  1. Affidavits of Registration
  2. Permanent or Master Voter Registration File
  3. Majority and Minority Party Affidavit Books
  4. Voter Registration List
  5. Cancellation File
    - a. Conviction of Felony
    - b. Death
  6. Precinct Maps
  7. Election Lists
  8. Listing of Affidavits of Registration
- B. Absentee Voting Records

1. Application for Absentee Ballot
2. Permanently Disabled Voters File
3. Election Materials

#### IV. Recording and Issuing of Licenses and Other Records

- A. Marriage Records
  1. Marriage Licenses
  2. Notification of Intention to Wed
- B. Statements of Financial Interest
- C. Campaign Contribution Reports
  1. 30 Day Pre-Election
  2. 10 Day Pre-Election
  3. 30 Day Post-Election
  4. Supplemental
- D. Political Practices Pledge
- E. Medical Doctors and Nurses Certificates
- F. Minister's Credentials
- G. Business Under an Assumed Name
- H. Fictitious Name of Corporation Registration
- I. Articles of Incorporation of a Business
- J. Oath and Bond of County School Supervisor
- K. Certificates of Appointment
- L. Going Out of Business Sale License

#### V. Tax Books and Board of Equalization

#### VI. Financial Records

- A. Payroll
  1. Time Sheets
  2. Payroll Reports
    - a. Unemployment Insurance
    - b. State Income Tax
    - c. Federal Income Tax
    - d. FICA or Social Security
    - e. Public Employees Retirement
    - f. Health or Life Insurance
    - g. Occasional Reports
- (1) Garnishments
- B. Personnel Records
- C. Claims Docket
- D. Warrant Register
- E. Annual Financial Report
- F. Semi-Annual Financial Statement

### **RECORD FILES OR BOOKS**

#### **I. Probate Court**

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. Amendment 80 merged circuit and chancery courts into one court. The legislature, however, recognized that many county clerks were also the probate clerks and amended A.C.A 14-14-502(a)(2)(B) to provide that the county clerk may be ex

officio clerk of the probate division of circuit court, if such division exists.

The clerk shall keep a book known as a "probate docket," designated by the prefix "PR." 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:

Probate PR2002-1

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 (Administrative Order No. 2, Arkansas Rules of Civil Procedure, Appendix).

#### **A. Master Probate File**

(Original) - This file is composed of a file folder or case folder for each probate case. This file is indexed chronologically by case number and contains the original copies or carbons of all the documents to that case.

#### **B. Master Probate Index**

This index is helpful in locating probate cases utilizing the name of the person as well as the case number. If a name is all that is known then the number of the case can be attained by using this index.

#### **C. A Separate Book or (Extra Copy)**

File is kept for each of the probate records. Each of these books or files are indexed alphabetically by last name in the front of each book.

These records are:

- Letters of Administration
- Letters of Testamentary
- Letters of Guardianship
- Probate Orders
- Wills
- Accountings
- Inventories
- Small Estates

#### **D. Fees**

The clerks of the county courts and of the probate division of the circuit courts are authorized to charge a fee of not more than ten dollars (\$10.00) per day for making settlement with the collector for each day employed, including quarterly apportionments, but not exceeding thirty (30) days during any calendar year.

#### **E. Probate Court Records**

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. After the name of each file shall be shown the file and docket number.

(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, the dates thereof, the names and addresses of fiduciaries and of attorneys for parties in interest when and as known to the clerk, reference to the volume and page of any record which shall have been made of such document or order, and such 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) Such other records as may be required by law or the court (A.C.A. 28-1-108).

### **II. Quorum Court**

#### **A. Quorum Court**

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 proceeding of the Quorum Court including minutes, ordinances, resolutions and an index to provide easy access to the information (ACA 14-14-902 through 14-14-903).

#### **1. Ordinance and Resolution Numbering System -**

A good numbering system which is utilized by many counties contains the following: O-01-17 or R-01-12.

The "O" denotes an ordinance from an "R" which signifies a resolution.

The "01" represents the current year of the ordinance.

The last two digits such as "17" or "12" represent the number of ordinances or resolutions which have been approved to date.

**2. Ordinance and Resolution File** - A permanent record of all ordinances, resolutions, and amendments to each adopted and approved by the court shall be maintained.

This file shall be indexed to provide for efficient identification, location and retrieval of all ordinances and resolutions by subject, register number, and date enacted. This permanent indexing may be by book and page (ACA 14-14-903).

**3. Ordinance and Resolution Register** - The County Clerk, or secretariat shall maintain a County Ordinance and Resolution Register for all ordinances, resolutions and amendments to each adopted and approved by the Court. These shall be numbered sequentially in order of adoption and approval and a system shall be maintained for both ordinances and resolutions. This register shall be a permanent record of the Court and shall contain, in addition to the sequential register number, the following items of information.

- (a) An index number which shall be the originating legislative agenda number of the enactment;
- (b) The comprehensive title of the enactment;
- (c) The type of ordinance or amendment, general, emergency, appropriation, initiative or referendum;
- (d) The date adopted by the Quorum Court;
- (e) The date approved by the County Judge; or date of veto override; or date enacted by electors;
- (f) The effective date of the enactment;
- (g) The expiration date of the enactment; and
- (h) A recording index number designating the location of said enactments (ACA 14-14-903).

**4. Quorum Court Minutes** - The County Clerk, deputy, or secretariat is responsible for taking the minutes of each Quorum Court meeting. Once the minutes are approved by the Quorum Court, they should be filed chronologically by meeting date.

## **B. County Court**

As clerk of the County Court, the County Clerk maintains the County Court record. This record includes all business of the County Court which includes items such as: annexations, incorporations, county purchases, election results, proclamations, levy of taxes, board appointments, bonds, improvement districts, right of way acquisition, contracts, agreements signed by county judge, etc.

The uniform filing fees to be charged by the clerks of the county court for initiating a cause of action in the county court shall be thirty dollars (\$30.00), and no portion of the filing fee shall be refunded (ACA 21-6-415(a)). However, the clerk shall not charge a fee for filing a petition with the county court requesting a refund under ACA 26-35-901 (21-6-406).

**1. County Court Record Book** - (Extra Copy) This book includes an extra copy of the various types of records which come through County Court. This book is usually indexed by the name or type of the record and the date of its approval. This file is open to the public and used to refer back to various records.

**2. County Court Record File** (Original) - This file is the original copy of the various documents which are filed in

County Court This file is indexed by the name or type of record and the date of its approval.

**3. Register of Board Appointment** - The Clerk of the County Court shall maintain a register of county advisory and administrative board appointments established by a Quorum Court, including:

- (1) Name of the board;
- (2) The ordinance reference number establishing such board;
- (3) The name of the board member;
- (4) The date of appointment; and
- (5) The expiration date of such appointments (ACA 14-14-706).

**4. Wet-Dry Election Results** - The County Election Commission shall certify the results of the election to the County Clerk and County Court. The County Judge shall have the results and a map or plat of the area spread on the record of the Court. The County Clerk shall notify the Alcoholic Beverage Control Division of the results of the local option election within 30 days after the certificate has been spread of record. The notification submitted to the ABC Division shall include a certified copy of the election results and a map or plat of the area (ACA 3-8-306). In defunct voting districts, elections regarding on-premises consumption of alcohol can be authorized both through petitions and city ordinance. (3-8-602).

## **III. Voter Registration and Absentee Voting**

### **Arkansas Constitution, Amendment 51**

#### **1. Statement of policy.**

The purpose of this amendment is to establish a system of permanent personal registration as a means of determining that all who cast ballots in general, special and primary elections in this State are legally qualified to vote in such elections, in accordance with the Constitution of Arkansas and the Constitution of the United States.

#### **2. Definitions.**

As used in this amendment, the terms:

- (a) "County Board of Registration" means the County Board of Election Commissioners in each of the several counties of this State.
- (b) "Permanent Registrar" means the County Clerk in each of the several counties of this State.
- (c) "Deputy Registrar" means the Deputy County Clerk or clerical assistants appointed by the County Clerk.
- (d) "Election" means any general, special or primary election held pursuant to any provisions of the Constitution or statutes of the State of Arkansas; provided, that this amendment shall not apply to selection of delegates to party conventions by party committees or to selection of party committeemen by party conventions.

#### **3. Application.**

No person shall vote or be permitted to vote in any election unless registered in a manner provided for by this amendment.



#### **4. Permanent registration.**

When a voter is once registered under the provisions of this amendment, it is unnecessary for such voter again to register unless such registration is cancelled or subject to cancellation in a manner provided for by this amendment.

#### **5. Duties of registration officials.**

(a) Voter registration agencies shall distribute mail voter registration applications, provide assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance, and accept completed voter registration application forms for transmittal to the appropriate permanent registrar via the Secretary of State. Voter registration agencies include the following:

- (1) The Office of Driver Services of the Revenue Division of the Department of Finance and Administration and all State Revenue Offices;
- (2) Public assistance agencies, which shall mean those agencies that provide services under the Food Stamps, Medicaid, Aid to Families with Dependent Children (AFDC), and the Special Supplemental Food Program for Women, Infants and Children (WIC) programs;
- (3) Disabilities agencies, which shall mean agencies that offer state-funded programs primarily engaged in providing services to persons with disabilities;
- (4) Public libraries; and
- (5) The Arkansas National Guard.

(b)(1) The Secretary of State is designated as the chief election official. The Secretary shall prepare and distribute the pre-addressed postcard mail voter registration application forms described in 51-6 [section 6] of this amendment. Mail registration application forms shall serve for purposes of initial applications to register and shall also serve for changes of name, address, or party affiliation. Bilingual (Spanish/English) forms, Braille forms, and large print forms shall be available upon request. The Secretary of State shall make the state mail voter registration application form available for distribution through governmental and private entities with particular emphasis on making them available for organized voter registration programs. Any person may distribute state registration cards. All registration cards shall be distributed to the public without charge.

(2) The Office of Driver Services and State Revenue Offices shall provide voter registration opportunities to those obtaining or renewing drivers licenses, personal identification cards, duplicate or corrected licenses or cards, or changing address or name whether in person or by mail. The Office of Driver Services and State Revenue Offices shall use a computer process, which combines the drivers license and voter registration applications, minimizing duplicative information, and shall have available the federal or state mail voter registration application form, which may be used upon request or when the computer process is not available. If a person declines to apply to register to vote, the Office of Driver Services or State Revenue Office shall retain the record of declination for two (2) years.

(3) All public assistance agencies shall provide a federal or state mail voter registration application form with each application for assistance, and with each recertification,

renewal or change of address or name relating to such assistance. Public assistance agencies shall provide voter registration application forms as part of the intake process, or as a combined computer process when a computer process is available. Public assistance agencies shall use a process or form that combines the application for assistance with the voter registration application when available. Public assistance agencies shall also provide declination forms as described in 51-6 [section 6] of this amendment, which shall be retained for two (2) years if an applicant declines to apply to register to vote.

(4) All disabilities agencies shall provide a federal or state mail voter registration application form with each application for services and with each recertification, renewal or change of address or name relating to such services. Disabilities agencies shall provide voter registration application forms as part of the intake process, or as a combined computer process when a computer process is available. Disabilities agencies may use a form that combines the application for services or assistance with the voter registration application when available. If the disabilities agency provides services in a person's home, then the agency shall also provide voter registration services at the person's home. Disabilities agencies shall also provide declination forms as described in 51-6 [section 6] of this amendment, which shall be retained for two (2) years if an applicant declines to apply to register to vote.

(c)

(1) Employees of the Office of Driver Services and State Revenue Offices shall provide appropriate nonpartisan voter registration assistance and provide all applicants with a receipt containing the applicant's name and the date of the submission.

(2) Public assistance agencies and disabilities agencies shall train agency employees to provide the same degree of assistance in completing voter registration forms as is provided with regard to the completion of agency forms, unless the applicant refuses such assistance.

(3) Each revenue office, public assistance agency and disabilities agency shall provide ongoing training for employees who will be assisting persons with voter registration applications and shall include information regarding training procedures in the report filed with the Secretary of State pursuant to § 51-8(d) [section 8(d)] of this amendment.

(4) A person who provides voter registration assistance through any voter registration agency shall not:

- (A) Seek to influence an applicant's political preference or party registration;
- (B) Display any such political preference or party allegiance;
- (C) Make any statement to an applicant or take any action to the purpose or effect of discouraging the applicant from registering to vote;
- (D) Make any statement to an applicant or take any action to the purpose or effect of leading the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits; or
- (E) Disclose any applicant's voter registration information, except as necessary for the administration of voter registration.

(d) The Permanent Registrar shall provide office and clerical facilities and may employ such clerical assistants which he may deem necessary to fulfill the duties imposed by this amendment; provided, that all clerical assistants so employed shall have the qualifications required by law of eligible voters and shall be selected on the basis of competence and without reference to political affiliation.

(e) The State Board of Election Commissioners is authorized and, as soon as is possible after the effective date of this amendment, directed to prescribe, adopt, publish and distribute:

(1) Such Rules and Regulations supplementary to this amendment and consistent with this amendment and other laws of Arkansas as are necessary to secure uniform and efficient procedures in the administration of this amendment throughout the State;

(2) A Manual of instruction for the information, guidance and direction of election officials within the state; and

(3) Detailed specifications of the registration record files, the voter registration application forms and other registration forms, including voter registration list maintenance forms, all of which shall be consistent with this amendment and uniform throughout the State. [As amended by Acts 1995, No. 599, § 1; 1995, No. 947, § 1; 1995, No. 964, § 1.]

#### **6. Voter registration application forms.**

(a) (1) The mail voter registration application form may only require identifying information, including signature or mark, and other information, including data relating to previous registration by the applicant, as is necessary to assess the applicant's eligibility and to administer voter registration and other parts of the election process.

(2) Such forms shall include, in identical print, statements that:

- (A) Specify voter eligibility requirements;
- (B) Contain an attestation that the applicant meets all voter eligibility requirements;
- (C) Specify the penalties provided by law for submission of a false voter registration application;
- (D) Inform applicants that where they register to vote will be kept confidential; and
- (E) Inform applicants that declining to register will also be kept confidential; and
- (F) Inform applicants that they will be required to verify their registration when voting in person or by absentee ballot by providing a required document or identification card as provided in Arkansas Constitution, Amendment 51, § 13.

(3) The following information will be required of the applicant:

- (A) Full name;
- (B) Mailing address;
- (C) Residence address and any other information necessary to identify the residence of the applicant;
- (D) If previously registered, the name then supplied by the applicant, and the previous address, county, and state;
- (E) Date of birth;
- (F) A signature or mark made under penalty of perjury that the applicant meets each requirement for voter registration;

(G) If the applicant is unable to sign his or her name, the name, address, and telephone number of the person providing assistance;

(H) If the applicant has a current and valid driver's license, the applicant's driver's license number;

(I) If the applicant does not have a current and valid driver's license, the last four (4) digits of the applicant's social security number; and

(J) If the applicant does not have a current and valid driver's license number or social security number, the Secretary of State will assign the applicant a number which will serve to identify the applicant for voter registration purposes, and this number shall be placed on the application.

(4) The following information may be requested on the registration card, but it shall not be required:

(A) Telephone number where the applicant may be contacted; and

(B) Political party with which the applicant wishes to be affiliated, if any.

(5) The mail voter registration application shall not include any requirement for notarization or other formal authentication.

(6) The mail voter registration application form shall include the following questions along with boxes for the applicant to check "yes" or "no" in response:

(A) "Are you a citizen of the United States of America and an Arkansas resident?";

(B) "Will you be eighteen (18) years of age on or before election day?";

(C) "Are you presently adjudged mentally incompetent by a court of competent jurisdiction?";

(D) "Have you ever pleaded guilty or nolo contendere to, or found guilty of a felony without your sentence having been discharged or pardoned?"; and

(E) "Do you claim the right to vote in another county or state?";

(7) The mail voter registration application form shall include the following statements immediately following the questions asked in subdivision (a)(6) of this section:

(A) "If you checked "No" in response to either questions A or B, do not complete this form.";

(B) "If you checked "Yes" in response to one or more of questions C, D, or E, do not complete this form."; and

(C) The mail-in voter registration application form shall include the following statement:

"If your voter registration application form is submitted by mail and you are registering for the first time, in order to avoid the additional identification requirements upon voting for the first time you must submit with the mailed registration form: (a) your driver's license number; (b) the last four digits of your social security number; (c) a current and valid photo identification; or (d) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address."

(8) If an applicant for voter registration fails to provide any of the information required by this section, the permanent

registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for its completion before the next election for federal office.

(9) The mail voter registration application shall be pre-addressed to the Secretary of State.

(b)

(1) The voter registration application portion of the process used by the Office of Driver Services and state revenue offices shall include:

(A) The question: "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(B) A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes;

(C) A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes;

(D) Voter registration eligibility requirements;

(E) Penalties provided by law for providing false information;

(F) An attestation that the applicant meets each eligibility requirement; and

(G) A space for the applicant's signature or mark.

(2) The voter registration application portion shall require the signature of the applicant under penalty of perjury, but shall not require notarization or other formal authentication.

(c) Public assistance agencies and disabilities agencies shall provide, in addition to the federal or state mail voter registration application form, a declination form, to be approved by the State Board of Election Commissioners, which includes the following question and statements:

(1) The question, in prominent type, "IF YOU ARE NOT REGISTERED TO VOTE WHERE YOU LIVE NOW, WOULD YOU LIKE TO APPLY TO REGISTER TO VOTE HERE TODAY? YES ... NO ...";

(2) The statement in close proximity to the question above and in equally prominent type, "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME";

(3) The statement, "APPLYING TO REGISTER OR DECLINING TO REGISTER TO VOTE WILL NOT AFFECT THE AMOUNT OF ASSISTANCE THAT YOU WILL BE PROVIDED BY THIS AGENCY";

(4) The statement, "IF YOU WOULD LIKE HELP IN FILLING OUT THE VOTER REGISTRATION APPLICATION FORM, WE WILL HELP YOU. THE DECISION WHETHER TO SEEK OR ACCEPT HELP IS YOURS. YOU MAY FILL OUT THE APPLICATION FORM IN PRIVATE";

(5) The statement, "IF YOU BELIEVE THAT SOMEONE HAS INTERFERED WITH YOUR RIGHT TO REGISTER OR TO DECLINE TO REGISTER TO VOTE, YOUR RIGHT TO PRIVACY IN DECIDING WHETHER TO REGISTER OR IN APPLYING TO REGISTER TO VOTE, OR YOUR RIGHT TO CHOOSE YOUR OWN POLITICAL PARTY OR OTHER POLITICAL PREFERENCE, YOU MAY FILE A COMPLAINT WITH THE SECRETARY OF STATE AT

....." (filled in with the address and telephone number of the Secretary of State's office);

(6) The statement, "IF YOU DECLINE TO REGISTER TO VOTE, THE FACT THAT YOU HAVE DECLINED TO REGISTER WILL REMAIN CONFIDENTIAL AND WILL BE USED ONLY FOR VOTER REGISTRATION PURPOSES"; and

(7) The statement, "IF YOU DO REGISTER TO VOTE, THE OFFICE AT WHICH YOU SUBMIT A VOTER REGISTRATION APPLICATION WILL REMAIN CONFIDENTIAL AND WILL BE USED ONLY FOR VOTER REGISTRATION PURPOSES". [As amended by Acts 1971, No. 828, § 1; 1995, No. 947, § 2; 1995, No. 964, § 2; 2003, No. 995, § 1.]

## **7. Registration record files.**

(a) By the deadline to establish a computerized statewide voter registration database under the federal Help America Vote Act of 2002, including any waivers or extensions of that deadline, the Secretary of State shall define, maintain, and administer the official, centralized, and interactive computerized voter registration list for all voters legally residing within the State. The list shall include:

(1) The name, address, county, precinct, assigned unique identifier and registration information of every legally registered voter in the state;

(2) The inactive registration records of persons who have failed to respond to address confirmation mailings described in § 10 of this amendment;

(3) List maintenance information for each person receiving address confirmation notices or final address confirmation notices, or both, and the person's response; and

(4) Cancelled voter registration records and documentation noting the reason for cancellation.

(b) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state.

(c) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal, state, county, municipal, school, or other office in the state.

(d) The permanent registrar of each county shall maintain copies of that county's precinct voter registration list from the statewide computerized list as necessary for holding elections.

(e) The computerized list shall be coordinated with other state agency records on felony status as maintained by the Arkansas Crime Information Center, records on death as maintained by the State Department of Health, and driver's license records maintained by the Office of Driver Services, according to § 9 of Amendment 51 to the Arkansas Constitution.

(f) A person with an inactive voter registration status may activate his or her voting status by appearing to vote at the precinct in which he or she currently resides or by updating his or her voter registration records with the permanent registrar of the county in which he or she resides.

(g) The county board of election commissioners or other lawfully designated election officials shall cause the appropriate precinct voter registration lists to be at the polling places on the date of elections, and shall return them at the close of the election to the office of the permanent registrar with the ballot boxes.

(h) If the legal residence of a voter is renamed, renumbered, or annexed, the permanent registrar or any local election official may change the name or number of the legal residence on the voter's registration record and any other voting records. Within fifteen (15) days after the records are changed to reflect the new name or number of the residence, the permanent registrar shall notify the voter by mail that the change has been made.

(i)

(1) The Secretary of State and any permanent registrar in the state, may obtain immediate electronic access to the information contained in the computerized list.

(2) All voter registration information obtained by any local election official in the state shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

(3) The Secretary of State shall provide the support as may be required so that local election officials are able to enter the information. [As amended by Acts 1971, No. 299, § 1; 1973, No. 149, §§ 1-4; 1977, No. 563, § 1; 1991, No. 410, § 1; 1995, No. 947, § 3; 1995, No. 964, § 3; 2003, No. 995, § 2.]

## **8. Voter registration application records and reports.**

(a) (1) The Office of Driver Services, State Revenue Offices, public assistance agencies, disabilities agencies, and other voter registration agencies shall transmit all completed voter registration applications to the Secretary of State in sufficient time to allow the Secretary of State to transmit the applications to the appropriate permanent registrar no later than ten (10) days after the date of acceptance by the assisting agency. When applications are accepted within five (5) days before the last day of registration for an election, they must be transmitted no later than five (5) days after the date of acceptance at the assisting agency.

(2) The Secretary of State shall transmit all mail voter registration applications to the appropriate permanent registrar no later than ten (10) days after the date of receipt. When applications are received within five (5) days before the last day of registration for an election, they must be transmitted no later than five (5) days after date of receipt. If forms are received by the wrong election office, they shall be forwarded to the appropriate permanent registrar not later than the fifth day after receipt.

(b) The Office of Driver Services, State Revenue Offices, public assistance agencies, disabilities and other voter registration agencies shall collect data on the number of voter registration applications completed or declined at each agency, and any additional statistical evidence that the Secretary of State or the State Board of Election Commissioners deems necessary for program evaluation and shall retain such voter registration data for a period of two (2) years.

(c) (1) The Secretary of State shall collect, maintain, and publish monthly statistical data reflecting the

number of new voter registration applications, changes of address, name, and party affiliation, and declinations received by mail and in:

(A) state revenue offices;

(B) public assistance agencies;

(C) disabilities agencies;

(D) recruitment offices of the Armed Forces of the United States;

(E) public libraries; and

(F) offices of the Arkansas National Guard.

(2) Every six (6) months the Secretary of State shall compile a statewide report available to the public reflecting the statistical data collected pursuant to subsection (a). This report shall be submitted to the Federal Election Commission for the national report pursuant to section (9)(a)(3) of the National Voter Registration Act of 1993. The state report shall also include:

(A) numbers of and descriptions of the agencies, and the method of integrating voter registration in the agencies;

(B) an assessment of the impact of the National Voter Registration Act of 1993 on the administration of elections;

(C) recommendations for improvements in procedures, forms, and other matters affected by the National Voter Registration Act of 1993.

(d) Every six (6) months the state-level administration of each voter registration agency shall issue a report to the Legislative Council and the Secretary of State containing the statistical and other information collected in each agency office, and recommendations for improvements in procedures, forms, and other matters, including training.

(e) Information relating to the place where a person registered to vote, submitted a voter registration application, or updated voter registration records, and information relating to declination forms is confidential and exempt from the Freedom of Information Act, § 25-19-101, et seq. [As amended by Acts 1989, No. 540, § 1; 1995, No. 947, § 4; 1995, No. 964, § 4.]

## **9. Application to register.**

(a) All persons may register who:

(1) Have not been convicted of a felony unless the person's sentence has been discharged or the person has been pardoned;

(2) Have not been adjudged mentally incompetent by a court of competent jurisdiction; and

(3) Meet one (1) of the following requirements:

(a) Are qualified electors and who have not previously registered;

(b) Will become qualified electors during the thirty-day period immediately prior to the next election scheduled within the county; or

(c) Are qualified electors but whose registration has been cancelled in a manner provided for by this amendment.

(b) Registration shall be in progress at all times except during the thirty-day period immediately prior to any election

scheduled within the county, during which period registration of voters shall cease for that election, but registration during such period shall be effective for subsequent elections.

(c)

(1) The permanent registrar shall register qualified applicants when a legible and complete voter registration application is received and acknowledged by the permanent registrar.

(2) Any person who assists applicants with a voter registration application as part of a voter registration drive or who gathers or possesses completed applications for submission to the permanent registrar or Secretary of State in furtherance of a voter registration drive, shall deliver all applications in his or her possession to the permanent registrar or Secretary of State within twenty-one (21) days of the date on the voter registration application and, in any event, no later than the deadline for voter registration for the next election.

(3) The permanent registrar shall register qualified applicants who apply to register to vote by mail using the state or federal mail voter registration application forms if:

(A) A legible and complete voter registration application form is postmarked not later than thirty (30) days before the date of the election, or, if the form is received by mail without a postmark, not later than twenty-five (25) days before the date of an election; and

(B)(i) The applicant provides a current valid driver's license number or the last four (4) digits of the applicant's social security number; or

(ii) If an applicant for voter registration does not have a valid driver's license or a social security number, the Secretary of State shall assign the applicant a number that will serve as a unique identifier of the applicant for voter registration purposes.

(d) The permanent registrar shall notify applicants whether their applications are accepted or rejected, or are incomplete. If information required by the permanent registrar is missing from the voter registration application, the permanent registrar shall contact the applicant to obtain the missing information.

(e) The Secretary of State and the Director of the Office of Driver Services shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the Office of Driver Services to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration. The Director of the Office of Driver Services shall enter into an agreement with the Commissioner of Social Security to verify driver's license information according to § 303 of the Federal Help America Vote Act of 2002.

(f) Registration records shall be entered promptly in the computerized statewide registration record files. If the applicant lacks one (1) or more of the qualifications required by law of voters in this state, the permanent registrar shall

not register the applicant, but shall document the reason for denying the applicant's registration and promptly file or enter the application and the documented reason for denying registration in the statewide registration record files.

(g) If the permanent registrar has any reason to doubt the qualifications of an applicant for registration, he or she shall submit such application to the county board of election commissioners, and such board shall make a determination with respect to such qualifications and shall instruct the permanent registrar regarding the same.

(h) If any person eligible to register as a voter is unable to register in person at the permanent registrar's office by reason of sickness or physical disability, the permanent registrar shall register the applicant at his or her place of abode within such county, if practicable, in the same manner as if he or she had appeared at the permanent registrar's office.

(i) Notwithstanding other provisions of this amendment, every person in any of the following categories who is absent from the place of his or her voting residence may vote without registration by absentee ballot by submission of a federal postal card application as provided for the Uniformed and Overseas Citizens Absentee Voting Act in any primary, special, school, or general election held in his or her election precinct if he or she is otherwise eligible to vote in that election:

(1) Members of the armed forces while in active duty or service, and their spouses and dependents who by reason of the active duty or service of the member, are absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

(2) Members of the Merchant Marines while in active duty or service and their spouses and dependents who, by reason of the active duty or service of the member, are absent from the place of residence where the spouse or dependent is otherwise qualified to vote; and

(3) Citizens of the United States temporarily residing outside the territorial limits of the United States and the District of Columbia.

(j)

(1) The Secretary of State shall be responsible for providing to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the state, information regarding voter registration procedures and absentee ballot procedures.

(2) No later than ninety (90) days after the date of each regularly scheduled general election for federal office, the Secretary of State shall submit a report, based on information submitted to him or her by the permanent registrars of each county, to the Election Assistance Commission on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of the ballots which were returned by the voters and cast in the election.

(3) The Secretary of State shall make the report available to the general public.

(k) Any person whose registration status or voting eligibility is affected adversely by an administrative determination under this amendment may appeal such adverse determination within five (5) days of receipt of notice thereof to the county board of election commissioners. The county board of election commissioners shall act on such appeal and render its decision within ten (10) days of its receipt. Within thirty (30) days after receipt of such decision, any aggrieved party may appeal further to the circuit court of the county.

(l) If an election law deadline occurs on a Saturday, Sunday, or legal holiday, the deadline shall be the next day which is not a Saturday, Sunday, or legal holiday. [As amended by Acts 2003, No. 995, § 3; Acts 2005, No. 1952, § 1; 2009, No. 659, §2.]

#### **10. Transfer and change of status.**

(a) Upon a change of legal residence within the county, or a change of name, any registered voter may cause his registration to be transferred to his new address or new name by completing and mailing a federal or state mail voter registration application form, by updating his address at the Office of Driver Services, any state revenue office, public assistance agency, disabilities agency, or other voter registration agency, by signing a mailed request to the permanent registrar, giving his present address and the address at which he was last registered or his present name and the name under which he was last registered, or by applying in person at the office of the permanent registrar.

(b)

(1) Upon a change of legal residence from one (1) county within the state to another county within the state, any registered voter may cause his or her resignation to be transferred to the new county at his or her new address by:

(A) Completing and mailing a federal or state mail voter registration application form;

(B) Updating his or her new address at a voter registration agency, including without limitation the Office of Driver Services or a state revenue office, public assistance agency, or disabilities agency;

(C) Signing a mailed request to the permanent registrar giving the voter's present address and the address at which the voter was last registered; or

(D) Applying in person for the transfer at the office of the permanent registrar.

(2)

(A) If the updated registration information is actually received in the office of the county clerk of the voter's new county not later than four (4) days before a scheduled election, the voter shall have the right to vote in the scheduled election in the precinct into which the voter just moved in the new county. (AG Opinion # 2015-37 and #2015-37A)

(B) If the updated registration information is not actually received by the fourth day before a scheduled election, the voter shall not be eligible to vote in the scheduled election. (AG Opinion # 2015-37 and #2015-37A)

(c) If the change of legal residence is made pursuant to subsection (a) or subdivision (d)(1) of this section during the thirty-day administrative cut-off period immediately prior to

any election scheduled within the county, the registered voter shall retain his or her right to vote in the scheduled election in the precinct to which he or she just moved.

(d) The permanent registrar shall conduct a uniform, nondiscriminatory address confirmation program during each odd-numbered year to ensure that voter registration lists are accurate and current. The address confirmation program shall be completed not later than ninety (90) days prior to a primary or general election for federal office. Based on change of address data received from the United States Postal Service or its licensees, or other unconfirmed data indicating that a registered voter no longer resides at his or her registered address, the permanent registrar shall send a forwardable address confirmation notice, including a postage-paid and preaddressed return card, to enable the voter to verify or correct the address information.

(1) If changes of address data indicate that the voter has moved to a new residence address in the same county and, if the county is divided into more than one (1) congressional district, the same congressional district, the address confirmation notice shall contain the following statement:

"We have received notification that you have moved to a new address in \_\_\_\_\_ County (or in the \_\_\_\_\_ Congressional District). We will reregister you at your new address unless, within ten (10) days, you notify us that your change of address is not a change of your permanent residence. You may notify us by returning the attached postage-paid postcard or by calling (\_\_\_\_\_) \_\_\_\_\_-\_\_\_\_\_. If this is not a permanent change of residence and if you do not notify us within ten (10) days you may be required to update your residence address in order to vote at future elections."

(2) If the change of address data indicates that the voter has moved to a new address in another county or, if a county is divided into more than one (1) congressional district, to a new address in the same county but in a new congressional district, the notice shall include the following statement:

"We have received notification that you have moved to a new address not in \_\_\_\_\_ County (or not in the \_\_\_\_\_ Congressional District). If you no longer live in \_\_\_\_\_ County (or in the \_\_\_\_\_ Congressional District), you must transfer your registration to your new residence address in order to vote in the next election. If you are still an Arkansas resident, you may obtain a form to transfer your registration by calling your county clerk's office or the Secretary of State. If your change of address is not a change of your permanent residence, you must return the attached postage-paid postcard. If you do not return this card and continue to reside in \_\_\_\_\_ County (and in the \_\_\_\_\_ Congressional District), you may be required to provide identification and update your residence address in order to vote at future elections, and if you do not vote at any election in the period between the date of this notice and the second federal general election after the date of this notice, your voter registration will be cancelled

and you will have to reregister in order to vote. If the change of address is permanent, please return the attached postage-paid postcard which will assist us in keeping our voter registration records accurate."

(e) The county clerk may send out an address confirmation to any voter when they receive unconfirmed information that the voter no longer resides at the address on the voter registration records. The county clerk shall follow the same confirmation procedure as set forth in subsection (d).

(f) Based on change of address information received pursuant to subsections (a) and (c) of this section, the permanent registrar shall:

(1) Update and correct the voter's registration if the information indicates that the voter has moved to a new address within the same county and the same congressional district;

(2) Designate the voter as inactive if the information indicates the voter has moved to a new address in another county or to a new address in another congressional district in the same county or if the address confirmation notices have been returned as undeliverable; or

(3) Cancel the voter registration in the county from which the voter has moved if the voter verifies in writing that he or she has moved to a residence address in another county. [As amended by Acts 1977, No. 882, § 1; 1991, No. 581, § 1; 1995, No. 947, § 6; 1995, No. 964, § 6; 1999, No. 1108, § 1; 2007, No. 560, § 1; 2009, No. 659, § 3.]

### **11. Cancellation of registration.**

(a) It shall be the duty of the permanent registrar to cancel the registration of voters:

(1) Who have failed to respond to address confirmation mailings described in section 10 of this amendment and have not voted or appeared to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for federal office that occurs after the date of the address confirmation notice;

(2) Who have changed their residence to an address outside the county;

(3) Who have died;

(4) Who have been convicted of felonies and have not discharged their sentence or been pardoned;

(5) Who are not lawfully qualified or registered electors of this state, or of the county; or

(6) Who have been adjudged mentally incompetent by a court of competent jurisdiction.

(b) It shall be the duty of the permanent registrar of each county upon the registration of a person who has been registered previously in another county or state to notify promptly the permanent registrar of such other county or state of the new registration.

(c)

(1) It shall be the duty of the State Registrar of Vital Records to notify promptly the Secretary of State of the death of all residents of this state.

(2)(A) The Secretary of State shall compile a listing of the deceased residents of this state and shall

promptly provide this listing to the permanent registrar of each county.

(B) The deceased voter registration shall be cancelled by the permanent registrar.

(d)

(1) It shall be the duty of the circuit clerk of each county upon the conviction of any person of a felony to notify promptly the permanent registrar of the county of residence of such convicted felon.

(2)(A) It is the duty of any convicted felon who desires to register to vote to provide the county clerk with proof from the appropriate state or local agency, or office that the felon has been discharged from probation or parole, has paid all probation or parole fees, or has satisfied all terms of imprisonment, and paid all applicable court costs, fines, or restitution.

(B) Proof that the felon has been discharged from probation or parole, paid all probation or parole fees, or satisfied all terms of imprisonment, and paid all applicable court costs, fines, or restitution shall be provided to the felon after completion of the probation, parole, or sentence by the Department of Correction, the Department of Community Correction, the appropriate probation office or the circuit clerk as applicable.

(C) The circuit clerk, or any other entity responsible for collection, shall provide proof to the Department of Correction, the Department of Community Correction, or the appropriate probation office that the felon has paid all applicable court costs, fines, or restitution.

(D) Upon compliance with subdivision (d)(2)(A) of this section, the felon shall be deemed eligible to vote.

(e) Within ten (10) days following the receipt or possession of information requiring any cancellation of registration, other than under section 11(a)(1) of this amendment, the permanent registrar shall cancel the registration, note the date of the cancellation, the reason for the cancellation, and the person cancelling the registration.

(f)

(1) The permanent registrar shall, thirty (30) days before cancellation, notify all persons whose registration records are to be cancelled in accordance with section 11(a)(1) of this amendment. The notice may be either by publication or by first class mail. The notice by mail shall be as follows:

### **"NOTICE OF IMPENDING CANCELLATION OF VOTER REGISTRATION.**

According to our records you have not responded to our address confirmation notice and you have not voted in any election during the period beginning on the date of the notice and ending on the day after the date of the second general election for federal office after the date of the first notice. This may indicate that you no longer live at the residence address printed on the postcard. If your permanent residence address is still the same as the printed address on this postcard YOU MUST CONFIRM YOUR RESIDENCE ADDRESS in order to remain on the voter

registration list. If you do not return the attached postcard within thirty (30) days after the date postmarked on this card YOUR REGISTRATION WILL BE CANCELLED and you will have to re-register to vote."

(2) When, in response to the notice, a qualified voter requests the permanent registrar not to cancel the voter registration, the voter registration shall not be cancelled under section 11(a)(1) of this amendment.

(g) The permanent registrar is authorized, and may be directed by the county board of registration, to determine by mail check, house to house canvass, or any other reasonable means at any time within the whole or any part of the county whether active record registration files contain the names of any persons not qualified by law to vote. Further, upon application based upon affidavits of one (1) or more qualified voters by the prosecuting attorney for the county, the circuit judge of the county, for good cause shown, may order the permanent registrar to make sure determination or to cancel the registration of such unqualified persons. [As amended by Acts 1977, No. 744, § 1; 1983, No. 11, § 1; 1987, No. 800, § 1; 1991, No. 581, § 2; 1995, No. 947, § 7; 1995, No. 964, § 7; 2001, No. 560, § 1; 2003, No. 271, § 1; 2003, No. 375, § 1; 2003, No. 1451, § 1; 2009, No. 659, § 4.]

## **12. Loss or destruction of voter registration records.**

In the event any Registration Record or File shall become lost or destroyed, the Permanent Registrar shall prepare, from the remaining Files, temporary copies of the registration records if necessary for the conduct of any election. The Permanent Registrar shall send notice of such fact by first-class mail to any voter whose registration record has been lost, destroyed or mutilated in order that such voter may register again. The previous registration shall be cancelled at the time of the new registration, and in any event within sixty (60) days after mailing of such notice. [As amended by Acts 1995, No. 947, § 9; 1995, No. 964, § 9.]

## **13. Fail-safe voting.**

(a) If a voter presents himself or herself at a polling place on the date of an election but no record of his or her voter registration can be located by the judges of the election on the precinct voter registration list, the voter shall be permitted to vote only under the conditions set forth in § 7-5-306 or § 7-7-308.

(b)(1)(A) In order to determine that all who cast a ballot in an election, a runoff election, or a school election in this state are legally qualified to vote in that election, each voter shall verify his or her registration by:

(i) Presenting to the election official when appearing to vote in person either early or at the polls on election day in an election, a runoff election, or a school election verification of registration in the form of a document or identification card that:

(a) Shows the name of the person to whom the document or identification card was issued;

(b) Shows a photograph of the person to whom the document or identification card was issued;

(c) Is issued by the United States, the State of Arkansas, or an accredited postsecondary educational institution in the State of Arkansas; and

(d) If displaying an expiration date, is not expired or expired no more than four (4) years before the date of the election in which the voter seeks to vote; or

(ii) Submitting with an absentee ballot in an election, a runoff election, or a school election a copy of a document or identification card that complies with the requirements of subdivision (b)(1)(A)(i) of this section.

(B) Documents and identification cards that comply with the requirements of subdivision (b)(1)(A) of this section include without limitation:

(i) A driver's license;

(ii) A photo identification card;

(iii) A concealed handgun carry license;

(iv) A United States passport;

(v) An employee badge or identification document issued by an accredited postsecondary educational institution in the State of Arkansas;

(vi) A United States military identification document;

(vii) A public assistance identification card if the card shows a photograph of the person to whom the document or identification card was issued; and

(viii) A voter verification card under § 7-5-324.

(2)(A) Except as provided in subdivision (b)(2)(B) of this section, if a voter is unable to verify his or her registration when voting in person by presenting a document or identification card that complies with subdivision (b)(1)(A)(i) of this section, the election official shall:

(i) Indicate on the precinct voter registration list that the voter did not present a required document or identification card; and

(ii) Permit the voter to cast a provisional ballot and inform the voter of the requirements under subdivision (b)(4) of this section.

(B)(i) A person who is a resident of a long-term care or residential care facility licensed by the state of Arkansas is not required to verify his or her registration by presenting a document or identification card that complies with subdivision (b)(1)(A)(i) of this section when voting in person.

(ii) A person not required to present a document or identification card under subdivision (b)(2)(B)(i) of this section shall provide documentation from the administrator of the facility attesting that the person is a resident of the facility.

(3)(A) Except as provided in subdivision (b)(3)(B) of this section, if a voter voting by absentee ballot fails to submit with the ballot documentation that complies with subdivision (b)(1)(A)(ii) of this section, the absentee ballot shall be considered a provisional ballot.

(B) The following persons shall not be required to submit with his or her absentee ballot documentation that complies with subdivision (b)(1)(A)(ii) of this section:

(i) An active duty member of the uniformed services of the United States or United States Merchant Marine who is absent from the country on election day because of his or her service;

(ii) The spouse or dependant<sup>1</sup> of an active duty member of the uniformed services of the United States or United States Merchant Marine under subdivision (b)(3)(B)(i) of this



section who is absent from the country on election day because of the service of the member; or

(iii)(a) A resident of a long-term care or residential care facility licensed by the state of Arkansas.

(b) A person not required to submit a document or identification card under subdivision (b)(3)(B)(iii)(a) of this section shall provide documentation from the administrator of the facility attesting that the person is a resident of the facility.

(4) A provisional ballot cast by a voter who did not present a required document or identification card shall be counted if:

(A)(i)(a) The voter completes a sworn statement at the polling site when voting either early or at the polls on election day stating that the voter is registered to vote in this state and that he or she is the person registered to vote.

(b) A sworn statement completed under subdivision (b)(4)(A)(i)(a) of this section is not required to be notarized but the voter shall execute the sworn statement under penalty of perjury.

(c) A sworn statement completed at the polling site shall be delivered to the county board of election commissioners so that the provisional ballot may be counted; and

(ii) The county board of election commissioners does not determine that the provisional ballot is invalid and should not be counted based on other grounds; or

(B)(i) The voter returns to the county board of election commissioners or the county clerk by 12:00 noon on the Monday following the election and presents a document or identification card that complies with the requirements of subdivision (b)(1)(A)(i) of this section; and

(ii) The county board of election commissioners does not determine that the provisional ballot is invalid and should not be counted based on other grounds.

(5) A provisional ballot cast by an absentee voter who failed to submit with an absentee ballot documentation that complies with subdivision (b)(1)(A)(ii) of this section shall be counted if:

(A)(i)(a) The voter completes and returns the sworn statement portion of the absentee ballot form stating that the voter is registered to vote in this state and that he or she is the person registered to vote.

(b) A sworn statement returned under subdivision (b)(5)(A)(i)(a) of this section is not required to be notarized but the voter shall execute the sworn statement under penalty of perjury; and

(ii) The county board of election commissioners does not determine that the provisional ballot is invalid and should not be counted based on other grounds; or

(B)(i) The voter returns to the county board of election commissioners or the county clerk by 12:00 noon on the Monday following the election and presents a copy of a document or identification card that complies with the requirements of subdivision (b)(1)(A)(i) of this section; and

(ii) The county board of election commissioners does not determine that the provisional ballot is invalid and should not be counted based on other grounds.

(6) A person registering to vote by mail and who has not previously voted in a federal election in this state shall only be required to comply with § 7-5-201(e).

(7) The State Board of Election Commissioners shall promulgate rules necessary to implement subsection (b) of this section, including without limitation the preparation of a

sworn statement to be used by voters who cast a provisional ballot under subsection (b) of this section.

(8)(A) Following each election, the county board of election commissioners may review the precinct voter registration lists and may provide the information of each voter not presenting a document or identification card necessary to verify his or her voter registration when voting in person or by absentee ballot to the prosecuting attorney.

(B) The county board of election commissioners shall refer suspected instances of voter fraud to the prosecuting attorney.

(C) The prosecuting attorney may investigate possible voter fraud.

(D) Upon application based upon affidavits of one (1) or more qualified voters by the appropriate prosecuting attorney alleging possible voter fraud, the appropriate circuit judge, for good cause shown, may order the permanent registrar to cancel the registration of the voter failing to verify his or her registration as provided by this subsection.

#### **14. Voter registration lists.**

(a) By the first day of June of each year, and at such other times as may be practicable, all Permanent Registrars shall, and at their discretion at other times may, print or otherwise duplicate and publish lists of registered voters by precincts, and may distribute such lists pursuant to §§ 7-5-105 and 7-5-109. A copy of the most current such list in each precinct shall be furnished the election officials at each precinct at the time the ballot boxes are delivered and such election officials shall post said list at a conspicuous place in the polling area.

(b) By the first day of June of each year, the Permanent Registrar shall certify to the Secretary of State the total number of registered voters in the county. The Secretary of State shall tabulate the total number of registered voters in the state and shall make such information available to interested persons upon request. [As amended by Acts 1995, No. 947, § 11; 1995, No. 964, § 11.]

#### **15. Penalties.**

(a) Any person who shall maliciously and intentionally destroy, steal, mutilate or unlawfully detain or obtain any voter registration form or any Registration Record Files shall be guilty of a felony, and upon conviction thereof shall be fined in the sum of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or be imprisoned in the State Penitentiary for a period of not less than one (1) year nor more than five (5) years, or both.

(b) Any public official or election official who willfully violates any provision of this amendment shall be guilty of a misdemeanor, and upon conviction thereof shall also be removed from such office.

(c) Any other person who willfully violates any provision of this amendment shall be guilty of a misdemeanor. [As amended by Acts 1995, No. 947, § 12; 1995, No. 964, § 12.]

#### **16. Severability.**

If any provision of this amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the amendment which can be given effect without the invalid

provision or application, and to this end the provisions of this amendment are declared to be severable.

#### **17. Effect on other laws.**

This amendment supersedes and repeals the requirement of Amendment No. 8 that a poll tax receipt be presented prior to registration or voting, and further supersedes and repeals Act 19 of 1964 and all other laws or parts of laws in conflict herewith.

#### **18. Appropriations.**

The General Assembly shall make such appropriations as may be required for the effectuation of this amendment.

#### **19. Amendment.**

The General Assembly may, in the same manner as required for amendment of laws initiated by the people, amend Sections 5 through 15 of this amendment, so long as such amendments are germane to this amendment, and consistent with its policy and purposes.

#### **20. Short title.**

This amendment shall be known as the "Arkansas Amendment for Voter Registration without Poll Tax Payment."

### **IV. Recording and Issuing of Licenses and Other Records**

#### **A. Marriage Records**

The marriage records which are kept by the County Clerk are some of the most important records maintained in the courthouse. These records are used in genealogical searches and are used as the official record in courts of law. Thus, it is necessary that these records be accurately recorded and well maintained.

**1. Marriage Licenses** - The marriage license is issued by the County Clerk and must be returned to the Clerk's office within sixty (60) days of issuance. The license must be duly executed by an authorized person to solemnize marriage. (Persons authorized to solemnize marriages include: The Governor, any former justice of the Supreme Court, any judges of the courts of record within this state, including any former judge of a court of record who served at least four (4) years or more, any justice of the peace, including any former justice of the peace who served at least two (2) terms since the passage of the Arkansas Constitution, Amendment 55, any regularly ordained minister or priest of any religious sect or denomination, the mayor of any city or town, any official appointed for that purpose by the quorum court of the county where the marriage is to be solemnized, or any elected district court judge and any former municipal or district court judge who served at least four (4) years)(ACA 9-11-213).The license does not need to be signed by a count clerk to be effective, a county seal will suffice. The Clerk then completes the official marriage record which contains the names and pages of both parties, the date of the ceremony and the person performing the ceremony. The Clerk also completes a

certificate of record which shows the book and page number of the marriage license.

**2. Notice of Intention to Wed** - No marriage license shall be issued by a County Clerk unless a notice of intention to wed has been signed by one or both parties and filed with the County Clerk issuing the license. The notice shall state name, age, and address of both parties desiring to be wed. The County Clerk may destroy this notice one (1) year after the date of issuance. (ACA 9-11-205 -9-11-206)

#### **B. Statements of Financial Interest**

All persons who are elected county, township, and Quorum Court district officials and all others as outlined in (ACA 21-8-701) and all candidates for nomination or election to those offices shall file a Statement of Financial Interest with the County Clerk. These statements must be filed by January 31 of each year EXCEPT candidates must file within 30 days of the deadline for filing for the office. All candidates must file a statement even though one might have previously filed in January as an elected official.

A lobbyist who lobbies public servants of county government or any county level governmental body shall register and make filings with the County Clerk (ACA 21-8-602(c)).

A lobbyist who lobbies public servants of a governmental body covering a district with all or part located in more than one county or who would be required to register with more than one county or who would be required to register with more than one public official may, in lieu of filing with each official, register and make filings with the Secretary of State and the County Clerk of the county of his principal place of business or residence (ACA 21-8-602(d) & (e)).

Arkansas Code Annotated defines lobbying as follows:

"Lobbyist" means a person who: Receives income or reimbursement in a combined amount of four hundred dollars (\$400) or more in a calendar quarter for lobbying one (1) or more governmental bodies; Expend four hundred dollars (\$400) or more in a calendar quarter for lobbying one (1) or more governmental bodies, excluding the cost of personal travel, lodging, meals, or dues; or Expend four hundred dollars (\$400) or more in a calendar quarter, including postage, for the express purpose of soliciting others to communicate with any public servant to influence any legislative action or administrative action of one (1) or more governmental bodies unless the communication has been filed with the Secretary of State or the communication has been published in the news media. If the communication is filed with the Secretary of State, the filing shall include the approximate number of recipients (ACA 21-8-402(11)).

County officials, district officials and county employees are defined by law as "public servants." A public servant is further defined as a "public official." For purposes of the ethics rules found in ACA 21-8-401 et seq. a public official means: a legislator or any other person holding an elective office of any governmental body, whether elected or

appointed to the office, and shall include such persons during the time period between the date they were elected and the date they took office (ACA 21-8-402(17)).

**Public Employees** - An individual employed by or appointed to serve a governmental body. Public employee shall not include public officials or public appointees (ACA 21-8-402(16)(a-b)).

**Public Appointee** - An individual appointed to a governmental body. Public appointee shall not include an individual appointed to elective office (ACA 21-8-402(15)(a-b)).

The definition of a governmental body is as follows:

Governmental body means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof (ACA 21-8-402(6)).

A lobbyist must register within five (5) days of beginning lobbying and must re-register annually by January 15. For the lobbyist to terminate his registration he must file a written statement to that effect with the County Clerk (ACA 21-8-601(a)(1); ACA 21-8-602(b)(c)).

Reports are filed within 15 days after the end of each quarter detailing the activities during the previous quarter.

<b><u>PERIOD COVERED IN REPORT</u></b>	<b><u>DUE DATE</u></b>
--	------------------------

January 1 - March 31	April 15
April 1 - June 30	July 15
July 1 - September 30	October 15
October 1 - December 31	January 15

Sample Forms will be provided by the Secretary of State.

The County Clerk is responsible for maintaining these records, yet the Act does not specify the period of time the records must be maintained. The lobbyist is required to maintain his records for a period of four (4) years from the date of filing the statement or report (ACA 21-8-605).

All filings must be maintained as a public record.

Persons desiring to file complaints for violations of this Act must contact the Prosecuting Attorneys of the District where the alleged violation occurred. It is a class A misdemeanor to purposefully violate any provisions of this Act.

### **C. Campaign Contribution Reports**

Candidates must file reports of contributions and expenditures with the Secretary of State and the County Clerk. Three types of reports are filed with the Clerk and they are:

- (1) 7 day pre-election report

- (2) 30 days post-election-month report or Final Report

- (3) Supplemental report

These reports are public record and are to be kept for four (4) years (ACA 7-6-207 through 7-6-210).

### **D. Political Practices Pledges**

Party pledges, if any, and affidavits of eligibility for primary elections shall be filed during regular office hours in the period beginning at 12:00 noon on the first day in March and ending at 12:00 noon on the seventh day thereafter, before the primary election. Party pledges, if any, and political practice pledges shall be filed, and filing fees of a political party for special primary elections shall be paid, on or before the deadline established by proclamation of the Governor. Pledges and filing fees of the political party for a new political party shall be filed and paid as provided in subsection (f) of this section. These reports are kept for five (5) years (ACA 7-7-203).

Certificates of nomination shall be filed with the Secretary of State or the county clerk no later than 12:00 noon on the date of the preferential primary election (ACA 7-7-205).

Each county clerk shall at least sixty (100) days prior to the date of the general election notify by registered mail the chairmen and secretaries of the county committees of the respective political parties that a certified list of all nominated candidates for county, township, and municipal offices is due and shall be filed with the county board of election commissioners and the county clerk in order that the candidates' names be placed on the ballot for the general election (ACA 7-7-203(j)(2)(A)).

### **E. Minister's Credentials**

No minister of the gospel or priest of any religious sect or denomination shall be authorized to solemnize the rites of matrimony in this state until they have had their license or credentials recorded in the County Clerk's office. It shall also be the duty of the minister or priest to add to the certificate of marriage a statement setting forth the county and the time his credentials were recorded. (ACA 9-11-214 and 9-11-703)

These certificates are indexed alphabetically by the name of the minister in the front of each book. The index notes the book and page where the certificate was recorded.

### **F. Business Under an Assumed Name Certificates**

Any person who conducts or transacts business in this state under an assumed name or under any designated name, style, corporate, or otherwise, other than the real name of the individual conducting business shall file a certificate with the County Clerk. This certificate shall be filed in each County where this business intends to conduct business and it shall include the full name or names of each person conducting or transacting the same, with the post office address of each person (ACA 4-70-203).

Any change in persons involved in a business should be noted by filing a certificate of withdrawal from or disposition of interest in a business. (ACA 4-70-204) The County Clerk is required to keep an alphabetical index of persons filing certificates (ACA 4-70-205 - 4-70-206).

This index is kept in the front of each book and notes the book and page number where the certificate is filed.

#### **G. Fictitious Name of Corporation Registration**

No corporation (domestic or foreign) shall conduct any business in this state under a fictitious name unless it first files with the Secretary of State, and, in the case of a domestic corporation, with the County Clerk of the county in which the corporations registered office is located. The form used for filing shall be approved by the Secretary of State and first filed in that office. An index of these filings shall be maintained in each office (ACA 4-26-405).

#### **Fictitious Name of Corporation Cancellation**

Also, if a corporation is dissolved and ceases to do business in Arkansas or under its fictitious name, it must file a cancellation form. This form should be filed with both the Secretary of State and the County Clerk's office. If such cancellation is not filed, the Secretary of State, upon satisfactory evidence, may cancel such privilege (ACA 4-26-405).

#### **H. Articles of Incorporation of a Business** (see also Act 958 of 1987 – ACA 4-27-101 et seq. "Arkansas Business Corporation Act")

A business must file its articles of incorporation papers and amendments with the Secretary of State. The Secretary of State retains a copy for his files and returns a copy to the Corporation or its representative.

If the registered office of the corporation is outside of Pulaski County, then within 60 days after the filing date with the Secretary of State the document must be filed for record in the office of the County Clerk where the corporation's registered office is located. After recording the document the County Clerk shall return it to the corporation.

Failure to file with the county clerk in the time and manner required by this chapter, the corporation or the surviving corporation, in case of a merger or consolidation, may be subjected to a penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) to be enforced through a civil proceeding filed in the name of the state by the Attorney General in the Circuit Court of Pulaski County, and, in case of a willful refusal to make the county filing, the Attorney General may sue to cancel or revoke the articles of incorporation of the corporation (ACA 4-26-1201).

**NOTE:** See also Act 958 of 1987, "Arkansas Business Corporation Act" codified at ACA 4-27-101 et seq. Filings under this code Section are required only in the Secretary of State's office.

#### **Certificate of Dissolution of a Business**

The certificate of dissolution shall be executed and filed in the same manner as the articles of incorporation were filed (ACA 4-26-1102).

#### **I. Certificates of Appointment**

A certificate of appointment or re-appointment of any commissioner to the rural development authority shall be filed with the County Clerk (ACA 14-188-105).

#### **J. Going Out of Business Sales License**

No person shall advertise or offer for sale a stock of goods, wares or merchandise at a going out of business sale unless such person shall have first obtained a license to conduct such sale from the County Clerk of the county in which he proposes to conduct such sale. The application for such license shall be in writing and under oath, and shall be filed with the Clerk at least fourteen (14) days prior to the opening day of the proposed sale. The application shall show all the facts relating to the reasons and character of such sale, including the opening and closing dates of the proposed sale.

The County Clerk in each county shall design and cause to be printed appropriate forms for application for licenses and for the license certificates to be issued by applicants under this Act. The County Clerk to whom application is made for a license under the provisions of this Act shall preserve such application and all information accompanying the application for a period of one (1) year from the date the license is issued (ACA 4-74-101 et seq).

#### **K. Transient Merchant License**

Clerks shall issue transient merchant licenses pursuant to the ACA 17-49-101 et seq as amended by Act 1603 of 2007. The amendments made in Act 1603 of 2007 have, it is hoped, cured any constitutional issues existing in the former legislation.

#### **V. Tax Books and Board of Equalization**

**A. Preparation and Extension of Tax Books** - The preparer of the tax books shall make out in books prepared for that purpose a complete list or schedule of all the taxable property in his or her county and the value thereof as equalized and arranged in the following form: (ACA 26-28-101) Whenever a county shall elect to acquire, lease, rent or otherwise provide for the use of electronic data processing equipment to keep the assessment records, to prepare tax books, and to prepare the collectors' records, the quorum court may, by ordinance, designate the appropriate county officer to be responsible for the operation of the computer and the preparation of the tax books (ACA 26-28-102).

**B. County Delinquent Land Sale Abolished** - All lands upon which the taxes have not been paid for one (1) year following the date the taxes were due, October 15, shall

be forfeited to the State of Arkansas and transmitted by certification to the Commissioner of State Lands for collection to the Commissioner of State Lands for collection or sale.

**C. List of Taxes Levied** - The County Clerk should maintain a listing of the number of mills levied by each taxing unit including school districts, special districts or improvement districts, city and each facet of county government. This information is kept in the minutes of the Quorum Court meetings and in the County Court record.

**D. Equalization Board Minutes** - The clerk of the county court or the clerk's designee shall serve as secretary of the equalization board of the clerk's county and shall keep a complete and accurate journal of its proceedings and perform such other duties as may be by law required by the board. In addition, within ten (10) days after the appointment of the equalization board for the clerk's county, the clerk or the clerk's designee shall file from time to time with the Assessment Coordination Department a statement showing the name and address of each member of the board. When any change in the personnel of the board is made, the clerk shall immediately advise the Arkansas Public Service Commission (ACA 26-27-307).

**E. Real and Personal Property Tax Correction Forms** - The Real Property Tax Correction forms and the Personal Property Tax Correction forms required by this Act to be kept in the records of the Assessor, Collector and Clerk may be destroyed upon the expiration of one (1) year after the date on which the Legislative Joint Auditing Committee accepts and files the audit of the particular office performed by the Division of Legislative Audit (ACA 26-28-111).

## **VI. Financial Records**

### **A. Payroll**

The payroll is usually handled by the County Clerk of each county and varies on a bi-weekly, semi-monthly, or monthly basis. Most road department employees are hourly personnel and usually paid bi-weekly.

**1. Time Sheets** - Time sheets are kept by or for all hourly personnel and by a great deal of salaried persons. The time sheets show the time worked by an employee or employees for the appropriate pay period. These also show any time away from the job, i.e., holidays, vacation, or sick leave.

**2. Payroll Reports** - There are various payroll reports that are made by the state and federal government. The date of the reports sometimes vary with the type of pay period a county uses. These reports are:

- (a) Unemployment Insurance
- (b) State Income Tax
- (c) Federal Income Tax
- (d) FICA or Social Security
- (e) Public Employees Retirement System
- (f) Health and/or Life Insurance

- (g) Occasional Reports. They are:
  - (i) Garnishments
  - (ii) Child Support Payments

### **B. Personnel Records**

Personnel records are often kept with the payroll to insure that vacation, sick leave records are properly maintained. Also many county officials keep the personnel records of their own employees and do not rely on a centralized personnel office.

### **C. Claims Dockets**

The County Clerk maintains two claim dockets. One called the "County Court Claims Docket" and another called "County Road Claims Docket." The dockets shall include columns for recording

1. The claim number (to be listed consecutively)
2. The date the claim is filed
3. The name and address of the person or firm presenting the claim
4. The amount of the claim
5. The date presented to the County Court
6. The action of the County Court regarding such claims and the date thereof
7. The warrant or check number, the date of issuance thereof, for payment of the claim, if any (ACA 14-23-203 and 14-23-204).

### **D. Warrant Register**

The Clerk of the County Court shall keep a register of all warrants issued and shall note the numbers, date, name of person in whose favor drawn, on what account, and the amount (ACA 14-24-104).

### **E. Annual Financial Report**

The Clerk of the County Court shall cause to be published one (1) time in one (1) newspaper published in the county the annual financial report of the county. If no newspaper is published in the county, then the Clerk of the County Court shall cause the annual financial report of the county to be published one (1) time in the newspaper having the largest circulation in the county. The annual financial report shall be published by March 15 of each year for the previous fiscal year of the county (ACA 14-21-102(b)(1)).

## Chapter Five - RECORD RETENTION SCHEDULE

### **ACA 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.

### **ACA 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.

### **ACA 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.

### **ACA 13-4-301. - Retention required – Destruction.**

(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 one (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 records required to be kept permanently, is reviewed for data conversion at least one (1) time every four (4) years 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.

### **ACA 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.

**ACA 13-4-303. 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; and
  - (iii) The personal, commercial, and industrial assessment forms; and
  - (iv) Inactive homestead credit documents.
- (B) Prior to destruction of these forms, the documents shall 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) Distrainment of goods and garnishment to pay delinquent personal taxes.

**ACA 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:
    - (i) Treasurer's operating and clearing account ledgers;
    - (ii) Treasurer's trust and agency account ledgers;
    - (iii) Treasurer's city account ledgers;



- (iv) Treasurer's improvement district account ledgers; and
- (v) Treasurer's school district account ledgers;
- (B) Maintain for seven (7) years:
  - (i) Land redemption receipts;
  - (ii) Annual settlement with county court; and
  - (iii) Record of school bond indebtedness and school district bonds — matured; and
- (C) Maintain for three (3) years:
  - (i) Receipt books;
  - (ii) Bank statements and cancelled checks;
  - (iii) Cancelled warrants;
  - (iv) Treasurer's monthly reconciliation;
  - (v) Treasurer's monthly report to quorum court;
  - (vi) Delinquent land redemption distribution reports;
  - (vii) Delinquent personal distribution reports;
  - (viii) County officials' monthly reports;
  - (ix) Municipal court monthly reports;
  - (x) Treasurer's monthly report to prosecuting attorney;
  - (xi) School district bank statements;
  - (xii) Annual report to county school supervisor;
  - (xiii) Register of school warrants;
  - (xiv) Teachers and school employee contracts; and
  - (xv) Surety bond of school district treasurer and superintendent.

**ACA 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.

**ACA 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) Maintain permanently:
  - (A) Voter registration record files;
  - (B) Maps of election precincts from the county election commission;
  - (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 board of election commission; 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 residence or name; county clerk to confirm a voter's change of
  - (iv) Confirmation return cards received in response to a confirmation notice; and
  - (v) Absentee ballot applications and lists, except where litigation follows or federal law governs;
  - (vi) Voter registration cards; and
- (E) Until an election is certified to the Secretary of State under § 7-5-701, all unused ballots.

**ACA 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; and
  - (D) 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.

**ACA 28-1-108. Records.**

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.

## Chapter Six - WORK PROCESS DESCRIPTIONS

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

In reading the work processes described on the following pages, it should be remembered that these are only examples of ways to perform the functions and not the only way to perform them.

The duties of the office of County Clerk are divided into six (6) fairly distinct areas for purposes of understanding and discussion.

They are:

- I. Probate Court
- II. Quorum and County Court
- III. Election, Voter Registration and Absentee Voting
- IV. Recording and Issuing of Licenses and Other Records
- V. Tax Books and Board of Equalization
- VI. Financial Records

### I. PROBATE COURT CLERK

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. Amendment 80 merged circuit and chancery courts into one court. The legislature, however, recognized that many county clerks were also the probate clerks and amended ACA 14-14-502(a)(2)(B) to provide that the county clerk may be ex officio clerk of the probate division of circuit court, if such division exists.

The Probate Division of District Courts receive cases involving wills, guardianships, adoptions, commitments to state mental hospitals, and other similar matters.

**Probate:** The following is an example of the general probate procedure used in most all types of probate cases.

**Step 1:** The first step in filing a probate case is to assign it a number. This number should be based on a consistent and consecutive numbering system authorized by the probate judge.

The clerk shall keep a book known as a "probate docket," designated by the prefix "PR." 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:

Probate PR2002-1

**Step 2:** The next step in this process would require a file stamp to be placed on the original copy of the probate case after it is assigned a number. The file stamp includes the clerk's name and the current date of the filing.

**Step 3:** The case then is listed on the docket sheet and the notation is made of the type of case and all action taken on the case as of this date. All subsequent action on a case should be noted on the docket sheet. The purpose of the docket sheet is to show the status of each case.

**Step 4:** A legal notice is then sent to the newspapers showing the case number and the parties involved. This notice is not sent in guardianship cases but is sent in all deceased cases. This publication of these cases is a notice to creditors. The payment of the publication of this notice is often a troublesome task in the clerk's office. A good practice which should be examined is that of requiring the attorney to leave a check already made out to the newspaper to pay for the cost of the legal advertising. This eliminates keeping another account receivable and payable register.

**Step 5:** A file or case folder is now prepared for the case. The case folder is indexed using the case number. Another indexing is the master probate index and it is keyed to the person's name. This allows two indexes to be available, one using the case number and another using the person's name.

**Step 6:** If the clerk is required to issue letters in a case then the letters are issued. The original is given to the attorney and the carbon copy is kept for filing.

**Step 7:** The carbon copy of the letter is filed in a letters file. This file is indexed alphabetically by name in the front of each book. Notation is also made of the book and page number where the extra record is found.

**Step 8:** Also, another copy of letters, orders, inventories, etc. is made and filed in a book for that purpose. Each record is indexed alphabetically by name in the front of each book. This file is called the extra record file.

### Glossary of Probate Court Terms

**LETTERS OF TESTAMENTARY** (with a will) - The formal instrument of authority and appointment given to an executor by the proper court, empowering him to enter upon the discharge of his office as executor. It corresponds to letter of administration granted to an administrator.

**LETTERS OF ADMINISTRATION** (without a will) - The instrument by which an administrator or administratrix is authorized by the probate court, surrogate, or other proper office, to have the charge and administration of the goods and chattels of an intestate.

**WILL** - A legal expression of declaration of a person's mind or wishes as to the disposition of his property, to be performed or take effect after his death.

**INVENTORY** - A detailed list of articles of property; an itemized list of the various articles constituting an estate, collection, etc. In law, the term is particularly applied to such a list made by an executor, administrator, or assignee in bankruptcy.

**CONSERVATOR** - A guardian; protector; preserver; who upon giving a probate bond, shall have the charge of the person and estate of a person who has been found to be incapable of managing his own affairs (ACA 28-67-102 and 28-67-108).

**GUARDIAN OF THE PERSON** - It shall be the duty of the guardian of the person consistent with and out of the resources of the ward's estate, to care for and maintain the ward and, if he is a minor, to see that he is properly trained and educated and that he has opportunity to learn a trade, occupation or profession (ACA 28-65-101 and 28-65-104 - 28-65-106).

**GUARDIAN OF THE ESTATE** - It shall be the duty of the guardian of the estate to exercise due care to protect and preserve it, to invest it and apply it as provided, to account for it faithfully, to perform all other duties required of him by law, and, at the termination of the guardianship, to deliver the assets of the ward to the entitled persons (ACA 28-65-101 and 28-65-104 - 28-65-106).

**COMMITMENTS**(Probate) - A proceedings for the restraining and confining of insane persons for their own and the public's protection.

**GUARDIAN OF THE PERSON AND THE ESTATE** - One person could be appointed to do both or two people could be appointed to be the guardian of each.

**ANCILLARY PROCEEDINGS** - Probate procedure which has been probated in another county or another state.

**SMALL ESTATES** - Estates less than \$100,000 can be handled without the appointment of a personal representative. When calculating the value of the property, the value of the decedent's homestead and the value of any statutory allowances for the benefit of a spouse or minor child shall be excluded (ACA 28-41-101).

**POWER OF ATTORNEY** - An instrument authorizing another to act as one's agent or attorney.

## II. QUORUM AND COUNTY COURT

### A. Quorum Court Clerk

The county clerk shall serve, unless otherwise designated by county ordinance, as the secretariat of the Quorum Court. Unless otherwise provided by county ordinance, the clerk and/or the Deputy Clerk shall attend all regular and special

meetings of the court; shall perform all administrative and record keeping duties prescribed in this act; and perform all other duties as may be required by Quorum Court through county ordinance (ACA 14-14-902).

### 1. Quorum Court Agenda

The County Clerk usually prepares the agenda for the Quorum Court meeting from items submitted by Quorum Court members or the County Judge. Procedures should be established regarding agenda preparation such as deadline for submitting items to the county clerk and deadline for providing Quorum Court members, County Judge, and press or media personnel with agenda and necessary materials or handouts before each court meeting.

### 2. Quorum Court Minutes

The County Clerk, deputy, or secretariat should take the minutes of each Quorum Court meeting. These minutes should be typed and mailed to the Quorum Court members along with the agenda materials for the next meeting. After the minutes are approved by the Quorum Court, they should be filed chronologically by meeting date.

### 3. Public Meeting Required

(1) All meetings of county government governing body, boards, committees, or any other entity created by or subordinate to a county government shall be open to the public except as provided herein.

(2) Appropriate minutes shall be kept of all public meetings and shall be made available to the public for inspection and copying. (3) Exceptions. A meeting or that part of a meeting which involves or affects the following need not be open to the public: the employment, appointment, promotion, demotion, disciplining, dismissal, or resignation of a county government official or employee, unless the local government officer requests a public meeting (ACA 14-14-109).

### 4. Publish

Unless otherwise specifically provided, when a county government is required to publish, publication shall be by a one (1) time insertion in a newspaper of general circulation in the county. Where no newspaper of general circulation exists in a county, publication may be made by posting in three (3) public places which have been designated by ordinance (ACA 14-14-104).

### 5. Public Records

(1) Except as provided in subsection (2) all records and other written materials in the possession of a local government shall be available for inspection and copying by any person during normal office hours.

(2) Personal [Personnel] records, medical records, and other records which relate to matters in which the right to individual privacy exceeds the merits of public disclosure

shall not be available to the public, unless the person they concern requests they be made public (ACA 14-14-110).

## **6. Ordinance and Resolution File**

(See Chapter 4, Description of Record Files)

### **B. County Court Clerk**

As clerk of the County Court, the County Clerk maintains the County Court record. This record includes all business of the County Court which include items such as: annexations, incorporation's, county purchases, election results, proclamations, levy of taxes, board appointments, bonds, improvement districts, right of way acquisition, contracts, agreements signed by the County Judge, etc.

### **General County Court Proceedings**

The Clerk maintains a file of the various documents which are filed in County Court. These records are copied and placed in a County Court record book. This book is usually indexed by the name of the record and the date of its approval. This file is open to the public and used to refer to various records. Also, the original is kept on file and indexed in a similar manner (See Chapter 4, Description of Record Files).

## **III. ELECTIONS, VOTER REGISTRATION, ABSENTEE VOTING AND EARLY VOTING**

The County Clerk became the official voter registrar with the adoption of Amendment 51 to the Arkansas Constitution in 1965. The purpose of this amendment is to establish a system of permanent personal registration as a means of determining that all who cast ballots in general, special and primary elections in this state are legally qualified to vote in such elections, in accordance with the Constitution of Arkansas and the Constitution of the United States.

The following citations list the majority, if not all, of the legislation pertaining to all parts of the election process. Due to the complexity of the election process, all clerks are encouraged to read and familiarize themselves with all of these citations. Questions regarding elections may be submitted to your AAC or the Secretary of State.

- Arkansas Constitution - Amendment 51
- ACA 7-1-101. Definitions.
- ACA 7-1-102. Work time to be scheduled for voting - Penalty.
- ACA 7-1-103. Miscellaneous misdemeanor offenses - Penalties.
- ACA 7-1-104. Miscellaneous felonies - Penalties.
- ACA 7-1-105. Majority of qualified electors.
- ACA 7-1-106. Election laws expert.
- ACA 7-1-107. [Repealed.]
- ACA 7-1-108. Election law deadlines.
- ACA 7-1-109. Enforcement of election laws.
- ACA 7-1-110. Voting information on internet website.

- ACA 7-1-111. Use of public funds to support or oppose ballot measure.
- ACA 7-1-112. Destruction of a ballot or ballot materials – Prohibited.
- ACA 7-1-113. Vote centers.
- ACA 7-2-101. Number of congressional districts.
- ACA 7-2-102. First Congressional District.
- ACA 7-2-103. Second Congressional District.
- ACA 7-2-104. Third Congressional District.
- ACA 7-2-105. Fourth Congressional District.
- ACA 7-3-101. Duties and powers.
- ACA 7-3-102. National committee members.
- ACA 7-3-103. State committee members.
- ACA 7-3-104. County committee members.
- ACA 7-3-105. County convention delegates - Selection - Vacancy.
- ACA 7-3-106. County convention - Primary election results - Selection of state and national delegations, vacancies.
- ACA 7-3-107. State convention - Declaration of election results and nominees – certificate.
- ACA 7-3-108. Subversive parties - New parties – Affidavit required – penalty.
- ACA 7-4-101. State board of election commissioners - Members - Officers – Meetings.
- ACA 7-4-102. County boards of election commissioners - Election of members – Oath.
- ACA 7-4-103. Vacancies on state and county boards.
- ACA 7-4-104. Lists of county chairs - Notification of ACA vacancies.
- ACA 7-4-105. County board of election commissioners - Officers - Meetings.
- ACA 7-4-106. Assistance of prosecuting attorney.
- ACA 7-4-107. Duties of county board of election commissioners - Ballot boxes – voting booths – appointment of election officers.
- ACA 7-4-108. Absence of election officials - Filling vacancy.
- ACA 7-4-109. Qualifications of state and county commissioners and other election officials.
- ACA 7-4-110. Oath of election officers.
- ACA 7-4-111. Compensation of board members.
- ACA 7-4-112. Compensation of election officers.
- ACA 7-4-113. Record of funds and expenditures.
- ACA 7-4-114. Filling vacancy of an elected office - Effect.
- ACA 7-4-115. Legislative intent.
- ACA 7-4-116. Election poll workers program for high school students.
- ACA 7-4-117. Election poll workers program for college students.
- ACA 7-4-118. Complaints of election law violations.
- ACA 7-4-119. Disclosure required.
- ACA 7-4-201 - 7-4-211. [Repealed.]

- ACA 7-5-101. Precinct boundaries and polling sites - Establishment and Alteration.
- ACA 7-5-102. Time of general election.
- ACA 7-5-103. [Repealed.]
- ACA 7-5-104. Election expenses - Allocation.
- ACA 7-5-105. [Repealed.]
- ACA 7-5-106. Runoff elections for county and municipal officers.
- ACA 7-5-107. Use of voter registration lists by poll workers.
- ACA 7-5-108. [Repealed.]
- ACA 7-5-109. Computerized voter registration lists.
- ACA 7-5-110. Registration lists for each ballot combination.
- ACA 7-5-111. Candidacy for more than one (1) elected office – Limitations.
- ACA 7-5-201. Voter qualification. [Effective until contingency met.]
- ACA 7-5-201. [Contingent effective date.]
- ACA 7-5-202. Public notice of elections.
- ACA 7-5-203. Certification of candidate lists.
- ACA 7-5-204. Certification of questions submitted to voters.
- ACA 7-5-205. Write-in candidates' votes - When counted.
- ACA 7-5-206. Publication requirements.
- ACA 7-5-207. Ballots - Names included- Draw for ballot position.
- ACA 7-5-208. Paper ballots - Form.
- ACA 7-5-209. Ballots - Correction of errors.
- ACA 7-5-210. [Repealed.]
- ACA 7-5-211. Delivery of election supplies.
- ACA 7-5-212. [Repealed.]
- ACA 7-5-301. Acquisition, use, and cost of voting systems.
- ACA 7-5-302. [Repealed.]
- ACA 7-5-303. [Repealed.]
- ACA 7-5-304. Opening and closing polls - Time.
- ACA 7-5-305. Requirements. [Effective until contingency met.]
- ACA 7-5-205. Requirements. [Contingency effective date.]
- ACA 7-5-306. Procedure when voter's name is not on the precinct voter registration list
- ACA 7-5-307. [Repealed.]
- ACA 7-5-308. Provisional ballot procedures.
- ACA 7-5-309. Voting procedure.
- ACA 7-5-310. Privacy - Assistance to disabled voters.
- ACA 7-5-311. Voters with disabilities - Special procedures.
- ACA 7-5-312. Challenge of voter's ballot by poll watchers, candidates, or designees.
- ACA 7-5-313. [Repealed.]
- ACA 7-5-314. Duties of election officials - Voter lists.
- ACA 7-5-315. Counting votes for unopposed and deceased candidates.
- ACA 7-5-316. Presence of candidate - Designation of representatives.
- ACA 7-5-317. Processing and delivery of election materials.
- ACA 7-5-318. Failure to deliver materials - Penalty - Messenger to obtain delinquent returns.
- ACA 7-5-319. Recount.
- ACA 7-5-320. [Repealed.]
- Procedure when voter fails to provide proof of identity. [Contingent effective date.]
- Voter identification card. [Contingent effective date.]
- ACA 7-5-401. Duties of county clerk.
- ACA 7-5-402. Voter qualification.
- ACA 7-5-403. Designated bearers, authorized agents, and administrators.
- ACA 7-5-404. Application for ballots.
- ACA 7-5-405. Application form.
- ACA 7-5-406. Members of uniformed services and other citizens residing outside the United States.
- ACA 7-5-407. Preparation and delivery of ballots.
- ACA 7-5-408. List of applications - Preparation, ACA preservation, and inspection.
- ACA 7-5-409. Materials furnished to qualified voters.
- ACA 7-5-410. Instructions and notice included with voting materials – other enclosures prohibited.
- ACA 7-5-411. Methods of voting absentee.
- ACA 7-5-412. Marking and return of ballots - Delivery of mailed ballots.
- ACA 7-5-413. Voting machines - Related duties.
- ACA 7-5-414. Appointment of special election officials – Qualifications.
- ACA 7-5-415. Compensation of county clerk for extra deputy.
- ACA 7-5-416. Counting of absentee ballots.
- ACA 7-5-417. Challenge of absentee votes.
- ACA 7-5-418. Early voting. [Effective until contingency met.]
- ACA 7-5-418. Early voting. [Contingent effective date.]
- ACA 7-5-419. [Transferred]
- ACA 7-5-501. [Repealed.]
- ACA 7-5-502. Application of election laws and penalties.
- ACA 7-5-503. Examination and approval of machines by State Board of Election Commissioners.
- ACA 7-5-504. Machine specifications.
- ACA 7-5-505. [Repealed.]
- ACA 7-5-506. [Repealed.]
- ACA 7-5-507. Demonstration - Assistance in operating machine.
- ACA 7-5-508. [Repealed.]
- ACA 7-5-509. Machines used for demonstration.
- ACA 7-5-510. Forms for complaints about function of voting machine – Investigation.

- ACA 7-5-511. [Repealed.]
- ACA 7-5-512. Certification of ballot styles - Equipment furnished to polling sites.
- ACA 7-5-513. Machine breakdown - Delivery of ballot materials.
- ACA 7-5-514. [Repealed.]
- ACA 7-5-515. Preparation of machines for election.
- ACA 7-5-516. Notice to candidates of preparation - Rules and statutes unaffected.
- ACA 7-5-517. Securing machines - Certification.
- ACA 7-5-518. Machines inactive until polls open - Adjustment of counters.
- ACA 7-5-519. [Repealed.]
- ACA 7-5-520. Instruction for voters using voting machines.
- ACA 7-5-521. Arrangement of polling place.
- ACA 7-5-522. Voting procedure.
- ACA 7-5-523. [Repealed.]
- ACA 7-5-524. Voter access to machines - Persons in line at closing time.
- ACA 7-5-525. Write-in votes.
- ACA 7-5-526. Closing of polls - Securing machines - Poll workers' certificate.
- ACA 7-5-527. Exposure of count - Verification - Return record - Official signatures.
- ACA 7-5-528. Machines released to officers.
- ACA 7-5-529. Tabulation of returns.
- ACA 7-5-530. Securing audit materials upon election contest or recount.
- ACA 7-5-531. Retention of audit data - Machines to remain secured until results are certified except on court order.
- ACA 7-5-532. Direct electronic voting machines.
  
- ACA 7-5-601. Paper ballots - Form.
- ACA 7-5-602. Ballots - Number - Official - Making device - Spoiled.
- ACA 7-5-603. Counting paper ballots at the polling site.
- ACA 7-5-604. Authorization - Election laws applicable.
- ACA 7-5-605. [Repealed.]
- ACA 7-5-606. Approval of equipment - Specifications.
- ACA 7-5-607. Arrangement of polling place.
- ACA 7-5-608. [Repealed.]
- ACA 7-5-609. Spoiled ballots.
- ACA 7-5-610. Write-in ballots.
- ACA 7-5-611. Preparation of electronic vote tabulating devices - Test - Disposition of voting materials.
- ACA 7-5-612. [Repealed.]
- ACA 7-5-613. Counting vote ballots and write-in votes.
- ACA 7-5-614. Locations for vote tabulation - Procedures.
- ACA 7-5-615. Tabulation of votes - Defective ballots - Certification of returns.
- ACA 7-5-616. Penalty.
  
- ACA 7-5-701. Declaration of results - Certification, delivery, and custody of returns.
- ACA 7-5-702. Preservation of ballots, stubs, certificates, and other election materials.
- ACA 7-5-703. Votes for United States Congress - Tie vote.
- ACA 7-5-704. Votes for legislative, judicial, and executive officers - Tie vote.
- ACA 7-5-705. Votes for constitutional officers - Tie vote - Certificate of election.
- ACA 7-5-706. Presentation of list of legislators elected.
- ACA 7-5-707. Vote certification.
  
- ACA 7-5-801. Right of action - Procedure.
- ACA 7-5-802. Circuit court proceedings.
- ACA 7-5-803. Special judges for additional contests.
- ACA 7-5-804. Trial - Appeal - Enforcement - Other laws superseded.
- ACA 7-5-805. Contest of state legislative offices.
- ACA 7-5-806. Contest of state constitutional executive offices.
- ACA 7-5-807. Election illegalities - Complaint - Grand jury investigation - Indictment - Trial.
- ACA 7-5-808. Finding of guilt - Effect.
- ACA 7-5-809. Determination of guilt after election - Effect.
- ACA 7-5-810. Contest of election results - Time for appeal.
  
- ACA 7-6-101. Campaign services contract - Right of action.
- ACA 7-6-102. Political practices pledge - Penalty for falsification.
- ACA 7-6-103. Campaign participation by judges - Penalty.
- ACA 7-6-104. Defamatory political broadcasts.
- ACA 7-6-105. Use of sound equipment - Penalty for interference.
  
- ACA 7-6-201. Definitions.
- ACA 7-6-202. Penalties.
- ACA 7-6-203. Contributions - Limitations - Acceptance or solicitation - Use as personal income - Disposition.
- ACA 7-6-204. Restriction on cash contributions or expenditures - Exception.
- ACA 7-6-205. Contributions made indirectly, anonymously, or under assumed names.
- ACA 7-6-206. Records of contributions and expenditures.
- ACA 7-6-207. Reports of contributions - Candidates for office other than school district, township, municipal, or county office, etc.
- ACA 7-6-208. Reports of contributions - Candidates for school district, township, or municipal office.
- ACA 7-6-209. Reports of contributions - Candidates for county office.

- ACA 7-6-210. Reports of contributions - Personal loans.
- ACA 7-6-211, 7-6-212. [Repealed.]
- ACA 7-6-213. Verification of reports.
- ACA 7-6-214. Publication of reports.
- ACA 7-6-215. Registration and reporting by approved political action committees.
- ACA 7-6-216. Registration and reports by exploratory committees.
- ACA 7-6-217. Creation of Arkansas Ethics Commission.
- ACA 7-6-218. Citizen complaints.
- ACA 7-6-219. Retiring a campaign debt.
- ACA 7-6-220. Reporting of independent expenditures.
- ACA 7-6-221. Repealed.
- ACA 7-6-222. Tax credits for certain individual political contributions.
- ACA 7-6-223. Reports of contributions by political parties.
- ACA 7-6-224. Authority of local jurisdictions.
- ACA 7-6-225. Filing deadlines.
- ACA 7-6-226. Registration and reporting by county political party committees.
- ACA 7-6-227. Registration by independent expenditure committee.
- ACA 7-7-101. Selection of nominees.
- ACA 7-7-102. Party nominees certified at primary election.
- ACA 7-7-103. Filing as an independent - Petitions - Disqualification.
- ACA 7-7-104. Vacancy in nomination - Alternative methods for filling - Tie vote
- ACA 7-7-105. Filling vacancies in certain offices - Special primary elections.
- ACA 7-7-106. Filling vacancies in candidacy for nomination - Preferential primary.
- ACA 7-7-201. Law governing primary elections.
- ACA 7-7-202. Preferential and general primaries - When required - Common polling place.
- ACA 7-7-203. Dates.
- ACA 7-7-204. Candidacy for multiple nominations prohibited.
- ACA 7-7-205. Petition requirements for new political parties.
- ACA 7-7-301. Party pledges and party filing fees.
- ACA 7-7-302. Selection of primary election officials.
- ACA 7-7-303. Precincts - Boundaries - Policing.
- ACA 7-7-304. Names to be included on ballots - Withdrawal - Unopposed Candidates - Designation of position - Necessity of general primary.
- ACA 7-7-305. Printing of ballots - Form - Draw for ballot position.
- ACA 7-7-306. Partisan and nonpartisan judicial general ballots.
- ACA 7-7-307. Additional voter qualifications.
- ACA 7-7-308. Voting procedure and requirements.
- ACA 7-7-309. Canvass and certification of returns.
- ACA 7-7-310. [Repealed.]
- ACA 7-7-311. [Repealed.]
- ACA 7-7-312. [Repealed.]
- ACA 7-7-313. Unopposed races.
- ACA 7-7-401. Certification of nominations.
- ACA 7-7-402. Filing certificates of nomination.
- ACA 7-7-403. [Repealed.]
- ACA 7-7-501 - ACA 7-7-504. [Repealed.]
- ACA 7-8-101. Primaries - General law governs.
- ACA 7-8-102. Filling Senate vacancies.
- ACA 7-8-103. Credentials of Senate appointee.
- ACA 7-8-104. Filling vacancies in the House of Representatives.
- ACA 7-8-201. Preferential elections required - Apportionment of delegates.
- ACA 7-8-202, 7-8-203. [Repealed.]
- ACA 7-8-204. Rules for selection of delegates and alternates.
- ACA 7-8-205 - 7-8-211. [Repealed.]
- ACA 7-8-301. Date of election.
- ACA 7-8-302. Election and certification of electors - Ballots - Contesting Conventions - Vacancy.
- ACA 7-8-303. Right of nominee to be candidate for other office.
- ACA 7-8-304. Delivery and canvass of returns - Tie vote.
- ACA 7-8-305. Publication of results - Certification of election.
- ACA 7-8-306. Voting by electors - Expenses.
- ACA 7-8-307. Vacancy - Appointment - Exception.
- ACA 7-8-401 - 7-8-405. [Repealed.]
- ACA 7-9-101. Definitions.
- ACA 7-9-102. Duties of election officers - Penalty for failure to perform.
- ACA 7-9-103. Signing of petition - Penalty for falsification - Notice of suspected forgery.
- ACA 7-9-104. Form of initiative petition - Sufficiency of signatures.
- ACA 7-9-105. Form of referendum petition - Sufficiency of signatures.
- ACA 7-9-106. Required attachments to petitions.
- ACA 7-9-107. Approval of ballot titles and popular names of petitions prior to circulation - Publication.
- ACA 7-9-108. Procedure for circulation of petition.
- ACA 7-9-109. Form of verification - Penalty for false statement.
- ACA 7-9-110. Designation of number and popular name.
- ACA 7-9-111. Determination of sufficiency of petition - Corrections.



- ACA 7-9-112. Failure to act on petition - Mandamus - Injunction.
- ACA 7-9-113. Publication of notice.
- ACA 7-9-114. Abstract of proposed measure.
- ACA 7-9-115. Furnishing ballot title and popular name to election commissioners.
- ACA 7-9-116. Captions and designations of numbered issues.
- ACA 7-9-117. Ballot form.
- ACA 7-9-118. Failure to place proposal on ballot - Manner of voting.
- ACA 7-9-119. Counting, canvass, and return of votes - Proclamation of result - Effective date.
- ACA 7-9-120. Printing of approved measures with general laws - Certification of city ordinances.
- ACA 7-9-121. Contest of returns and certification.
- ACA 7-9-122. Adoption of conflicting measures.
- ACA 7-9-123. Preservation of records.
- ACA 7-9-124. Voter registration signature imaging system - Creation of fund.
- ACA 7-9-125. Definitions - Prohibition of profit - Penalties - Freedom of Information.
- ACA 7-9-126- Count of signatures.
- ACA 7-9-201. Proposal and vote.
- ACA 7-9-202. Enrollment and filing.
- ACA 7-9-203. Entry on journals.
- ACA 7-9-204. Ballot titles and popular names of constitutional amendments proposed by the legislature.
- ACA 7-9-301. Calling constitutional convention - Majority vote.
- ACA 7-9-302. Delegate qualifications - Election date.
- ACA 7-9-303. Apportionment of delegates - Vacancies.
- ACA 7-9-304. Nominating petitions.
- ACA 7-9-305. Election and certification of delegates.
- ACA 7-9-306. Organizational meeting - Plenary meeting.
- ACA 7-9-307. Meeting procedures.
- ACA 7-9-308. Duration of constitutional convention - Certification of draft constitution - Report.
- ACA 7-9-309. Method of publication.
- ACA 7-9-310. Submission of proposed constitution to electors.
- ACA 7-9-311. Proposal of amendments to present constitution.
- ACA 7-9-312. Expenses.
- ACA 7-9-401. Title.
- ACA 7-9-402. Definitions.
- ACA 7-9-403. Penalty.
- ACA 7-9-404. Filing deadlines.
- ACA 7-9-405. Contributions and expenditures limited.
- ACA 7-9-406. Financial reports - Requirement.
- ACA 7-9-407. Financial reports - Information.
- ACA 7-9-408. Financial reports - Verification.
- ACA 7-9-409. Financial reports - Time to file - Late fee.
- ACA 7-9-410. Public inspection - Record retention.
- ACA 7-9-411. Enforcement.
- ACA 7-9-412. [Repealed.]
- ACA 7-9-413. [Repealed.]
- ACA 7-9-414. [Repealed.]
- ACA 7-9-415. Scope.
- ACA 7-9-501. [Repealed.]
- ACA 7-9-502. [Repealed.]
- ACA 7-9-503. [Repealed.]
- ACA 7-9-504. [Repealed.]
- ACA 7-9-505. [Repealed.]
- ACA 7-9-506. [Repealed.]
- ACA 7-10-101. [Repealed.]
- ACA 7-10-102. Nonpartisan election of judges, justices, and prosecuting attorneys.
- ACA 7-10-103. Filing as a candidate.

#### **IV. RECORDING AND ISSUING OF LICENSES AND OTHER RECORDS**

##### **A. Issuance of Marriage License**

All persons hereafter contracting marriage in this state are required to first obtain a license from the county clerk of some county in this state. The clerk of the county is required to furnish the license upon application being made and the clerk being fully assured that the applicants are lawfully entitled to the license and upon the receipt of the fee (ACA 9-11-201 and ACA 9-11-203).

**Step 1.** The first step in this process is for the couple to file a notice of intention to wed. This is done when both parties appear in the County Clerk's office or one of the parties appears and has the correct information on both parties. The Deputy Clerk copies the notice of intention to wed by asking questions of the couple. The clerk shall verify the age of the applicant with a birth certificate, drivers license, military identification, etc.

**Step 2.** The applicants then review the completed notice of intention to wed form and then sign the notice and pay the fee (ACA 9-30-109, 14-20-111, 16-20-407, 20-7-123, 21-6-406 and 21-6-413) to the deputy clerk.

**Step 3.** The deputy clerk then explains to the applicants that they must sign a \$100 bond before completing the application process for a license. (ACA 9-11- 210) The purpose of the bond is to make certain that the marriage license is returned to the clerks' office within 60 days of issuance. The license does not have to be used, but only returned to cancel the bond. If the license is not returned within 60 days it is voided and the applicants owe \$100 to

the general fund of the county. The applicants must sign the bond before completing the application process.

**Step 4.** The applicants then sign an affidavit which affirms that the applicants are actually who they say they are and that they are single and unmarried and may lawfully contract and be joined in marriage.

**Note:** If the parties intend to contract a **covenant marriage**, the application for a marriage license must also include the following statement completed by at least one (1) of the two (2) parties: "We [insert name of spouse] and [insert name of spouse] declare our intent to contract a Covenant Marriage and, accordingly, have executed the attached declaration of intent."

**Step 5.** The deputy clerk then types the marriage license and instructs the couple that the bond they signed requires them to return the license to the clerks office within 60 days whether it was used or unused and that failure to do this will cost them \$100. The clerk also reminds the applicants that the person who is to perform the ceremony must have their credentials on file with a county clerk in Arkansas and if a Justice of the Peace is performing the ceremony, then the ceremony must be held in the county where the J.P. resides.

On the face of the certificate shall appear the certification to the fact of marriage, including, if applicable, a designation that the parties entered into a covenant marriage, signed by the parties to the marriage and the witnesses. and the signature and title of the officiant.

**Note:** There is no three day waiting period or blood tests required anymore.

**Note: Heirloom Marriage Certificates:** in addition to the standard certificate of marriage, the county clerk shall offer and, upon payment of a fee established by regulation promulgated by the State Child Abuse and Neglect Prevention Board, issue an heirloom certificate of marriage.

**Step 6.** When the completed license is returned to the clerk's office for filing, the clerk completes the certificate of marriage and the certificate or record. If a license is returned and not used then notation is made on the marriage record that it was returned unused. If the license was used, then a marriage coupon is completed and returned along with one dollar per coupon to the State Registrar of Vital Statistics.

### **Indexing Marriage Licenses**

1. Indexing marriage licenses can be done in a variety of ways. One good way is to complete two index cards for each couple applying for a license. The cards should show the names of each of the applicants, one showing the mans' name first and the other showing the woman's name first, the date of marriage, or whether the license was returned for bond only, age of each of the applicants, and the book and page number where the marriage record is recorded. The cards can be processed by a computer and a master index of marriage records can be developed for a particular

period of time i.e. All marriages between 1965 and 1980 could be indexed in one printout; bound and placed in one book.

2. Also, a daily record of marriage licenses issued should be kept. This record should be indexed by the last name of both of the applicants and show the book and page of where the record of marriage is located.

### **B. Financial Interest**

(a) The following persons shall file a written statement of financial interest: (1) A public official, as defined in ACA 21-8-402(17); (2) A candidate for elective office; (3) A district judge or city attorney, whether elected or appointed; (4) Any agency head, department director, or division director of state government or a chief of staff or chief deputy of a constitutional officer, the Senate, or the House of Representatives; (5) Any public appointee to any state board or commission who is authorized or charged by law with the exercise of regulatory authority or is authorized to receive or disburse state or federal funds; (6) All persons who are elected members of a school board or who are candidates for a position on a school board; (7) All public and charter school superintendents; (8) Directors of educational cooperatives; and (9) Any person appointed to one (1) of the following types of regional, municipal, or county boards or commissions: (A) A planning board or commission; (B) An airport board or commission; (C) A water or sewer board or commission; (D) A utility board or commission; or (E) A civil service commission; (10) a member of an advertising and promotion commission; and a member of a research park authority board under ACA 14-144-201 (ACA 21-8-701 - 21-8-701(a)(11)).

State or district public servants shall file with the Secretary of State; county, township, or school district public servants shall file with the county clerks; municipal public servants and candidates for municipal office shall file with the city clerk or recorder, as the case may be; and all district judges or city attorneys, whether elected or appointed, shall file with the city clerk of the municipality with which they serve (ACA 21-8-703).

### **V. TAX BOOKS AND BOARD OF EQUALIZATION**

**A. Preparation and Extension of Tax Books** - The preparer of the tax books shall make out in books prepared for that purpose a complete list or schedule of all the taxable property in his or her county and the value thereof as equalized and arranged in the following form: Each separate tract of real property in the county shall be contained in lines opposite the names of the owners arranged in numerical order, and the tracts may be arranged further by school district and city. The aggregate value of personal property of each person, company, or corporation within each county shall be placed in a column opposite the name of the owner, person, company, or corporation in whose name it is listed in alphabetical order, and the personal property may be arranged further by school district and city. (ACA 26-28-101 and ACA 26-28-103) Whenever any county in this state shall desire or elect, by appropriate

action, if a county by appropriate action elects to acquire, lease, rent, or otherwise provide for the use of electronic data processing equipment, commonly referred to as a computer, to keep the assessment records, to prepare the tax books, to prepare the tax settlements, and to prepare the county collector's records and receipts for property taxes, the quorum court, by ordinance, may designate the one (1) or more appropriate county officer/officers to be responsible for the maintenance and operation of the computer and the keeping of the assessment records, the preparation of the tax books, the preparation of the county collector's records and receipts for property taxes, and the preparation of the tax settlements (ACA 26-28-102).

**B. County Delinquent Land Sale Abolished** - All lands upon which the taxes have not been paid for one (1) year following the date the taxes were due, October 10, shall be forfeited to the State of Arkansas and transmitted by certification to the Commissioner of State Lands for collection to the Commissioner of State Lands for collection or sale.

**C. List of Taxes Levied** - After receiving statements of the rates and sums of money to be levied for the current year from the Auditor of State and from such other officers and authorities as shall be legally empowered to determine the rates or amount of taxes to be levied for the various purposes authorized by law, the preparer of tax books shall immediately determine the sums to be levied upon each tract or lot of real property in his or her county, adding the taxes of any previous year that may have been omitted and the sums to be levied upon the amount of personal property listed in his or her county in the name of each person, company, or corporation, which shall be assessed equally on all real and personal property subject to those taxes (See ACA 26-28-103).

**D. Final Tax Settlement** - The final tax settlement is a very important part of work of the County Clerk. The Clerk, with the help of the County Collector, makes the final settlement of taxes to all the taxing units in the County.

The Division of Legislative Audit has published a booklet entitled:

**Suggested Procedures for Preparation of the Final County Tax Settlement.**

The Association of Arkansas Counties recommends that each Clerk obtain a copy of this final settlement publication before making a final settlement. A copy can be obtained from:

Division of Legislative Audit  
172 State Capitol  
Little Rock, AR 72202  
Telephone 501-683-8600

All County Tax Collector's settlements shall be made and filed with the County Courts on or before the fourth Monday of December each year. It is hereby made the duty of the County Courts to pass upon the settlements of the County

Collectors and to approve, reject, or restate the same on or before December 31 in each year. Failure of the County Judge to so approve, reject, or restate said settlements of said collectors within said period of time shall constitute a misfeasance in office and shall be deemed a misdemeanor, punishable by a fine of \$100.00 or removal from office. Any County Collector of taxes who shall fail to file with the county clerk a full and complete list of all delinquent personal taxes on the day required by law, shall be deemed guilty of a misdemeanor, punishable by a fine of \$100.00 or removal from office. Any county clerk or other county officer designated pursuant to §26-28-102(a) who fails to set up the settlement of the county collector setting forth the amount due the various funds on or before the fourth Monday of December of each year upon conviction is guilty of a violation punishable by a fine of one hundred dollars (\$100) or removal from office (ACA 26-39-301, 26-39-401 and 26-39-402).

**E. Method of Correcting Errors in Tax Book** - When, after the tax books have been delivered to the Collector, it is ascertained that there is an error in the real or personal property tax books, such error shall be corrected in the following manner: When the County Assessor discovers an error in the personal property tax books or any such error is brought to the attention of the Assessor, he shall cause such error to be corrected by completing a pre-numbered form in triplicate, indicating thereon the correction to be made: (refer to ACA 26-28-111). Upon completing and signing the Personal Property Tax Correction form in triplicate, the Assessor shall retain the original thereof in the Assessor's records, and shall transmit two (2) copies thereof to the County Collector. The Collector shall sign the two (2) copies received from the Assessor and shall retain one (1) copy in the Collector's records and shall transmit the remaining copy to the County Clerk who shall sign the same and file it in the records of the Clerk (ACA 26-28-111).

The Real Property Tax Correction forms and the Personal Property Tax Correction forms are to be kept in the records of the Assessor, Collector, and County Clerk and may be destroyed upon the expiration of one (1) year after the date on which the Legislative Joint Auditing Committee accepts and files the audit of the particular office performed by the Division of Legislative Audit (ACA 26-28-111).

**F. Equalization Board Minutes** - The clerk of the county court or the clerk's designee shall serve as secretary of the equalization board of the clerk's county and shall keep a complete and accurate journal of its proceedings and perform such other duties as may be by law required by the board. In addition, within ten (10) days after the appointment of the equalization board for the clerk's county, the clerk or the clerk's designee shall file from time to time with the Assessment Coordination Department a statement showing the name and address of each member of the board. When any change in the personnel of the board is made, the clerk shall immediately so advise the Arkansas Public Service Commission (ACA 26-27-307).

# Chapter Seven - FEES CHARGED BY THE COUNTY AND PROBATE CLERK

**ACA 21-6-406. Clerks of county courts -  
Miscellaneous fees.**

(a) A clerk of a county court may charge the following maximum fees:

- (1) For each order to erect or repair bridge ..... \$ .50
- (2) For making out and issuing an order for the appointment of a commissioner to erect or repair any bridge ..... .50
- (3) For filing a bond of any contractor ..... .10
- (4) For reading and filing every petition and recording the order to be made thereon, for every one hundred (100) words ..... .20
- (5) For making copy of petition, order, and other papers pertaining thereto, for every one hundred (100) words . .20
- (6) For reading and filing a remonstrance against any road or bridge ..... .25
- (7) For each certificate of appointment of road reviewers ..... .25
- (8) For issuing a precept of inquiry of damages in the case of
  - Roads ..... .50
- (9) For entering order for the appointment of a justice of the peace to apportion hands to work on roads, and copy of same, for every one hundred (100) words ..... .20
- (10) For entering the appointment of each overseer of a road ..... .25
- (11) For each notice to overseers and justices of the peace ..... .25
- (12) For entering each order concerning the erection or repairing of any county building, for every one hundred (100) words ..... .20
- (13) For entering the appointment of any commissioner to superintend the erection or repairing of any county building, for every one hundred (100) words ..... .20
- (14) For issuing the certificate of appointment to commissioner ..... .50
- (15) For entering every order for ascertaining any county line, for every one hundred (100) words ..... .20
- (16) For recording a return of any survey of a county line, for every one hundred (100) words ..... .20
- (17) For entering every order fixing the place of holding elections, for every one hundred (100) words ..... .20
- (18) For entering every order for the support of a poor person, for every one hundred (100) words ..... .20
- (19) For all services required to be performed relating to the laying out of a township, or altering township lines 1.00
- (20) For trying and sealing any weight or measure, to be paid by the applicant..... .50
- (21) For taking, filing, and safekeeping of any bond required by law to be filed in his or her office, not otherwise provided for ..... .25
- (22) For making settlements of each account with the county, to be paid to the county clerks for the official account record of the various accounts of the county treasurers and collectors, for each receipt entered on each account ..... .10
- (23) For filing each county treasurer's and collector's receipt ..... .10

- (24) For all services rendered in the filing of a claim against the county general and road accounts, and the issuing of the first warrant thereon ..... .75
- (25) For each additional warrant issued on the same claim ..... .50
- (26) For issuing each writ, receiving, filing, and docketing return..... .50
- (27) For recording marks or brands ..... 1.00
- (28) For filing each paper not specified in this section, except county claims ..... .10
- (29) For administering each oath..... .25
- (30) For swearing each jury ..... .50
- (31) For copies of records and papers not provided for in this section, for each one hundred (100) words or figures ... .20
- (32) For taking and entering verdict of jury ..... .25
- (33) For entering judgments, except allowances against the county, for each one hundred (100) words ..... .20
- (34) For commission to take depositions ..... 1.00
- (35) For indexing each case on record ..... .10
- (36) For entering all appeals except on assessments records ..... .25
- (37) For every certificate and seal not provided for in this section ..... .50
- (38) For every subpoena or summons to witnesses .... .50
- (39) For recording every paper not provided for in this section, for each one hundred (100) words ..... .20
- (40) For entering on record the appraised value of estray, and filing bond and appraisalment ..... .75
- (41) For filing and approving bond for marriage license .... .50
- (42) For filing, recording, and certifying copy of marriage license after its return ..... .50
- (43) For each coupon of marriage license furnished registrar of vital statistics, to be retained by clerk in addition to salary..... .10
- (44) For all services in issuing general licenses, licenses to hawkers, ferries, taverns, peddlers, auctioneers, circuses, menageries, or other public exhibitions for which a license is by law required. Shows or public exhibitions may only be licensed for twelve (12) days or less for one (1) license fee . .2.00
- (45) For filing abstracts of witnesses before grand jury ..... .10
- (46) For entering the judgment of the court on an abstract .....1.00
- (47) For issuing each certificate of land redemption ..1.00
- (48) For each additional tract on certificate of land redemption ..... .25
- (49) For cancelling each warrant, to be paid by funds upon which warrants are drawn ..... .10
- (50) The county clerk shall receive for services under the revenue laws for each settlement he or she makes with a clerk, sheriff, constable, or inferior collecting officer for fines, penalties, licenses, forfeitures, and seal tax by them, for which they are required to settle in full once each quarter ..... .75

- (51) For auditing each account in collector's and treasurer's record quarterly ..... 75
- (52) For each abstract forwarded to the Auditor of State and to the Director of the Department of Education .....1.00
- (53) For making out the original tax books, for every one hundred (100) words, counting one (1) figure as a word, but excluding calculations not carried into the tax records .. .20
- (54) For each copy thereof, for every one hundred (100) words, counting each figure as a word, as aforesaid ..... .20
- (55) For furnishing copy of delinquent lands to printer for each tract ..... .10
- (56) For attending sales of delinquent lands and making records thereof, for each tract for sale ..... .10
- (57) For each additional tract ..... .10
- (58) For transferring land to name of purchaser when sold to an individual ..... .10
- (59) For furnishing for publication copy of the delinquent list of delinquent and insolvent personal taxpayers, for each name ..... .10
- (60) For recording delinquent list of personal property, for every one hundred (100) words ..... .20
- (61) For making each certificate of lands sold to the state and not redeemed to Commissioner of State Lands .... 5.00
- (62) For making settlement with collector for each day employed including quarterly apportionments, not exceeding thirty (30) days during entire calendar year, per day .... 5.00
- (63) For furnishing Auditor of State with an abstract of tax records ..... 3.00
- (64) For making a deed to the purchaser of lands sold at delinquent sale, one (1) tract per deed ..... 1.00
- (65) For waiting on county courts and the probate and juvenile divisions of circuit court, per day .....10.00
- (b) A clerk of a county court shall not charge a fee for filing an appeal from a county equalization board.

**ACA 21-6-412. Commissioners to sell property**

(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	(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)(A) 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:

- (i) 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
- (ii) Used exclusively by the circuit clerk's office for the following purposes and in the following order:
  - (a) To offset administrative costs associated with the performance of the commissioner's duties; and
  - (b) For general operational expenses of the office of circuit clerk.

(B) 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.

(2)(A) If the county clerk's office is appointed as commissioner for a sale of real or personal property under judicial decree, the fee awarded to the county clerk's office under this section shall be:

- (i) Collected by the county clerk and paid into the county treasury to the credit of a fund to be known as the "county clerk commissioner's fee fund"; and
- (ii) Used exclusively by the county clerk's office for the following purposes and in the following order:
  - (a) To offset administrative costs associated with the performance of the commissioner's duties; and
  - (b) For general operational expenses of the office of county clerk.

(B) Moneys deposited into the county clerk commissioner's fee fund shall be appropriated and expended for the uses designated in this section by the quorum court at the direction of the county clerk.

**ACA 21-6-413. Probate and county matters - Miscellaneous court fees.**

(a) Miscellaneous court fees are established as follows:

Dissolutions of incorporation .....	\$25.00
Articles of incorporation .....	25.00
Amendments to articles of incorporation .....	25.00
Filing last will and testament for safekeeping .....	5.00
Authentication certificate .....	5.00
Certify and seal document .....	5.00
Marriage license .....	30.00
Certified copy of marriage license .....	5.00
Underage marriages – Petition and order .....	10.00
Small estates .....	25.00
Assumed names .....	25.00
Limited partnerships .....	25.00
Alcoholics and insane persons .....	25.00
Clerk's tax deed .....	5.00
Recording doctors' and nurses' credentials .....	5.00

Recording ministers' credentials .....	5.00
Filing affidavit of claim against an estate .....	5.00
Filing power of attorney .....	10.00
Filing and recording all accounts and settlements .....	50.00
Certified copies of all letters .....	5.00
Issuing subpoena or summons .....	5.00
Putting up advertisement of settlement of executors, administrators, and guardians .....	5.00
Preparing notices of settlements to be published in paper each month .....	5.00
Filing exceptions .....	5.00

(b) With respect to probate matters, this section applies to circuit clerks and any county clerk who serves as ex officio clerk of the probate division of the circuit court.

(c) Any fee not specifically provided for in subsection (a) of this section shall be set by the circuit court if it is a probate matter or by the county judge if it is a county court matter.

(d) The fee provisions provided for in subsection (a) of this section shall be in lieu of any or all fees now established by law.

(e)(1)(A) Fees collected under this section shall be paid into the county treasury to the credit of the fund to be known as the "county clerk's cost fund".

(B) With the exception of those funds referred to in subdivision (e)(2) of this section, all funds deposited into the county clerk's cost fund are general revenues of the county and may be used for any legitimate county purpose.

(2)(A) At least thirty-five percent (35%) of the moneys collected annually shall be used to purchase, maintain, and operate an automated records system.

(B) The acquisition and update of software for the automated records system shall be a permitted use of these funds.

(C) Funds set aside for automation may be allowed to accumulate from year to year or at the discretion of the clerk may be transferred to the county general fund by a budgeted appropriated transfer.

(3)(A)(i) In those counties having combined offices of circuit clerk and county clerk, the clerk shall elect to use the automation fund authorized by this section or the automation fund allowed by the county recorder's cost fund, § 21-6-306.

(ii) In those counties having combined offices of county clerk and recorder, the clerk shall elect to use the automation fund authorized by this section or the automation fund allowed by the county recorder's cost fund, ACA 21-6-306.

(B) The clerk's election shall be made in writing and filed in the office of the circuit clerk.

(C) Under no circumstances shall the clerk be allowed to use both the automation fund as authorized by ACA 21-6-306 and the county clerk's cost fund as authorized in this subchapter, except for the revenue generated under ACA 16-20-407(b).

**ACA 21-6-414. Probate and county matters - Uniform court costs.**

Repealed.

**ACA 21-6-415. County court clerks - Uniform filing fees.**

(a) The uniform filing fees to be charged by the clerks of the county court for initiating a cause of action in the county court shall be thirty dollars (\$30.00), and no portion of the filing fee shall be refunded.

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

(c) The provisions of ACA 21-6-413(e) shall apply to filing fees collected under this section.

**BEER - LIQUOR - MIXED - DRINK - PERMITS**

<b>Arkansas Code Reference</b>	<b>Description of Service</b>	<b>Fee or Charge</b>
ACA 3-5-212	County Retail Beer Permit	<p>Fee based on total gross Annual sales less than \$1,000 in gross sales - \$15.00 fee.</p> <p>\$1,001 - \$2,000 in gross sales - \$20.00 fee.</p> <p>\$2,001 - \$3,000 in gross sales - \$25.00 fee.</p> <p>\$3,001 - \$4,000 in gross sales - \$30.00 fee.</p> <p>\$4,001 - \$5,000 in gross sales - \$35.00 fee.</p> <p>Add an additional \$5.00 for each \$1,000 in gross sales.</p>
ACA 3-9-212, 3-9-213 3-9-214	Mixed Drink Tax	County License Fee or supplemental tax shall not exceed that allowed to State. Refer to 3-9-212 for fee chart.

Note: A county can only charge this fee if the establishment being licensed is located outside the city limits of any city in the county.

**MISCELLANEOUS FEES**

<b>Arkansas Code Reference</b>	<b>Description of Service</b>	<b>Fees</b>
ACA 26-76-202	Any public exhibition given by any person, any part of the proceeds of which is for his personal profit	Amount to be fixed by County Court
ACA 4-74-101 et. seq.	Going Out of Business Sales License	\$25 if in business at same location for at least one year. \$250 if in business at location for less than one year. Plus surety bond or bond equaling 5% of wholesale value of goods or \$2,000, whichever is lesser, and shall be in favor of the State of Arkansas.

## Chapter Eight – ATTORNEY GENERAL OPINIONS AND COUNTY LINES ARTICLES

### Personnel Records:

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.

### 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)

AG 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 to 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 inconsistently 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 FOIA.

AG 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 employee's position within the agency. Custodians may consistently 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.

AG 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".

AG 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 16<sup>th</sup> as per ATTORNEY GENERAL OPINION NO. 2013-049.

AG 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 FLSA commissioned law enforcement officers may not accumulate more than 480 compensatory hours}.

AG 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.

AG 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.

AG 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.

AG Opinion No. 2010-074: The Attorney General determined that the General Assembly may authorize counties to have the option for nonpartisan elections for county officials. Cities under ACA 14-42-206 currently may provide for elections of their officials without party affiliation. The Legislature is limited by the first amendment and Amendment 29 of the Arkansas Constitution and the details of legislation would have bearing on legality. However, the Attorney General says: generally speaking the state law may authorize the quorum court by ordinance to provide for nonpartisan election of county officials.

#### **Other Opinions:**

AG Opinion No. 2017-039: A County Board of Election Commissioners cannot contract for an election coordinator or hire assistance without the approval of the county judge. The county judge enters contracts on

behalf of the county; and the members of a county board of election commissioners do not fall within the exception for contracts of employment that applies to county elected officials.

AG Opinion No. 2016-132: Article 14, Section 3, of the Arkansas Constitution does not allow for a ballot that separates, and therefore permits separate votes upon, the component parts of a proposed school millage.

AG Opinion No. 2016-085: Under section 14-42-119, "[a] person who holds an elected office in a municipality for a term of four ( 4) years in a mayor-council form of government"2 is subject to removal following the acquisition of a petition signed by 25 percent of qualified electors. Ark. Const. art. 5, § 1, on the other hand, refers to the authority for city voters to initiate local measures, and it requires a petition signed by 15% of qualified electors. These do not refer to the same process, so the 25% petition requirement under the statute is not unconstitutional.

AG Opinion No. 2015-133: Signatures that were collected on a local-option-election petition under one ballot title cannot be count in testing the sufficiency of a petition once the ballot title changes. ACA § 7-9-109 requires that at all times during the circulation of this signature sheet, an exact copy of the popular name, ballot title, and text was attached to the signature sheet.

AG Opinion No. 2014-061: A city ordinance that changes filing deadlines for a municipal election does not need to be filed with the county clerk because no state law requires that municipal ordinances be filed with the county clerk.

# **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 read 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.”

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## ***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 your 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!”

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**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!

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## ***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.”*

## Chapter Nine – FAQs

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:

**Q: Do county elected officials and county employees receive retirement credit for a bonus or lump sum payment?**

**A: Yes, anyone on a county payroll that is otherwise eligible for retirement credit in the Arkansas Public Employees Retirement System should receive credit for a bonus or lump sum payment.** The county should pay into the retirement system the contribution percentage that has been set by the APERS Board of Trustees and the employee, if they are a member of the contributory system, will pay into the retirement system – through payroll deduction – the percentage that has been set by state law.

It has only been since July 1, 2009 that a bonus or lump sum payment has been used in the calculation of compensation for retirement purposes for elected officials and employees of counties. Prior to that time, compensation for retirement purposes was defined in A.C.A. 24-4-101(11)(A) as “recurring remuneration paid a member by public employers for personal services rendered by a member in a position covered by an employer participating in the Arkansas Public Employees’ Retirement System.” The only exceptions to that rule were for state employees where, by law, “recurring remuneration” included career service recognition payments to state employees authorized in A.C.A. 21-5-106; merit increases for state employees authorized in A.C.A. 21-5-1101; and lump sum salary adjustments for state employees authorized in A.C.A. 21-5-211 and 21-5-219.

During tough economic times it became more and more popular in county government to give an end-of-the-year bonus or a lump sum payment rather than giving salary or hourly wage pay increases. By doing this counties were able to help their employees somewhat with carry-over balances or one-time sources of revenue without building increased on-going costs into their budgets. However, county employees were not getting any retirement benefit from these one-time payments because of the definition of “compensation” in the retirement code for APERS. In 2009, Act 616 was enacted by the 87th General Assembly to amend the definition of compensation under the Arkansas Public Employees’ Retirement System to include a bonus or lump sum paid to a county or municipal employee.

Act 616 of 2009 amended two codes to accomplish the inclusion of a bonus or lump sum payment in the calculation of retirement benefits for county employees. A.C.A. 14-14-1206(a), dealing with county compensation was amended to say, “The quorum court of each county shall, by ordinance, fix the number and compensation of all county employees, including a bonus or lump sum payment.” A.C.A. 24-4-101, the code delineating definitions as used for retirement purposes from the Arkansas Public Employees’ Retirement System was also amended – specifically, A.C.A. 24-4-101(11) defining compensation. As mentioned earlier, compensation is defined in this law as “recurring remuneration”. Act 616 of 2009 amended A.C.A. 24-4-101(11) to consider recurring remuneration for personal services for the purposes of determining retirement benefits to include, “payments made to a member under A.C.A. 14-14-1206(a) [a county employee], including without limitation a bonus or lump-sum payment.”

The law does set a limit on the amount of the bonus or lump-sum payment that can be counted as compensation during the last year of an employee’s employment. A.C.A. 24-4-101(11)(B)(iii)(b) says, “The maximum amount of the bonus or lump-sum payment that will be considered to be compensation during the last year of a member’s employment is the lesser of five percent (5%) of the current year’s salary or the amount of the bonus or lump-sum payment that was received by the member during the previous year of employment.”

**Q: Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?**

**A:** Arkansas law does not directly answer that question. I cannot point you to an Arkansas code that says that a certain county official or office shall have custody of titles to county owned vehicles and equipment. However, I would like to call your attention to several laws that help us draw a reasonable conclusion. They are:

Arkansas Code Annotated 14-25-106. Fixed asset records.

Amendment 55, Article 3 of the Arkansas Constitution

Arkansas Code Annotated 14-14-1101. Powers of county judge generally.

Arkansas Code Annotated 14-14-1102. Exercise of powers by county judge.

A.C.A. 14-25-106 requires each county official to maintain an inventory of all fixed assets under the control of their office. The exception to this rule is if the quorum court designates one county official or county employee to be responsible for maintaining the inventory or fixed asset list. Although, as a general rule, a county official is responsible for maintaining an inventory record under this code – it does NOT give or constitute “custody” of the property to the individual county officials.

Arkansas Constitution, Amendment 55, Article 3 specifically grants “custody of county property” to the County Judge. •Amendment 55, Article 3 – The County Judge, in addition to other powers and duties provided for by the Constitution and by law, shall preside over the Quorum Court without a vote but with the power of veto; authorize and approve disbursement of appropriated funds; operate the system of county roads; administer ordinances enacted by the Quorum Court; have custody of county property; hire county employees, except those persons employed by other elected officials of the county.

A.C.A. 14-14-1101 deals with “powers of the county judge generally” and reiterates the executive powers of the county judge as established in Arkansas Constitution, Amendment 55, Article 3. A.C.A. 14-14-1101(a)(5) specifically says that the county judge has “custody of county property”.

A.C.A. 14-14-1102 deals with the exercise of powers by the county judge including, but not limited to, “custody of county property”. A.C.A. 14-14-1102(3)(A) says, “The county judge, as the chief executive officer of the county, shall have custody of county property and is responsible for the administration, care, and keeping of such county property, including the right to dispose of county property in the manner and procedure provided by law for the disposal of county property by the county court.\* The county judge shall have the right to lease, assign, or not assign use of such property whether or not the county property was purchased with county funds or was acquired through donations, gifts, grants, confiscation, or condemnation.”

\*Note: The responsibility of “the disposal of county property” also lies with the county judge – as noted above. The prevailing laws dealing with the disposal or sale of county property are:

ACA 14-16-105. Sale of county property generally.

ACA 14-16-106. Sale or disposal of surplus property.

ACA 14-16-107. Sale of realty to certain organizations.

ACA 14-16-116. Property exchange by counties.

Accordingly, it is my conclusion that the law is definitive that the County Judge exercises the executive power of “custody of county property” and is also the only county official with the authority to “sell or dispose of county property”. Therefore it is reasonable to conclude that the County Judge should maintain custody of all titles to county vehicles and equipment since these are lawful instruments needed to: (1) prove custody; and (2) convey or transfer ownership if the County Judge exercises his or her right to sell or dispose of said county property.

### **Q: Is county government exempt from paying sales taxes?**

**A: No. As a general rule the seventy-five (75) county governments of Arkansas are subject to the sales and use tax laws – paying sales taxes properly billed on invoices and submitting use taxes to the Department of Finance and Administration on purchases made from out-of-state vendors that do not charge, bill and remit out-of-state sales taxes.**

There are a couple of exceptions. County government in Arkansas is exempt from paying sales taxes on “motor vehicles” and on “jail food” (or in certain circumstances food for other uses).

Arkansas Code Annotated 26-52-410(a) says, “No tax shall be levied or collected upon gross receipts derived from the sale of motor vehicles to municipalities and counties.....”. A long standing memorandum from the Department of Finance and Administration has defined “motor vehicles” as used in A.C.A. 26-52-410 as rolling stock, which includes vehicles and equipment as long as it is self-propelled and rolls on tires or tracks. Arkansas Code Annotated 26-52-401 exempts various products and services from sales and use taxes. A.C.A. 26-52-401(19) specifically exempts “food, food ingredients, or prepared food to governmental agencies for free distribution to any public, penal, and eleemosynary institutions [an institution supported by charity] (Emphasis added) or for distribution to the poor and needy.” The



Department of Finance and Administration has defined 'governmental agencies' as used in this code as, "any agency or department of the United States, the State of Arkansas, counties, cities or towns or school districts. 'Governmental agencies' does not include a private non-profit organization funded wholly or in part by public monies."

**Q: 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?**

**A: Yes,** a county employee should be paid the per diem compensation for serving as a juror just like any other person. Arkansas Code Annotated 16-34-103(a)(1)(2) says, "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."

The per diem compensation, as established by A.C.A. 16-34-103(b)(1)(2), is \$50.00 per day for a person who is selected and seated to serve as a member of a grand jury or petit jury. Those who are excused or otherwise not selected and seated as a member of the jury are provided per diem compensation of not less than \$15.00 as established by ordinance of the county quorum court for each day that they are required to appear at the location to which they were summoned.

In addition to the per diem established for jurors and prospective jurors, A.C.A. 16-34-104 establishes an avenue for mileage reimbursement in the event and to the extent that a county quorum court adopts by ordinance a policy for reimbursement of mileage costs for jurors. The mileage reimbursement payment is allowed only to those whose primary place of residence is outside the city limits of the court that summoned them for duty and is paid from and to his or her home by the most direct and practicable route at the rate prescribed by the county.

A county may be reimbursed by the State of Arkansas on a quarterly basis for the \$50.00 per diem fees paid to persons selected and seated to serve as a member of a grand jury or petit jury. The reimbursement process and time-line is set forth in A.C.A. 16-34-106.

The deduction of jury duty fees from the salary of a county employee is prohibited by state law. A.C.A. 21-5-104(a) says, "No state, county, or municipal employer in this state shall deduct from the usual compensation of any employee, all or any part of the fees or compensation received by the employee for appearing for grand or petit jury duty or serving on any grand or petit jury in any court in this state."

In fact, a county employer who violates the provision of A.C.A. 21-5-104 is guilty of a misdemeanor and upon conviction can be fined up to \$250.00 and the violation constitutes grounds for dismissal of the employer from his or her office or position of public employment.

**Q: 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?**

**A: Yes, a retiring county official or county employee may elect to keep county health care insurance coverage if they meet certain criteria in the law and if they pay the entire premium.**

Arkansas Code Annotated 24-12-128 [Act 745 of 1995 as amended by Act 822 of 1997] says, "When any county official or county employee retires and, either, is fifty-five (55) years or older and vested in the County Division of the Arkansas Public Employees' Retirement System, or has thirty (30) or more years of actual service or thirty-five (35) years of credited service in the County Division of the Arkansas Public Employees' Retirement System regardless of age, the official or employee may continue to participate in the county health care plan as long as the official or employee pays both employer and employee contributions to the health care plan."

There is no case law available where Arkansas courts have interpreted provisions of A.C.A. 24-12-128 but, there are several Attorney General Opinions addressing questions concerning the practical application of A.C.A. 24-12-128. Here is a list of the AG Opinions that have been issued on this subject:  
AG Opinion No. 2008-008

AG Opinion No. 2003-235

AG Opinion No. 1999-053

AG Opinion No. 1998-066

AG Opinion No. 1997-108

To summarize and specifically answer your questions – a retiring county official or county employee may elect to continue to participate in the county health care plan if: (1) they are at least 55 years old and vested in the County Division of APERS; or (2) they have 30 or more years of actual service in the County Division of APERS regardless of age; or (3) they have at least 35 years of credited service in the County Division of APERS regardless of age. They must also pay the entire health care plan premium.

The coverage that retirees are entitled to retain under the authority of A.C.A. 24-12-128 is the same coverage that active employees receive. If the county health care plan includes dental, vision, life insurance and dependent coverage, such coverage may be retained by the retiree as long as they pay the entire premium.

It is mandatory on the part of the county to allow the qualifying retiree to participate in the county health care plan. The discretionary term “may” found in A.C.A. 24-12-128 applies to the retiree, rather than the county. This provision leaves the decision as to whether to continue to participate in the county health care plan wholly within the discretion of the qualifying retiree. Because the qualifying retiree has full discretion to choose to participate, it follows that the county is required to permit that retiree to participate.

Since state law affords county retirees the option of continued participation in the county health care plan, constitutional and code restrictions prevent counties from adopting ordinances that restrict or conflict with this state law [A.C.A. 24-12-128]. Amendment 55, Article 1, Section (a) says, “A county acting through its Quorum Court may exercise local legislative authority not denied by the Constitution or by law.” Arkansas Code Annotated 14-14-805 denies several powers to the Quorum Court. A.C.A. 14-14-805 says, “Each county quorum court in the State of Arkansas exercising local legislative authority is prohibited the exercise of the following:” – then you will find 13 sub-sections delineating the prohibited powers. Sub-section (13) says, “Any legislative act contrary to the general laws of the state.” So, a county quorum court is without power to restrict county health care plan coverage to a qualifying retiree in any manner. State law governs the issue and allows county retirees the option of continued county coverage.

### **County Clerk FAQs:**

#### **Q: What does Arkansas law say about the establishment and use of the County Clerks Cost Fund?**

**A:** The County Clerk’s Cost Fund, established by Act 1765 of 2003, has not been the topic of as much discussion as other cost funds or automation funds – because as a general rule the County Clerk’s office does not generate as much revenue. No Attorney General Opinions have been issued concerning the County Clerk Cost Fund – and there have been no court cases involving this fund as of late 2011.

Although this fund is probably handled differently from county to county – here is what the law says concerning the County Clerk’s Cost Fund. Fees collected by the County Clerk pursuant to A.C.A. 21-6-413, 21-6-415 and 16-20-407 are to be paid into the county treasury to the credit of the “county clerk’s cost fund”. In strict accordance with the law 100% of these fees are to be credited to the fund – even though only 35% of the fees are restricted and considered “special revenues”.

Many counties probably credit 35% of the fees to the County Clerk’s Cost Fund and 65% of the fees to County General. To be in full compliance with the law 100% of the fees should be credited to the County Clerk’s Cost Fund with 65% then transferred to County General as an appropriated transfer or the 65% can actually be appropriated and expended from the County Clerk’s Cost Fund for “any legitimate county purpose.”

A.C.A. 21-6-413(e)(1)(A) says that the county clerk fees “shall be paid into the county treasury to the credit of the fund to be known as the county clerk’s cost fund.” The law goes on to say in subsection (e)(1)(B) that “with the exception of those funds referred to in subdivision (e)(2) of this section, all funds deposited into the county clerk’s cost fund are general revenues of the county and may be used for any legitimate county purpose.”

The funds referred to in subdivision (e)(2) are the 35% “special revenue” funds. These funds, in accordance with A.C.A. 21-6-413(e)(2)(A)(B) “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.”

Normally “special revenues” or “restricted funds” are just that – they can be used only for the purposes set out in law....unless there is an exception laid out in the law. In this case the exception is espoused in A.C.A. 21-6-413(e)(2)(C) which says, “Funds set aside for automation may be allowed to accumulate from year to year or at the discretion of the clerk may be transferred to the county general fund by a budgeted appropriated transfer.

Special Notes concerning the County Clerk’s Cost Fund:

- In those counties having combined offices of county clerk and circuit clerk/recorder or in those counties having combined offices of county clerk and recorder, the clerk must decide to utilize the county clerk’s cost fund as authorized by A.C.A. 21-6-413 or the county recorder’s cost fund as established by A.C.A. 21-6-306.
- The clerk’s decision must be made in writing and filed in the office of the circuit clerk.
- The clerk is not allowed to use both funds – except for the revenue generated under A.C.A. 16-20-407(b). [The \$2.00 kept locally from a \$13.00 additional marriage license fee.]
- In the case of a dual clerk who has chosen the County Recorder’s Cost Fund as their “automation fund” of choice – he or she will still have a County Clerk’s Cost Fund specifically and only for the \$2.00 they retain from the \$13.00 additional marriage license fee levied under A.C.A. 16-20-407. This money (the \$2.00 retained from the \$13.00 additional marriage license fee) MUST be appropriated and expended exclusively for the operation of the office of county clerk [A.C.A. 16-20-407(b)(1)].

**Q: 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?**

**A: I will preface the answer to this question with the statement that a county should not get in the situation of having to pay penalties because of the late payment of a bill. County government should exercise diligence in taking care of tax payer money – including timely payment of claims so as to avoid the wasteful payment of penalties.**

However, if a county finds itself in the position of paying an overdue invoice to which a penalty has been applied – I do not believe there is any law that forbids the payment of an actual “penalty”. Some people tend to view “interest” and “penalty” in the same light – when, in fact they are different animals. A county cannot pay interest (except in certain instances)...but there is no state law prohibition against paying a penalty.

“Interest” is legally defined as “the compensation fixed by agreement or allowed by law for the use of money”. Article 16, Section 1 of the Arkansas Constitution says, “Neither the State nor any city, county, town or other municipality in this State shall ever lend its credit for any purposes whatever; nor shall any county, city or town or municipality ever issue any interest bearing evidences of indebtedness, except such bonds as may be authorized by law.....”. Amendment 78, Article 2 of the Arkansas Constitution provides for short-term financing for counties and cities allowing the payment of interest. Amendments 62, 65 and 72 also allow various types of bond issues and debt obligations, which entail interest.

However, a “penalty” is legally defined as “an extra charge against a party who violates a contractual provision.” When a county makes a purchase from a vendor they automatically agree to the terms of payment. If those terms are not met then the county is subject to paying the penalty just like anyone else. I have found no law or AG Opinion to the contrary.

**Q: 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?**

**A: The prevailing Arkansas code that establishes the framework for the division of costs associated with District Court is A.C.A. 16-17-115 [County’s, town’s and city’s portion of district court expenses – Appropriation.].** A.C.A. 16-17-115(a) deals with the county portion of expense and says, “except as authorized otherwise, the county wherein a

district court is held shall pay one-half (1/2) of the salaries of the district judge and each chief court clerk of any district court organized in that county under the provisions of A.C.A. 16-17-901 et seq and the quorum court shall make an appropriation of a sum sufficient to pay the county's proportion of the expenses of any such district court. These payments shall be made out of the district court cost fund and general revenues of the county." So, in many cases, the county is only legally responsible for one-half of the salary of both the district court judge or judges and the chief district court clerk(s).

There are Attorney General Opinions that say the county is not responsible for other expenses of the district court – other than outlined in law. For many counties those opinions opine that the county is not responsible for salaries of deputy district court clerks. They go as far as to say that the county is not responsible for paying fringe benefits for the judge and clerk – fringe benefits like health insurance, retirement, etc. Arkansas Attorney General Opinion No. 1996-207 is a concise opinion that covers this topic.

However, notice the first four words of A.C.A. 16-17-115(a) – “except as authorized otherwise”. Arkansas Code Annotated 16-17-108 is a state law that establishes the salaries or the perimeters for salaries of personnel and other requirements of various district courts. This code may or may not establish the proportion of salaries paid in accordance with A.C.A. 16-17-115(a) – but it is a state law that normally has the blessing of local officials concerning the division of district court expenses before it is enacted by the legislature. There are a few other state code sites that are specific to individual district courts and the cost division thereof.

The local political subdivisions may also have local agreements concerning the division of district court expenses in accordance with A.C.A. 16-17-115(b)(1)(A)(ii).

To synopsize the division of expense for district courts in Arkansas the fall back position according to A.C.A. 16-17-115 is that county government is responsible only for one-half (1/2) of the salaries of the district court judge and each chief court clerk [subdivision (a)] and towns and cities are responsible for the other one-half of the salaries of the district court judge and each chief court clerk in addition to the operational expense of the district court [subdivision (b)(1)(A)(i)(ii)]. According to Attorney General Opinion No. 1999-207 the salaries of deputy court clerks would be included in “operational expense”. However, the division of expense for district court can be otherwise if delineated for a specific district court(s) in state law or by local agreement of the political subdivisions.

### **Q: What is a county's financial responsibility in the cost of the operation of a public defender's office?**

**A: Until January 1, 1998 county government had full responsibility for the financial operation of public defender offices – including salaries.** That changed with the passage and enactment of Act 1341 of 1997 to phase in the transfer of funding of the state trial court system from county government to the State of Arkansas. This act of the legislature made public defenders state employees, but left counties with some financial responsibility for the funding of public defender operations.

With the passage of Act 1341 of 1997 county government had to relinquish 85% of the amount certified as having been collected during calendar year 1994 for the purpose of funding the office and operation of the public defender. This money had been available each year in the County Administration of Justice Fund for use in funding the public defender. County government gave up 85% of this funding source for the State to take over the salaries for public defender offices and counties retained the other 15% to pay for office operations.

Section 12 of Act 1341 of 1997 [Funding of Public Defenders.] was codified as A.C.A. 16-87-302 and breaks down the responsibility for the funding of public defenders.

The State of Arkansas is responsible for: (1) salaries of public defenders; (2) salaries of secretaries and other support staff of the public defender's office; and (3) the payment of the costs of certain expenses. Those expenses are outlined in A.C.A. 16-87-212 which are expenses regarding the defense of indigents and include, but are not limited to, fees for appointed counsel, expert witnesses, temporary investigators, testing, and travel.

County government is responsible for the payment of the following for public defenders: (1) the cost of facilities, equipment, supplies, and other office expenses necessary to the effective and efficient operation of the public defender's office; and (2) the compensation of additional personnel within the office of the public defender, when approved in advance by the quorum court.

One final note – read Arkansas Attorney General Opinion No. 2004-079 for some insight on the transition of funding for public defenders from counties to the State.

**Q: 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?**

**A: The general answer to the question is “no” – but there are some exceptions to the rule.** There is no state law that specifically says you can transfer from General to Road but not vice versa. The law is “unwritten” and is a conclusion of deductive reasoning using the laws that are written concerning county government accounting practices, Attorney General Opinions, and case law.

The premise is this – the County General Fund is made up of “general” or unrestricted revenues of the county. General revenues of the county can be spent for any legal expenditure of the county. Therefore general funds of the county can be transferred through an appropriated transfer to the Road & Bridge Fund or any other fund of the county where those funds can then be appropriated and spent for whatever purpose the receiving fund is established for.

However, the Road Fund and many other funds on the books of the county are “Special Revenue” funds – which mean they are restricted use funds. They are used to account for the proceeds of specific revenue sources that are legally restricted to expenditures for specific purposes. Even general funds of the county that are transferred to a “special revenue” fund take on the persona and expenditure restrictions of that fund. Therefore, “special” or “restricted” revenue funds cannot, as a general rule, be transferred to County General for general purpose expenditures.

The only legal way that Road & Bridge funds (or other special revenue funds) could be transferred to County General would be in the event of an error. Here is an example: A legitimate road expense was inadvertently paid with general fund revenues. Upon discovery of the error a county court order transfer from Road to County General could be made to reimburse the general fund for the legitimate road fund expenditure. The court order should actually be written in such fashion to accomplish a reduction of expenditures in the general fund and an increase of expenditures in the road fund.

As mentioned earlier, there are a few exceptions to the rule. Normally “special revenues” or “restricted funds” are just that – they can be used only for the purposes set out in law. But, in the case of some special revenue funds the law establishing the fund(s) allows for an exception. State law allows an appropriated transfer of funds from a few of the county official special revenue funds to the general fund at the discretion of the official for whom the fund was established. Those exceptions include the:

County Clerk’s Cost Fund [A.C.A. 21-6-413(e)(2)(C)]

County Recorder’s Cost Fund [A.C.A. 21-6-306(c)(2)(B)]

Communications Facility & Equipment Fund [A.C.A. 21-6-307(b)(2)(D)]

**Q: Is it a requirement of state law that the County Clerk and County Treasurer jointly reconcile the expenditures of the county each month?**

**A: This practice of reconciliation makes perfect sense since both the offices of County Clerk and County Treasurer are involved in the expenditure of county funds.** Reconciliation would be the monthly culminating step for check and balance. However, you will not find a state law in the Arkansas Code Annotated that specifically requires this financial reconciliation tool. But, that is not the end of the discussion.

The Division of Legislative Audit was mandated by the General Assembly through the provisions of Act 122 of 1981 [A.C.A. 14-21-101] to develop a comprehensive financial management system for county government. The Comprehensive Financial Management System was developed and the counties of Arkansas were required to implement it on or before January 1, 1983. This manual IS law. Even the preface of the manual says, “the accompanying manual codifies and formalizes the components of the financial management system.....”

The Financial Management System manual [both the original and the revised version] contains a section called “Other General Information” that includes a subsection entitled “Reconciliation of Expenditures – Clerk’s and Treasurer’s

Records”. This section of the manual says, “As the County Clerk maintains the County Court Claims Docket/Warrant and Transfer Register as supporting records, it is imperative that the warrants or check/warrants evidencing these expenditures as recorded in the Claims Docket/Warrant and Transfer Register be reconciled with the warrants or check/warrants issued and/or redeemed by the Treasurer, who acts as the financial custodian of county funds. The reconciliation is necessary to substantiate the recorded expenditures – by warrant or check/warrant – of county funds between the Clerk’s records and the Treasurer’s records and to determine the Treasurer’s cash balance for each operating fund based on the warrants or check/warrants issued and redeemed.”

The answer then is “yes”. The law requires a monthly reconciliation of the Clerk and Treasurer records for county expenditures as required by the current Comprehensive Financial Management Manual [as required by A.C.A. 14-21-101] and the revised manual which must be implemented by the counties of Arkansas on or before January 1, 2014.

## 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.

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**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 person 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.

**ALLOCUATION** - 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 filed in a case.

**ANNULMENT** - A lawsuit asking the court's determination that a marriage is void. (Ark. Stat. 9-12-201)

**ANSWER** - The pleading that 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 dispute.

**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 supporting 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 that disregards the order or authority of a court.

**CONTINUANCE** - 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 that, 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 that 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 that 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 that 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 prevent 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 that, 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 that 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 that 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 that 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 that has already been through a trial because of some error in the first trial; also used to describe the motion that 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 that 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.

**QUALIFIED ELECTOR** - A person who holds the qualifications of an elector and who is registered pursuant to Arkansas Constitution, Amendment 51.

**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 person 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 that 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 that 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 that 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 "jurisdiction."

**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 that 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.