[Current: March 4, 2021]

Administrative Orders

~~Order 1. Special Judges~~

[REPEALED by per curiam order of December 17, 2020; effective January 1, 2021]

~~Section 1. The procedure set out in this administrative order is intended to apply when the judge of a circuit court shall fail to attend on any day scheduled for the holding of that court due to an emergency or sudden illness, or when a judge's disqualification from presiding in any pending case is unanticipated. It should be employed to address unforeseen situations in which a replacement cannot be assigned pursuant to Administrative Order No. 16 - Procedures Regarding the Assignment of Judges. Administrative Order No. 16 requires that when a circuit judge is temporarily unable to serve, first, the other judges in the circuit should attempt to cover the absence; next, the Chief Justice should be requested to make an assignment; lastly, Administrative Order No. 1 should be utilized.~~

~~Section 2. When a special judge is to be elected, notice shall be given by the clerk of the court to the regular practicing attorneys in the county served by the court in the most practical manner under the circumstances, including giving notice by telephone or by posting the notice in a public and conspicuous place in the courtroom. Upon notice from the clerk of the court, the regular practicing attorneys attending the court may elect a special judge. The attorneys present in the courtroom shall elect one of their number as special judge. The election shall be conducted by the clerk of the court, who will accept nominations from the attorneys present. Only attorneys who are qualified to serve as special judge may vote in the election of a special judge. The election shall be by secret ballot. The attorney receiving a majority of the votes shall be declared elected as special judge. He or she shall immediately be sworn in by the clerk and shall immediately enter upon the duties of the office. He or she shall adjudicate those causes pending at the time of his or her election.~~

~~Section 3. No person who is not an attorney regularly engaged in the practice of law in the State of Arkansas and duly licensed and in good standing to do so, and who is not a resident possessed of the qualifications required of an elector of this state, whether registered to vote or not, shall be elected special judge. A law clerk is not eligible to be elected as a special judge.~~

~~Section 4. For purposes of this rule, each division of circuit court in a multi-judge county shall be considered to be a separate court.~~

~~Section 5. The clerk of the court in the county in which the special judge election is held shall make a record of the proceedings, which shall be a part of the record of the court and shall be in substantially the following form:~~

~~IN THE_____COURT OF_____COUNTY, ARKANSAS~~

~~IN THE MATTER OF_____, SPECIAL JUDGE~~

Now on this _____ day of _____, Honorable_____

[notified the clerk that he/she was unable to attend or preside over this court on this day] [failed to attend and preside over this court on this day].

WHEREUPON, the Clerk gave notice pursuant to Administrative Order No. 1 that an election was to be held for a Special Judge to preside during the absence of said Judge.

AND THEREAFTER, Honorable_____, an attorney at law, a resident of the State of Arkansas and possessing the required qualifications, having received a majority of the votes cast at such special election, at which only the practicing attorneys in attendance in the Court were allowed to vote, was found and declared to be duly elected Special Judge to preside during the absence of Honorable_____.

WHEREUPON, the Clerk did administer the oath of office required by law for such Special Judge, and he/she assumed the bench and entered upon the discharge of his/her duties herein.

_____
Clerk

OATH OF OFFICE

STATE OF ARKANSAS)

COUNTY OF_____)

I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of Special Judge of _____ Court, _____ Division, _____ County, upon which I am about to enter.

_____
Special Judge

Witnesses:

_____

_____

_____

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

_____
Clerk

By:
_____
Deputy Clerk

HISTORY

Adopted December 21, 1987, effective March 14, 1988; amended May 24, 2001, effective July 1, 2001; amended May 27, 2010; repealed December 17, 2020, effective January 1, 2021).

Order 2. Dockets and Other Records

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

criminal	CR2002-1
civil	CV2002-1
probate	PR2002-1
domestic relations	DR2002-1
juvenile	JV2002-1
warrant	SW2002-1
	AW2002-1

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

The warrant docket is used for warrants that have been returned either executed or unexecuted when a case file has not yet been opened. If a criminal case is subsequently opened, the information in the warrant docket related to the criminal case is transferred to it. Access to the contents of the warrant docket shall be governed by the applicable rule of criminal procedure and Administrative Order Number 19.

(b) *Judgments and Orders.*

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

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

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

(4) A judge may make any order effective immediately by signing it, noting the time and date thereon, and marking or stamping it "filed in open court" or "filed by Judge." Any such order shall be filed-marked with the clerk no later than the next day on which the clerk's office is open, and this filing date shall control all appeal-related deadlines pursuant to Rule 4 of the Arkansas Rules of Appellate Procedure–Civil.

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

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

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

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

(g) *File Mark.*

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

(2) If a document is such that the first page cannot be drafted to provide sufficient space to

satisfy the file-mark requirement, the document must include the uniform cover page developed by the Administrative Office of the Courts and found under Forms and Publications at https://www.arcourts.gov/forms-and-publications/court-forms/uniform-cover-page.

UNIFORM COVER PAGE

[To be used when required by Administrative Order No. 2 (g)*]

COURT: _____ COURT OF _____ COUNTY

Docket/Case Number: _____

CASE NAME:

PLAINTIFF/

PETITIONER: _____

DEFENDANT/

RESPONDENT: _____

TITLE OF PLEADING OR DOCUMENT BEING FILED

(If a multi-part file,

the designation "part_ of_"

(example, part 1 of 2)): _____

*Administrative Order No 2.

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

COMMENT

Reporter's Notes (1999):

Subdivision (c)(2) of this rule does not authorize the filing of judgments, decrees or orders by facsimile transmission. However, Administrative Order No. 2(b), as amended in 1999, requires any clerk's office with a facsimile machine to "accept facsimile transmission of a judgment, decree or order filed in such manner at the direction of the court." The faxed judgment, decree or order is effective when entered by the clerk. To ensure the permanency of official court records, the original judgment, decree or order must be substituted for the facsimile copy within 14 days of

transmission, but this step does not have any bearing on the effectiveness of the faxed document or the time for taking an appeal.

Addition to Reporter's Notes (2000): The second paragraph of this rule provides that a judgment or decree "is effective only when ... set forth [on a separate document] and entered as provided in Administrative Order No. 2." As amended in 1999 [effective 1/1/00], Administrative Order No. 2(b) provides that a judgment, decree or order is "entered" when stamped or otherwise marked by the clerk with the time and date and the word "filed," irrespective of when it is recorded in the judgment book. When the clerk's office is not open for business, and upon an express finding of extraordinary circumstances, an order is effective immediately when signed by the judge. Such order must be filed with the clerk on the next day on which the clerk's office is open, and this filing date controls all appeal-related deadlines.

The amendment to Administrative Order No. 2(b) also requires any clerk's office with a facsimile machine to "accept facsimile transmission of a judgment, decree or order filed in such manner at the direction of the court." The faxed judgment, decree or order is effective when entered by the clerk. To ensure the permanency of official court records, the original judgment, decree or order must be substituted for the facsimile copy within 14 days of transmission, but this step does not have any bearing on the effectiveness of the faxed document or the time for taking an appeal.

Addition to Reporter's Notes (2015):

This order was amended to create a warrant docket for the filing of arrest warrants (see Ark. R. Crim. P. 13.4) upon their return, whether executed or unexecuted.

Reporter's Notes (2018 Amendments):

Subdivision (g) was added to ensure that file marks are legible and is especially needed at this time to accommodate electronic-filing software.

HISTORY

Adopted December 21, 1987, effective March 14, 1988; amended May 15, 1989; amended July 17, 1989; amended October 12, 1989; amended January 22, 1998; amended June 24, 1999; amended December 9, 1999, effective January 1, 2000; amended May 24, 2001, subsections (a)-(e) effective January 1, 2002, subsection (f) effective July 1, 2001; amended March 13, 2003; amended February 10, 2005; amended July 2, 2015, effective September 1, 2015; amended December 7, 2017, effective December 7, 2017; amended June 21, 2018, effective September 1, 2018.

Order 3. Trial Briefs — Trial and Appellate Court Decisions —Time Limitations and Reports

1. *Trial briefs.* All matters which are under submission to a trial judge should be promptly, efficiently, and fairly determined. The total time for all parties to file briefs in any case in the circuit courts is limited to a period not to exceed thirty (30) days after the trial is completed and the case is ready for decision. Upon a showing or written statement of special circumstances in a particular case, the time for filing briefs may be extended, reduced, or eliminated at the discretion of the trial judge.

2. *Trial court decisions.*

A. Judges of circuit courts are directed to submit to the Administrative Office of the Courts at the end of each calendar quarter, reports of cases which have been under advisement for more than ninety (90) days after final submission. These reports are to be submitted on forms supplied by the Administrative Office of the Courts. In cases which have been pending for more than ninety (90) days after final submission, the quarterly report shall include the date when the case was submitted and a statement of the reasons necessitating the delay in rendering a decision. If there are no cases which are pending for that length of time, the report shall simply state "none."

B. For purposes of subdivision 2(A) of this order, civil cases under final submission include those with motions submitted for decision that could result in the resolution or dismissal of the case, as well as those cases that have been fully tried and submitted on their merits. If a civil case has been fully tried, or a potentially dispositive motion argued at a hearing, then the case shall be under final submission at the conclusion of the trial or hearing, or on the date any post-trial or post-hearing briefing is filed, whichever last occurs. If no hearing is held on a potentially dispositive motion, then the case shall be under final submission on the date a party files with the circuit clerk a copy of a letter notifying the circuit judge that the motion is ready for decision. The letter shall enclose copies of all the filed papers relating to the motion and reflect service on all other counsel of record.

C. For purposes of subdivision 2(A) of this order, a motion, application, or petition requesting post-conviction relief in a criminal case, including a petition under Arkansas Rule of Criminal Procedure 37, shall be considered under final submission on the date that the petitioner files with the circuit clerk a copy of a letter notifying the circuit judge that the motion, application, or petition has been filed. The letter to the judge shall enclose all copies of pleadings and documents relating to the motion, application, or petition and shall reflect service on the prosecuting attorney. If, within ninety (90) days of the date on which the letter is filed with the circuit clerk, the judge sets a hearing on the motion, application, or petition, then the date on which the petition is considered under final submission shall be extended until the date on which the hearing concludes or the date on which the last post-hearing briefing is filed, whichever last occurs.

D. The Administrative Office of the Courts shall promptly review all reports filed by the trial courts, and if it determines that the delay in any case was not caused by the parties or their counsel, it shall recommend to the Supreme Court a judge to be assigned or appointed to dispose of the delayed case.

E. Willful noncompliance with the provisions of the order shall constitute grounds for discipline under the provisions of Canon 3 B (8) of the Arkansas Code of Judicial Conduct. Any judge whose quarterly report is not received by the 15th of the month following the end of the previous quarter (i.e., January 15, April 15, July 15, October 15) will be automatically referred to the Judicial Discipline and Disability Commission for possible discipline.

3. *Appellate court decisions*.

A. Justices and Judges of the Arkansas Supreme Court and Court of Appeals are directed to submit to the Chief Justice of the Supreme Court at the end of each quarter a report of any case in which an opinion has not been issued within sixty (60) days from the case’s submission. The report shall include a statement of the reason necessitating the delay in issuing an opinion.

B. The Supreme Court will review the reasons given for delay in any reported case and make any

reassignment or take any appropriate action necessary to dispose of the case.

C. Willful noncompliance with the provisions of this order shall constitute grounds for discipline under the provisions of Canon 3B(8) of the Arkansas Code of Judicial Conduct.

4. *Effective date.* This order shall become effective commencing January 1, 1991, and the initial quarterly reports shall be filed on or before March 31, 1991, and the last day of each quarterly month thereafter.

Court Notes, 2007:

New subdivision (2)(B) has been added to clarify when, for purposes of this order, the circuit court takes civil cases under final submission. For dispositive motions where no hearing is held, the order now obligates counsel (or a pro se party) to write the court and provide copies of all the motions, thus fixing a clear submission date. This letter must also be served on all parties and filed with the circuit clerk. Former subdivisions (2)(B) and (2)(C)) have been renumbered.

New subdivision 2(C) addresses Rule 37 petitions and similar post-conviction motions in criminal cases. Rule 37.3(a) permits the circuit court to dispose of a Rule 37 petition without a hearing based on the files and records of the case. Subdivision 2(C) requires the circuit judge to report Rule 37 petitions that have not been so disposed within ninety (90) days after the petitioner files the notification letter described in the subdivision. If within that 90-day period, the judge schedules a hearing on the petition, as provided in Rule 37.3(c), then the petition is not considered under final submission until ninety (90) days after the later of the conclusion of the hearing or the filing of any post-hearing briefs.

Subdivision 2(C) does not apply to post-trial motions filed under Arkansas Rule of Criminal Procedure 33.3. Pursuant to Rule of Appellate Procedure–Criminal 2(b)(1), such motions are deemed denied on the 30th day after the entry of judgment, unless the court denies the motion before that date. Consequently, a circuit court should never have a Rule 33.3 post-trial motion under advisement for more than ninety (90) days.

COMMENT

Publisher's Notes: The Dec. 23, 1996, Per Curiam provided, in part: "The addition of the second sentence in subsection (2)(C) with respect to the late filing of quarterly reports shall become effective with the reports due March 31, 1997, which must be filed no later than April 15, 1997."

HISTORY

Adopted November 19, 1990, effective January 1, 1991; amended December 23, 1996; amended May 24, 2001, effective July 1, 2001; amended September 27, 2001; amended October 18, 2001.

Order 4. Verbatim Trial Record

(a) *Verbatim Record.* The circuit court shall require the official court reporter to make a verbatim record of all proceedings pertaining to any matter before the court or the jury, regardless of whether these proceedings occur in-person, in court, or in chambers; telephonically, or through video-conference. This may be waived by the parties in all matters except criminal cases. Circuit Courts are courts of records and waivers are discouraged in most circumstances. The verbatim record shall

include a transcription of all spoken words from any source including but not limited to: colloquies between the court and counsel and self-represented litigants; arguments; objections; testimony; jury instructions; communications between the court and members of the jury; discussions concerning juror notes; and audio contained in videos or other recordings that are presented to the court or jury, whether in open court or *in camera*.

(b) *Back-up System*. When making a verbatim record, an official court reporter or substitute court reporter shall always utilize a back-up system in addition to his or her primary reporting system in order to insure preservation of the record.

(c) *Exhibits.* Physical exhibits received or proffered in evidence shall be stored pursuant to the requirements of Section 21 of the Regulations of the Board of Certified Court Reporter Examiners, Official Court Reporter Retention Schedule.

(d) *Sanctions*. Any person who fails to comply with these requirements shall be subject to the discipline provisions of the Rules and Regulations of the Board of Certified Court Reporter Examiners in addition to the enforcement powers of the court, including contempt.

(e) *Electronic Recording*.

1. *Applicability*. This subsection (e) shall apply to state district court judges presiding over matters pending in circuit courts pursuant to Administrative Order Number 18 and to circuit court judges upon request to and approval by the Supreme Court.

2. *Electronic recording*. An audio recording system may make the verbatim record of court proceedings. A recording system used for the purpose of creating the official record of a court proceeding shall meet the standards adopted and published by the Administrative Office of the Courts ("AOC"). The system shall be approved by the AOC, and it shall be tested and court personnel shall be trained before the system is implemented. The system shall include a back-up capability to satisfy the requirement of subsection (b) of this Administrative Order.

3. *Record security*.

(A) The trial court shall maintain the electronic recordings of court proceedings and all digital files, backup files, and archive files consistent with standards adopted and published by the AOC.

(B) Subsection (c) of this Administrative Order regarding the storage of trial exhibits when using an electronic recording system is supplemented by the following: During the period in which the records are required to be retained, the trial court may order items of physical evidence held for storage and safekeeping by the attorneys of record, and such arrangements shall be appropriately documented. Forms of orders and receipts are appended to the Regulations of the Board of Certified Court Reporter Examiners. When physical exhibits include firearms, contraband, or other similar items, the trial court may order such items transferred to the sheriff or other appropriate governmental agency for storage and safekeeping. The sheriff or governmental agency shall sign a receipt for such items and shall acknowledge that the items shall not be disposed of until authorized by subsequent court order. See Regulation 21 of the Regulations of the Board of Certified

Court Reporter Examiners for the record retention schedule and other requirements for maintaining records and exhibits.

4. *Official transcripts*. When a transcript is required and is to be prepared from an audio recording, the official court reporter of the circuit judge to which the case is assigned shall be responsible for preparing the transcript, and the statutory rate and payment provisions shall apply. A transcript prepared from an audio recording of a court proceeding prepared and certified by an official court reporter is an official transcript for purpose of appeal or other use.

COMMENT

AOC Provisional Guidelines for Digital Audio Recording in State District Courts.

Court Note (2021)

Section (a) currently mandates the verbatim record, with waiver exception in limited circumstances, on circuit courts. It does not mandate a verbatim record for state district courts. Section (e) sets out the requirements when state district courts elect to create a record when presiding over circuit court matters, but it remains discretionary until a later amendment of Order 4.

A proceeding for purposes of Order 4 is considered a hearing, or portions thereof, conducted by the court.

HISTORY

Adopted May 6, 1991, effective July 1, 1991; amended May 24, 2001, effective July 1, 2001; amended February 21, 2008; amended February 9, 2011, effective July 1, 2011; amended and effective December 3, 2020.

Order 5. Criminal Cases Where Alleged Victim Is Under Age Fourteen

Arkansas Code Annotated § 16-10-130 (1987) provides that all courts of this state shall, in the absence of extraordinary circumstances, give precedence to the disposition of criminal cases over other matters, civil or criminal, when the alleged victim is under age fourteen. Effective immediately, when a case affected by § 16-10-130 is not tried or otherwise disposed of within nine months following the filing of a criminal information in the circuit court, the circuit judge before whom the case is pending will inform the Administrative Office of the Courts in writing the reason or reasons therefor. Thereafter, at intervals of ninety (90) days the trial court will inform the Administrative Office of the Courts of the status of the case. During the pendency of the case, no continuance shall be granted on motion of either the State or the defendant except upon written order detailing the reasons for, and the duration of, the delay.

HISTORY

Adopted October 5, 1992; amended and effective by per curiam order March 13, 2014.

Order 6. Broadcasting, Recording, or Photographing in the Courtroom

(a) *Application—Exception.* This Order shall apply to all courts, circuit, district, and appellate, except as set out below.

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

(c) *Exceptions*. The following exceptions shall apply:

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

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

(3) The following shall not be subject to broadcasting, recording, or photographing:

all juvenile matters in circuit court,

all probate and domestic relations matters in circuit court (e.g., adoptions, guardianships, divorce, custody, support, and paternity), and

all drug court proceedings.

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

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

(d) *Procedure*. The broadcasting, recording, or photographing of any court proceeding shall comply with the following rules:

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

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

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

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

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

(6) Camera and audio equipment shall be installed or removed only when the court is not in session. Film changes shall not be made while court is in session. No audio equipment shall be used to record conversations between attorneys and clients or conversations between attorneys and the court held outside the hearing of the jury.

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

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

(9) The Supreme Court and Court of Appeals may make audio and video recordings of oral arguments and other proceedings.

> A. Oral arguments and other appellate proceedings may be recorded, broadcasted or webcasted through a live or tape-delayed format as the Supreme Court shall direct. Commercial and educational broadcasters may be allowed to connect to the court's systems for recording or broadcasting proceedings subject to the court's requirements.
>
> B. Recordings will be maintained by the Clerk of the Supreme Court and the Court of Appeals and shall be retained until such time as the Supreme Court shall order their destruction. Copies of audio and video recordings may be made available to

the public at a price representing the cost of copying as shall from time to time be established by the Supreme Court.

C. An objection under subsection (c)(1) of this Order to the broadcasting, recording, or photographing of an oral argument or other appellate proceeding shall be made to the court, and the court in its discretion shall decide whether broadcasting, recording, or photographing will be permitted.

(e) *Contempt*. Failure to abide by any provision of this Order can result in a citation for contempt against the news representative and his or her agency.

HISTORY

Adopted July 5, 1993; amended May 24, 2001, effective July 1, 2001; amended and effective May 27, 2010, subsections (d)(7)-(9) added; amended July 27, 2011, effective August 1, 2011, subsection (c)(3).

Order 7. Arkansas Supreme Court and Court of Appeals Records Retention Schedule

Section 1. Statement of policy.

Unless otherwise provided by law or as set forth herein, all records of the Arkansas Supreme Court and Court of Appeals shall be permanently maintained.

Section 2. Transfer of permanent records.

a. Physical custody of any record to be maintained permanently, may be transferred to any institution which maintains a special collections department by letter agreement upon approval by the Arkansas Supreme Court. Title to records which must be permanently maintained shall remain with the Arkansas Supreme Court.

b. The Clerk shall permanently maintain a log of transferred records. The log shall list record series, description of records transferred, to whom transferred, and the date of transfer.

Section 3. Alternatives to permanent retention.

a. Once microfilmed in a manner approved by the Administrative Office of the Courts, any paper record may be destroyed or donated by the Clerk, regardless of the number of years stated for retention in the Retention Schedule found in Section 6 below.

b. Once the period of retention has expired, or the record has been microfilmed, whichever occurs first, the paper record may be donated, transferring full title possession to any institution which maintains a special collections department.

c. Any interested institution shall advise the Clerk of the institution’s desire to receive notification when records become available for donation or transfer. The Clerk shall determine the recipient of the record(s) where more than one institution requests custody or custody and title. Records which are available for donation or transfer and which have not been requested within ninety (90) days of the notification shall be subject to disposal as set forth in Section 4 below.

d. The Clerk shall permanently maintain a log of donated records. The log shall list record series, descriptions of records donated, to whom donated, and date of donation.

Section 4. Disposal of records.

a. When records have been damaged or destroyed by decay, vermin, fire, water, or by other means which renders them illegible, the Clerk may dispose of the remains as provided in subsection b.

b. Records shall be disposed of by burning, shredding, recycling, or by depositing them in a public landfill.

c. Exhibits shall be disposed of as provided in Rule 3-6 of the Rules of the Arkansas Supreme Court and Court of Appeals.

d. The Clerk shall permanently maintain a log of disposed of records. The log shall list record series, descriptions of records disposed of, and method and date of disposal.

Section 5. Records omitted.

a. Any record not listed in the Records Retention Schedule shall be maintained permanently or until provided for otherwise in the retention schedule.

b. Omitted records should be brought to the attention of the Administrative Office of the Courts by letter which includes a description of the record, age of the record, and such photocopies as will assist in understanding the content and purpose.

c. Any recommendations for changes in the Retention Schedule should be brought to the attention of the Administrative Office of the Courts.

Section 6. Retention schedule.

Record Type Retention Instructions

Supreme Court and Court of Appeals Docket Books:
Retain Permanently.

Supreme Court and Court of Appeals Case Indices:
Retain Permanently.

Supreme Court and Court of Appeals Record of Proceedings:
Retain Permanently.

Civil Case Records and Case Files After 1940:
Retain seven (7) years after case is closed, then offer for donation.

Criminal Case Records and Case Files After 1940:
Retain Permanently.

Death Penalty:
Retain Permanently.

Life without Parole:
Retain Permanently.

Life:
Retain Permanently.

Felony with greater than 10 year sentence:
Retain ten (10) years after case is closed, then offer for donation.

Other criminal cases with 10 year sentence or less:
Retain five (5) years after case is closed, then offer for donation.

Civil and Criminal Records:

Prior to and including 1940:
Retain Permanently.

Rule on Clerk Denied Records:
Supreme Court and Court of Appeals Case Record and Case File.
Retain five (5) years.

Employment Security Division:

Case Record and Case File:
Retain three (3) years.

Supreme Court and Court of Appeals Opinions:

Original copy of Opinions and Per Curiam Opinions:
Retain Permanently.

Financial Records including:

Supreme Court & Court of Appeals, Clerk's Office, Court Library, Appellate Committees, Personnel, Arkansas Attorneys, Arkansas Bar Account, Court Reporters, Client Security Fund:

> Vouchers, Ledgers, Receipts, Contracts, Cancelled Checks, Bank Statements, Fees, Audit Reports, Tax Reports, Social Security Reports, Retirement Reports, Purchase Orders, Insurance Reports, and Requisition Reports.

Retain three (3) year following legislative audit.

Other Supreme Court and Court of Appeals Documents including:

All case related motions, petitions, summons, mandates, and bonds, which have been filed separately from the case file.
Retain as long as Case file is maintained.

Original actions, motions, and petitions.
Retain seven (7) years.

Per Curiam Orders.
Retain as long as Case file is maintained.

Arkansas Attorney Records:

Petitions for Licenses.
Retain Permanently.

Student Practice, Rule 15 Petitions.
Retain five (5) years.

Professional Association Members List.
Retain Permanently.

Professional Association Members Receipts.
Retain three (3) years following Legislative audit.

Committee on Professional Conduct Files.
Retain Permanently.

Correspondence and Misc. Letters.
Retain three (3) years.

Certification of Registration.
Retain three (3) years.

Board of Certified Court Reporter Examiners Disciplinary files, which may include, but is not limited to:

Grievance forms, Complaints, Responses, Probable Cause Vote Sheets, Motions, Discovery, Final Orders, Notices of Appeal, Transcripts from Hearings, and Opinions form the Supreme Court.
Retain Permanently.

Applications for Certification and related files.
Retain two (2) years following the date of testing.

Records from Board meetings
Retain Permanently.

Correspondence
Retain three (3) years.

All other documents not referenced in this section or other rules or regulations.
Retain seven (7) years.

United States Supreme Court Records:

US Supreme Court Mandates.
Retain as long as Case File is maintained.

US Supreme Court Writs of Certiorari.
Retain as long as Case File is maintained.

Other Records maintained by Clerk's Office including:

Court of Appeals Motion Assignment Sheet, Court of Appeals Motion Pending file Supreme Court and Court of Appeals Syllabus, Court of Appeals Oral Argument file, Court of Appeals Submissions file, Condition of Supreme Court Docket Summary file.
Immediate Disposal.

Court Clerk Correspondence including:

Correspondence to Civil Procedure Committee, Letters to Clerk Certifying Briefs, Employment Security Division Late Filing Correspondence, Oral Arguments Confirmation Letters, Library Delinquent Accounts Correspondence.
Immediate Disposal.

Miscellaneous or General Correspondence:
Retain one (1) year.

Section 7. Definitions.

a. *Clerk.* The Clerk of the Supreme Court and Court of Appeals.

b. *Immediate disposal*. The record(s) may be disposed of at the discretion of the Clerk.

c. *Retain as long as case file is maintained*. The record(s) should be returned to the case file if possible, but if this is not possible, the record shall be retained in accordance with the instructions for retention of the case file to which it would belong.

d. *Retain permanently*. The record(s) must forever be retained by the Clerk, transferred pursuant to Section 2(a), or microfilmed pursuant to Section 3(a).

e. *Retain (#) years, then offer for donation*. The record(s) shall be retained the specified period and then offered for donation, pursuant to Section 3.

f. *Retain (#) years following legislative audit*. The record(s) shall be retained the specified number of years from the date of publication of the legislative audit report.

g. *Retain (#) years*. The record(s) shall be retained for the specified period.

h. *Case closed*. Supreme Court and Court of Appeals cases shall be considered closed once a mandate is issued or another written order of final disposition is entered.

i. *Case record*. The trial court or administrative tribunal case record, and the court reporter's certified transcript, lodged with the appellate court as provided by Rules 3-1, 3-2, 3-3, and 3-4 of the Rules of the Arkansas Supreme Court and Court of Appeals, as well as the attorneys' briefs.

j. *Case file*. All correspondence, motions, petitions, orders, dispositions, and mandates issued and filed during the appellate process.

HISTORY

Adopted June 20, 1994.

Order 8. Forms for Reporting Case Information in All Arkansas Courts

Section I. Scope.

a. In every action filed in the circuit courts, a form designed for the uniform collection of case data shall be submitted with the initial pleading and again at final disposition. The forms shall be used in assigning and allocating cases and to collect statistical case data. The forms shall not be admissible as evidence in any court proceeding or replace or supplement the filing and service of pleadings, orders, or other papers as required by law or the rules of this Court.

b. In the event that a jurisdiction has implemented electronic filing pursuant to Administrative Order Number 21, the Administrative Office of the Courts shall have the authority to waive the utilization of the forms required by this order to the extent that the information can be submitted through the electronic-filing system.

Section II. Responsibility for forms.

a. *Administrative Office of the Courts.* The Administrative Office of the Courts (AOC) shall be responsible for the content and format of the forms after consultation with other appropriate agencies or as may be required by law. The AOC shall be responsible for training in the use of these forms and for initial dissemination of the forms.

b. *Court clerk.* For the purposes of this administrative order, court clerk means an elected circuit clerk in whose office a pleading, order, judgment, or decree is filed, as well as any deputy clerks in those offices. Court clerk also means any county clerk who serves as ex officio clerk of the probate division of the circuit court pursuant to Arkansas Code Annotated section 14-14-502(b)(2)(B) for this limited purpose.

The court clerk shall not accept an initial pleading or final order that is not accompanied by the appropriate form, except as provided elsewhere in this order. The court clerk shall maintain a supply of forms to ensure their availability to attorneys or self-represented litigants. The court clerk shall report the data electronically to the AOC.

c. *Attorney or self-represented litigant.* The attorney or self-represented litigant filing the initial pleading is responsible for completing the appropriate form and submitting it with the pleading. The attorney or self-represented litigant submitting the final order, or trial court staff as designated by the court, shall complete the disposition information on the appropriate reporting form, and that form shall be submitted to the court clerk.

Section III. Procedure.

a. *Completeness.* Forms accompanying the initial pleading shall be sufficiently complete to enable identification of the parties and to provide essential case information. Forms accompanying final orders shall be sufficiently complete to allow the clerk to enter accurate information to close the

case.

b. *Retention.* Except as provided elsewhere in this order, once data have been entered and transmitted electronically to the AOC, forms may be discarded and shall be excluded from public access as permitted by Administrative Order No. 19

c. *Civil Probate, Juvenile, and Domestic Relations cases.* If a complaint asserts multiple claims involving different subject matter divisions, the cover sheet for the type of case most definitive of the nature of the case should be submitted. Attorneys or self-represented litigants should be cognizant that claims that are wholly unrelated may be severed and proceeded with separately under Rule 18(b) of the Rules of Civil Procedure.

d. *Criminal cases.* A separate cover sheet shall be provided for each defendant. The office of the prosecuting attorney shall be responsible for completing either the Sentencing Order or the Reporting Form for Defense-Related Dispositions for each case, accounting for every charge in the initial or any amended pleading. The appropriate form shall be submitted to the circuit judge for signature and filed with the court clerk. The clerk shall report the data electronically to the AOC pursuant to section (II)(b) and forward a copy of the form to counsel of record for the defendant.

When any charge results in a commitment to the Arkansas Department of Correction or any of the following—probation, suspended imposition of sentence, commitment to Arkansas Community Correction or to the county jail, a fine, restitution, and/or court costs—the Sentencing Order shall be submitted.

When every charge is dismissed or nolle prossed, the case is transferred, or the defendant is acquitted, including an acquittal resulting from the defendant's mental disease or defect, the Reporting Form for Defense-Related Dispositions shall be submitted.

The Sentencing Order and Reporting Form for Defense-Related Dispositions should not be discarded, and they are publicly accessible under the terms of Administrative Order No. 19.

COMMENT

Notes to Amendments (2019):

The amendments involve simplification, clean-up, clarification of old language, and changes resulting from the adoption of the new cover sheets and disposition sheets in 2017.

Section (I) eliminates some obsolete language and adds a paragraph contemplating the ability to submit coversheet information through the electronic-filing system. When all data is received through eFlex, a cover sheet will not be required.

Section (II) adds clarifying language to the meaning of "court clerk" consistent with Amendment 80. Most significantly, the change requires clerks to report electronically to the AOC so that the AOC can end the receipt and data entry of paper from courts. This section also clarifies who is responsible for completing the cover and disposition sheets.

Section (III)(a) clarifies completeness required in order to decrease the number of improperly rejected filings by clerks. Section (III)(d) requires a separate criminal coversheet for each

defendant and clarifies the requirement for Sentencing Orders and the Reporting Form for Defense-Related Dispositions. Cover sheets and disposition forms are not required to be file marked or retained. Sentencing Orders and Reporting Forms for Defense-Related Dispositions must be file marked and retained. The form for Defense-Related Dispositions is no longer appended to this order and, as with other forms, is available on the court's website.

HISTORY

Adopted February 26, 1996; amended April 14, 1997; amended December 4, 1997; amended effective July 1, 2000; amended May 24, 2001, effective July 1, 2001, except section II.(c) [Multiple claims] effective January 1, 2002; amended November 1, 2001, effective January 1, 2002; amended December 15, 2011, effective January 1, 2012; amended October 11, 2018, effective January 1, 2019.

Order 9. Compensatory Time Record Policy for Arkansas Official Court Reporters

A. *Procedures.* To ensure statewide compliance with the Fair Labor Standards Act of 1938 (29 U.S.C. § 207(o)(6)), each official court reporter shall complete the time records required by the Administrative Office of the Courts ("AOC"), sign the time records to certify that they correctly report all hours worked in excess of the 40 hour work week that are not excluded by 29 U.S.C. § 207(o), and monthly submit the records to his/her appointing judge for approval. The time record forms shall be approved by the Arkansas Supreme Court, which is authorized to amend them from time to time as may be necessary.

The appointing judge shall approve and sign each monthly record certifying that, to the best of his/her knowledge, the time record reflects a true and accurate record of compensatory time earned for all hours worked in excess of the 40 hour work week, as defined by the Fair Labor Standards Act ("FLSA"). The appointing judge shall grant the court reporter compensatory time at the rate of one and one-half times the number of hours worked in excess of the 40 hour work week pursuant to this policy.

For the purpose of determining the 40 hour FLSA work week, the established work week shall begin on Saturday at 12:01 a.m. and continue through Friday at 12:00 midnight. Any time excluded by 29 U.S.C. § 207(o) and any time taken off for holidays, compensatory time leave, sick leave, annual leave or any other purpose during the week shall not be counted in determining whether the employee has worked 40 hours.

The appointing judge shall be responsible for maintaining the approved time record and shall forward copies to the AOC at the time and in the manner directed by the AOC. The time records shall be retained by the AOC for the period required by law.

Court reporters shall be permitted to use accrued compensatory time as soon as possible when the court is not in session and without unduly disrupting the operations of the court. The appointing judge shall approve use of compensatory time. Compensatory time may be used in lieu of sick leave or annual leave.

Under no circumstances shall the outstanding balance of compensatory time exceed 90 hours. The appointing judges are responsible for ensuring that court reporters do not exceed this maximum balance of compensatory time.

Accrued compensatory time should be used prior to the employee's termination of employment. If accrued compensatory time is not used prior to the employee's termination of employment, the appointing judge shall hold the official court reporter position vacant for a period equivalent to the period for which accrued compensatory time is paid. The payment for compensatory time shall be at the ending rate of pay for the employee.

The compensatory time records for official reporters is not intended for use by substitute court reporters. Substitute court reporters shall be governed by the provisions of Ark. Code Ann. § 16-13-509 as described in the AOC publication, Arkansas State Trial Court Employment Guide.

B. *Enforcement.*

(i) The failure of court reporters to comply with the requirements of this Order shall constitute grounds for discipline under the provisions of Section 19(c) of the Regulations of the Board of Certified Court Reporter Examiners and Section 7 of the Rule Providing for Certification of Court Reporters, (ii) The failure of appointing judges to comply with the requirements of this Order shall constitute grounds for discipline under the provisions of Canon 3 (C) of the Arkansas Code of Judicial Conduct.

HISTORY

Adopted December 23, 1996, effective January 1, 1997; amended and effective October 22, 2015.

Order 10. Child Support Guidelines 2020

April 2, 2020

REVISED ADMINISTRATIVE ORDER NO. 10

Effective immediately, the new guidelines may be used as an alternative to the previous version of

Administrative Order No. 10. The new guidelines shall be used for all support orders entered after

June 30, 2020.

Section I. Authority and Scope

Pursuant to Act 948 of 1989, as amended, codified at Ark. Code Ann. § 9-12-312(a) and the Family Support Act of 1988, Pub. L. No. 100-485 (1988), the Court adopted and published Administrative Order Number 10, titled "Child Support Guidelines" ("Guidelines"). Pursuant to Act 907 of 2019, codified at Ark. Code Ann. § 9-12-312(a)(4), the attached revised monthly "Family Support Chart" ("Chart") is based on an Income Shares Model. The attached Chart therefore supersedes any prior payor-income-based family support chart. (Section II.1 discusses when this Administrative Order's incorporation of the Income Shares Model affects existing child-support orders.) This Administrative Order includes and incorporates by reference the "Forms"

Addendum: Sample Calculation, Sample Language for Child-Support Orders, Family Support Chart, Child Support Worksheet ("Worksheet"), and the revised Affidavit of Financial Means.

These Guidelines are based on the Income Shares Model, developed by the Child Support Guidelines Project of the National Center for State Courts. The Income Shares Model is based on the concept that children should receive the same proportion of parental income that they would have received had the parents lived together and shared financial resources. The best available economic data on child-rearing expenditures was used to develop the model. A more detailed explanation of the Income Shares Model and the underlying economic evidence used to support it is contained in *Development of Guidelines for Child Support Orders*, Report to the Federal Office of Child Support Enforcement, September 1987 (National Center for State Courts, Denver, Colorado). The September 2019 Review of the Arkansas Child Support Guidelines, an Analysis of Economic Data, Development of Income Shares Charts, and Other Considerations, prepared by Jane Venohr, Ph.D., is available at www.arcourts.gov/forms-and-publications/arkansas-child-support-guidelines.

Under the revised Family Support Chart, each parent's share is that parent's prorated share of the two parents' combined income. The Chart reflects the average amount of money that families in the United States spend on their children. Differences between Arkansas prices and prices across the United States more generally have been accounted for using an index that the U.S. Bureau of Economic Analysis (BEA) developed. The Chart also considers and accounts for:

- federal and state income taxes and FICA;
- average child-rearing expenditures using current measurements developed by Professor David Betson using the Rothbarth methodology to separate the children's share of expenditures from total expenditures;
- out-of-pocket medical expenses of $250.00 per child per year.

The Chart excludes parental expenditures for work-related childcare, the child's share of health insurance premiums, and out-of-pocket medical expenses over $250.00 per child per year.

These Guidelines and the accompanying Worksheet assume that the parent to whom support is owed (payee parent) is spending his or her calculated share directly on the child. For the parent with the obligation to pay support (payor parent), the pro-rata charted amount establishes the base level of child support to be given to the payee parent. The base amount may, however, be adjusted to account for work-related childcare expenditures, the child's share of the health insurance premium, out-of-pocket medical expenses exceeding $250.00 per child per year, the self-support reserve, or other factors a court determines to be in the best interest of a child or children.

Section II. Use of the Guidelines

There is a rebuttable presumption that the amount of child support calculated pursuant to the most recent revision of the Family Support Chart and these Guidelines is the amount to be

awarded in any judicial proceeding for divorce, separation, paternity, guardianship, or child support.

In addition to an initial award for child support or the modification of an existing obligation, these Guidelines should be used to assess the adequacy of agreements for child support and to encourage parties to settle support-related disputes in a comprehensive manner.

These Guidelines provide calculated amounts of child support for a combined parental gross income of up to $30,000.00 per month, or $360,000.00 per year. The child-support obligation for incomes above $30,000.00 per month shall be determined by using the highest amount in these Guidelines. The court may then use its discretion in setting an amount above that to meet the needs of the child and the parent's ability to provide support.

These Guidelines assume that the payor parent has the minor child(ren) overnight in his or her residence less than 141 overnights per calendar year.1

1. Modification of Existing Child-Support Obligation:

Pursuant to Act 904 of 2019, codified at Arkansas Code Annotated § 9-14-107(c)(2), "an inconsistency between the existing child-support award and the amount of child support that results from application of the Family Support Chart shall constitute a material change of circumstances sufficient to petition the court for modification of child support according to the Family Support Chart after appropriate deductions unless:

a. The inconsistency does not meet a reasonable quantitative standard established by the State of Arkansas in accordance with subsection (a) of this section;

b. The inconsistency is due to the fact that the amount of the current child support award resulted from a rebuttal of the guideline amount and there has not been a change of circumstances that resulted in the rebuttal of the guidelines amount; or

c. The inconsistency is due solely to a promulgation to a revision of the Family Support Chart." 2

2. Deviation from the Chart:

All orders granting or modifying child support shall contain the court's determination of the payor's income, payee's income, recite the amount of support required under these Guidelines, and state whether the court deviated from the presumptive child-support calculation set by the Worksheet and these Guidelines. If an order deviates from the Guidelines amount, then the order must explain the reason(s) for the deviation. When deciding whether the Worksheet-based amount

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[1] This Administrative Order presumes that a traditional visitation schedule will be less than 141 nights while a liberal visitation schedule is usually more than 141 nights.

[2] The Section titled "Modification of Existing Child-Support Order" recites verbatim Arkansas Code Annotated 9-14-107(c)(2).

is unjust or inappropriate, the court must consider all the relevant factors, including what is in the child's or children's best interest. A deviation from these Guidelines should be the exception rather than the rule. If a court chooses to deviate from the Guidelines amount, then it must make written findings and explain the deviation. It shall be sufficient in a particular case to rebut the presumption that the amount of child support calculated pursuant to the Worksheet is correct if the court provides in the order a specific written finding that the Worksheet-based amount is unjust or inappropriate. When determining whether to deviate from the Guidelines' amount, a court should consider the following:

a. Educational expenses for the child(ren) (i.e., those incurred for private or parochial schools, or other schools where there are tuition or related costs) and/or the provision or payment of special education needs or expenses for the child(ren);

b. The procurement and/or maintenance of life insurance, dental insurance, and/or other insurance for the children's benefit (for health insurance premiums, see Section II.2 infra);

c. Extraordinary travel expenses for court-ordered visitation;

d. Significant available income of the child(ren);

e. The creation or maintenance of a trust fund for the children;

f. The support given by a parent for minor children in the absence of a court order;

g. Extraordinary time spent with the payor parent;

h. Additional expenses incurred because of natural or adopted children living in the home, including stepchildren if the court finds there is a court-ordered responsibility to a stepchild;

i. The provision for payment of work-related childcare, extraordinary medical expenses for the child in excess of $250.00 per year per child, and/or health insurance premiums. Ordinarily, these expenses will be divided pro rata between the parents and added to the base child support of the payor parent on the Worksheet. In that scenario, it shall not support a deviation. However, if the court chooses not to add them in the total child-support obligation, they could support a deviation; and

j. Any other factors that warrant a deviation.

3. Self-Support Reserve, Minimum Order, and Deviation from the Minimum Order:

In cases where the payor parent's monthly gross income is less than $900.00, the Chart applies a self-support reserve (SSR). The SSR considers the basic subsistence needs of the payor parent and is based on the Federal Poverty Guidelines multiplied by Arkansas's price parity. Arkansas's price parity is the index used to adjust the Chart to reflect Arkansas prices. If the payor parent's child-support amount pursuant to the chart is based solely on the payor parent's gross

income and corresponding number of children falls within the shaded area of the Chart, then the basic child-support obligation and the payor parent's total child-support obligation are computed using only the payor parent's income. In these cases, health insurance premiums, extraordinary medical expenses, and childcare expenses shall not be used to calculate the total child-support obligation. However, payment of these costs by either parent may be used as a reason to deviate from these Guidelines.

When the payor parent's monthly gross income is less than $900.00, a presumptive minimum award of $125.00 per month must issue unless a party can rebut the presumptive amount by a preponderance of the evidence. Some factors that a court may consider when deciding whether a party has rebutted the minimum order amount include but are not limited to the following:

a. There is a large adjustment due to parenting time;

b. The payor is incarcerated (see Section II.4 below);

c. The payor is institutionalized due to a mental illness or other impairment;

d. The payor has a verified physical disability that precludes work;

e. The payor's only income is Supplemental Security Income (SSI);

f. The payor's ability or inability to work; or

g. Any other deviation factor listed above in Subsection II.2 or any income imputation factor listed below in Section III.7.

4. Incarcerated Individuals

Pursuant to Act 904 of 2019, codified at Arkansas Code Annotated § 9-12-312(a), § 9-14-106(a), and § 9-14-107(a), the incarceration of a parent shall be treated as involuntary unemployment for the purpose of establishing or modifying an award of child support. "Incarceration" means a conviction that results in a sentence of confinement to a local jail, state or federal correctional facility, or state psychiatric hospital for at least 180 days and excludes credit for time served before sentencing.

Section III. Gross Income

1. Definitions:

"Income" means the actual gross income of the parent, if employed to full capacity, or potential income if unemployed or underemployed as allowed under Section III.7. Gross income is used to avoid disputes over issues of deductibility that would arise if a net income was used.

These Guidelines presume that the parent with the legal obligation to pay support will file federal taxes as a single individual and have only one state exemption. Adjustments have been made in the Chart for federal and state income taxes, FICA, and average child-rearing expenditures (for example, out-of-pocket medical expenses of $250.00 per child per year).

The monthly child-support amount shall be converted to coincide with the payor's receipt of salary, wages, or other income. For purposes of computing gross monthly income, a month is 4.334 weeks. Bi-weekly means a party is paid once every two weeks, or 26 times during a calendar year. Semi-monthly means a person is paid twice a month, or 24 times per calendar year.

"Child Support Gross Income" means gross income—minus amounts for preexisting child-support obligations paid to another who is not a party to the proceedings and on behalf of a child who is not the subject of the action of the court. Child support arrearage payments shall not be considered in determining a payor's gross income.

"Combined Gross Income" means the combined gross income of both parties.

2. Gross Income Inclusions:

"Income" is "intentionally broad and designed to encompass the widest range of sources consistent with the State's policy to interpret 'income' broadly for the benefit of the child." *Evans v. Tillery*, 361 Ark. 63, 204 S.W.3d 547 (2005); *Ford v. Ford*, 347 Ark. 485, 65 S.W.3d 432 (2002); *McWhorter v. McWhorter*, 346 Ark. 475, 58 S.W.3d 840 (2001); *Davis v. Office of Child Support Enforcement*, 341 Ark. 349, 20 S.W. 3d 273 (2000).

Gross income includes, but is not limited to, the following:

i. Wages, overtime pay, commissions, regularly-received bonuses, or other monies from all employers or as a result of any employment (as usually reported in the Medicare, wages, and tips section of the parent's W-2).

ii. Earnings generated from a business, partnership, contract, self-employment or other similar arrangement, or from rentals.

(a) Income (or losses) from a corporation should be carefully examined to determine the extent to which they were historically passed on to the parent or used merely as a tax strategy.

iii. Distributed profits or payments from profit-sharing, a pension or retirement, an insurance contract, an annuity, trust fund, deferred compensation, retirement account, social security disability payments, social security retirement payments, unemployment compensation, supplemental unemployment benefits, disability insurance or benefits, or worker's compensation.

(a) Consider insurance or other similar payments received as compensation for lost earnings, but do not include payments that compensate for actual medical bills or for property loss or damage.

(b) If a parent receives payments from an IRA, defined contribution, or deferred compensation plan, income does not include contributions to that account that were previously considered as the parent's income used to calculate an earlier child-support obligation for a child in this case. To the extent that the funds received are equivalent to the amount of the funds contributed by the parent while paying child support, that amount should be excluded from the

computation of gross income.

iv. Military specialty pay, allowance for quarters and rations, housing, veterans' administration benefits, G.I. benefits (other than education allotment), or drill pay.

(a) If the servicemember receives housing pay and supports another home (i.e. second residence), housing pay is not considered income to the individual.

v. Tips, gratuities, royalties, interest, dividends, fees, or gambling or lottery winnings.

vi. Capital gains to the extent that they result from recurring transactions.

vii. The standard (basic needs) portion of adoption subsidies for children in the case under consideration (do not consider the medical needs and intensive rate portion of the subsidy, nor the family support subsidy as income).

viii. Any money or income due or owed by another individual, source of income, government, or other legal entity.

ix. Income also includes the market value of perquisites (perks) received as goods, services, or other noncash benefit for which the parent did not pay, if they reduce personal expenses, and have significant value or are received regularly.

(a) Common forms of perquisites (perks) or goods and services received in-kind include, but are not limited to, the following: housing, meals, or room and board, personal use of a company business vehicle or mileage reimbursement, including use between home and primary worksite, and other goods or services.

(b) Perquisites (perks) do not include money paid by an employer for benefits like tuition reimbursement, educational cost reimbursement, uniforms, and health savings account (HSA) contributions.

x. The court may consider assets available to generate income for child support. For example, the court may determine the reasonable earning potential of any asset at its market value and assess against it the current Treasury bill interest rate or some other similar appropriate method of computing income.

To further this State's policy of interpreting "income" broadly for the benefit of children, a support order may include as its basis a percentage of a bonus to be paid in the future. The child support attributable to a bonus amount (or another one-time source of money) shall be in addition to the periodic child-support obligation. This child-support obligation shall terminate when the underlying child-support obligation terminates. Variable income such as commissions, bonuses, overtime pay, military bonuses, and dividends shall be averaged by the court over a reasonable period of time consistent with the circumstances of the case and added to a parent's fixed salary or wages to determine gross income. When income is received on an irregular, nonrecurring, or one-time basis, the court may, but is not required to, average or prorate the income over a reasonable

specified period of time or require the parent to pay as a one-time support amount a percentage of his or her nonrecurring income.

One-time sources of money like an inheritance, gambling or lottery winning, or liquidating a Certificate of Deposit, for example, is income for these Guidelines purposes (as detailed in the previous paragraph). If the receipt of an asset is not sold or otherwise disposed of, however, then it has not "realized a gain" and therefore is not income under these Guidelines.

3. Income from Self-employment, Business Owners, Executives, and Others

a. Difficulty in determining income for self-employed individuals, business owners, and others occurs for several reasons including:

i. These individuals often have types of income and expenses not frequently encountered when determining income for most people.

ii. Taxation rules, business records, and forms associated with business ownership and self-employment differ from those that apply to individuals employed by others. Common business documents reflect policies unrelated to an obligation to support one's child.

iii. Due to the control that business owners or executives exercise over the form and manner of their compensation, a parent, or a parent with the cooperation of a business owner or executive, may arrange compensation to reduce the amount visible to others looking for common forms of income.

b. To determine monies that a parent has available for support, it may be necessary to examine business tax returns, balance sheets, accounting or banking records, and other business documents to identify additional monies a parent has available for support that were not included as personal income. At a minimum, a self-employed parent shall provide their two most recent years of state and federal tax returns. The parent should provide three years of tax returns when there is a reduced, deferred, or elective income situation. Unless otherwise prohibited by law, the court may award expert witness fees when necessary to determine self-employed parent's income.

c. For income from self-employment, proprietorship of a business, or ownership or a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation, including an employer's share of FICA. However, the court should exclude from those expenses amounts allowed by the Internal Revenue Service for accelerated depreciation of investment tax credits for purposes of these Guidelines and add those amounts back in to determine gross income. In general, the court should carefully review income and expenses from a parent's self-employment or operation of a business to determine actual levels of gross income available to the parent. The court's duty is to accurately determine a child-support obligation in every case. This amount may differ from the determination of business income for tax purposes.

d. Whether organized informally, or as a corporation, a partnership, a sole proprietorship, or other arrangement or entity, these considerations apply to all forms of

self-employment and business ownership, as well as to business executives and others who may receive similar forms of compensation.

e. For purposes of this subsection, income includes amounts that were not otherwise included as income elsewhere in this chapter. Special attention shall be given to the following forms of compensation:

i. Distributed profits, profit sharing, officers' fees and other compensation, management or consulting fees, commissions, and bonuses.

ii. In-kind income or perquisites (perks), gifts, free admission to entertainment, or personal use of business property. The value of these items must be based on a fair-market price, that is, the price a person not affiliated with the business would pay. In-kind payments received by a parent from self-employment or the operation of a business is income if the payments are significant and reduce personal living expenses.

f. Redirected income, or amounts treated by the business or company as if the redirected amounts were something other than the parent's income. Amounts include, but are not limited to, the following:

i. *Personal loans*. Presume personal loans from a business are in fact redirected income, unless all the following are true: (1) the parent signed a contract or promissory note outlining the terms of the loan, (2) the business maintains records showing the loan owed as a receivable, (3) the parent makes installment payments and the present loan is paid current, and (4) the interest earned and repayment rate appear to be a reasonable business practice. Unless the presumption is overcome by a preponderance of the evidence, then a parent's income includes the difference between the amount the parent repays and a repayment amount for a similar commercially available unsecured personal loan.

ii. *Payments made to friends or relatives of the parent.* If the business cannot demonstrate that the payments are equivalent to a fair market value payment for the work or services the friend or relative performs, then include any amount that exceeds the fair-market value as the parent's income.

g. *Reduced or deferred income.* Because a parent's compensation can be rearranged to hide income, determine whether unnecessary reductions in salaries, fees, or distributed profits have occurred by comparing amounts and rates to historical patterns.

i. Unless the business can demonstrate legitimate reasons for a substantial reduction in the percentage of distributed profits, use a three-year average to determine the amount to include as a parent's income.

ii. Unless a business can demonstrate legitimate reasons for reductions (as a percentage of gross business income) in salaries, bonuses, management fees, or other amounts paid to a parent, use a three-year average to determine the amount to include as a parent's income.

h. *Business income subject to elective treatment.* Income that is subject to elective status (for example, retained income) may be considered as income after the court

considers the circumstances and history of the elective treatment, which includes but is not limited to the status prior to the implementation of the support order. If a change in the status was made after the original election, then a court can either choose to include the income in child-support calculations or not include it in the calculations.

i. *Deductions for Tax Purposes.* For a variety of historical and policy reasons, the government allows considerable deductions for business-related expenses before taxes are calculated. Those same considerations are not always relevant to monies a parent should have available for child support. Therefore, some deductions should be added back into a parent's income for purposes of determining child support. The deductions include, but are not limited to, the following:

i. Rent paid by the business to the parent, if it is not counted as income on that parent's personal tax return.

ii. Real estate depreciation shall always be added back into a parent's income when calculating support.

iii. Depreciation figured at a straight-line (not accelerated) rate on a parent's (not a corporation's or partnership's) tangible personal property, other than for personal vehicles or home offices, shall be deducted from income. Any parent who uses accelerated depreciation for tangible personal property may deduct the value of the straight-line depreciation amount for property other than personal vehicles or home offices, if the parent proves what the straight-line amounts would have been.

iv. Home office expenses, including rent, hazard insurance, utilities, repairs, and maintenance.

v. Entertainment expenses spent by the parent. Legitimate expenses for customers' entertainment may be treated as deductions.

vi. Travel expense reimbursements, except where such expenses are inherent in the nature of the business or occupation (for example, a traveling salesperson), and do not exceed the standard rates allowed by the State of Arkansas for employee travel.

vii. Personal automobile repair and maintenance expenses.

4. Gross Income Exclusions:

Gross income does not include benefits received from means-tested public assistance programs, such as Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI) received for self or any child; Food Stamps and General Assistance; income derived by other household members; child support, adoption subsidy payments, and foster care board payments received for other children not involved in the case.

5. Spousal Support:

If a parent paying spousal support also pays child support to the same person, then the amount of alimony a former payee spouse may be receiving shall be reduced from the payor's

gross income and added to the payee's gross income for purposes of determining income under the child-support calculation.

6. Other Child Support Paid:

Any previous or existing court orders requiring the payment of current child support shall receive priority over any subsequent child-support obligation. A subsequent support obligation shall not constitute the sole basis for a material change of circumstances sufficient to support a petition to the court for modification of a prior child-support order.

Current child support paid for the benefit of children other than those considered in this computation, to the extent such payment or payments are required by a previous court order, shall be deducted from gross income. Child support arrearage payments shall not be considered in determining a payor's gross income.

7. Income Verification:

The Affidavit of Financial Means and Worksheet shall be used in all family-support matters. Each party shall exchange the Affidavit of Financial Means and Worksheet at least three days before a hearing to establish or modify a support order. The Worksheet shall be filed in the court file and attached to the order that includes the child-support award. The Affidavit of Financial Means shall not be filed in the court file.

A court may rely on suitable documentation of current earnings, preferably for at least one month. Suitable documentation includes, but is not limited to, pay stubs, employer statements or verifications, and receipts and expenses if the parent is self-employed.

Verification of current earnings, whether they are reflected on the Affidavit of Financial Means or not, can be supported with copies of the most recent federal and state tax returns that a parent has filed.

Income can also be verified through the Department of Workforce Services or through the Department of Finance and Administration.

8. Income Imputation Considerations:

If imputation of income is ordered, the court must take into consideration the specific circumstances of both parents, to the extent known, including such factors as the parents' assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the parent, prevailing earnings level in the local community, and other relevant background factors in the case.

There is a rebuttable presumption that the payor and the payee can work full-time or earn full-time income, and the court may calculate child support based on a determination of potential income that would otherwise ordinarily be available to the parties.

The court may consider a disability or the presence of young children or disabled children who must be cared for by the parent as being a reason why a parent is unable to work.

Although Temporary Assistance to Needy Families (TANF) and other means-tested public assistance benefits are not included in gross income, income may be imputed to these recipients.

In addition to determining potential earnings, the court may impute income to any non-income producing assets of either parent, if significant, other than a primary residence or personal property. Examples of such assets are vacation homes (if not maintained as rental property) and idle land. The current rate determined by the court is the rate at which income may be imputed to such nonperforming assets.

Section IV. Health Insurance, Extraordinary Medical Expenses, and Childcare Costs

Three additional child-rearing expenses—health insurance premiums, extraordinary medical expenses, and childcare expenses—shall be added to the Worksheet and must be considered by the court when determining the total child-support obligation. If either or both parents carry health insurance for the child(ren), incur extraordinary medical expenses for the child(ren), or pay for childcare expenses for one or more children who receive support, the cost of these expenses shall be added to the Worksheet. The court may in turn add one or more of these expenses to the basic child-support obligation as detailed below.

1. Health insurance:

The court shall consider provisions for the children's health care needs through health insurance coverage. Health insurance coverage is considered reasonable if the cost of dependent coverage does not exceed 5% of the gross income of the parent who is to provide coverage. The court may require coverage by one or both parents who can obtain the most comprehensive coverage through an employer or otherwise, and at the most reasonable cost.

If the employer provides some coverage, then only the amount the employee pays shall be used in the calculation of support. This amount may be determined by the difference between self-only coverage and family coverage, or the cost of medical insurance for the child. If the amounts for self-only and family coverage cannot be verified, then the total cost of the premium may be divided by the total number of persons covered by the policy and then multiplied by the number of children in the support order. If the party providing coverage does not incur an additional cost to add the child(ren), then no amount shall be added to the child-support obligation for insurance.

2. Extraordinary Medical Expenses:

Extraordinary medical expenses may be added to the basic child-support obligation and may include uninsured expenses for a single illness or condition. It may include but is not limited to reasonable and necessary costs for orthodontia, dental treatment, asthma treatment, physical therapy, uninsured chronic health problems, and professional counseling or psychiatric therapy for diagnosed mental disorders (including any reasonable treatment or diagnostic testing needed to diagnose whether there is a recognized mental disorder or disability in the first place).

3. Childcare Costs:

The childcare costs that a parent incurs due to employment or the search for employment is the third add-on to the Worksheet, and they may be considered in the total child-support obligation. Childcare costs must be reasonable, not to exceed the level required to provide quality care for child(ren) from a licensed provider.

Section V. Computation of Child Support

1. Calculation and Use of Worksheet:

Except as provided in Section II, paragraph 3, Self-Support Reserve, the gross income of both parents shall first be determined and combined. Each parent's share of the combined total gross income is then determined based on their percentage of the combined income. Next, the basic child-support obligation is determined by looking at the Chart for the parties' combined income and the number of children they have. A presumptive child-support obligation is then determined by adding the allowed additional monthly child-rearing expenses (including health insurance premiums, extraordinary medical expenses, and childcare expenses). Each parent's share of additional child-rearing expenses is determined by multiplying the percentage of income they have available for support, which was determined in step 1. The total child-support obligation for each parent is determined by adding each parent's share of the child-support obligation with their share of allowed additional child-rearing expenses. Lastly, the payor receives a credit for the additional child-rearing expenses that the payor is paying out of pocket, resulting in their presumed child-support order. See the "Forms" Addendum for a sample child-support calculation.

The payor parent shall owe his or her presumed child-support obligation as a money judgment of child support to payee parent.

All orders granting or modifying child support shall contain the court's determination of both parents' gross income and shall specify who is the payor parent and who is the payee parent. Any order shall also state the amount of health insurance premiums, extraordinary medical expenses, and childcare expenses allowed in determining the total child-support obligation. See the "Forms" Addendum for sample language that may be used.

2. Shared Custody Adjustment:

In cases of joint or shared custody, where both parents have responsibility of the child(ren) for at least 141 overnights per calendar year, the parties shall complete the Worksheet and Affidavit of Financial Means as they would in any other support case. The court may then consider the time spent by the child(ren) with the payor parent as a basis for adjusting the child-support amount from the amount determined on the Worksheet.[3] In particular, in deciding whether to apply an additional credit, the court

[3] The Guidelines intend for the court to deviate (in an amount to be determined) on a case-by-case basis when the payor parent has more than 141 nights with a child(ren). This discretionary deviation shall also apply when the parents each have the child(ren) for approximately 50% of the time.

should consider the presence and amount of disparity between the income of the parties, giving more weight to those disparities in the parties' income of less than 20% and considering which parent is responsible for the majority of the non-duplicated fixed expenditures, such as routine clothing costs, costs for extracurricular activities, school supplies, and any other similar non-duplicated fixed expenditures.

This discretionary adjustment is based on the number of overnights, or overnight equivalents, that a parent spends with a child pursuant to a court order. For purposes of this section, overnight equivalents are calculated using a method other than overnights if the parent has significant time periods on separate days when the child is in the parent's physical custody, under the direct care of the parent, but does not stay overnight.

3. Split Custody:

When each of the parents have sole custody of one or more of the children, a theoretical support obligation for each parent shall be determined based on the number of children in the other household and offsetting the smaller obligation against the larger one. The parent with the larger obligation pays the difference. To accomplish this calculation, a Worksheet must be completed for each custody arrangement. There must be separate worksheets for the child(ren) who do not live primarily with the other(s).

4. Third-party Custody:

When one or more children are not in the care of either biological parent, a child-support order can issue against each parent. The support amount is calculated by using the Worksheet and computing the obligation of each parent by multiplying each parent's share of income by the total child-support obligation. Both parties shall owe his or her total child-support obligation as a money judgment of child support to the third-party caretaker or guardian. If only one parent is available, that parent's sole income shall be used to determine the total gross income and one hundred percent of the basic child-support obligation shall be given to that parent. If the third-party caretaker or guardian incurs costs for health insurance premiums, extraordinary medical expenses, and childcare expenses, those expenses may be apportioned pro rata between the parents, or apportioned by the court if only one parent is available, as a deviation from these Guidelines.

SECTION VI. Miscellaneous Provisions

1. Allocation of Dependents for Tax Purposes:

Allocation of dependents for tax purposes belongs to the payee parent pursuant to the Internal Revenue Code. However, if allowed by state or federal law, the court shall have the discretion to grant dependency allocation, or any part of it, to the payor parent if the benefit of the allocation to the payor parent substantially outweighs the benefit to the payee parent.

2. Administrative Costs:

The amount paid to the Clerk of the Court or to the Arkansas Clearinghouse for administrative costs pursuant to Ark. Code Ann. § 9-12-312(e)(1)(A), § 9-10-109(b)(1)(A) and § 9-14-804(b) shall not be included as support.

3. Provisions for payment

All child-support orders shall fix the beginning date of the child-support obligation and the interval (weekly, bi-weekly, semimonthly, or monthly) on which payments shall be made.

Child-support obligations shall be rounded down to the nearest whole dollar. All other computations relating to the determination of a payor's child-support obligation shall use mathematical rules for rounding. If the number you are rounding is followed by 5, 6, 7, 8, or 9, round the number up. For example: 37.5 will be rounded to 38. If the number you are rounding is followed by 0, 1, 2, 3, or 4, round the number down. For example, 37.4 will be rounded to 37. Each parent's share of the basic child-support obligation on Line 5 of the Worksheet should be rounded to two decimal places.

All child-support orders shall include a provision for immediate implementation of income withholding or withholding from a financial institution, absent a finding of good cause not to require immediate income withholding or withholding from a financial institution. All withholding forms shall be filed in the court file and have a security level where it can only be viewed by the parties and attorneys of record. Circuit clerks shall only release the withholding order to parties, their employers, and attorneys of record.

Payment shall be made through the Arkansas Clearinghouse pursuant to Ark. Code Ann. § 9-14-805.

4. Sharing of income information

Parents shall provide proof of income for a previous calendar year whenever requested in writing by certified mail by the other parent, but not more than one (1) time a year.

FORMS ADDENDUM

Sample Calculation

Step 1: The gross income of both parents is determined and combined. Payor parent earns $2,000 and payee parent earns $1,000, for a $3,000 combined gross income. Each parent's share of income is then determined based on their percentage of the combined income. Payor earns 66.66% of the income, and payee earns 33.33% of the income.

Step 2: The basic child-support obligation is determined by looking at the Chart for the $3,000 combined income and is $469 for the parties' one child. Each parent's share of the basic child-support obligation is then determined: 66.66% of $469 is $312.67 (payor parent), and 33.33% of $469 is $156.33 (payee parent).

Step 3: A presumptive child-support obligation is then determined by adding the allowed additional monthly child-rearing expenses including health insurance premiums, extraordinary medical expenses, and childcare expenses. In this case, the court allows $100 that payor parent is paying for the child's health insurance premium and $200 that payee parent is paying for childcare expenses, for a total of $300 for additional child-rearing expenses. Each parent's share of additional child-rearing expenses is determining by multiplying the percentage of income they have available for support (see step 1) by the total expenses: 66.66% of $300 is $200 (payor parent), and 33.33% of $300 is $100 (payee parent).

Step 4: The total child-support obligation for each parent is determined by adding each parent's share of the child-support obligation with their share of allowed additional child-rearing expenses. Payor parent ($312.67 plus $200) has a total child-support obligation of $512.67, and payee parent ($156.33 plus $100) has a total child-support obligation of $256.33.

Step 5: The payor receives a credit for the additional child-rearing expenses that he is paying out of pocket. In this example, payor is paying $100 for the child's health insurance premium, so we deduct $100 from payor's total child-support obligation of $512.67. Payor has a presumed child-support order of $412.67, which shall be rounded down to $412.

Sample language for a court order based on the calculation provided above:

The court has determined that Plaintiff (payor) earns a gross income of $2,000 per month and Defendant (payee) earns a gross income of $1,000 per month. Therefore, the parents' combined gross income is $3,000 with a basic child-support obligation of $469 for their one child per the Chart. The court also finds that Plaintiff (payor) is paying for the child's health insurance premium in the amount of $100 per month and that Defendant (payee) is paying $200 for childcare expenses, for a total of $300 for additional child-rearing expenses. Plaintiff (payor) is responsible for 66% of the total obligation ($312.67 share of basic obligation plus $200 for expenses) and has a total child-support obligation of $512.67. Defendant (payee) is responsible for 33% of the total obligation ($156.33 share of basic obligation plus $100 for expenses) and has a total child-support obligation of $256.33. Plaintiff, as the payor, shall receive a $100 credit for the additional child-rearing expenses that he is paying out of pocket. Plaintiff shall pay $412 per month to Defendant beginning on March 1, 2020, and he shall continue to cover the child's health insurance premium.

History

Revised April 2, 2020, to be used for all support orders entered after June 30, 2020.

Order 10. Child Support Guidelines

Visit the Child Support Web Page for more information

Section I. Authority and scope.

Pursuant to Act 948 of 1989, as amended, codified at Ark. Code Ann. § 9-12-312(a) and the Family Support Act of 1988, Pub. L. No. 100-485 (1988), the Court adopts and publishes Administrative Order Number 10—Child Support Guidelines. This Administrative Order includes and incorporates by reference the attached weekly, biweekly, semimonthly, and monthly family support charts and the attached Affidavit of Financial Means (see below for charts and affidavit).

It is a rebuttable presumption that the amount of child support calculated pursuant to the most recent revision of the Family Support Chart is the amount of child support to be awarded in any judicial proceeding for divorce, separation, paternity, or child support. The court may grant less or more support if the evidence shows that the needs of the dependents require a different level of support.

All orders granting or modifying child support (including agreed orders) shall contain the court's determination of the payor's income, recite the amount of support required under the guidelines, and recite whether the court deviated from the Family Support Chart. If the order varies from the guidelines, it shall include a justification of why the order varies as may be permitted under Section V hereinafter. It shall be sufficient in a particular case to rebut the presumption that the amount of child support calculated pursuant to the Family Support Chart is correct, if the court enters in the case a specific written finding within the Order that the amount so calculated, after consideration of all relevant factors, including the best interests of the child, is unjust or inappropriate.

Section II. Definition of income.

(a) Income means any form of payment, periodic or otherwise, due to an individual, regardless of source, including wages, salaries, commissions, bonuses, workers' compensation, disability, payments pursuant to a pension or retirement program, and interest less proper deductions for:

1. Federal and state income tax;

2. Withholding for Social Security (FICA), Medicare, and railroad retirement;

3. Medical insurance paid for dependent children; and

4. Presently paid support for other dependents by court order, regardless of the date of entry of the order or orders.

Cases reflect that the definition of "income" is "intentionally broad and designed to encompass the widest range of sources consistent with this State's policy to interpret income' broadly for the benefit of the child." *Evans v. Tillery*, 361 Ark. 63, 204 S.W.3d 547(2005); *Ford v. Ford*, 347 Ark.

485, 65 S.W.3d 432 (2002); *McWhorter v. McWhorter*, 346 Ark. 475, 58 S.W.3d 840 (2001); and *Davis v. Office of Child Support Enforcement*, 341 Ark. 349, 20 S.W.3d 273 (2000).

(b) In order to further this State's policy to interpret "income" broadly for the benefit of the child, a support order may include as its basis a percentage of a bonus to be received in the future. This child-support obligation shall terminate when the underlying child-support obligation terminates. When a payor's income includes a bonus amount, use the following percentages of the payor's net bonus to set and establish the amount of support:

One dependent: 15%

Two dependents: 21%

Three dependents: 25%

Four dependents: 28%

Five dependents: 30%

Six dependents: 32%

The child-support attributable to a bonus amount shall be in addition to the periodic child-support obligation. Defining income to include a percentage of a bonus changes Arkansas case law. The effect is specifically to overrule the result reached in *Kelly v. Kelly*, 341 Ark. 596, 19 S.W.3d 1 (2000).

Section III. Calculation of support.

a. *Basic Considerations. The* most recent revision of the family support charts is based on the weekly, biweekly, semimonthly and monthly income of the payor parent as defined in Section II.

For purposes of computing child support payments, a month consists of 4.334 weeks. Biweekly means a payor is paid once every two weeks or 26 times during a calendar year. Semimonthly means a payor is paid twice a month or 24 times during a calendar year.

Use the lower figure on the chart for income to determine support. Do not interpolate (i.e., use the $200.00 amount for all income pay between $200.00 and $210.00 per week).

The amount paid to the Clerk of the Court or to the Arkansas Clearinghouse for administrative costs pursuant to Ark. Code Ann. §§ 9-12-312(e)(1)(A), 9-10-109(b)(1)(A), and 9-14-804(b) is not to be included as support.

b. *Income Which Exceeds Chart.* When the payor's income exceeds that shown on the chart, use the following percentages of the payor's weekly, biweekly, semimonthly or monthly income as defined in SECTION II to set and establish a sum certain dollar amount of support:

One dependent: 15%

Two dependents: 21%

Three dependents: 25%

Four dependents: 28%

Five dependents: 30%

Six dependents: 32%

To compute child support when income exceeds the chart, add together the maximum weekly, biweekly, semimonthly, or monthly chart amount, and the percentage of the dollar amount that exceeds that figure, using the percentage above based upon the number of dependents. *Example:* The maximum on the weekly chart is $1, 000 a week. If a payor's net weekly income is $1, 200 and support will be computed for one child-add $149 (the chart amount of support for one child when payor's net weekly income is $1, 000) and $30 (15% of $200, the amount exceeding the maximum chart amount), for total child support of $179. *Hill v. Kelly*, 368 Ark.200, 243 S.W.3d 886 (2006) (case decided before the Administrative Order was amended to include this computation and example).

c. *Nonsalaried Payors.* For Social Security Disability recipients, the court should consider the amount of any separate awards made to the disability recipient's spouse and children on account of the payor's disability. SSI benefits shall not be considered as income.

For Veteran's Administration disability recipients, Workers' Compensation disability recipients, and Unemployment Compensation recipients, the court shall consider those benefits as income.

For military personnel, see the latest military pay allocation chart and benefits. Basic Allowance for Housing (BAH) and Basic Allowance for Subsistence (BAS) should be added to other income to reach total income. Military personnel are entitled to draw BAH at a "with dependents" rate if they are providing support pursuant to a court order. However, there may be circumstances in which the payor is unable to draw BAH or may draw BAH only at the "without dependents" rate. Use the BAH for which the payor is actually eligible. In some areas, military personnel receive a variable allowance. It may not be appropriate to include this allowance in calculation of income since it is awarded to offset living expenses which exceed those normally incurred.

For commission workers, support shall be calculated based on minimum draw plus additional commissions.

For self-employed payors, support shall be calculated based on the last two years' federal and state income tax returns and the quarterly estimates for the current year. A self-employed payor's income should include contributions made to retirement plans, alimony paid, and self-employed health insurance paid; this figure appears on line 22 of the current federal income tax form. Depreciation should be allowed as a deduction only to the extent that it reflects actual decrease in value of an asset. Also, the court shall consider the amount the payor is capable of earning or a net worth approach based on property, life-style, etc. For "clarification of the procedure for determining child support by using the net-worth method, " see *Tucker v. Office of Child Support Enforcement*, 368 Ark.481, 247 S.W.3d 485 (2007).

d. *Imputed Income.* If a payor is unemployed or working below full earning capacity, the court may consider the reasons therefor. If earnings are reduced as a matter of choice and not for reasonable cause, the court may attribute income to a payor up to his or her earning capacity, including consideration of the payor's life-style. Income of at least minimum wage shall be

attributed to a payor ordered to pay child support.

e. *Spousal Support.* The chart assumes that the custodian of dependent children is employed and is not a dependent. For the purposes of calculating temporary support only, a dependent custodian may be awarded 20% of the net take-home pay for his or her support in addition to any child support awarded. For final hearings, the court should consider all relevant factors, including the chart, in determining the amount of any spousal support to be paid.

f. *Allocation of Dependents for Tax Purposes.* Allocation of dependents for tax purposes belongs to the custodial parent pursuant to the Internal Revenue Code. However, the Court shall have the discretion to grant dependency allocation, or any part of it, to the noncustodial parent if the benefit of the allocation to the noncustodial parent substantially outweighs the benefit to the custodial parent.

g. *Health Insurance.* In addition to the award of child support, the court order shall provide for the child's health care needs, which normally would include health insurance if available to either parent at a reasonable cost. Health insurance coverage shall be considered reasonable if the cost of dependent coverage does not exceed 5% of the net income of the parent who is to provide such coverage. In applying the 5% standard for the cost of health insurance, the cost of dependent coverage is the difference between self-only and self with dependents or family coverage or the cost of adding the child(ren) to existing coverage.

Section IV. Affidavit of financial means.

The Affidavit of Financial Means shall be used in all family support matters. The trial court shall require each party to complete and exchange the Affidavit of Financial Means prior to a hearing to establish or modify a support order.

Section V. Deviation considerations.

a. *Relevant Factors.* Relevant factors to be considered by the court in determining appropriate amounts of child support shall include:

1. Food;

2. Shelter and utilities;

3. Clothing;

4. Medical expenses;

5. Educational expenses;

6. Dental expenses;

7. Child care (includes nursery, baby sitting, daycare or other expenses for supervision of children necessary for the custodial parent to work);

8. Accustomed standard of living;

9. Recreation;

10. Insurance;

11. Transportation expenses; and

12. Other income or assets available to support the child from whatever source, including the income of the custodial parent.

b. *Additional Factors.* Additional factors may warrant adjustments to the child support obligations and shall include:

1. The procurement and maintenance of life insurance, health insurance, dental insurance for the children's benefit;

2. The provision or payment of necessary medical, dental, optical, psychological or counseling expenses of the children (e.g., orthopedic shoes, glasses, braces, etc.);

3. The creation or maintenance of a trust fund for the children;

4. The provision or payment of special education needs or expenses of the child;

5. The provision or payment of day care for a child;

6. The extraordinary time spent with the noncustodial parent, or shared or joint custody arrangements;

7. The support required and given by a payor for dependent children, even in the absence of a court order; and

8. Where the amount of child support indicated by the chart is less than the normal costs of child care, the court shall consider whether a deviation is appropriate.

c. *Application of Deviation Factors*. These deviation factors may be considered for both the custodial and the noncustodial parents.

Section VI. Abatement of support during extended visitation.

The guidelines assume that the noncustodial parent will have visitation every other weekend and for several weeks during the summer. Excluding weekend visitation with the custodial parent, in those situations in which a child spends in excess of 14 consecutive days with the noncustodial parent, the court should consider whether an adjustment in child support is appropriate, giving consideration to the fixed obligations of the custodial parent which are attributable to the child, to the increased costs of the noncustodial parent associated with the child's visit, and to the relative incomes of both parents. Any partial abatement or reduction of child support should not exceed 50% of the child support obligation during the extended visitation period of more than 14 consecutive days.

In situations in which the noncustodial parent has been granted annual visitation in excess of 14 consecutive days, the court may prorate annually the reduction in order to maintain the same amount of monthly child support payments. However, if the noncustodial parent does not exercise said extended visitations during a particular year, the noncustodial parent shall be required to pay the abated amount of child support to the custodial parent.

Section VII. Provisions for payment.

All orders of child support shall fix the dates on which payments shall be made. All support orders issued shall include a provision for immediate implementation of income withholding, absent a finding of good cause not to require immediate income withholding or a written agreement of the parties incorporated in the order setting forth an alternative agreement as required by Ark. Code Ann. § 9-14-218(a). All income withholding forms shall be made a part of the court file by the payee or his or her attorney. Payment shall be made through the Arkansas Clearinghouse pursuant to Ark. Code Ann. § 9-14-805. Times for payment should ordinarily coincide with the payor's receipt of salary, wages, or other income.

COMMENT

Click here for family support charts and affidavit of income [PDF]

HISTORY

Amendment to section (II) by per curiam order February 3, 2011 adding subsection (b); amendment to section (III) by per curiam order October 22, 2015.

Order 11. Arkansas Code of Professional Responsibility for Interpreters in the Judiciary

Preamble

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency or a speech or hearing impairment. It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier.1 As officers of the court, interpreters help assure that such persons may enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively. Interpreters are highly skilled professionals who fulfill an essential role in the administration of justice.

1. Non-English speaker should be able to understand just as much as an English speaker with the same level of education and intelligence.

Applicability

This code shall guide and be binding upon all persons, agencies and organizations who administer, supervise use, or deliver interpreting services to the judiciary.

Canon 1: Accuracy and Completeness.

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written, and without explanation.

Canon 2: Representation of Qualifications.

Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.

Canon 3: Impartiality and Avoidance of Conflict of Interest.

Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. Interpreters shall disclose any real or perceived conflict of interest.

Canon 4. Professional Demeanor.

Interpreters shall conduct themselves in a matter consistent with the dignity of the court and shall be as unobtrusive as possible.

Canon 5: Confidentiality.

Interpreters shall protect the confidentiality of all privileged and other confidential information.

Canon 6: Restriction of Public Comment.

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

Canon 7: Scope of Practice.

Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Canon 8: Assessing and Reporting Impediments to Performance.

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority.

Canon 9: Duty to Report Ethical Violations.

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of this code, or any other official policy governing court interpreting and legal translating.

Canon 10: Professional Development.

Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education, and interaction with colleagues and specialists in related fields.

HISTORY

Adopted December 3, 1998.

Order 12. Official Forms

The following court forms are found in the publications noted below and may also be found at the Arkansas Judiciary website: (https://arcourts.gov).

1. *Probate Forms.* The Supreme Court, pursuant to Ark. Code Ann. § 28-1-114 and its constitutional and inherent powers to regulate procedure in the courts, has adopted thirty-three probate forms. These official forms supersede all earlier versions. The forms are published in 336 Ark. App'x [603] (1999).

2. *Court Forms for Orders of Protection.* The Supreme Court, pursuant to Amendment 80 of the Arkansas Constitution, has adopted the following forms to be used in order-of-protection cases: (a) Ex Parte Order of Protection, (b) Notice of Hearing on Petition for Order of Protection, and (c) Final Order of Protection. The Administrative Office of the Courts in collaboration with the Arkansas Judicial Council and others is authorized to prepare instructions to be used with these documents and to make technical corrections from time to time to the documents. These forms are published in 2010 Ark. 442.

3. *Additional Forms and Orders*. To ensure consistency and efficiency in the courts, the Supreme Court authorizes the Arkansas Judicial Council to develop, revise, and maintain various uniform forms, petitions, and orders for use by courts. However, unless specifically directed by the Supreme Court, use of such uniform forms, petitions, and orders is not mandatory. All uniform forms, petitions, and orders remain subject to legal challenge and publishing them does not alter this.

COMMENT

[The forms are available at https://www.arcourts.gov/forms-and-publications]

Reporter's Notes to Form 12: See Ark. Code Ann. § 28-40-111. This form shall be used if no will was admitted to probate.

Addition to Reporter's Notes, 2014 Amendment: Official probate form 12 was revised to conform with substantive law changes.

Reporter's Notes to Form 13: See Ark. Code Ann. § 28-40-111. This form shall be used if a will was admitted to probate and a personal representative was appointed. The language in parentheses in the first paragraph should be substituted for the language immediately preceding it if the personal representative was not nominated in the decedent's will. The form to be used when a will is probated but no personal representative appointed may be found in Ark. Code Ann. § 25-40-111(c)(3). Because such proceedings are infrequent, no official form was adopted.

Addition to Reporter's Notes, 2014 Amendment: Official probate form 13 was revised to conform with substantive law changes.

Reporter's Notes to Form 16 as Amended in 2014 to Conform with Substantive Law

Changes: See Ark. Code Ann. §§ 28-39-101 to -104. The total value under "Itemized Description of Property" is limited to $2,000 as against creditors and $4,000 as against distributees. If minor children are not the children of the surviving spouse, the petition should be revised to reflect that the allowance vests in the surviving spouse to the extent of one-half thereof, and the remainder vests in the decedent's minor children in equal shares. Award for sustenance for a period of two months after death of decedent shall be a reasonable amount, not exceeding $1, 000 in the aggregate. Ark. Code Ann. § 28-39-101(c). Beneath the signature line, the capacity of the petitioner should be identified (e.g., as the personal representative, the surviving spouse, or the guardian of minor children). If the petitioner is the guardian of minor children, the language in parentheses should be substituted for the language immediately preceding it.

HISTORY

Amended and republished by per curiam order November 11, 2010; amended March 13, 2014, effective July 1, 2014; amended and effective December 17, 2020.

Order 13. Judicial Exemption from Jury Service

During their term of office, Supreme Court Justices, Court of Appeals Judges, and judges of general jurisdiction trial courts shall not serve as grand or petit jurors in the courts of this State.

HISTORY

Adopted March 25, 1999.

Order 14. Administration of Circuit Courts

1. *Divisions*.

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

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

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

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

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

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

c. *Duties*. In addition to his or her regular judicial duties, an administrative judge shall exercise general administrative supervision over the circuit court and judges within his or her judicial circuit under the administrative plan submitted pursuant to Section 3 of this Administrative Order. The administrative judge will be the liaison for that judicial circuit with the Chief Justice of the Supreme Court in matters relating to administration. In addition, the duties of the administrative judge shall include the following:

> (1) *Administrative Plan*. The administrative judge shall ensure that the administrative plan and its implementation are consistent with the requirements of the orders of the Supreme Court.
>
> (2) *Case Assignment*. Cases shall be assigned under the supervision of the administrative judge in accordance with the circuit's administrative plan. The administrative judge shall assure that the business of the court is apportioned among the circuit judges as equally as possible, and cases may be reassigned by the administrative judge as necessity requires. A circuit judge to whom a case is assigned shall accept that case unless he or she is disqualified or the interests of justice require that the case not be heard by that judge.
>
> (3) *Information Compilation*. The administrative judge shall have responsibility for the computation, development, and coordination of case statistics and other management data respecting the judicial circuit.
>
> (4) *Improvements in the Functioning of the Court*. The administrative judge shall periodically evaluate the effectiveness of the court in administering justice and recommend changes to the Supreme Court.

d. *One-Judge Circuit*. A circuit judge in a one-judge circuit is an administrative judge. An administrative plan shall be submitted to address specialty court programs (see subsection (3)(c)(2)

of this administrative order), state district judges (see subsection (3)(c)(3)), or district court plans (see subsection (3)(c)(4)) of this order.

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

a. *Case Assignment and Allocation*.

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

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

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

c. *Other Provisions*.

(1) ~~*Recusals*. The plan shall provide the process for handling recusals, the reassignment of a case, and requests for the assignment of a judge by the Supreme Court. This process shall be consistent with the requirements of Administrative Order Nos. 1 and 16 and may address the use of state district court judges~~. **[REPEALED by per curiam order December 17, 2020, effective January 1, 2021.]**

(2) *Specialty Dockets or Programs*. The plan shall describe any special programs, dockets, or proceedings, including such things as the operation of a specialty docket or court program (see subsection (1)(c) of this administrative order). The plan shall: (A) describe the program and how it is operated; (B) provide the statutory or legal authority on which it is based; (C) certify that the program conforms to all applicable sentencing laws, including fines, fees, court costs, and probation assessments; (D) describe the program's use of court

resources, including without limitation, prosecuting attorneys or public defenders, and the availability of such resources and how they will be provided; and (E) provide the source of funding for the programs.

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

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

4. *Supreme Court*.

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

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

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

HISTORY

Adopted April 6, 2001; amended November 1, 2001; amended July 11, 2002; amended January 30, 2003; amended January 22, 2004; amended May 27, 2010; section 3(a)(2) amended April 21, 2011; amended and effective December 13, 2012.

Order 15. Attorneys

15.1 Qualifications and Standards for Attorneys Appointed to Represent Children and Parents

Section 1. Qualifications for attorneys appointed by the court to represent children and indigent parents in dependency-neglect cases.

a. An attorney shall be licensed and in good standing with the Arkansas Supreme Court.

b. (1) Prior to appointment, an attorney shall have initial education to include approved legal education of not less than 10 hours in the two years prior to the date an attorney qualifies as a court-appointed attorney for children or indigent parents in dependency-neglect cases. Initial training must include:

Child development;

Dynamics of abuse and neglect;

Attorney roles & responsibilities, including ethical considerations;

Relevant state law, federal law, case law, and rules;

Family dynamics, which may include but is not limited to, the following topics: substance abuse, domestic violence and mental health issues; and

Division of Children and Family Services (DCFS) policies and procedures.

Additional initial legal education may include, but is not limited to:

Grief and attachment;

Custody and visitation;

Resources and services; and

Trial and appellate advocacy.

(2) The Administrative Office of the Courts (AOC) shall design and conduct programs for the initial 10 hours of legal education, either alone or in collaboration with other agencies or entities.

(3) Following completion of the initial 10 hours of legal education, continuing legal education (CLE) shall include at least 4 hours per year related to representation in dependency-neglect cases which may include, but is not limited to, the subject categories listed in (b)(1). The 4 hours of CLE may be in any one of the specified categories in (b)(1) or in any combination thereof.

(4) Both the initial 10 hours of education and the 4 hours of CLE shall be certified in accordance with the rules and regulations promulgated by the Continuing Legal Education Board. All educational hours shall be calculated with reference to the CLE reporting period

of July 1 through June 30, as utilized for general CLE credit by the Continuing Legal Education Board. The CLE hours for attorneys may not be carried over from one CLE year to the next.

(5) An attorney who is qualified for court appointment in dependency-neglect cases but who fails to acquire 4 hours of CLE required by June 30 of any year shall be subject to the pertinent compliance dates of Rule 5.(D) of the Arkansas Rules and Regulations for Minimum Continuing Legal Education. In accordance with Rule 5.(D), attorneys who sign an acknowledgment deficiency by August 31, and obtain their 4 hours by December 1 shall remain qualified. However, such attorneys shall not be subject to the provisions of Section 5 of the Regulations for Minimum Continuing Legal Education.

(6) When an attorney is seeking to complete the 4-hour CLE requirement between June 30 and December 1 for the previous CLE year, he or she may remain as attorney on any pending cases for which appointment was made when the attorney was in compliance with the educational requirements. However, that attorney shall not accept appointment to any new cases until he or she is in full compliance with the CLE requirements.

(7) An attorney who fails to complete 4 hours of CLE by December 1 is no longer qualified for court appointment in dependency-neglect cases. His or her name shall be removed from the list of qualified attorneys that is maintained and distributed to the trial courts by the AOC. Such attorney can become qualified again only by completing 10 hours of CLE in the categories required for initial qualification.

(8) Attorneys in compliance with the educational qualifications as an attorney ad litem for dependency-neglect cases as of July 1, 2001 shall be deemed to have met the initial educational qualifications to represent parents in dependency-neglect cases.

c. *Clinical prerequisite for new appointments in dependency-neglect cases*. The Directors of the Attorney Ad Litem Program and Parent Counsel Program shall establish an individualized prerequisite commensurate with each individual attorney's experience that may include but is not limited to participation in staffings, mediation and hearings with an experienced attorney, and assigning an experienced attorney as mentor to the new attorney. Each attorney shall have a documented clinical plan approved by an attorney program director in their dependency-neglect file.

Section 2. Standards of practice for attorneys ad litem in dependency-neglect cases.

a. An attorney ad litem shall conduct personally or in conjunction with a trained Court Appointed Special Advocate (CASA) volunteer an independent investigation consisting of review of all relevant documents and records including but not limited to: police reports, DCFS records, medical records, school records, and court records. The ad litem shall interview the child, and in conjunction with a trained CASA volunteer, when one has been appointed, shall interview the parents, foster parents, caseworker, service providers, school personnel and others having relevant knowledge to assist in representation. Continuing investigation and regular contact with the child are mandatory. The attorney ad litem shall provide his or her clients and/or his or her client's caregivers, the attorney's contact information and shall respond promptly to all contacts concerning his or her client, understanding that traditional methods of communication may vary

depending on the client's age and ability.

b. An attorney ad litem shall determine the best interest of a child by considering such factors as the child's age and sense of time, level of maturity, culture and ethnicity, degree of attachment to family members including siblings; as well as continuity, consistency, and the child's sense of belonging and identity.

c. An attorney shall make earnest efforts to attend all case staffings and court-ordered mediation conferences. Absent reasonable cause, the attorney shall directly communicate with his or her client and/or his or her client's caregiver prior to the date of each hearing. An attorney ad litem shall appear at all hearings to represent the best interest of the child. All relevant facts should be presented to the court and if the child's wishes differ from the ad litem's determination of the child's best interest, the ad litem shall communicate the child's wishes to the court.

d. An attorney ad litem shall explain the court proceedings and the role of the ad litem in terms that the child can understand.

e. An attorney ad litem shall advocate for specific and appropriate services for the child and the child's family.

f. An attorney ad litem shall monitor implementation of case plans and court orders.

g. An attorney ad litem shall file appropriate pleadings on behalf of the child.

h. An attorney ad litem shall review the progress of the child's case and shall advocate for timely hearings.

i. An attorney ad litem shall request orders that are clear, specific, and, where appropriate, include a time line for assessment, services, placement, treatment and evaluation of the child and the child's family.

j. Attorney-client or any other privilege shall not prevent the ad litem from sharing all information relevant to the best interest of the child with the court.

k. An attorney ad litem, functioning as an arm of the court, is afforded immunity against ordinary negligence for actions taken in furtherance of his or her appointment.

l. An attorney ad litem shall participate in 10 hours of initial legal education prior to appointment and shall participate in 4 hours of CLE each year thereafter.

m. An attorney ad litem shall identify any potential or actual conflict of interest that would impair his or her ability to represent a client. The attorney shall notify the court as soon as practical of such conflict to allow the court to appoint another attorney for the client or for the client to retain counsel prior to the next hearing.

n. A full-time attorney shall not have more than 75 dependency-neglect cases, and a part-time attorney shall not have more than 25 dependency-neglect cases. Any deviations from this standard must be approved by the Administrative Office of the Courts which shall consider the following, including but not limited to: the number of counties and geographic area in a judicial district, the experience and expertise of the attorney ad litem, area resources, the availability of CASA

volunteers, the attorney's legal practice commitments and the proportion of the attorney's practice dedicated to representing children in dependency-neglect cases, the availability of qualified attorneys in the geographic area, and the availability of funding. An attorney who is within 5 cases of reaching the maximum caseload shall notify the Administrative Office of the Courts and the Juvenile Division Judge.

o. An attorney shall not accept appointment of any case for which he or she cannot devote the requisite amount of time to comply with the above Standards of Practice and the Model Rules of Professional Conduct.

Section 3. Standards of practice for attorneys appointed by the court to represent parents in dependency-neglect cases.

a. An attorney shall conduct a review of all relevant documents and records including but not limited to: police reports, DCFS records, medical records, and court records. An attorney shall interview all people having relevant knowledge to assist in representation, including but not limited to the investigator, OCC attorney or DCFS case worker, and service providers.

b. The attorney shall provide his or her clients the attorney's contact information and shall respond promptly to all contacts concerning his or her client. An attorney shall make earnest efforts to attend all case staffings and court-ordered mediation conferences. Absent reasonable cause, the attorney shall directly communicate with his or her client prior to the date of each hearing. An attorney shall attend all dependency-neglect court hearings until the case is closed or his or her client's parental rights have been terminated.

c. An attorney shall diligently and zealously protect and advance the client's interests, rights and goals at all case staffings and in all court proceedings.

d. An attorney shall advise and explain to the client each stage of the court proceedings and the likelihood of achieving the client's goals. An attorney, where appropriate, shall identify alternatives for the client to consider, including the client's rights regarding any possible appeal, and explain the risks, if any, inherent in the client's position.

e. An attorney shall appear at all hearings and present all evidence and develop all issues to zealously advocate for his or her client and to further the client's goals.

f. An attorney shall advocate for specific and appropriate services for the parent to further the client's goals.

g. An attorney shall monitor implementation of case plans and court orders to further the client's goals.

h. An attorney shall file appropriate pleadings to further the client's goals.

i. An attorney shall review the progress of the client's case and shall advocate for timely hearings when necessary to further the client's goals.

j. An attorney shall request orders that are clear, specific, and, where appropriate, include a time line for assessment, services, placement, and treatment.

k. An attorney shall participate in 10 hours of initial legal education prior to appointment and shall participate in 4 hours of CLE each year thereafter.

l. An attorney shall identify any potential or actual conflict of interest that would impair his or her ability to represent a client. The attorney shall notify the court as soon as practical of such conflict to allow the court to appoint another attorney for the client or for the client to retain counsel prior to the next hearing.

m. An attorney shall not accept appointment of any case for which he or she cannot devote the requisite amount of time to comply with the above Standards of Practice and the Model Rules of Professional Conduct.

Section 4. Qualifications for attorneys appointed by the court to represent children in domestic relations cases and guardianship cases when custody is an issue.

a. An attorney shall be licensed and in good standing with the Arkansas Supreme Court.

(1) Prior to appointment, an attorney shall have initial education to include approved legal education of not less than 10 hours in the two years prior to the date the attorney qualifies for appointment. Initial education shall include but is not limited to:

Child development;

Ad litem roles and responsibilities, including ethical considerations;

Relevant substantive state, federal and case law;

Custody and visitation; and

Family dynamics, including substance abuse, domestic abuse, and mental health issues.

(2) The Administrative Office of the Courts shall design and conduct programs for the initial 10 hours of legal education, either alone or in collaboration with other agencies or entities.

(3) Continuing education required to maintain qualification as an attorney ad litem shall include 4 hours of annual education in any of the five subject-matter areas set out in (b)(1) above for initial training, or in other areas affecting the child and family. The 4 hours of CLE may be in any one of the specified categories or in any combination thereof.

(4) Both the initial 10 hours of education and the 4 hours of CLE shall be certified as CLE in accordance with the rules and regulations promulgated by the Continuing Legal Education Board. All educational hours shall be calculated with reference to the CLE reporting period of July 1 through June 30, as utilized for general CLE credit by the Continuing Legal Education Board. The CLE hours for attorneys ad litem may not be carried over from one CLE year to the next.

(5) An attorney who is qualified as an attorney ad litem but who fails to acquire 4 hours of CLE by June 30 of any year shall be subject to the pertinent compliance dates of Rule 5.(D) of the Arkansas Rules and Regulations for Minimum Continuing Legal Education. In

accordance with Rule 5(D), attorneys who sign an acknowledgment of deficiency and obtain their four hours by December 1 shall remain qualified as attorneys ad litem. However, such attorneys shall not be subject to the provisions of Section 5 of the Regulations for Minimum Continuing Legal Education.

(6) When an attorney ad litem is seeking to complete the 4-hour continuing education requirement between June 30 and December 1 for the previous CLE year, he or she may remain as attorney ad litem on any pending cases for which appointment was made when the attorney was in compliance with educational requirements. However, that attorney shall not accept appointment to any new cases until he or she is in full compliance with the CLE requirements.

(7) An attorney who fails to complete 4 hours of CLE by December 1 is no longer qualified as an attorney ad litem. His or her name shall be removed from the list of qualified attorneys that is maintained and distributed to the trial courts by the AOC. Such attorney can become qualified again only by completing 10 hours in the categories required for initial qualification.

Section 5. Standards of practice for attorneys ad litem in domestic relations cases and guardianship cases when custody is an issue.

a. An attorney ad litem shall conduct an independent investigation consisting of review of all relevant documents and records. The ad litem shall interview the child, parents, and others having relevant knowledge to assist in representation. Continuing investigation and regular contact with the child during the pendency of the action are mandatory. Upon entry of a final order, the attorney ad litem's obligation to represent the minor child shall end, unless directed otherwise by the court.

b. An attorney ad litem shall determine the best interest of a child by considering such custody criteria as:

(1) Moral fitness factors: integrity, character, compassion, sobriety, religious training and practice, a newly acquired partner regarding the preceding elements;

(2) Stability factors: emotional stability, work stability, financial stability, residence and school stability, health, partner stability;

(3) Love and affection factors: attention given, discipline, attitude toward education, social attitude, attitude toward access of the other party to the child, and attitude toward cooperation with the other party regarding the child's needs;

(4) Other relevant information regarding the child such as stated preference, age, sex, health, testing and evaluation, child care arrangements; and regarding the home such as its location, size, and family composition.

c. An attorney ad litem shall appear at all hearings to represent the best interest of the child. All relevant facts should be presented to the court and if the child's wishes differ from the ad litem's determination of the child's best interest, the ad litem shall communicate the child's wishes to the court, as well as the recommendations of the ad litem.

d. An attorney ad litem shall file appropriate pleadings on behalf of the child, call witnesses, participate fully in examination of witnesses, present relevant evidence, and advocate for timely hearings.

e. An attorney ad litem shall explain to the child the court proceedings and the role of the ad litem in terms that the child can understand.

f. An attorney ad litem shall make recommendations to the court for specific and appropriate services for the child and the child's family. All recommendations shall likewise be communicated to the attorneys for the parties, or if a party is pro se, then to the party.

g. An attorney ad litem shall not be prevented by any privilege, including the lawyer-client privilege, from sharing with the court all information relevant to the best interest of the child.

h. An attorney shall not accept appointment to any case for which he or she cannot devote the requisite amount of time to comply with these standards of practice and the Model Rules of Professional Conduct.

HISTORY

Amended and effective by per curiam order March 17, 2016.

15.2 Pro Bono Legal Services by Non-Admitted Licensed Attorneys.

(a) *Authorization to Provide Pro Bono Services.* Notwithstanding the limitations on practice for attorneys who are not licensed by the State of Arkansas, non-admitted attorneys are authorized to provide pro bono legal services in this state as set out in this order. This order constitutes legal authorization for purposes of Ark. R. Prof'l Conduct 5.5(d)(2).

(1)The attorney must be licensed in another state or the District of Columbia and be in good standing in that jurisdiction.

(2) The attorney shall provide his or her services without charge or an expectation of a fee to persons of limited means who have been referred to the attorney by an authorized sponsoring entity as set out in subsection (b)and only through such referrals.

(3) The volunteer attorney shall complete any appropriate training required by the sponsoring entity and shall additionally comply with the Continuing Legal Education requirements of any state in which the attorney holds a current license to practice law.

(4) If the volunteer attorney's services for a client require a court appearance, the attorney shall comply with the appearance requirements of Rule XIV of the Rules Governing Admission to the Bar and/or the procedure of the applicable forum, even if the attorney resides inside the State of Arkansas.

(5) The volunteer attorney agrees to be bound and subject to all applicable Arkansas Rules of Professional Conduct.

(b) *Sponsoring Entity.* When providing pro bono services pursuant to this provision, attorney's representation shall be under the auspices of a sponsoring entity. The sponsoring entity shall be a legal aid services provider that represents Arkansas clients, namely Legal Aid of Arkansas, Inc., Center for Arkansas Legal Services, Inc., Lone Star Legal Aid, Inc., or such other entity as may be approved by the Arkansas Supreme Court, and shall:

(1) make the volunteer attorney aware of the sponsoring entity's resources that may be of assistance to the attorney;

(2) maintain a log on an annual basis of all volunteer attorneys providing legal services through that sponsoring entity; and

(3) provide professional malpractice insurance covering the volunteer attorney's services if the volunteer attorney is not otherwise covered by professional malpractice insurance.

15.3 Pro Bono Legal Services by Retired or Inactive Attorneys

(a) *Authorization to Provide Pro Bono Services.* Notwithstanding the limitations on practice for attorneys who are retired or inactive, attorneys with a license status of retired or voluntary inactive are authorized to provide pro bono legal services as set out in this order.

(1) The attorney must not have been publicly disciplined for professional misconduct by a bar, court, or government agency of any jurisdiction within the last five (5) years.

(2) The attorney shall provide his or her services without fee or an expectation of fee to persons of limited means who have been referred to the attorney by an authorized sponsoring entity as set out in subsection (b) and only through such referrals.

(3) The volunteering attorney shall complete any appropriate training required by the sponsoring entity.

(b) *Sponsoring Entity.* When providing pro bono services pursuant to this order, the attorney's representation shall be under the auspices of a sponsoring entity. The sponsoring entity shall be a legal aid services provider that represents Arkansas clients, namely Legal Aid of Arkansas, Inc., Center for Arkansas Legal Services, Inc., Lone Star Legal Aid, Inc., or such other entity as may be approved by the Arkansas Supreme Court, and shall

(1) make the volunteer attorney aware of the sponsoring entity's resources that may be of assistance to the attorney;

(2) maintain a log on an annual basis of all volunteer attorneys providing legal services through that sponsoring entity; and

(3) provide professional malpractice insurance covering the volunteer attorney's services if the volunteer attorney is not otherwise covered by professional malpractice insurance.

(c) *Continuing Legal Education.* A retired or voluntary inactive member of the Bar of Arkansas who practices law only to the extent authorized by this order shall be exempt from Rule 3 of the Rules for Minimum Continuing Legal Education.

(d) *License Fees.* A retired or voluntary inactive member of the Bar of Arkansas who practices law only to the extent authorized by this order shall pay only the attorney license fees otherwise required to maintain retired or voluntary inactive status, as applicable.

HISTORY

Adopted September 21, 2001; amended by per curiam order March 31, 2011; amended and effective by per curiam order October 3, 2019.

Order 16. Procedures Regarding the Assignment of Judges

Section I. Authority and scope.

Pursuant to Ark. Const. Amend. 80, §§ 4, 12, and 13; Ark. Code Ann. §§ 16-10-101 (Repl. 2010), 16-13-214 (Supp. 2019), and this Court's inherent rule making authority, the Court adopts and publishes Administrative Order No. 16: Procedures Regarding the Assignment of Circuit, District, and Retired Judges and Justices.

This Order authorizes the Chief Justice to assign (A) sitting circuit court judges, (B) retired circuit and appellate court judges and justices, and (C) sitting state district court judges, with their consent, to serve temporarily in circuit court. Sitting circuit judges may be authorized to sit in a judicial circuit other than the one in which they are currently elected or appointed.

This Order also authorizes the Chief Justice to assign (A) sitting district court judges, (B) sitting state district court judges, and (C) retired district court judges and retired state district court judges, with their consent, to serve temporarily in a district court. Sitting district court judges and sitting state district court judges may be authorized to sit on assignment in a city, county or judicial district other than the one to which they are currently elected or appointed. Retired district court judges and retired state district court judges may sit in any county in the state. Sitting circuit judges and retired circuit and appellate judges may also be authorized, with their consent, to sit temporarily in district courts, upon appointment by the Chief Justice.

With the adoption of this Order, Administrative Order No. 14, Section 3(c)(1) is repealed. It is no longer necessary for the administrative plan to provide the process for handling recusals, the reassignment of a case, or requests for assignment of a judge by the Supreme Court.

With the adoption of this Order, Administrative Order No. 1 and Administrative Order No. 18, Section 8 are repealed. It is no longer necessary to provide a process for the election of special judges.

This order shall be controlling in the event a circuit or district's administrative plan contains provisions in conflict with the process outlined herein, unless the conflicting provisions are required by this Court to obtain plan approval.

This Order provides a process for the assignment of judges in the event of disqualification, temporary inability to serve, or other need as determined by the Chief Justice. The duties of the Chief Justice under this Order may be discharged by his or her designee.

Section II. Bases for assignment.

A. Disqualification pursuant to Arkansas Code of Judicial Conduct; or

B. Temporary inability to serve; or

C. Other need as determined by the Chief Justice.

Section III. Request for assignment-Recusals.

Circuit Courts: All judicial circuits shall follow this process for the reassignment of a case and the request for an assignment of a special judge by the Chief Justice. A judge recusing him- or herself from a case shall file an Order of Recusal. The Circuit or County Clerk shall enter the case as a "recuse" into the case management system, which will then randomly reassign the case to another judge. The case management system shall first reassign the case to another judge who hears that case type before assigning the case to other judges in the circuit. If the newly assigned judge requests a recusal, he or she shall file an Order of Recusal. The reassignment process shall continue until an appropriate judge is selected by the case management system or until all judges in the circuit have filed Orders of Recusal.

If all judges have been recused, the Circuit or County Clerk shall complete the form provided by the Administrative Office of the Courts to request a special judge. The Clerk shall send the form, along with documentation that all judges in the circuit have been recused, to the Chief Justice requesting that an assignment be made.

Circuit judges shall not be involved in the process of reassignment other than to accept the case or disqualify from the case. Documentation of recusals and all logistics regarding reassignment shall be handled by the Circuit or County Clerk as an administrative function.

District Courts: District Courts shall follow the same process as set out for circuit courts above but will utilize the District Court Clerk.

If all judges have been recused, the District Court Clerk shall complete the form provided by the Administrative Office of the Courts to request a special judge. The clerk shall send the form, along with documentation that all judges in the district have been recused, to the Chief Justice requesting that an assignment be made.

District judges shall not be involved in the process of reassignment other than to accept the case or disqualify from the case. Documentation of recusal and all logistics regarding reassignment shall be handled by the District Court Clerk as an administrative function.

Circuit and District Courts: After notifying the clerk's office of the need for reassignment, a judge shall take no further action in the case other than to direct the attorneys and self-represented litigants to contact the clerk's office regarding reassignment.

If the case management system lacks the capability to reassign a case as detailed above, the clerk's office shall be responsible for creating a process to randomly reassign the case. It is the responsibility of the clerk to document the reassignment process in each case to ensure that the random selection of the judge can be independently verified.

Section IV. Request for assignment – Temporary Inability to Serve (Day Assignments).

Judges shall configure their calendars so that they are available to hear all matters and sign all orders in cases assigned to them. Judges are encouraged to use all available technology to fulfill these duties.

While it is preferable for judges to hear all cases assigned to them, there may be times when the assigned judge is temporarily unavailable. In the event the assigned judge is temporarily unavailable, he or she may request another judge from the respective circuit or district to preside over their cases. The parties shall be promptly notified of the temporary absence of the assigned judge and of the judge who will preside over the case instead. A party may request a continuance to allow the assigned judge to preside over the case and any continuance for this reason shall be granted, unless it is a time sensitive hearing under state or federal law. In criminal matters, a defendant's request for continuance shall toll the intervening time for purposes of speedy trial until the assigned judge takes further action in the case. Additionally, an order shall be entered memorializing the exclusion of this time period.

If the assigned judge determines that all judges are unavailable to preside over the cases scheduled for the day(s), the assigned judge shall request the clerk to complete the "Form Requesting Chief Justice to Assign a Special Judge." The clerk shall send the form to the Chief Justice for the Chief's consideration.

When a judge presides over cases assigned to another judge or when a special judge is assigned by the Chief Justice, the cases shall not be permanently reassigned.

Section V. Considerations in making assignments.

Issues which will be considered in selecting a judge to be assigned include, but are not limited to:

A. the type and complexity of the case;

B. the amount of time estimated for the assignment;

C. the geographic location of the case and the proximity of the assigned judge; and

D. the consent of the sitting judge or retired judge or justice selected.

Under no circumstances shall a judge, a lawyer, or a party seek to influence the decision of the Chief Justice in making an assignment.

Section VI. Assigned judges' power to sign documents.

A judge assigned to a cause or matter may render or sign orders, judgments, documents, or other papers in that cause or matter in a geographic location other than the judicial circuit or district in which the cause or matter is pending. Such order, judgment, document, or other paper shall have the same effect, for all intents and purposes, as if signed in the judicial circuit or district in which the matter or cause is pending.

Section VII. Terminations and reassignments.

An assignment, once made, will be terminated only for good cause at the request of the assigned judge or at the discretion of the Chief Justice.

After termination of an assignment and notification to the clerk, the clerk shall reassign the case to a judge at random. If all judges in the judicial circuit or judicial district recuse, the process for assignment by the Chief Justice may begin anew upon completion of the "Form Requesting Chief Justice to Assign a Special Judge." The clerk shall send the form to the Chief Justice along with documentation that all judges in the district have been recused. Assignment shall be made in the same manner as set out herein.

Section VIII. Reports.

All judges assigned to circuit court cases are subject to Administrative Order No. 3, which requires the reporting of cases that have been under advisement for more than ninety (90) days after final submission. For reporting such cases, a judge shall follow the process set out in Administrative Order No. 3(2)(A). A judge who has no cases that have been under submission for more than ninety (90) days is not required to file a report.

HISTORY

Adopted on February 6, 2003; amended May 27, 2010; amended January 21, 2016; amended December 17, 2020, effective January 1, 2021; amended and effective February 4, 2021; amended and effective March 4, 2021).

Order 17. Mandatory Course on Maintaining an Arkansas Law License

Each person admitted to the Bar of Arkansas (Bar), by examination, shall complete a mandatory course (Course) on maintaining an Arkansas Law License. The Course shall be completed within two years after the date an attorney is certified for admission to the Clerk of the Arkansas Supreme Court.

The Course shall consist of instruction approved by the Arkansas Supreme Court, focusing on lawyers' roles as an officer of the Court and as a member of the Bar, and lawyers' relation to community, clients, courts, and ethical standards.

The Course will be organized, prepared, and presented under the direction of the Arkansas Supreme Court Office of Professional Programs.

Upon good cause shown, an attorney may be entitled to an extension of time in which to meet the requirement of this rule. "Good cause," for purposes of this rule, includes but is not limited to military service or a family or medical emergency during or immediately before a scheduled Course. In addition, the Director of the Office of Professional Programs is authorized to grant an attorney leave to achieve compliance in a manner other than attendance at the Course.

An attorney who fails to meet this requirement shall have his or her license suspended. Such suspension shall be lifted only upon completion of the Course.

The Office of Professional Programs shall be the repository for all records pertaining to administration of this rule. The Office of Professional Programs shall be responsible for providing notice to all persons seeking admission to the Bar of this requirement, course dates and locations. Further, the Office shall maintain all records pertaining to compliance and provide all notices required for enforcement of the provisions of this rule.

HISTORY

Adopted July 1, 2004, effective January 1, 2005; amended and effective by per curiam order October 20, 2016.

Order 18. Administration of District Courts

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

1. *Divisions.*

(a) The district court judges shall establish the following subject-matter divisions in each district court: criminal, civil, traffic, and small claims. For purposes of this administrative order, the term "traffic division" means cases relating to a violation of a law regulating the operation of a vehicle upon a roadway.

(b) The designation of divisions is for the purpose of judicial administration and caseload management and is not for the purpose of subject-matter jurisdiction. The creation of divisions shall in no way limit the powers and duties of the judges to hear all matters within the jurisdiction of the district court.

(c) *Warrant Docket.* Within the criminal division, a warrant docket shall be established, which shall be divided into a "search warrant docket," designated by the prefix "SW" and an "arrest warrant docket, " designated by the prefix "AW." The warrant docket is used for warrants that have been returned either executed or unexecuted when a case file has not yet been opened. If a criminal case is subsequently opened, the information in the warrant docket related to the criminal case is transferred to it. Access to the contents of the warrant docket shall be governed by the applicable rule of criminal procedure and Administrative Order Number 19.

2. *Departments.*

(a) Each department of a district court shall maintain its own docket, and the docket shall be heard at times and places as may be determined by the judge(s) of the district court. Except as authorized in subsection (2) (b) or as approved by the Supreme Court, each department of a district court shall hear cases in all of the subject matter divisions. "Department" is defined in Ark. Code Ann. § 16-17-901.

(b) If a district court's territorial jurisdiction is only city-wide and the district court has more than one department, the judges of the district court by unanimous written agreement may designate that cases of one or more of the subject matter divisions (criminal, civil, traffic, and small claims) be assigned to one or more of the departments.

3. *Civil Jurisdiction.* The district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:

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

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

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

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

4. *Small Claims Division.* The small claims division shall have the same jurisdiction over amounts in controversy as provided in subsection 3 of this administrative order. Special procedural rules governing actions filed in the small claims division are set out in Rule 10 of the District Court Rules. The following restrictions apply to litigation in the small claims division:

(a) *Restriction on participation by attorneys*. No attorney-at-law or person other than the plaintiff and defendant shall take part in the filing, prosecution, or defense of litigation in the small claims division. When any case is pending in the small claims division of any district court and the judge of the court determines that an attorney is representing any party in the case, the case shall immediately be transferred to the civil docket. However, it is not the intention of this provision and this provision shall not be construed, to abridge in any way the rights of persons to be represented by legal counsel.

(b) *Entities restricted from bringing actions*. No action may be brought in the small claims division by any collection agency, collection agent, or assignee of a claim or by any person, firm, partnership, association, or corporation engaged, either primarily or secondarily, in the business of lending money at interest. "Credit bureaus and collection agencies", by definition, shall include those businesses that either collect delinquencies for a fee or are otherwise engaged in credit history or business.

(c) *Actions by and against corporations*. (1) Corporations, other than those identified in subsection

4(b) of this administrative order, which are organized under the laws of this state and which have no more than three stockholders or in which eighty-five percent or more of the voting stock is held by persons related by blood or marriage within the third degree of consanguinity or any closely held corporations by unanimous vote of the shareholders may sue and be sued in the small claims division. (2) A corporation shall be represented in the proceedings by an officer of the corporation.

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

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

(a) *Original Jurisdiction*. A state district court shall have original jurisdiction within its territorial jurisdiction over the following civil matters:

> (1) Exclusive of the circuit court in all matters of contract where the amount in controversy does not exceed the sum of one hundred dollars ($100), excluding interest, costs, and attorney's fees;
>
> (2) Concurrent with the circuit court in matters of contract where the amount in controversy does not exceed the sum of twenty-five thousand dollars ($25, 000), excluding interest, costs, and attorney's fees;
>
> (3) Concurrent with the circuit court in actions for the recovery of personal property where the value of the property does not exceed the sum of twenty-five thousand dollars ($25, 000);
>
> (4) Concurrent with the circuit court in matters of damage to personal property where the amount in controversy does not exceed the sum of twenty-five thousand dollars ($25, 000), excluding interest and costs.

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

> (1) *Consent Jurisdiction*. Matters filed in the civil, domestic relations or probate division of circuit court upon the consent of all parties (see subsection (d) below);
>
> (2) *Protective Orders*. Ark. Code Ann. §§ 9-15-201 -217;
>
> (3) *Forcible Entry and Detainers and Unlawful Detainer*. Ark. Code Ann. §§ 18-60-301-312;
>
> (4) *Other Matters*. (A) Matters of an emergency or uncontested nature pending in the civil, domestic relations, or probate division of circuit court (such as, ex parte emergency involuntary commitments pursuant to Ark. Code Ann. § 20-47-209-210, decedent estate administration, uncontested divorces, and defaults) under guidelines and procedures set out

in the judicial circuit's administrative plan; or (B) other matters if the justification for the reference and the procedures to be employed are sufficiently demonstrated in the administrative plan; and

(5) *Criminal Matters*. (A) Any of the following duties (the rules referenced below are the Arkansas Rules of Criminal Procedure) with respect to an investigation or prosecution of an offense lying within the exclusive jurisdiction of the circuit court:

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

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

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

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

(v) Conduct a preliminary hearing as provided in Ark. Code Ann. § 16-93-307. If a person is charged with the commission of an offense lying within the exclusive jurisdiction of the circuit court, a state district court judge may not accept or approve a plea of guilty or nolo contendere to the offense charged or to a lesser included felony offense but, may accept or approve a plea of guilty or nolo contendere to a misdemeanor.

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

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

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

(d) *Consent Process*.

1. *Notice*. The circuit clerk shall give the plaintiff notice of the consent jurisdiction of a

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

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

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

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

7. *Small Claims Magistrate.*

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

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

~~8. *Special Judges.*~~ **[REPEALED by per curiam order December 17, 2020, effective January 1, 2021.]**

~~(a) When the judge of a district court shall fail to attend on any day scheduled for the holding of that court or when a judge is disqualified from presiding in a pending case, a special judge may be elected.~~

~~(b) When a special judge is to be elected, notice shall be given by the clerk of the court to the regular practicing attorneys in the district served by the court in the most practical manner under the circumstances, including giving notice by telephone or by posting the notice in a public and conspicuous place in the courtroom. Upon notice from the clerk of the court, the regular practicing attorneys attending the court may elect a special judge. The attorneys present in the courtroom~~

~~shall elect one of their number as special judge. The election shall be conducted by the clerk of the court, who will accept nominations from the attorneys present. Only attorneys who are qualified to serve as special judge may vote in the election of a special judge. The election shall be by secret ballot. The attorney receiving a majority of the votes shall be declared elected as special judge. He or she shall immediately be sworn in by the clerk and shall immediately enter upon the duties of the office. He or she shall adjudicate those causes pending at the time of his or her election.~~

~~(c) No person who is not an attorney regularly engaged in the practice of law in the State of Arkansas and duly licensed and in good standing to do so, and who is not a resident possessed of the qualifications required of an elector of this state, whether registered to vote or not, shall be elected special judge. A law clerk is not eligible to be elected as a special judge.~~

~~(d) For purposes of this rule, each division of district court in a multi-judge district shall be considered to be a separate court.~~

~~(e) The clerk of the court shall make a record of the proceedings, which shall be a part of the record of the court. Forms for the clerk's use are appended to Administrative Order No. 1.~~

9. *Administrative Plan.*

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

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

10. *Specialty Dockets or Programs.*

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

COMMENT

FORMS

IN THE CIRCUIT COURT OF_____COUNTY, ARKANSAS

NOTICE OF RIGHT TO CONSENT

TO DISPOSITION OF CASE BY A STATE DISTRICT COURT JUDGE

In accordance with Administrative Order Number 18, you are hereby notified that upon the consent of all the parties in a case, a State District Court Judge may be authorized to conduct all proceedings, including trial of the case and entry of a final judgment. Copies of appropriate consent forms are available from the Circuit Clerk.

You should be aware that your decision to consent or not to consent to the disposition of your case before a State District Court Judge is entirely voluntary, **and by consenting to the reference of this matter to a State District Court Judge, the parties waive their right to a jury trial,** and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals as authorized by law.

You should communicate your consent by completing the Form -- **CONSENT TO PROCEED BEFORE A STATE DISTRICT COURT JUDGE** -- and return to the Circuit Clerk.

IN THE CIRCUIT COURT OF_____COUNTY, ARKANSAS

_____DIVISION

CONSENT TO PROCEED BEFORE A

STATE DISTRICT COURT JUDGE

_____

(Plaintiff)

v. CASE NO._____

_____

(Defendant)

The undersigned parties (or counsel, if so authorized) to this proceeding are fully aware of the right to proceed before a State District Court Judge and do hereby consent to the reference of the matter to a State District Court Judge in accordance with Administrative Order No. 18.

By consenting to the reference of this matter to a State District Court Judge, the parties waive their right to a jury trial, and any appeal in the case shall be taken directly to the Arkansas Supreme Court or Court of Appeals as authorized by law. The State District Court Judge shall be empowered to conduct all further proceedings and to order the disposition of the matter and the entry of an appropriate judgment.

PLAINTIFFS	DATE	DEFENDANTS	DATE
_____	_____	_____	_____
_____	_____	_____	_____

Reporter's Note, 2015 Amendment:

This order was amended by adding subsection (1)(c) to create a warrant docket for the filing of arrest warrants (see Ark. R. Crim. P. 7.3) and search warrants (see Ark. R. Crim. P. 13.4) upon their return, whether executed or unexecuted.

Reporter's Notes (2019 Amendment):

Administrative Order No. 18(6)(d)(1) directs that the circuit clerk shall "give the plaintiff notice of the consent jurisdiction of a state district court judge when a suit is filed in the civil, domestic relations, or probate division of the circuit court." Rather than "attach" that notice to the summons, as under the current version of this provision, the clerk must now "include" it with the summons for service on the defendant. This language accommodates electronic as well as paper filing.

HISTORY

Amended February 9, 2011, effective July 1, 2011; section 6(b)(5)(v) amended and effective by per curiam order June 22, 2012; section 6 amended, sections 9 and 10 added and effective by per curiam order December 13, 2012.; amended July 2, 2015, effective September 1, 2015; amended June 21, 2018, effective January 1, 2019.

Order 19. Access to Court Records

Go here for bulk and compiled data forms

Section I. Authority, Scope, and Purpose.

A. Pursuant to Ark. Const. Amend. 80 §§ 1, 3, 4; Ark. Code Ann. §§ 16-10-101 (Repl. 1999), 25-19-105(b)(8) (Supp. 2003); and this Court's inherent rule making authority, the Court adopts and publishes Administrative Order Number 19: Access to Court Records. This order governs access to, and confidentiality of, court records. Except as otherwise provided by this order, access to court records shall be governed by the Arkansas Freedom of Information Act (Ark. Code Ann. §§ 25-19-101, et seq.).

B. The purposes of this order are to:

(1) promote accessibility to court records;

(2) support the role of the judiciary;

(3) promote governmental accountability;

(4) contribute to public safety;

(5) reduce the risk of injury to individuals;

(6) protect individual privacy rights and interests;

(7) protect proprietary business information;

(8) minimize reluctance to use the court system;

(9) encourage the most effective use of court and clerk of court staff;

(10) provide excellent customer service; and

(11) avoid unduly burdening the ongoing business of the judiciary.

C. This order applies only to court records as defined in this order and does not authorize or prohibit access to information gathered, maintained, or stored by a non-judicial governmental agency or other entity.

D. Disputes arising under this order shall be determined in accordance with this order and, to the extent not inconsistent with this order, by all other rules and orders adopted by this Court.

E. This order applies to all court records; however clerks and courts may, but are not required to, redact or restrict information that was otherwise public in case records and administrative records created before January 1, 2009. However, confidential information shall be redacted from pre-January 2009 case records and administrative records before remote access is available to such records.

Section II. Who Has Access Under This Order.

A. All persons have access to court records as provided in this order.

B. The following persons, in accordance with their functions within the judicial system, may have greater access than the public to court records:

(1) employees of the court, court agency, or clerk of court;

(2) private or governmental persons or entities who assist a court in providing court services;

(3) public agencies whose access to court records is defined by other statutes, rules, orders or policies; and

(4) the parties to a case or their lawyers with respect to their own case.

C. Notwithstanding other rules, the Administrative Office of the Courts is authorized to promulgate policies and procedures governing greater access than the public through AOC-provided systems to court records by entities enumerated in Section (II)(B) above. D. Arkansas Code Ann. § 25-19-105(a)(1)(B), which limits access to public records by incarcerated individuals, shall not apply to court records. Nevertheless, an incarcerated individual who seeks, at public expense, a photocopy of a court record must file a motion with the court having jurisdiction over the record stating that he or she has requested the documents from his or her counsel and that counsel did not provide the documents. Furthermore, the motion must demonstrate that the incarcerated individual has a compelling need for the court record and an inability to pay.

Section III. Definitions.

A. For purpose of this order:

(1) "Court Record" means both case records and administrative records, but does not include information gathered, maintained or stored by a non-court agency or other entity even though the court may have access to the information, unless it is adopted by the court as part of the court record.

(2) "Case Record" means any document, information, data, or other item created, collected, received, or maintained by a court, court agency or clerk of court in connection with a judicial proceeding.

(3) "Administrative Record" means any document, information, data, or other item created, collected, received, or maintained by a court, court agency, or clerk of court pertaining to the administration of the judicial branch of government.

(4) "Court" means the Arkansas Supreme Court, Arkansas Court of Appeals, and all Circuit, District, or City Courts.

(5) "Clerk of Court" means the Clerk of the Arkansas Supreme Court, the Arkansas Court of Appeals, and the Clerk of a Circuit, District, or City Court including staff. "Clerk of Court" also means the County Clerk, when acting as the Ex-Officio Circuit Clerk for the Probate Division of Circuit Court.

(6) "Public access" means that any person may inspect and obtain a copy of the information.

(7) "Remote access" means the ability to electronically search, inspect, or copy information in a court record without the need to physically visit the court facility where the court record is maintained.

(8) "In electronic form" means information that exists as electronic representations of text or graphic documents; an electronic image, including a video image of a document, exhibit or other thing; data in the fields or files of an electronic database; or an audio or video recording (analog or digital) of an event or notes in an electronic file from which a transcript of an event can be prepared.

(9) "Bulk Distribution" means the distribution of all, or a significant subset of, the information in court records, as is, and without modification or compilation.

(10) "Compiled Information" means information that is derived from the selection, aggregation or reformulation of information from more than one court record.

(11) "Confidential" means that the contents of a court record may not be disclosed unless otherwise permitted by this order, or by law. When and to the extent provided by this order or by law, "confidential" shall mean also that the existence of a court record may not be disclosed.

(12) "Sealed" means that the contents of a court record may not be disclosed unless otherwise permitted by this order, or by law. When and to the extent provided by this order

or by law, "sealed" shall mean also that the existence of a court record may not be disclosed.

(13) "Protective order" means that as defined by the Arkansas Rules of Civil Procedure.

(14) "Expunged" means that the record or records in question shall be sequestered, sealed, and treated as confidential, and neither the contents, nor the existence of, the court record may be disclosed unless otherwise permitted by this order, or by law. Unless otherwise provided by this order or by law, "expunged" shall not mean the physical destruction of any records.

(15) "Court Agency" means the Administrative Office of the Courts, the Office of Professional Programs, the Office of the Arkansas Supreme Court Committee on Professional Conduct, the Judicial Discipline and Disability Commission, and any other office or agency now in existence or hereinafter created, which is under the authority and control of the Arkansas Supreme Court.

(16) "Custodian" with respect to any court record, means the person having administrative control of that record and does not mean a person who holds court records solely for the purposes of storage, safekeeping, or data processing for others.

Section IV. General Access Rule.

A. Public access shall be granted to court records subject to the limitations of sections V through X of this order.

B. This order applies to all court records, regardless of the manner of creation, method of collection, form of storage, or the form in which the records are maintained.

C. If a court record, or part thereof, is rendered confidential by protective order, by this order, or otherwise by law, the confidential content shall be redacted, but there shall be a publicly accessible indication of the fact of redaction. This subsection (C) does not apply to court records that are rendered confidential by expungement or other legal authority that expressly prohibits disclosure of the existence of a record.

Section V. Remote Access.

A. Courts should endeavor to make at least the following information, when available in electronic form, remotely accessible to the public:

(1) litigant/party/attorney indexes to cases filed with the court;

(2) listings of case filings, including the names of the parties;

(3) the register of actions or docket sheets;

(4) calendars or dockets of court proceedings, including case numbers and captions, date and time of hearings, and location of hearings;

(5) judgments, orders, or decrees.

B. Remote access to information beyond this list is left to the discretion of the court as follows:

(1) In the district courts, the district judges(s) shall decide whether to allow public remote access;

(2) In the circuit courts, the Administrative Judge of the Judicial Circuit, with input from the Clerk, and, if applicable, the Ex Officio Circuit Clerk for the Probate Division, of the counties within the circuit, shall decide whether to allow public remote access;

(3) In the appellate courts, the Supreme Court shall decide whether to allow public remote access.

C. Public remote access shall be permitted only upon compliance with sections (I)(E) and (VII), and the implementation of appropriate security measures to prevent indexing by Internet search engines.

Section VI. Bulk Distribution and Compiled Information.

A. Requests for bulk distribution or compiled information stored on computers maintained by the Administrative Office of the Courts (AOC) shall be made in writing on the form provided to the Director of the AOC or other designee of the Arkansas Supreme Court. Requests for bulk distribution or compiled information that is not stored on computers maintained by the AOC shall be made in writing on the form provided to the court or court agency having jurisdiction over the records. Requests for bulk distribution or compiled information that exists as electronic representations of text or graphic documents; an electronic image, including a video image of a document, exhibit, or other thing; or an audio or video recording (analog or digital) of an event or notes in an electronic file from which a transcript of an event can be prepared shall be made in writing on the form provided to the court or court agency having jurisdiction over the records even if stored on computers maintained by the AOC. The AOC shall maintain on the Arkansas Judiciary website a current description of the records available on AOC computers. Requests will be acted upon or responded to within a reasonable period of time.

B. Compiled information shall be provided according to the terms of this section (VI)(B).

(1) Requests for compiled records shall identify the requested information and the desired format of the compilation.

(2) The grant of a request under this section (VI)(B) may be made contingent upon the requester paying the actual costs of reproduction, including personnel time, the costs of the of the medium reproduction, supplies, equipment, and maintenance, and including the actual costs of mailing or transmitting the records by facsimile or other electronic means.

(a) The requester may be charged for personnel time exceeding one (1) hour associated with the tasks, in addition to the actual costs of reproduction.

(b) If the estimated costs exceed twenty-five dollars ($25.00), an estimate will be required and the requester may be required to pay that fee in advance.

(c) Information may be furnished without charge or at a reduced charge if it is determined that a waiver or reduction of the fee is in the public interest.

(d)The requester is entitled to an itemized breakdown of charges under this section

(VI)(B)(2).

(e) Costs for compiled records requested from a court or court agency having jurisdiction over the records shall be as otherwise permitted by state law or county or city ordinance.

(3) When the request includes cases or information excluded from public access under section (VII), or the identification of specific individuals is not essential to the purpose of the inquiry, then the requested records may be provided; however, names, addresses (except zip code), month and day of birth shall be redacted from the information.

(4) When the request includes release of social security numbers, driver's license or equivalent state identification card numbers, the information provided shall include only the last four digits of social security numbers, only the last four digits of driver's license or equivalent state identification card numbers. Account numbers and personal identification numbers (PINs) of specific assets, liabilities, accounts, and credit cards may not be released.

(5) When the identification of specific individuals is essential to the purpose of the request, then the request must include an executed copy of the Compiled Records License Agreement and the requester must declare under penalty of perjury that the request is made for a scholarly, journalistic, political, governmental, research, evaluation, or statistical purpose, and that the identification of specific individuals is essential to the purpose of the inquiry. This license agreement requirement may be waived for information furnished to an agency of the State of Arkansas. Denial of all or part of a compiled records request shall be reviewable by the Supreme Court Committee on Automation by the requestor filing a written request for review within 20 days of the denial. At its next regularly scheduled meeting the Committee shall review the request and make a determination whether the request should be granted. The determination shall be made by a majority of those members of the Committee present and voting. The Chair of the Committee shall communicate its decision to the Director of the Administrative Office of the courts or the court or court agency having jurisdiction over the records. The Committee's decision shall be final.

C. Bulk distribution shall be provided according to the terms of this section (VI)(C).

(1) The Administrative Office of the Courts is authorized to develop a license agreement for bulk records consistent with this rule.

(a) The license agreement shall provide the terms and conditions for receipt and update of the bulk data.

(b)The license agreement shall provide for a startup fee not to exceed $1, 000 and a monthly subscription fee not to exceed $200 for access to the bulk data.

(c) The license agreement shall provide that recipients of the bulk data shall purge from their databases any records that become confidential or sealed within 24 hours of notice of the records being expunged or sealed.

(d)The license agreement shall provide that recipients of the bulk data shall replace

their data within 24 hours of the availability of a monthly extract or transactional update of the databases.

(e) Costs for bulk records requested from a court or court agency having jurisdiction over the records shall be as otherwise permitted by state law or county or city ordinance.

(f)The license agreement requirement may be waived for information provided to an agency of the State of Arkansas. However, agencies of the State of Arkansas shall not be required to post a surety bond.

(2) The Administrative Office of the Courts shall establish a secure server from which the databases of case information may be downloaded by licensed users.

(a) The secure server shall include a monthly extract of all public case data.

(b) The secure server shall include transactional updates that will be periodically extracted from the case management databases no less frequently than once every 24 hours.

(3) The request for bulk distribution must:

(a) include an executed copy of the Bulk Records License Agreement or a request for waiver of the Bulk Records License Agreement if the requester is an agency of the State of Arkansas;

(b) Include a cashier's check or money order as indicated in the license agreement to set up a bulk distribution account.

(4) The monthly extract and transactional updates shall include only the last four digits of social security numbers, only the last four digits of driver's license or equivalent state identification card numbers. Account numbers and personal identification numbers (PINs) of specific assets, liabilities, accounts, and credit cards may not be released.

(5) The bulk data will not include cases or records excluded from public access under section (VII).

Go here for bulk and compiled data forms

Section VII. Court Records Excluded From Public Access.

A. *Case records.* The following information in case records is excluded from public access and is confidential absent a court order to the contrary; however, if the information is disclosed in open court and is part of a verbatim transcript of court proceedings or included in trial transcript source materials, the information is not excluded from public access:

(1) information that is excluded from public access pursuant to federal law;

(2) information that is excluded from public access pursuant to the Arkansas Code Annotated;

(3) information that is excluded from public access by order or rule of court;

(4) Social Security numbers;

(5) account numbers of specific assets, liabilities, accounts, credit cards, and personal identification numbers (PINs);

(6) information about cases expunged or sealed pursuant to Ark. Code Ann. §§ 16-90-901, et seq. (repealed 2013), and Ark. Code Ann. §§ 16-90-1401 et seq.;

(7) notes, communications, and deliberative materials regarding decisions of judges, jurors, court staff, and judicial agencies;

(8) all home and business addresses of petitioners who request anonymity when seeking a domestic order of protection.

B. *Administrative Records*. The following information in administrative records is excluded from public access and is confidential absent a court order to the contrary:

(1) information that is excluded from public access pursuant to Arkansas Code Annotated or other court rule;

(2) information protected from disclosure by order or rule of court;

(3) security and emergency preparedness plans. Security and emergency preparedness plans shall not be open to the public under this order or the Arkansas Freedom of Information Act, Ark. Code Ann. §§ 25-19-101 et seq., to the extent they contain information that if disclosed might jeopardize or compromise efforts to secure and protect individuals, the courthouse, or court facility. This exclusion from public access shall include: (A) Risk and vulnerability assessments; (B) Plans and proposals for preventing and mitigating security risks; (C) Emergency response and recovery records; (D) Security plans and procedures; and (E) Any other records containing information that if disclosed might jeopardize or compromise efforts to secure and protect individuals, the courthouse, or court facility.

(4) notes, communications, and deliberative materials of judges regarding court administration matters arising under Administrative Orders Numbers 14 and 18.

Explanatory Note: Before the amendment, this part of the Administrative Order made the address and phone number of all litigants confidential. That rule would have been both too broad and unworkable. Litigants' addresses are needed for, among other things, summonses and judgments. The revised provision is limited to the situation where current substantive law makes a litigant's addresses confidential for an obvious and compelling reason. Ark. Code Ann. § 9-15-203 (Repl. 2008).

Section VIII. Obtaining Access to Information Excluded from Public Access.

A. Any requestor may make a verified written request to obtain access to information in a case or administrative record to which public access is prohibited under this order to the court having jurisdiction over the record. The request shall demonstrate that:

(1) reasonable circumstances exist that require deviation from the general provisions of this order;

(2) the public interest in disclosure outweighs the harm in disclosure; or

(3) the information should not be excluded from public access under section (VII) of this order.

The person seeking access has the burden of providing notice to the parties and such other persons as the court may direct, providing proof of notice to the court or the reason why notice could not or should not be given, demonstrating to the court the requestor's reasons for prohibiting access to the information.

B. The court shall hold a hearing on the request, unless waived, within a reasonable time, not to exceed thirty (30) days of receipt of the request. The court shall grant a request to allow access following a hearing if the requestor demonstrates by a preponderance of the evidence that any one or more of the requirements of (VIII)(A)(1) through (VIII)(A)(3) have been satisfied.

C. A court shall consider the public access and the privacy interests served by this order and the grounds demonstrated by the requestor. In its order, the court shall state its reasons for granting or denying the request. When a request is made for access to information excluded from public access, the information will remain confidential while the court rules on the request.

D. A court may place restrictions on the use or dissemination of the information to preserve confidentiality.

Section IX. When Court Records May Be Accessed.

A. Court records that are publicly accessible will be available for public access in the courthouse during regular business hours established by the court; however, public access to trial exhibits and trial transcript source materials shall be granted at the discretion of the court. Court records in electronic form to which the court allows remote access under this policy will be available for access during hours established by the court, subject to unexpected technical failures or normal system maintenance announced in advance.

B. Upon receiving a request pursuant to section (VI) or (VIII) of this order, a court will respond within a reasonable period of time.

Section X. Contracts with Vendors Providing Information Technology Services Regarding Court Records.

A. If a court, court agency, or other private or governmental entity contracts with a vendor to provide information technology support to gather, store, or make accessible court records, the contract will require the vendor to comply with the intent and provisions of this access policy. For purposes of this section, the term 'vendor' also includes a non-judicial branch state, county or local governmental agency that provides information technology services to a court.

B. Each contract shall require the vendor to assist the court in its role of educating litigants and the public about this order. The vendor shall also be responsible for training its employees and subcontractors about the provisions of this order.

C. Each contract shall prohibit vendors from disseminating bulk or compiled information, without first obtaining approval as required by this order.

D. Each contract shall require the vendor to acknowledge that court records remain the property of the court and are subject to the directions and orders of the court with respect to the handling and access to the court records, as well as the provisions of this order.

E. These requirements are in addition to those otherwise imposed by law.

Section XI. Violation of Order Not Basis for Liability.

Violation of this order by the disclosure of confidential or erroneous court records by a court, court agency, or clerk of court employee, official, or an employee or officer of a contractor or subcontractor of a court, court agency, or clerk of court shall not be the basis for establishing civil or criminal liability for violation of this order. This does not preclude a court from using its inherent contempt powers to enforce this order.

COMMENT

Section II. Commentary.

Section (II)(A) provides the general rule that all persons, including members of the general public, the media, and commercial and noncommercial entities, are entitled to the same basic level of access to court records. Generally, access to court records is not determined by who is seeking access or the purpose for seeking access; however, some users, such as court employees or the parties to a particular case, may have greater access to those particular records than is afforded the general public.

Section (II)(B) provides the exception to the general rule and specifies the entities and persons for whom courts may provide greater access. This greater level of access is a result of the need for effective management of the judicial system and the protection of the right to a fair trial. Sections (II)(B)(1) through (4) identify groups whose authority to access court records is different from that of the public.

Subsection (1): Employees of the court, court agency, and clerk of court need greater access than the public in order to do their work and therefore work under different access rules.

Subsection (2): Employees and subcontractors of entities who provide services to the court or clerk of court or court agency, that is, court services that have been "outsourced," may also need greater access to information to do their jobs and therefore operate under a different access policy. Section (X) provides the requirements under this order for contracts with vendors concerning court records. Private entities such as private process servers and bail bond companies may also need greater access in order to fulfill their duties to the court.

Subsection (3): This subsection is intended to cover personnel in other governmental agencies who have a need for information in court records in order to do their work. An example of this would be an integrated justice system operated on behalf of several justice system agencies where access is governed by internal policies or statutes or rules applicable to all users of the integrated system.

Subsection (4): This subsection continues nearly unrestricted access by litigants and their lawyers

to information in their own cases but no higher level of access to information in other cases. As to cases in which they are not the attorney of record, attorneys would have the same access as any other member of the public.

Section (II) was amended in 2019 to add Section (II)(C) in order to facilitate uniform access through the AOC-provided case-management and eFiling systems. As the number of courts using the statewide system has grown, management of access has become challenging. The AOC is responsible for user administration of the case-management and electronic-filing systems. Experience has shown that, because of the general policy permitting greater access, user management is difficult when dealing with requests by agencies and entities outside the court that require greater than public access. The same is true even within the courts in multi-county jurisdictions, which now include overlapping jurisdictions of state district courts. Now that the AOC systems are being used statewide, access to court information should be uniform. This section grants authority to the Administrative Office of the Courts to promulgate system access policies and procedures consistent with this order.

Arkansas Code Ann. § 25-19-105(a)(1)(B) is an F.O.I.A. exception that provides:

(B) However, access to inspect and copy public records shall be denied to:

> (i) A person who at the time of the request has pleaded guilty to or been found guilty of a felony and is incarcerated in a correctional facility; and
>
> (ii) The representative of a person under subdivision (a)(1)(B)(i) of this section unless the representative is the person's attorney who is requesting information that is subject to disclosure under this section.

Subsection (II)(D) of this Order was added to clarify that Ark. Code Ann. § 25-19-105(a)(1)(B) does not apply to court records subject to this Order. A recent Attorney General opinion acknowledges that, with respect to court records, F.O.I.A. merely serves as a gap filler. Op. Ark. Att'y Gen. No. 121 (2015). Incarcerated individuals do not lose their right of access to court records under Section (II)(B)(4) by virtue of their incarceration. Their incarceration also does not grant a right to unlimited photocopies of court records at no charge. Section (VI)(B)(2)(e) provides that costs for compiled records requested from a court or court agency having jurisdiction over the records shall be as otherwise permitted by state law or county or city ordinance. The new section also provides language consistent with Ark. R. App. P. -Crim. 19 adopted March 16, 2016, which was intended "to address a recurrent issue faced by the appellate courts: convicted offenders frequently request that the appellate court provide at public expense a copy of the party's brief or appellate record that had previously been filed." *In re Arkansas Supreme Court Committee on Criminal Practice - Arkansas Rule of Appellate Procedure–Crim. 19*, 2016 Ark. 145 (per curiam). The amendment to F.O.I.A. was adopted for the same reason, and this amendment will address the burden faced by clerks of the lower courts.

Section VI. Commentary.

In the past, court information other than that required to be reported to the Administrative Office of the Courts was available only directly from the courts. In 2001, the Arkansas Court Automation Project began, with its long-term goal to provide a centralized case management system for all courts in the State of Arkansas. This project is the foundation to provide statewide electronic filing

and document imaging for the courts. As courts go online with the new system, the public will have a more convenient central location from which to request court records. Before 2012, the AOC did not store documents, images, or digital court recordings for the courts, so this order did not contemplate requests for this information. As the electronic-filing system is being rolled out to the courts, more electronic information is being stored on AOC computers beyond information about the court records. Because the AOC is not the custodian of these records and because the electronic versions of these documents may contain sensitive or confidential information, requests for bulk or compiled distribution of information that exists as electronic representations of text or graphic documents; an electronic image, including a video image of a document, exhibit or other thing; or an audio or video recording (analog or digital) of an event or notes in an electronic file from which a transcript of an event can be prepared should be directed to the court or court agency having jurisdiction over the records even if the information is stored on computers maintained by the AOC.

HISTORY

Sections (VI), (VII), and (VIII) and the corresponding commentary amended and effective by per curiam order May 24, 2012.

Amended October 23, 2008, effective January 1, 2009; sections (I) and (V) amended by per curiam order June 20, 2013, and effective September 1, 2013; section VII amended and effective January 15, 2015; amended October 11, 2018, effective January 1, 2019.

Order 19.1. Redaction in Court Administration Records

Confidential information as defined and described in Sections III(A)(11) and VII(B) of Administrative Order 19 shall not be included as part of a court administrative record unless the confidential information is necessary to the administration of the judicial branch of government. Section III(A)(3) of the Order defines an administrative record as any document, information, data, or other item created, collected, received, or maintained by a court, court agency, or clerk of court pertaining to the administration of the judicial branch of government. If inclusion of confidential information in a court administrative record is necessary to the administration of the judicial branch of government:

A. The confidential information shall be redacted from the court administrative record to which public access is granted pursuant to Section IV(A) of Administrative Order 19. The point in the court administrative record at which the redaction is made shall be indicated by striking through the redacted material with an opaque black mark or by inserting some explanatory notation in brackets, such as: [Information Redacted], [I.R.], [Confidential], or [Subject To Protective Order]. The requirement that the redaction be indicated in a court administrative record shall not apply to administrative records rendered confidential by expungement or other legal authority that expressly prohibits disclosure of the existence of a record; and

B. An un-redacted copy of the court administrative record with the confidential information included shall be filed with the court under seal. It is the responsibility of a court, court agency, or clerk of court creating a court administrative record to ensure that confidential information is omitted or redacted from administrative records. As noted in Section XI of Administrative Order 19, a court may use its inherent contempt powers to enforce this rule.

COMMENT

Appendix I. Commentary

Section I. Commentary

The objective of this order is to promote public accessibility to court records, taking into account public policy interests that are not always fully compatible with unrestricted access. The public policy interests listed above are in no particular order. This order attempts to balance competing interests and recognizes that unrestricted access to certain information in court records could result in an unwarranted invasion of personal privacy or unduly increase the risk of injury to individuals and businesses. This order recognizes there are strong societal reasons for allowing public access to court records, and denial of access could compromise the judiciary's role in society, inhibit accountability, and endanger public safety. Open access allows the public to monitor the performance of the judiciary, furthers the goal of providing public education about the results in cases, and, if properly implemented, reduces court staff time needed to provide public access.

This order starts from the presumption of open public access to court records. In some circumstances; however, there may be sound reasons for restricting access to these records. This order recognizes that there are times when access to information may lead to, or increase the risk of, harm to individuals. However, given the societal interests in access to court records, this order also reflects the view that any restriction to access must be implemented in a manner tailored to serve the interests in open access. It is also important to remember that, generally, at least some of the parties in a court case are not in court voluntarily, but rather have been brought into court by plaintiffs or by the government. A person who is not a party to the action may also be mentioned in the court record. Care should be taken that the privacy rights and interests of such involuntary parties or "third" persons are not unduly compromised.

Subsection (C) is intended to assure that public access provided under this order does not apply to information gathered, maintained, or stored by other agencies or entities that is not necessary to, or is not part of the basis of, a court's decision or the judicial process. Access to this information is governed by the law and the access policy of the agency collecting and maintaining such information. The ability of a computer in a court or clerk's office to access the information, because the computer uses shared software and databases, does not, by itself, make the information subject to this order.

Existing laws, rules and policies regarding court records have been carefully reviewed during the development of this access policy.

The Administrative Office of the Courts may provide advisory information to individuals or entities about the provisions, restrictions, and limitations of this order.

Section II. Commentary

Section II(A) provides the general rule that all persons, including members of the general public, the media, and commercial and noncommercial entities, are entitled to the same basic level of access to court records. Generally, access to court records is not determined by who is seeking access or the purpose for seeking access; however, some users, such as court employees or the parties to a particular case, may have greater access to those particular records than is afforded the

general public.

Section II(B) provides the exception to the general rule and specifies the entities and persons for whom courts may provide greater access. This greater level of access is a result of the need for effective management of the judicial system and the protection of the right to a fair trial.

Sections II(B)(1) through (4) identify groups whose authority to access court records is different from that of the public.

Subsection (1): Employees of the court, court agency, and clerk of court need greater access than the public in order to do their work and therefore work under different access rules.

Subsection (2): Employees and subcontractors of entities who provide services to the court or clerk of court or court agency, that is, court services that have been "outsourced, " may also need greater access to information to do their jobs and therefore operate under a different access policy. Section X provides the requirements under this order for contracts with vendors concerning court records.

Subsection (3): This subsection is intended to cover personnel in other governmental agencies who have a need for information in court records in order to do their work. An example of this would be an integrated justice system operated on behalf of several justice system agencies where access is governed by internal policies or statutes or rules applicable to all users of the integrated system.

Subsection (4): This subsection continues nearly unrestricted access by litigants and their lawyers to information in their own cases but no higher level of access to information in other cases. As to cases in which they are not the attorney of record, attorneys would have the same access as any other member of the public.

Section III. Commentary

Sections III(A)(1)-(3) explain which records in a court are covered by this order.

Section III(A)(1) excludes from the definition of "court record" information gathered, maintained, or stored by other agencies or entities that is not necessary to, or is not part of the basis of a court's decision or the judicial process. Access to this information is governed by the laws and access policy of the agency collecting and maintaining such information. The ability of a computer in a court or clerk's office to access the information, because the computer uses shared software and databases, does not, by itself, make the court records access policy applicable to the information. An example of this is information stored in an integrated criminal justice information system where all data is shared by law enforcement, the prosecutor, the court, defense counsel, and probation and corrections departments. The use of a shared system can blur the distinctions between agency records and court records. Under this section, if the information is provided to the court as part of a case or judicial proceeding, the court's access rules then apply, regardless of where the information came from or the access rules of that agency. Conversely, if the information is not made part of the court record, the access policy applicable to the agency collecting the data still applies even if the information is stored in a shared database.

Section III(A)(2), "Case Record," is meant to be all inclusive of information that is provided to, or made available to, the court that relates to a judicial proceeding. The term "judicial proceeding" is used because there may not be a court case in every situation. The definition is not limited to

information "filed" with the court or "made part of the court record" because some types of information the court needs to make a fully informed decision might not be "filed" or technically part of the court record. The language is, therefore, written to include information delivered to, or "lodged" with, the court, even if it is not "filed." An example is a complaint accompanying a motion to waive the filing fee based on indigence. The definition is also intended to include exhibits offered in hearings or trials, even if not admitted into evidence.

The definition includes all information used by a court to make its decision, even if an appellate court subsequently rules that the information should not have been considered or was not relevant to the judicial decision made.

The language is intended to include within its scope materials that are submitted to the court, but upon which a court did not act because the matter was withdrawn or the case was resolved. Once relevant material has been submitted to the court, it does not become inaccessible because the court did not, in the end, act on the information in the materials because the parties resolved the issue without a court decision.

The definition is written to cover any information that relates to a judicial proceeding generated by the court itself, whether through the court administrator's personnel or the clerk's office personnel. This definition applies to proceedings conducted by temporary judges or referees hearing cases in an official capacity. This includes two categories of information. One category includes documents, such as notices, minutes, orders, and judgments, which become part of the court record. The second category includes information that is gathered, generated, or kept for the purpose of managing the court's cases. This information might never be in a document; it might only exist as information in a field of a database such as a case management system, an automated register of actions, or an index of cases or parties.

Another set of items included within the definition is the official record of the proceedings, whether it is notes and transcripts generated by a court reporter of what transpired at a hearing, or an audio or video recording (analog or digital) of the proceeding. Public Access to these materials shall be granted at the court's discretion under Section IX(A), and information that would otherwise be confidential, but is included within these materials because it was disclosed in open court, is not required to be redacted under Section VII. Pursuant to Ark. Code Ann. §§ 16-13-501 et seq., court reporters are required to create transcripts only at the request of either party or the judge. The fees for creation of the transcript are set out in Ark. Code Ann. § 16-13-506. This order attempts to retain the common-law framework for access to court reporters' materials, but recognizes that technological changes such as automated electronic transcription and audio and video streaming over the Internet may result in increased availability of these materials without unduly burdening the ongoing business of the judiciary. Administrative Order Number 6 governs broadcasting, recording or photographing in the courtroom.

Section III(A)(3) defines "Administrative Record." The definition of "court record" includes some information and records maintained by the court and clerk of court that is related to the management and administration of the court or the clerk's office. Examples of this category of information include: internal court policies, memoranda and correspondence, court budget and fiscal records, and other routinely produced administrative records, memos and reports, and meeting minutes.

This subsection makes it clear that the order applies only to information related to the judicial branch. Some information maintained by clerks of court is not a court record, nor is the court responsible for its collection, maintenance, or accessibility. Land records and voter records are examples of information that do not pertain to the administration of the judicial branch of government.

An administrative record might or might not be related to a particular case. That is to say, an administrative record may relate to a particular case and therefore be a case record also. For example, the application of a judicial official for reimbursement for expenses incurred in the course of administering justice in a particular case is both an administrative record and a case record. A record with such dual character may be subject to public disclosure in either capacity; inversely, the record is excluded from public access only if it qualifies for exclusion in both capacities. For this reason, a judicial official who creates administrative records should take care to avoid including the sort of information that may be excluded from public access to case records and that is not essential to the administrative purpose of the record.

Section III(A)(6) defines "public access" very broadly. The language implies that access is not conditioned on the reason access is requested or on prior permission being granted by the court. Access is defined to include the ability to obtain a copy of the information, not just inspect it. The section does not address the form of the copy, as there are numerous forms the copy could take, and more will probably become possible as technology continues to evolve.

A minimum inspection of the court record can be done at the courthouse where the record is maintained. It can also be done in any other manner determined by the court that serves the principles and interests specified in section I of this order. The inspection can be of the physical record or an electronic version of the court record. Access may be over the counter, by fax, by regular mail, by e-mail or by courier. The section does not preclude the court from making inspection possible via electronic means at other sites, or remotely. It also permits a court to satisfy the request to inspect by providing a printed report, computer disk, tape or other storage medium containing the information requested from the court record.

The section implies an equality of the ability to "inspect and obtain a copy" across the public. Implementing this equality will require the court to address several sources of inequality of access. Some people have physical impairments that prevent them from using the form of access available to most of the public. Another problem has to do with the existence of a "digital divide" regarding access to information in electronic form. The court should provide equivalent access to those who do not have the necessary electronic equipment to obtain access. Finally, there is the issue of the format of electronic information and whether it is equally accessible to all computer platforms and operating systems. The court should make electronic information equally available, regardless of the computer used to access the information (in other words, in a manner that is hardware and software independent).

Another aspect of access is the need to redact restricted information in documents before allowing access to the balance of the document. In some circumstances this may be a quite costly. Lack of, or insufficient, resources may present the court with an awkward choice of deciding between funding normal operations and funding activities related to access to court records. As technology improves it is becoming easier to develop software that allows redaction of pieces of information in documents in electronic form based on "tags" (such as XML tags) accompanying the

information. When software to include such tags in documents becomes available, and court systems acquire the capability to use the tags, redaction will become more feasible, allowing the balance of a document to be accessible with little effort on the part of the court.

The objective of section III(A)(7) defining "remote access" is to describe a means of access that is technology neutral that is used to distinguish means of access for different types of information. The term is used in section V regarding information that should be remotely accessible. The key elements are that: 1) the access is electronic, 2) the electronic form of the access allows searching of records, as well as viewing and making an electronic copy of the information, 3) a person is not required to visit the courthouse to access the record, and 4) no assistance of court or clerk of court staff is needed to gain access (other than staff maintaining the information technology systems).

This definition is independent of any particular technology or means of access. Remote access may be accomplished electronically by any one or more of a number of existing technologies, including dedicated terminal, kiosk, dial-in service, or Internet site. Attaching electronic copies of information to e-mails, and mailing or faxing copies of documents in response to a letter or phone request for information would not constitute remote access under this definition.

In section III(A)(8), the breadth of the definition of "in electronic form" makes clear that this order applies to information that is available in any type of electronic form. The point of this section is to define what "in electronic form" means, not to define whether electronic information can be accessed or how it is accessed. This subsection refers to electronic versions of textual documents (for example documents produced on a word processor, or stored in some other text format such as PDF format), and pictures, charts, or other graphical representations of information (for example, graphics files, spreadsheet files, etc.).

A document might be electronically available as an image of a paper document produced by scanning, or another imaging technique (but not filming or microfilming). This document can be viewed on a screen and it appears as a readable document, but it is not searchable without the aid of OCR (optical character recognition) applications that translate the image into a searchable text format.

An electronic image may also be one produced of a document or other object through the use of a digital camera, for example in a courtroom as part of an evidence presentation system.

Courts are increasingly using case management systems, data warehouses or similar tools to maintain data about cases and court activities. This order applies equally to this information even though it is not produced or available in paper format unless a report containing the information is generated. This section also covers files created for, and transmitted through, an electronic filing system for court documents.

Evidence can be in the form of audio or videotapes of testimony or events. In addition audio and video recording (ER - electronic recording) and computer-aided transcription systems (CAT) using court reporters are increasingly being used to capture the verbatim record of court hearings and trials. In the future real-time video streaming of trials or other proceedings is a possibility. Because this information is in electronic form, it would fall within this definition.

Section III(A)(10) recognizes that compiled information is different from case-by-case access because it involves information from more than one case. Compiled information is different from

bulk access in that it involves only some of the information from some cases and the information has been reformulated or aggregated; it is not just a copy of all the information in the court's records. Compiled information involves the creation of a new court record. In order to provide compiled information, a court generally must write a computer program to select the specific cases or information sought in the request, or otherwise use court resources to identify, gather, and copy the information.

Generating compiled data may require court resources and generating the compiled information may compete with the normal operations of the court for resources, which may be a reason for the court not to compile the information. It may be less costly for the court and less of an impact on the court to, instead, provide bulk distribution of the requested information, and let the requestor, rather than the court, compile the information.

The interchangeable definitions of "confidential" and "sealed" in section III(A)(11)–(14) recognize that in some circumstances the court is prohibited from disclosing the contents of a court record, and in some circumstances the court is prohibited from disclosing the very existence of a court record. For purposes of this order, the definition of "protective order" has the same meaning as found in the Arkansas Rules of Civil Procedure, i.e., the usual means by which a court designates a court record or parts of a record as confidential or sealed, for example, to protect a trade secret that includes information necessary to adjudication, but which would be harmful to the litigant if disclosed to the public. Also, this order itself provides that certain information in court records is "confidential," such as a litigant's personal bank account number, section VII(A)(5). The definitions of "confidential" and "sealed" recognize, however, that this order and other laws may provide limited access to confidential information. For example, consistently with section II, attorneys typically may access un-redacted records in cases on which they are attorneys of record.

Redactions from a publicly disclosed court record to protect sealed content are ordinarily indicated in the disclosure. However, the definitions of "confidential" and "sealed" recognize that in some instances, as provided by court order or by law, the court is prohibited from disclosing even the existence of a court record. For example, when a court record is "expunged, " as defined in section III(A)(14) and pursuant to Ark. Code Ann. §§ 16-90-901, et seq. neither the existence of nor the contents of the records may be disclosed. In some cases, expunge also means the physical destruction of court records in juvenile cases pursuant to Ark. Code Ann. § 9-27-309. In such cases, because physical destruction of the records in electronic form would be impractical, such records should be redacted to eliminate the ability to identify the juvenile while preserving sufficient information regarding the court's actions for statistical and historic purposes.

The Court recognizes that for public policy reasons, such as to assist first-time offenders to remain productive members of society, it is sometimes necessary to conceal not only the contents of court records, but also the very existence of them from the general public. Expungement is not the only means by which a record may be sealed and made confidential as against disclosure of its very existence; for example, such confidentiality is afforded to adoption records by Ark. Code Ann. §§ 9-9-201, et seq. However, this order should not be construed to authorize the suppression of court records absent authorization by duly promulgated judicial rule or by duly enacted legislation. Cf. section IV(C).

The definition of "custodian" in section III(A)(16) recognizes that technology decreases the relevance of the physical location of records in electronic form. Court records might be stored

remotely from the court in order to increase access, to provide greater security, to prevent loss in case of disaster, or to share resources with other agencies. However, that the records in electronic form are not physically located within a structure housing the court neither reduces the responsibility of the court and clerk for the content of the records, nor gives to the person holding the records for the purposes of storage, safekeeping, or data processing for the court the authority to disseminate the records.

Section IV. Commentary

The objective of this section is to make clear that this order applies to information in the court record regardless of the manner in which the information was created, collected or submitted to the court. Application of this order is not affected by the means of storage, manner of presentation or the form in which information is maintained. To support the general principle of open access, the application of the rule is independent of the technology or the format of the information.

Subsection (A) states the general premise that information in the court record will be publicly accessible unless access is specifically prohibited. The provision does not require any particular level of access, nor does it require a court to provide access in any particular form, for example, publishing court records in electronic form on a web site or dial-in database.

Subsection (C) provides a way for the public to know that information exists even though public access to the information itself is prohibited. This allows a member of the public to request access to the restricted record under section IX, which they would not know to do if the existence of the restricted information was not known.

However, the Court recognizes that for public policy reasons, such as to assist first-time offenders to remain productive members of society, it is sometimes necessary to conceal not only the contents of court records, but also the very existence of them from the general public. For example, Ark. Code Ann. § 16-90-903 limits the disclosure of the existence of certain expunged records. Section IV(C) accommodates this necessity, but should not be construed to authorize the suppression of court records absent authorization by duly promulgated judicial rule or by duly enacted legislation.

Section V. Commentary

This order does not impose an affirmative obligation to preserve information or data, or to transform information or data received into a format or medium that is not otherwise routinely maintained by the court. While this section encourages courts to make the designated information available to the public through remote access, this is not required, even if the information already exists in an electronic format.

Several types of information in court records have traditionally been given wider public distribution than merely making them publicly accessible at the courthouse. Typical examples are listed in this section. Often this information is regularly published in newspapers, particularly legal papers. Many of the first automated case management systems included a capability to make this information available electronically, at least on computer terminals in the courthouse, or through dial-up connections. Similarly, courts have long prepared registers of actions that indicate for each case what documents or other materials have been filed in the case. Again, early case management systems often automated this function. The summary or general nature of the information is such

that there is little risk of harm to an individual through unwarranted invasion of privacy or proprietary business interests. This section acknowledges and encourages this public distribution practice by making these records presumptively accessible remotely, particularly if they are in electronic form. When a court begins to make information available remotely, they are encouraged to start with the categories of information identified in this list.

While not every court, or every automated system, is capable of providing this type of access, courts are encouraged to develop the capability to do so. The listing of information that should be made remotely available in no way is intended to imply that other information should not be made remotely available. Some court automated systems may also make more information available remotely to litigants and their lawyers than is available to the public.

Making certain types of information remotely accessible allows the court to make cost effective use of public resources provided for its operation. If the information is not available, someone requesting the information will have to call the court or come down to the courthouse and request the information. Public resources will be consumed with court staff locating case files containing the record or information, providing it to the requestor, and returning the case file to the shelf. If the requestor can obtain the information remotely, without involvement of court staff, there will be less use of court resources.

In implementing this section a court should be mindful about what specific pieces of information are appropriately remotely accessible. Care should be taken that the release of information is consistent with all provisions of the access policy, especially regarding personal identification information. For example, the information remotely accessible should not include information presumptively excluded from public access pursuant to section VII, or prohibited from public access by court order. An example of calendar information that may not by accessible by law is that relating to juvenile cases, adoptions, and mental health cases.

Subsection (5): One role of the judiciary, in resolving disputes, is to state the respective rights, obligations and interests of the parties to the dispute. This declaration of rights, obligations and interests usually is in the form of a judgment or other type of final order. Judgments or final orders have often had greater public accessibility by court rule or statutory requirement that they be recorded in a "judgment book." One reason this is done is to simplify public access by placing all such information in one place, rather than making someone step through numerous individual case files to find them. Recognizing such practices, this order specifically encourages this information to be remotely accessible if in electronic form.

There are circumstances where information about charges and convictions in criminal cases can change over time, which could mean copies of such listings derived from court records can become inaccurate unless updated. For example, a defendant may be charged with a felony, but the charge may be dismissed, or modified or reduced to a misdemeanor when the case is concluded. In other circumstances a felony conviction may be reduced to a misdemeanor conviction if the defendant successfully completes probation. These types of circumstances suggest that there be a disclaimer associated with such information, and that education about these possibilities be provided to litigants and the public.

Section VI. Commentary

In the past, court information other than that required to be reported to the Administrative Office of the Courts, was available only directly from the courts. In 2001, the Arkansas Court Automation Project began, with its long-term goal to provide a centralized case management system for all courts in the State of Arkansas. This project is the foundation to provide statewide electronic filing and document imaging for the courts. As courts go online with the new system, the public will have a more convenient central location from which to request court records.

Subsection (A) of this rule requires that requests for bulk distribution or compiled information stored on AOC computers be submitted to the Director of the Administrative Office of the Courts or other designee of the Court. Otherwise requests should be submitted to the court or court agency having jurisdiction over the records. The AOC is required to maintain a description of court records in order to assist requesters in determining where to send their requests.

Prior to the 2012 amendment, section (VI) provided a two-track system for requesting bulk and compiled records. The system proved to be unworkable in practice, so the 2012 amendment separated and simplified the process for requesting bulk and compiled data.

Section (VI)(B) provides the process for filling compiled records requests. The process recognizes the increased likelihood that requested data is stored on computers, and that to fulfill the requests it is more likely that a computer programmer is required to isolate, analyze and compile the requested information into a desired format. Although section (VI)(B)(2)(a) permits charging a fee for personnel time exceeding one hour, and section (VI)(B)(2)(b) may require paying the fee in advance, section (VI)(B)(2)(c) permits waiver of fees for personnel time if it is in the public interest to provide the compilation at no cost.

Section (VI)(B)(3) recognizes that requesters may require information about cases that are confidential but do not require the confidential information in the cases. For example, researchers considering the efficacy of the juvenile justice system may be interested in age, race, geographic area, and gender of participants in the system relative to the outcomes in those cases. Fulfilling these requests can be completed without disclosing the identification of the individuals.

Section (VI)(B)(4) provides that account numbers, and credit card numbers, full social security numbers and driver license numbers will never be provided in compiled records requests; however, the last four digits of SSN and driver license numbers may be provided in compilations.

Section (VI)(B)(5) provides the limited circumstances under which compiled records will be provided where the request includes information about specific individuals. Names, addresses, and dates of birth will only be provided in compiled form when the requester declares under penalty of perjury that identification of individuals is essential to the inquiry and that the request is for a scholarly, journalistic, political, governmental, research, evaluation, or statistical purpose. Because of the sensitive nature of such compilations, a license agreement governing acceptable use of the records must be provided with the request. Nevertheless the license agreement may be waived when the information is provided to a state agency. Such exchanges of information, especially between criminal justice agencies, are typically managed by a separate interagency agreement and exchanges between state and local agencies are managed by intergovernmental agreement.

Section (VI)(C) contemplates that most bulk records requests will be filled by licensed subscription to bulk databases of otherwise public information. To protect the privacy of individuals while

simultaneously promoting access to public information the license agreement will provide the terms for receipt and update of the bulk data. Recipients of bulk data are required to purge records that become confidential within 24 hours of receiving notice that the records have become confidential. By requiring that the recipients maintain the currency of the bulk data, the risk of downstream disclosure of information which became confidential subsequent to its initial disclosure is significantly reduced. The 2012 amendment to section (VI) eliminates the inquiry into the purpose of the request for bulk records and instead uses the licensing agreement and the cost of participation to balance the privacy and public access provisions of Administrative Order No. 19.

Section VII. Commentary

Subsection (A)(1) Federal Law: There are several types of information that are commonly but possibly incorrectly, considered to be protected from public disclosure by federal law. Although there may be restrictions on federal agencies disclosing Social Security numbers, they may not apply to state or local agencies such as courts or clerks of courts. While federal law prohibits disclosure of tax returns by federal agencies or employees, this prohibition may not extend to disclosure by others. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and regulations adopted pursuant to it limit disclosure of certain health related information. Whether the limitation extends to state court records is not clear. There are also federal restrictions regarding information in alcohol and drug abuse patient records and requiring confidentiality of information acquired by drug court programs. This order does not supersede any federal law or regulation requiring privacy or non-disclosure of information.

In addition to deliberative material excluded under this order, a court may exclude from public access materials generated or created by a court reporter with the exception of the official transcript.

This Court recognizes that "[a] trial court has the inherent authority to protect the integrity of the court in actions pending before it and may issue appropriate protective orders that would provide FOIA exemption under Section 25-19-105(b)(8)." *See City of Fayetteville v. Edmark*, 304 Ark. 179, 191 (1990). Rule 26(c) of the Arkansas Rules of Civil Procedure further recognizes that "the court in which the action is pending may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense."

Subsection (A)(2) clarifies that this order does not supersede any Arkansas law requiring privacy or non-disclosure of information in court records. The following is a non-exhaustive list of Arkansas Code Annotated sections regarding confidentiality of records whose confidentiality may extend to the records even if they become court records:

(a) adoption records as provided in the Revised Uniform Adoption Act, as amended, Ark. Code Ann. §§ 9-9-201 et seq.;

(b) records relating to Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome, pursuant to Ark. Code Ann. §§ 16-82-101 et. seq.;

(c) records relating to child abuse not admitted into evidence as part of a public proceeding, pursuant to Ark. Code Ann. §§ 12-12-501 et seq.;

(d) records relating to drug tests conducted pursuant to Ark. Code Ann. § 11-14-101 et seq. except as provided by Ark. Code Ann. § 11-14-109;

(e) records of grand jury minutes, pursuant to Ark. Code Ann. § 25-19-105(b)(4);

(f) records of juvenile proceedings, pursuant to Ark. Code § 9-27-309;

(g) the master list of jurors' names and addresses, pursuant to Ark. Code Ann. § 16-32-103;

(h) addresses and phone numbers of prospective jurors, pursuant to Ark. Code Ann. § 16-33-101;

(i) indictment against any person not in actual confinement, pursuant to Ark. Code Ann. § 16-85-408;

(j) home or business address of petitioner for domestic order of protection if omitted by petitioner, pursuant to Ark. Code Ann. § 9-15-203;

(k) records or writings made at dispute resolution proceedings, pursuant to Ark. Code Ann. § 16-7-206;

(l) information related to defendant's attendance, attitude, participation, and results of drug screens when participating in a pre- or post-trial treatment program for drug abuse pursuant to Ark. Code Ann. § 16-98-201, even though defendant may have executed a consent for a limited release of confidential information regarding treatment permitting the judge, the prosecutor, and the defense attorney access to the information.

Subsection (B) presumes that administrative records will be governed by the Arkansas Freedom of Information Act but recognizes that some public record exclusions are codified outside of the Act and that courts have inherent authority to restrict access to court records.

Freedom of Information Act exemptions are only exemptions to the enclosing act. The reference to the Arkansas Code Annotated should not be construed as applying FOIA exemptions to the courts. They may provide guidance upon a motion for a protective order, but should not be construed to be general exemptions beyond their context.

Section VIII. Commentary

This section is intended to address those extraordinary circumstances in which confidential information or information which is otherwise excluded from public access is to be included in a release of information. In some circumstances, the nature of the information contained in a record and the restrictions placed on the accessibility of the information contained in that record may be governed by federal or state law. This section is not intended to modify or overrule any federal or state law governing such records or the process for releasing information.

Information excluded from public access that is sought in a request for bulk or compiled records is governed by section (VI) of this order.

Section IX. Commentary

Subsection (A) is intended to retain the common-law framework with respect to public access to court records at the courthouse. The section recognizes that access to trial exhibits and trial

transcript source materials not filed with the court clerk is subject to the discretion of the court. This section is not intended to enhance, extend, or diminish the discretion of the court with respect to access to exhibits and transcript source materials.

This section does not preclude or require "after hours" access to court records in electronic form. Courts are encouraged to provide access to records in electronic form beyond the hours access is available at the courthouse, however, it is not the intent of this order to compel such additional access.

Section X. Commentary

This section is intended to apply when information technology services are provided to a court by an agency outside the judicial branch, or by outsourcing of court information technology services to non-governmental entities. Implicit in this order is the concept that all court records are under the authority of the judiciary, and that the judiciary has the responsibility to ensure public access to court records and to restrict access where appropriate. This applies as well to court records maintained in systems operated by any non-judicial governmental department or agency.

Section XI. Commentary

The Supreme Court recognizes that it is not within its constitutional authority to either establish or provide immunity for civil or criminal liability based on violations of this order. The intent of this section is to make clear that absent a statutory or common-law basis for civil or criminal liability, violation of this order alone is insufficient to establish or deny liability for violating the order. Neither does this section preclude the possibility that violation of this order may be used as evidence of negligence or misconduct that resulted in a statutory or common law claim for civil or criminal liability.

HISTORY

Adopted October 23, 2008, effective January 1, 2009.

Order 20. Private Civil Process Servers Appointment—Qualifications

(a) *Authority to Appoint Persons to Serve Process in Civil Cases*. The administrative judge of a judicial district, or any circuit judge(s) designated by the administrative judge, may issue an order appointing an individual to make service of process pursuant to Arkansas Rule of Civil Procedure 4(c)(2) in cases pending in each county of the district wherein approval has been granted. The appointment shall be effective for every division of circuit court, and for every district court, in the county.

(b) *Minimum Qualifications to Serve Process*. Each person appointed to serve process must have these minimum qualifications:

(1) be not less than 18 years old and a citizen of the United States;

(2) have a high school diploma or equivalent;

(3) not have been convicted of a crime punishable by imprisonment for more than one year or a crime involving dishonesty or false statement, regardless of the punishment;

(4) hold a valid driver's license from one of the United States; and

(5) demonstrate familiarity with the various documents to be served.

Each judicial district may, with the concurrence of all the circuit judges in that district, prescribe additional qualifications.

(c) *Appointment Procedure*.

(1) A person seeking court appointment to serve process shall file an application with the circuit clerk. In a multi-county district, an applicant may file an application in one county seeking appointment in one or more counties of the district. The application shall be accompanied by an affidavit stating the applicant's name, address, occupation, and employer, and establishing the applicant's minimum qualifications pursuant to section (b) of this Administrative Order. Neither the application nor the affidavit shall require disclosure of the applicant's social security number. The General Assembly will set any application fee charged by the circuit court.

(2) The circuit judge shall determine from the application and affidavit, and from whatever other inquiry is needed, whether the applicant meets the minimum qualifications prescribed by this Administrative Order and any additional qualifications prescribed in that district. If the judge determines that the applicant is qualified, then the judge shall issue an order of appointment. The circuit clerk shall file the order, and provide a certified copy of it to the process server and to the sheriff of the county in which the person will serve process. The circuit clerk of each county shall maintain and post a list of appointed civil process servers. In multi-county districts, if the applicant has sought appointment in more than one county, then the order shall specify the counties in which the process server is qualified. In this instance, the circuit clerk shall also provide a certified copy of the order to the sheriff and circuit clerk of each county in which the person will serve process.

(d) *Identification*. When serving process, each process server shall carry a certified copy of his or her order of appointment and a valid driver's license. He or she shall, upon request or inquiry, present this identification at the time service is made.

(e) *Duration, Renewal, and Revocation*.

A judge shall appoint process servers for a fixed term not to exceed three years. Appointments shall be renewable for additional three-year terms. A process server seeking a renewal appointment shall file an application for renewal and supporting affidavit demonstrating that he or she meets the minimum qualifications prescribed by this Administrative Order and the judicial district. The General Assembly shall set any renewal fee charged by the circuit court. Upon notice to the administrative judge, any circuit judge may revoke an appointment to serve process for his or her division for any of the following reasons: (1) making a false return of service; (2) serious and purposeful improper service of process; (3) failing to meet the minimum qualifications for serving process; (4) misrepresentation of authority, position, or duty; or (5) other good cause.

(f) Forms. Forms for the application, affidavit, order of appointment, and renewal of appointment are available at the Administrative Office of the Courts section of the Arkansas Judiciary website, https://www.arcourts.gov/forms-and-publications/court-forms.

COMMENT

Explanatory Note, 2008 Amendment: The Administrative Order has been clarified in various respects. The change in subsection (a) confirms that the Order and Rule 4(c)(2) must be read in harmony. Moreover, the circuit court's authority extends to appointing process servers for the district courts within the judicial district. In subsection (b), the requirement of having Arkansas driver's license has been changed to having a valid driver's license from any state. In subsection (c), the procedure for appointment in multi-county districts has been spelled out: an applicant may seek a multi-county appointment by applying to any circuit court in a multi-county district. The circuit clerk in the county where the petition is filed must provide certified copies of any appointment order to the circuit clerks and sheriffs in all counties covered by the appointment. As amended, the Order prohibits requiring an applicant to disclose his or her social security number during the application process. Finally, the Order clarifies that any fee related to an application for appointment or renewal shall be set by the General Assembly.

Explanatory Note: This new Administrative Order imposes expanded minimum qualifications for private process servers in civil cases. Arkansas Rule of Civil Procedure 4(c)(2) formerly provided that the circuit court could appoint any person more than eighteen years old to serve process. Given the importance and effect of service of process, that qualification is insufficient. The expanded minimum qualifications imposed by this Administrative Order will help ensure the competence and character of private process servers. The Order establishes a floor, not a ceiling: the circuit judges in each judicial district may establish additional qualifications. Rule 4(c)(2) has been amended to incorporate this Order by reference. The Order also creates a uniform procedure for appointment and reappointment by the circuit court, as well as giving examples of the good cause which would justify revocation of the privilege of serving process. Finally, the Order requires process servers to carry a certified copy of their order of appointment, and their driver's license, to establish the server's legal authority.

Order 21. Electronic Filing

Section 1. Purpose, Scope, and Application.

(a) *Purpose*. This order establishes statewide policies and procedures governing the electronic filing process in all the courts in Arkansas.

(b) *Scope*. Electronic filing is a means of fulfilling the filing requirements of the courts of this state, but any court or clerk that elects to adopt electronic filing pursuant to this order must use the electronic filing system provided by the Administrative Office of the Courts ("AOC") or an electronic citation system approved by the AOC. Once an election is made to use the electronic filing system provided by the AOC, then electronic filing shall be the exclusive means of filing in all cases, except as may otherwise be provided in this order or by rule adopted by the Supreme Court.

(1) Any person proceeding pro se and any person with a disability or special need that prevents electronic filing shall be entitled to submit conventional paper filings.

(c) *Application*. This order shall be liberally construed to secure the proper and efficient administration of the business and affairs of the court and to promote and facilitate the administration of justice by the court.

Section 2. Definitions.

(a) *Case management system*. A "case management system" is an electronic database maintained by the court or clerk to track information used to manage the court's caseload, such as case numbers, party names, attorneys for parties, titles of all documents filed in a case, and all scheduled events in a case.

(b) *Case initiating document*. A "case initiating document" is the first filing in any matter, including but not limited to the complaint and summons, and any subpoena, and citation. For appellate submissions, a "case initiating document" is the first filing in the appellate court, including without limitation the appellant's brief, motion, or petition, but excluding any record or partial record prepared by another court or tribunal for use on appeal.

(c) *Citation*. "Citation" means a written order or electronic ticket issued by a law enforcement officer or employee of the department of public safety of a city or incorporated town who is authorized to make an arrest; and that requires a person accused of violating the law to appear in a designated court or governmental office at a specified date and time.

(d) *Clerk*. The "clerk" means the clerk of the Supreme Court and Court of Appeals, circuit court, or district court.

(e) *Conventional document*. A "conventional document" is a paper document that may be filed or submitted to the clerk for filing in paper form or a paper document that must be converted by a registered user or clerk to an electronic document.

(f) *Document management system*. A "document management system" is an electronic database containing documents stored in electronic form and structured to allow access to those documents using index fields such as case number, filing date, or type of document.

(g) *Electronic case*. An "electronic case" is one in which the case documents are electronically maintained in a document management system.

(h) *Electronic document*. An "electronic document" is an electronic version of a conventional document or an electronic ticket and has the same legal effect.

(i) *Electronic filing*. "Electronic filing" is the electronic transmission to or from a clerk of an electronic document by uploading from the registered user's (or his or her designated agent's) or clerk's computer to the electronic filing system. It does not include submission via e-mail, fax, floppy disks, or other electronic means.

(j) *Electronic filing system*. "Electronic filing system" refers to the system established pursuant to this order that receives and stores electronic documents.

(k) *Electronic service*. "Electronic service" is the electronic transmission of an electronic document, or of notice of its filing, to a party, attorney, or representative under these rules. Electronic service may not be used to accomplish service of process or a subpoena to gain jurisdiction over persons or property.

(l) *Electronic ticket*. "Electronic ticket" means an electronic citation or warning printed by a law enforcement officer and issued to a person accused of violating the law.

(m) *Public access terminal*. A "public access terminal" is a computer terminal provided by a clerk for viewing publicly accessible electronic documents. Public access terminals must be available during the clerk's normal business hours and must include access to a printer.

(n) *Registered user*. A "registered user" is an individual who has been issued a user ID and password to access the electronic filing system.

Section 3. Implementation of Electronic Filing.

(a) *Establishment of electronic filing and electronic citation systems*. The AOC is authorized to develop or contract with a vendor for the development of electronic filing systems for the district, circuit, and appellate courts, and to approve the interface of electronic citation systems with the courts.

(1) In the district courts, the District Judge(s) shall decide whether to adopt the electronic filing system.

(2) In the circuit courts, the Administrative Judge of the Judicial Circuit, with input from the Clerk, and, if applicable, the Ex Officio Circuit Clerk for the Probate Division, of the counties within the Circuit, shall decide whether to adopt the electronic filing system.

(3) In the appellate courts, the Supreme Court shall decide whether to adopt the electronic filing system.

(4) Every court is encouraged to implement an electronic filing system as soon as practical.

(b) *Mandatory electronic filing processes*. Once implemented, use of the electronic filing system in all cases or a particular type of case is mandatory only if: (1) the court provides a mechanism for waiving electronic fees in appropriate circumstances; (2) the court allows for the exceptions needed to ensure access to justice for indigent, disabled, self-represented, and other litigants who have special needs; (3) the court provides adequate advance notice of the mandatory participation requirement; (4) the court provides a one-year transition period during which any document may be filed conventionally or electronically, and the court provides notice during the transition period about electronic filing to all parties filing a document conventionally; and (5) the court provides training for filers in the use of the process.

(c) *Paper filing exceptions*.

(1) Documents may be filed conventionally during the one-year transition period required by section (3)(b)(4) herein, and the clerk must electronically file such documents not later than 48 hours after the conventional filing.

(2) Conventional paper filings shall be permitted, pursuant to the provisions of the policies and procedures manual promulgated by the AOC, by the clerk for specific documents or classes of documents, such as documents not available in electronic form, documents that are too lengthy to electronically image, and documents filed under seal.

(3) Conventional paper filings shall be permitted in the event of electronic filing system errors or other technical problems pursuant to Section 12.

(d) *Quality control procedures*. The clerk must institute a combination of automated and human quality control procedures sufficient to ensure the accuracy and reliability of their electronic records system.

(e) *Archiving electronic documents*. The clerk must maintain forward migration processes to guarantee future access to electronic documents.

(f) *Effect on Rules of Evidence*. This order does not affect any rule of evidence regarding the authentication of a document.

(g) *Fee for electronic filing system*.

(1)(A) The fee to be charged for use of the electronic filing system shall be as prescribed in this section.

(B) No portion of the electronic filing system fee shall be refunded.

(2) The electronic filing system fee is as follows:

(A) For all civil actions and misdemeanors electronically filed in either the Supreme Court or Court of Appeals.....$20.00

(B) For initiating a cause of action through the electronic filing system in the civil, domestic relations, or probate division of circuit court, including appeals.....$20.00

(C) For initiating a cause of action through the electronic filing system in the civil or small claims division of district court.....$20.00

(3) The fee provided under subdivision (g) of this section shall be remitted by the Clerk of the Supreme Court on or before the fifteenth day of each month to the Administration of Justice Funds Section on a form provided by the Office of Administrative Services of the Department of Finance and Administration for deposit into the Judicial Fine Collection Enhancement Fund established by section 16-13-712.

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

(5) Prosecuting attorneys filing actions on behalf of the state, with the exception of child-support cases, are exempt from paying fees under this section.

(6) Fees under this section shall not be charged or collected in cases brought in the circuit court under the Arkansas Juvenile Code of 1989, section 9-27-301 et seq., by a governmental entity or nonprofit corporation, including without limitation, an attorney ad litem appointed in a dependency-neglect case or the Department of Human Services.

Section 4. Official Court Record.

(a) *Legal effect of electronic documents*. An electronic document is the official court record and has the same force and effect as a document filed conventionally.

(b) *Form of record*. To the maximum extent feasible, the clerk must ensure that all documents filed in electronic cases are maintained in electronic form.

(c) *Scanning and disposition*. Case-initiating documents and other paper documents may be scanned by the clerk and made part of the electronic record. Once the conventional document has been scanned, the electronic document is the official court record. Once scanned, with the exception of conventional documents identified in Section 5, the conventional document may be destroyed.

(d) *Court documents*. The court may electronically file or issue any notice, order, judgment, or other document prepared by the court. The court will provide a paper copy to any person proceeding pro se and to any person with a disability or special need that prevents access to electronic filings.

Section 5. Preservation of Certain Conventional Documents.

(a) *Destruction of original documents*. After conversion to an electronic document, a clerk may return or destroy conventional documents.

(b) *Statutory requirements*. This order does not alter a clerk's statutory obligation to retain conventional documents.

(c) *Record on appeal*. Any record or partial record prepared by another court or tribunal for use on appeal to the Supreme Court of Court of Appeals shall be maintained pursuant to Administrative Order No. 7.

Section 6. Time of Filing, Confirmation, Existing Practice, and File-Mark.

(a) *Filed upon transmission*.

(1) An electronic document shall be considered filed in district court or circuit court with the clerk when the transmission to the electronic filing system is completed. Upon receipt of the electronic document, the electronic filing system shall automatically confirm to the registered user that the transmission of the electronic document was completed and the date and time of the document's receipt by the electronic filing system. Absent confirmation of receipt, there is no presumption that the electronic filing system received the electronic document, and the electronic filer is responsible for verifying that the clerk received and filed the document transmitted.

(2) Subject to review and acceptance by the clerk, an electronic document shall be

considered filed in the Supreme Court or the Arkansas Court of Appeals when the transmission to the electronic filing system is completed. Upon receipt of the electronic document, the electronic filing system shall automatically confirm to the registered user that the transmission of the electronic document was completed and the date and time of the document's receipt by the electronic filing system.

(b) *Existing practice maintained*. Electronic filing of documents does not change the rules and practice for the acceptance or rejection of documents presented to a clerk for filing.

(c) *File mark.* The electronic filing system shall affix an electronic file mark that shall have the same force and effect as a manually affixed stamp of the clerk.

(d) *Time of filing*. Any electronic document received by the electronic filing system before midnight shall be deemed filed on that date.

Section 7. Electronic Service.

(a) *Consent to electronic service*. Registered users of the electronic filing system consent to electronic service of electronic documents as the only means deemed to constitute service and such notice of filing is valid and effective service of the document on the registered users and shall have the same legal effect as service by conventional means.

(b) *Applicability*. Complaints, petitions, subpoenas, or other documents that must be served with a summons may not be served electronically.

(c) *Service on registered users*.

(1)The electronic filing system shall provide notice to all registered users associated with the case that an electronic document has been filed and is available on the document management system. The notice shall be sent electronically to the addresses furnished by the registered users associated with the case.

(2) When the clerk accepts a conventional document for filing pursuant to Section 3(c) and converts it to an electronic document that is stored in the document management system, the electronic filing system shall provide notice of this conventional filing to the registered users associated with the case.

(d) *Service on nonregistered recipients*. The registered user filing an electronic document shall serve nonregistered parties as otherwise provided by law or rule.

(e) *Time of service; time to respond*. Electronic service is complete at the time of transmission of the notice required by Section 7(c). For the purpose of computing time to respond to documents served via electronic service, any document served on a day or at a time when the court is not open for business shall be deemed served at the time of the next opening of the clerk for business.

(f) *Termination of receipt of electronic notice*. Upon the entry of a final order in a case or upon an attorney's withdrawal in a case, the attorney may motion the court to terminate transmission of any further electronic service of notice in that case. The request may be made by separate motion or combined with a motion to withdraw. Upon entry of an order terminating automatic transmission of the electronic notices, the clerk shall take the steps to discontinue automatic

transmission of all electronic notices to the attorney, and no other remaining party or attorney shall be required to provide notice in any other format to the terminating attorney.

Section 8. Signatures.

(a) *Deemed signed.* Every electronic document shall be deemed to be signed by the registered user who files it. Each electronic document must bear the identifying information of the registered user as is required by rule or law. Where a statute or court rule requires a signature at a particular location on a form or pleading, the person's typewritten name shall be inserted. In the alternative, a facsimile, typographical, or digital signature may be used.

(b) *Documents under penalty of perjury or requiring signature of notary public*. Documents required by law to include a signature under penalty of perjury, or the signature of a notary public, may be submitted electronically, provided that the declarant or notary public has signed a conventional form of the document. The conventional document bearing the original signature(s) must be scanned and electronically submitted for filing in a format that accurately reproduces the original signatures and contents of the document.

(c) *Documents requiring signatures of opposing parties*.

> (1) When a document to be filed electronically requires the signatures of opposing parties, such as a stipulation, the party filing the document must first obtain the signatures of all parties on a conventional document.
>
> (2) The printed document bearing the original signatures must be scanned and electronically submitted for filing in a format that accurately reproduces the original signatures and contents of the document.

(d) *Signature of judicial officer or clerk*. Electronically filed court documents requiring a court official's signature may be signed electronically. A court using electronic signatures on court documents must adopt policies and procedures to safeguard such signatures and comply with any AOC guidelines for electronic signatures that may be adopted.

Section 9. Format of documents.

An electronic document shall be formatted in accordance with the applicable rules governing formatting of conventional documents, including page limits. Electronic documents shall be self-contained and shall not contain hyperlinks to external papers or websites. Hyperlinks to other electronic documents filed in the case are permitted.

Section 10. Registration requirements.

(a) *Registration mandatory*. Any person wanting access to the electronic filing system must become a registered user in order to access the system. A clerk shall permit persons who are not registered users and who are not authorized to access the document management system to access electronically filed documents via a public access terminal located in the courthouse, subject to the restriction on disclosure of confidential documents provided in section (11) of this order.

(b) *Registration requirements*. The AOC shall establish registration requirements for all registered users and must limit the registration of users to individuals, not law firms, agencies, corporations,

or other groups. The AOC must assign to the registered user a confidential, secure log-in sequence. The log-in sequence must be used only by the registered user to whom it is assigned and by agents and employees as the registered user may authorize. No registered user shall knowingly permit his or her log-in sequence to be used by anyone other than his or her authorized agents and employees. The AOC may require users to undergo training prior to authorizing access to the electronic filing system. The AOC is permitted to collect a fee not to exceed $100 for training and registration to be deposited in the Bar Account of Arkansas. Attorneys who complete this training shall be entitled to receive one hour of general Continuing Legal Education Credits.

(c) *Electronic mail address required*. Registered users shall furnish at least one electronic mail address that the electronic filing system will use for electronic service and other notices. It is the registered user's responsibility to ensure that the electronic filing system has the correct electronic mail address.

(d) *Misuse of electronic systems*. Any registered user who attempts to harm the electronic filing system or document management system in any manner, attempts to alter electronic documents or information stored on the systems, or attempts any unauthorized use of the systems, has committed misuse of the system. Misuse of the electronic filing system or document management system may result in loss of a user's registration and subject the registered user to any other penalty provided by law or rule.

(e) *Electronic citation systems registration and access*. Registration requirements for, and access to, electronic citation systems shall be as determined through appropriate interdepartmental, interagency, or intergovernmental agreements. The agreements shall clearly state the terms of access to the systems and permitted uses of the systems by registered users.

Section 11. Access to Electronic Documents; Confidential Information.

(a) *Confidential information not to be filed*. All confidential information identified in Administrative Order Number 19 (Section VII - A) shall be redacted from an electronic document before it is filed using the electronic filing system.

(b) *Exceptions; filing under seal*. Where a registered user reasonably believes that confidential information is necessary and relevant to the case and must be included in an electronic document, then the registered user shall file the unredacted document under seal and shall also file a redacted version of the document pursuant to Administrative Order 19 and related implementing rules. An electronic document or conventional document containing confidential information shall not be a public document.

(c) *System requirements*. The electronic filing system and the document management system shall segregate unredacted documents containing confidential information and filed pursuant to Section 11(b). Unredacted versions of documents shall be available only to court personnel and registered users associated on the electronic filing system with the case in which such documents are filed. The electronic filing system shall give notice to registered users associated with a case that an unredacted document containing confidential information has been filed in the case.

Section 12. Technical Failures.

(a) *Electronic filing system errors*. The electronic filing system is deemed subject to a technical

failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 8:00 a.m. that day. Anticipated system outages must be communicated to registered users by electronic mail within a reasonable time prior to the outage and must be posted on the web site, if possible. A technical failure of the electronic filing system shall excuse an untimely filing.

(b) *Other technical problems*. Other technical problems in the nature of an unavoidable casualty, such as problems with the user's Internet Service Provider (ISP) that prevent a registered user from transmitting an electronic filing, may constitute a technical failure under these procedures excusing an untimely filing.

(c) *Conventional filing allowed*. In the event of a technical failure of the electronic filing system or other technical problems that prevent a registered user from submitting an electronic filing, documents should be submitted to the Clerk's office conventionally.

(d) *Relief after technical failure*. A party whose filing is made untimely as the result of a technical failure of the electronic filing system or other technical problems may seek appropriate relief from the court. Sample language is attached to this order as Form A.

Technical failures of the electronic filing system under subdivision (a) of this Section 12 are excused. For technical problems that are considered to be user-related under subdivision (b) of this section, the court for good cause shown may excuse an untimely filing.

Section 13. Creation of Policies and Procedures Manual.

The AOC is authorized to promulgate a policies and procedures manual for the implementation of this order and for the use and operation of the electronic filing and electronic citation systems and the document management system, and shall update policies and procedures and the manual as needed from time to time.

Section 14. Working Group.

The Supreme Court Committee on Automation is authorized to appoint working groups, such as an electronic citation working group, which groups shall advise the Committee on matters of policy and procedure in the management of electronic filing systems.

COMMENT

Form A

IN THE_____COURT OF_____COUNTY, ARKANSAS

_____ Plaintiff(s)

vs. Case No._____

_____ Defendant(s)

DECLARATION THAT PARTY WAS UNABLE TO FILE IN A TIMELY MANNER

[NAME OF REGISTERED USER AND PARTY REPRESENTED] was unable to file [NAME

OF DOCUMENT] in a timely manner due to technical difficulties. The deadline for filing the [NAME OF DOCUMENT] was [DATE]. The reason(s) that I was unable to file the [NAME OF DOCUMENT] in a timely manner, and the good faith efforts that I made before the filing deadline to both file in a timely manner and to inform the court and the other parties that I could not do so, are as follows:

[Statement of reasons and good faith efforts to file and to inform]

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,
/s/_____
Name of Registered User
Address
City, State, Zip Code
Phone:
Email:

HISTORY

Sections (3) and (10) amended by per curiam order June 23, 2011; sections (1), (2), (3), (10), (13) & (14) amended and effective by per curiam order May 31, 2012; amended and effective by per curiam order October 30, 2014; section (7) amended and effective by per curiam order April 19, 2018; amended October 11, 2018, effective January 1, 2019.

Order 22. IOLTA Program Relationship with Eligible and Member Institutions

Section 1. Definitions.

As used in Rule 1.15 of the Arkansas Rules of Professional Conduct, the terms below shall have the following meaning:

(a) "IOLTA account" means an interest- or dividend-bearing trust account benefiting the Arkansas Access to Justice Foundation, Inc., established in an eligible institution for the deposit of nominal or short-term funds of clients or third persons, which may be withdrawn upon request as soon as permitted by law.

(b) "Eligible institution" for IOLTA accounts means a depository bank or savings and loan association or credit union authorized by federal or state laws to do business in Arkansas, whose deposits are insured by an agency of the federal government, or any open-end investment company registered with the Securities and Exchange Commission and authorized by federal or state laws to do business in Arkansas. In addition, an eligible institution must either (1) maintain a physical office in the state of Arkansas or (2) be owned by a bank holding company regulated by the Federal Reserve System, of which a subsidiary federally-insured depository bank or savings and loan association or credit union maintains a physical office in the state of Arkansas. Eligible institutions must meet the requirements set out in section (b) above.

(c) "Interest- or dividend-bearing trust account" means a federally insured checking account or an investment product, including a sweep product and a daily (overnight) financial-institution

repurchase agreement or an open-end money market fund. A daily financial-institution repurchase agreement must be fully collateralized by U.S. Treasury Securities; an open-end money-market fund must invest primarily in U.S. Treasury Securities or repurchase agreements fully collateralized by U.S. Treasury Securities. A daily financial-institution repurchase agreement may be established only with an eligible institution that is "well capitalized" or "adequately capitalized" as those terms are defined by applicable federal statutes and regulations. An open-end money-market fund must hold itself out as a money-market fund as defined by applicable federal statutes and regulations under the Investment Company Act of 1940 and, at the time of investment, have total managed assets of at least $ 250,000,000. The funds covered by this rule shall be subject to withdrawal upon request and without delay.

(d) "Allowable reasonable fees" means: (1) per check charges, (2) per deposit charges, (3) a fee in lieu of minimum balance, (4) federal deposit insurance fees, (5) sweep fees, 12b-1 fees, and subaccounting fees, and (6) a reasonable IOLTA account administrative fee.

(e) "U.S. Treasury Securities" means direct obligations of the federal government of the United States.

(f) "Repurchase agreements" means transactions in which a fund buys a security from a dealer or bank and agrees to sell the security back at a mutually agreed upon time and price. The repurchase price exceeds the sale price, reflecting the fund’s return on the transaction. This return is unrelated to the interest rate on the underlying security. Repurchase agreements are subject to credit risks.

Section 2. Participation.

Participation in the IOLTA Program of the Arkansas Access to Justice Foundation is voluntary for banks, savings and loan associations, and investment companies. Any eligible institution that elects to provide and maintain IOLTA accounts shall do so according to the following terms:

(a) *Determination of Interest Rates and Dividends*. Eligible institutions that maintain IOLTA accounts that are, or are invested in, interest-bearing deposits or daily financial-institution repurchase agreements shall pay no less than the highest rate and dividend generally available from the institution to its non-IOLTA account customers when IOLTA accounts meet or exceed the same minimum balance or other eligibility qualifications, if any. In determining the highest rate or dividend generally available from the institution to its non-IOLTA accounts, eligible institutions may consider factors, in addition to the balance in the IOLTA account, customarily considered by the institution when setting interest rates or dividends for its customers, provided that such factors do not discriminate between IOLTA accounts and accounts of non-IOLTA customers, and that these factors do not include the fact that the account is an IOLTA account. The eligible institution may offer, and the lawyer may accept, a sweep account that provides a mechanism for the overnight investment of balances in the IOLTA account into a daily financial institution repurchase agreement or a money-market fund. However, this Rule shall not require any eligible institution to offer or otherwise make available sweep accounts for IOLTA accounts.

(b) *Written Agreements*. There shall be a written agreement between the lawyer and the eligible institution, designating interest on the IOLTA account be remitted to the Arkansas Access to Justice Foundation, Inc. on a monthly basis.

(c) *Interest Rates and Dividends*. Eligible institutions shall maintain IOLTA accounts that pay the

highest interest rate or dividend generally available from the institution to its non-IOLTA account customers when IOLTA accounts meet or exceed the same minimum balance or other account eligibility qualifications, if any.

(d) *Fees That May Be Deducted From Interest Earned*. Allowable reasonable fees are the only service charges or fees permitted to be deducted from interest earned on IOLTA accounts. Allowable reasonable fees may be deducted from interest on an IOLTA account only at such rates and under such circumstances as is the eligible institution's customary practice for all of its customers with interest-bearing accounts. All other fees and charges shall not be assessed against the accrued interest on the IOLTA account but rather shall be the responsibility of, and may be charged to, the lawyer maintaining the IOLTA account.

(e) *Negative Netting Prohibited*. Fees or charges in excess of the interest earned on the account for any month shall not be taken from interest earned on other IOLTA accounts or from the principal of the account.

(f) *Reporting Requirements*. A statement should be transmitted monthly to the Arkansas Access to Justice Foundation, Inc., in an electronic format to be specified by the Foundation, showing the period for which the remittance is made, the name of the lawyer or law firm from whose IOLTA account the remittance is being sent, the IOLTA account number, the average account balance, the interest rate applied, the gross interest or dividend earned during the period, the amount and description of any service charges or fees assessed during the remittance period, and the net amount of interest or dividend remitted for the period.

Section 3. Removal of financial Institutions from IOLTA Program.

In addition to the attorney trust account "automatic overdraft" notification procedures set out in Section 28 of the Procedures of the Arkansas Supreme Court regulating professional conduct of attorneys at law:

(a) Banks may only be removed from the IOLTA Program after notice from the Foundation to the bank of the action needed to correct or implement any needed changes and a timely response from the bank.

(b) Should a bank be removed from the IOLTA Program, the Foundation will give attorneys sufficient notice and time in order to move their IOLTA accounts to another participating bank.

HISTORY

Adopted and effective by per curiam order November 5, 2015.