

IN RE: SUPREME COURT STATEMENT on  
LIMITED JURISDICTION COURTS UNDER  
AMENDMENT 80

Supreme Court of Arkansas  
Delivered November 25, 2002

**P**ER CURIAM. Amendment 80 revised the Judicial Article of the Arkansas Constitution, and it places substantial responsibility for its implementation on the Supreme Court. In furtherance of this responsibility and as the head of the Judicial Department of state government, we publish the following:

Arkansas Supreme Court Statement on Limited Jurisdiction  
Courts Under Amendment 80

The adoption of Amendment 80 to the Arkansas Constitution by the citizens of Arkansas has created significant change in the structure and administration of our state court system. In 2001 our probate and chancery courts were eliminated and a unified circuit court of general jurisdiction was created. Five divisions of circuit court were created and a system for the establishment of local case administrative plans was put in place. In 2002 a change in the process for the selection of state court judges was implemented with the move from partisan to non-partisan judicial elections.

Amendment 80 also requires change and improvement of our limited jurisdiction court system. The implementation date for these changes is January 1, 2005. In many respects, the reform of these courts is the most significant area of constitutional change. Arkansas' limited jurisdiction courts have historically operated as "step-children" in our state court system; in fact, in very few respects could they be considered "state" courts. Pre-Amendment 80 constitutional and statutory provisions create five different limited jurisdiction courts, each with conflicting and overlapping jurisdiction. Almost all of these courts operate on a part-time

basis and there is little consistency in practice and procedure from jurisdiction to jurisdiction.

In order to consider the possible changes required by Amendment 80, the Supreme Court created the Committee on the Implementation of Amendment 80 to study the issues and make recommendations to the court. After reviewing these recommendations, the court now adopts the following statement of policy to guide the implementation of this phase of Amendment 80. It should be noted that the responsibility for implementation on these issues is shared between the Supreme Court and the General Assembly. It is also likely that the full implementation will take place over a number of years. These policy statements, therefore, are offered as a guide to insure consistency in the measures adopted by the judicial and legislative branches and throughout the duration of the process.

1. Geographical jurisdiction. The current state of the number, location, and geographic authority of limited jurisdiction courts presents a quagmire of conflicting and overlapping judicial boundaries. In many cases, the geographical jurisdiction of the judge exceeds the area from which he or she is elected. In some counties this is compounded by the existence of a multitude of district and city courts. For these reasons the following principles should be adopted:

- \* One district court should be created in each county. In counties which have two county seats and in which the General Assembly has created two judicial districts, one district court should be created in each district.
- \* No district judge should have the authority to act outside of the area from which he or she is elected.

2. Full-time judiciary. With a very few exceptions, current limited jurisdiction court judges are employed on a part-time basis. In some cases, the court is in session for only a few days each month. Most of these judges also maintain an active law practice. Despite the clear provisions of the Code of Judicial Conduct and the

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diligent attempts by the judges to avoid problems, conflicts of interest occur routinely. A majority of the complaints received by the Judicial Discipline and Disability Commission involve part-time district court judges. While Amendment 80 does not require that district court judges serve in a full-time capacity it certainly contemplates that as the standard. The change from a municipal or city to a "district" court, the creation of one court per county and the specific authorization of judges to serve courts in more than one county all evidence the expectation of a full-time judiciary. Section 14 of the Amendment provides that the General Assembly may prevent district judges from practicing law.

If the district court is to become a true third tier of the state court system it must be a full-time court served by full-time judges.

- \* To the extent that the number of cases within a county or district is sufficient to support a full caseload, district judges should serve on a full-time basis and should be prohibited from practicing law.
- \* To the extent that there is not a sufficient number of cases within a district or county to support a full caseload, two or more districts and/or counties should be combined for the purposes of creating an electoral district for the election of a full-time judge to serve the courts so designated.

3. State Funding. Amendment 80 does not require the state funding of the court system. The stated public policy goal of the General Assembly, however, has been to move from local to state funding of the court system. State funding is essential to provide core judicial services which are both adequate and consistent throughout the state. In order to become a full partner in the state court system, a unified district court should be included within this public-policy goal. It is not within the state's interest, however, to assume the responsibility for funding a system which is poorly structured and inefficient. The restructuring of the system and its funding by the state, therefore, go hand-in-hand. For example, it is not

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sound public policy for the state to enhance the current salary of district court judges without also considering the number of judges serving a county or district and whether they are serving on a full-time basis. Since the goal should be a move to a full-time judiciary, state funding should be utilized to enhance that goal.

- \* The state should assume the responsibility for the payment of the salary and retirement of full-time district court judges.
- \* The salary paid to full-time district court judges should be commensurate with their role and status as members of the state judiciary and relative to the state salaries paid to general jurisdiction and appellate court judges.
- \* The source of funding for full-time district court judges should be the same as that for general jurisdiction and appellate court judges.
- \* Local government should continue to fund the salary and retirement of part-time district court judges and the other costs of operating the district court.

4. Subject-Matter Jurisdiction. The creation of a full-time district court creates the opportunity for the expansion of the authority and role of the district court. The higher costs associated with the creation of additional circuit court judgeships, the lower cost of litigating at the district court level and quicker access to the district court docket are further reasons to enhance the court's jurisdiction. Further study is needed, however, before a recommendation on specific changes in jurisdiction can or should be made. The decision is also drastically affected by the change in the geographical jurisdiction of the court and the move to full-time status. Possible areas of expansion include an increase in the dollar limitation in civil cases, concurrent jurisdiction with circuit courts in domestic abuse cases, and a uniform obligation to consider and issue search and arrest warrants and conduct probable cause hearings and other preliminary felony issues.

- \* The Supreme Court Committee on the Implementation of Amendment 80 should study and review the possible

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enhancement of the subject-matter jurisdiction of district courts and make recommendations to the court for action and for further recommendation to the General Assembly.

5. Consolidation of Courts. Amendment 80 creates the district court as the unified court of limited jurisdiction. With one exception, the constitutional authority for the continuation of other limited jurisdiction courts is eliminated on January 1, 2005. City courts may continue until eliminated by a city and/or the General Assembly. The rationale for the creation of a unified district court is the same as that which supported a unified circuit court—to streamline and make more efficient the administration of justice. The General Assembly began this process with the repeal of all legislation authorizing Courts of Common Pleas in 2001. The process should continue with the remaining courts.

- \* The district court should be established as the unified limited jurisdiction court in Arkansas. Statutory authorization for the continuation of Municipal Courts, City Courts, Police Courts and Justice of the Peace Courts should be repealed, effective January 1, 2005.
- \* The current statutory provisions authorizing magistrates in district courts should be repealed.

6. Subject-Matter Divisions. Amendment 80 authorizes the Supreme Court to establish subject-matter divisions for district courts. The designations should be for the purpose of case administration and management and should be uniform throughout the state.

- \* There should be created the following subject matter divisions for district court: criminal, traffic, civil and small claims.
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