



Friends of the Court

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Highlights of 2003 Legislation Affecting Judiciary

Funding for Judicial Branch Limited for Next Biennium

In a special session of the General Assembly held in May the members of the legislature approved a combination of increased tobacco taxes and an income tax surcharge in order to fund increased medicaid and prison costs and to continue other state programs at continuing levels. Funds for all judicial branch programs were restored to FY03 budget levels for FY04 and FY05. Funds which had been cut from the budgets of the Supreme Court, Court of Appeals and Administrative Office of the Courts were restored to the levels prior to the cuts for the year beginning July 1, 2003. There are no increases in any part of the budget, however, for the coming two years. While most programs can be sustained during the period without a change in service levels there will be severe shortfalls in the funding for ad litem attorneys in domestic relations cases and for foreign language interpreters.

The legislature also approved a limited compensation plan for state employees, including judicial branch employees. Lowest paid employees will receive raises of 2.7% with lower percentage increases for higher paid employees capped at 1.4%. The Chief Fiscal Officer is given the authority to provide an additional raise up to 2% per year in the event the economy and the state's fiscal condition improves.

State to Review Circuit Court Districts

With the passage of **Act 1711** of 2003 the General Assembly created the Circuit Court Apportionment Commission. The group is charged with providing a report and recommendation to the Supreme Court and the 2005 General

Assembly on "the jurisdiction of state courts and the number and location of circuit court districts". The Commission is chaired by the Chief Justice and includes the chair and two other members of both the House and Senate Judiciary Committees, the President and two other members of the Judicial Council, the President of the Arkansas Bar Association and two persons appointed by the Governor. The Commission is staffed by the Administrative Office of the Courts.

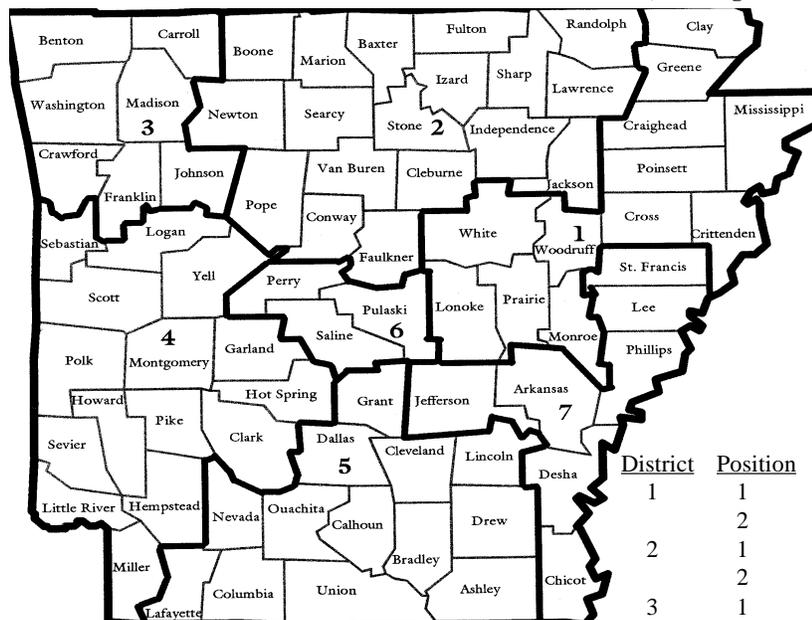
Court of Appeals Districts Created

Ten years after the General Assembly first approved the expansion of the Arkansas Court of Appeals from six to twelve judges and required the creation of

new electoral districts, the Governor recently signed into law the 2003 legislation which will put the districts in place. **Act 1812** of 2003 creates seven new districts which will first be utilized during the 2004 general election.

Over the last decade three separate commissions were appointed and charged with the responsibility of recommending new districts but, in each instance, the General Assembly was unable to agree upon a plan. At one point, an Attorney General's opinion was required to allow the appointed judges to "hold over" in office since no districts had been created in which they could run.

The new districting plan makes (See "**Legislation**" next page.)



District	Position	Next Election
1	1	2006
	2	2006
2	1	2010
	2	2004
3	1	2010
	2	2006
4	1	2004
	2	2004
5	1	2004
	2	2004
6	1	2008
	2	2006
7	1	2008
	2	2008

("Legislation", cont.)

minor changes in the districts in central and western Arkansas in order to equalize population and more substantial changes in the eastern portions of the state. Five of the seven districts are two-judge districts with two single-judge districts in the southeast portion of the state. District 7 encompasses an area which will create a "minority influence" district. The terms of office of some current judges were extended in order to more evenly stagger the number of elections in any one year and to prevent any current judges from being forced to oppose one another.

Tort Reform

Tort reform was on the front burner for a substantial portion of the legislative session. **Act 649** placed a "cap" of one million dollars on punitive damages judgments in causes of action which accrue after the Act's effective date (March 25, 2003). The cap would not apply if a defendant had intentionally pursued a course of conduct for the purpose of causing injury or damage. Act 649 also contains significant provisions regarding the filing requirements for and proof at the trial of medical malpractice actions.

Criminal Law

In the area of criminal law, with **Act 1470** the legislature expanded the list of persons required to provide a DNA sample to persons convicted of any felony offense, any misdemeanor sexual offense, or any "repeat" offense.

Bail Bonds

Act 752 modified the procedure in circuit courts for the forfeiture of bail bonds when a criminal defendant fails to appear for court, and allows circuit courts to suspend a bail bond company's or agent's ability to issue bail bonds in its court for violation of a court's orders.

Mediation

While many circuit judges have been interested in ordering cases pending before them to mediation, there has been some uncertainty about their authority to do so. **Act 1179** of 2003 alleviates that uncertainty.

Act 1179 of 2003 amends Ark. Code Ann. § 16-7-202 to explicitly grant circuit and appellate judges the discretionary authority to order parties to mediation in any civil, juvenile, probate, or domestic relations case. Once ordered to mediation, the parties are required to select a mediator from the Arkansas Alternative Dispute Resolution Commission's Roster. The parties also have the option of selecting a mediator who is not on the Roster if the selection is approved by the court. Parties may move to dispense with the order to mediate for "good cause" which includes, but is not limited to, the party's inability to pay the costs of mediation. Good cause is determined by the court.

Judges should be aware that Act 652 carves out an exception to the court's authority to order parties to mediation. Act 652 addresses grandparents' visitation rights, and contains a provision which allows the court to order mediation on three conditions: (1) mediation services are available; (2) that both parties agree to participate in mediation; and (3) one or both of the parties agree to pay for mediation.

Judges should also note that Act 1179 expands the issues which can be mediated in divorce cases involving minor children. In 1999, the Legislature passed Act 704, codified as Ark. Code Ann. § 9-12-322. This statute allowed the court to order to mediation divorcing parties with minor children to address issues of parenting, custody and visitation. Act 1179 broadens the scope of the court's authority to any domestic relations issue, including property division and regardless of whether minor children are involved.

District Courts Reorganization

The close of the 84th General Assembly Regular Session, 2003, marked the beginning of significant changes in the District Courts. One significant change was required by Amendment 80, namely that the General Assembly establish judicial districts and the number of judges for District Courts. Another change, also significant though not mandated by Amendment 80, was the establishment of the District Judges' Retirement System and the closing of the Municipal Judges and Clerks' Retirement Systems. The final significant change was related to the previous retirement legislation and it provided retirement benefits for District Court Clerks.

Arkansas Constitution, Amendment 80, Section 10, gave the General Assembly the power to establish judicial districts and the number of judges for District Courts, provided such districts are comprised of contiguous territories. Section 17 of Amendment 80 requires District Judges to be elected on a nonpartisan basis by a majority of qualified electors voting for such office within the district which they serve. The response of the General Assembly was **Act 1727** of 2003 which establishes the number of district courts and the number of district judges to be elected in the 2004 nonpartisan judicial general election. The act also establishes the territorial jurisdiction of the various district courts and requires the judges to be elected from within the established judicial district. Overall, this is a change from the current 126 district courts served by 113 judges to the establishment of 98 district courts to be served by 115 judges.

District Judges' Retirement System

Act 1374 creates the Arkansas District Judges' Retirement System. The new system is to be governed by a five member board and staffed by the Arkansas Public Employees Retirement System director and staff. The fund is effective January 1, 2005 and provides for a transfer of the assets of local retirement funds to the system. Eligibility for benefits are 20 years at age 50, 16 years at age 60 and 8 years at age 65. Benefits are 2.5% of salary multiplied by active years of service with a maximum of 80%. Benefits will be based on actual service in the Arkansas District Judge Retirement



District Court Judges and Clerks Meet

System beginning January 1, 2005.

All District Court Judges will participate in the new system. An exception is made for those judges who are covered by the Arkansas Public Employees Retirement System on December 31, 2004. Those judges will continue to be covered by that system.

District Clerks' Retirement Benefits

Act 1375 of 2003, provides for District Court Clerks' Retirement Benefits. This act was dependent on the creation of the district judge system and places all municipal court clerks and district court clerks who are members of a local municipal judge and clerk retirement fund on December 31, 2004 into the Arkansas Public Employees Retirement System. Local retirement fund assets, if the amount is greater than the liabilities to be transferred to the district judge's retirement system, may be used to pay the benefit obligations for the court clerks. The remaining actuarially determined accrued liability may be paid by the employer based on a 30 year amortization period.

Domestic Relations, Probate, and Juvenile 2003 Legislative Highlights will be featured in the July issue of "Friends of the Court".



Condolences are sent to the family and friends of retired Circuit Judge Phillip Purifoy who passed away May 7th.

Judge Purifoy served as a circuit judge in the 8th Judicial Circuit for nineteen years. Before taking the bench as circuit judge, Judge Purifoy had served as Miller County Municipal Judge for seven years.



District Judges and Clerks met in Hot Springs in May for their Spring meeting. Judge Stephen Routon/Forrest City has served as President of the District Judges' Council for the 2002-2003 term. Judge David Stewart/Little Rock assumed the duties of President for the 2003-2004 term. Other officers of the District Judges Council for the coming year are: Hon. David Saxon/Fort Smith-1st Vice President, Hon. Jim Hamilton/North Little Rock-2nd Vice President, and Hon. Rusty Porter/West Helena-Secretary-Treasurer. District Representatives for the coming year are: Hon. Mike Irwin/Heber Springs-1st District, Hon. Mike Robinson/Benton-2nd District, Hon. Doug Schrantz/Rogers-3rd District, and Hon. John Finley/Ashdown-4th District.

Judy West, Clerk in North Little

Rock was president of the Clerks' Association this past year and will continue in that capacity for the coming year. The other Clerk officers for 2003-2004 are Dena Titsworth/Mena-1st Vice President, Cheri Mitch/Greenwood-2nd Vice President, Vicki Asher/Hot Springs-Secretary, Katrina Whitaker/Pea Ridge-Treasurer, Del Rae Templeton/Bryant-Historian, and Val Buster/Texarkana-Parliamentarian. District Representatives for the Clerks are: Nola King/Gosnell-1st, Donna Clifton/Conway-2nd, Connie Watson/Rogers-3rd, Melba Russell/Malvern-4th, Rachel Sims/Fort Smith-At Large and Theresa Wilson/Mt. Ida-At Large.

Chosen as Clerk of the Year by her peers was Valerie Buster of Texarkana.



Incoming President for 2003-2004 District Judges Council, Judge David Stewart, (left) and President of the District Clerks' Association, Judy West, (center) listen to Judge Stephen Routon (right), 2002-2003 District Court Judges' President, address Judges and Clerks at the Awards Luncheon.



Valerie Buster, Texarkana, received the Clerk of the Year award at the Awards Luncheon held for District Court Judges and Clerks.



New Faces in the Judiciary

District Court Clerks

Prairie Grove - **Christy Pinkley** replaces Bettie Cartier.

Cotton Plant - **Esther Hicks** replaces Janice Hardy.

Harrison - **Sandra Wright** replaces Lisa Horton.

Lonoke - **Sunnye Freeby** is the new clerk.

Prescott - **Brenda Miller** replaces Michelle Glass.

Jonesboro & Lake City - **Linda Holland** is the chief clerk.

District Judges

Benton County West - **Jeff Conner** replaces Ed Gartin.

City Court Clerks

Barling - **Cindy Walker** replaces Tammy Castillo.

Chidester - **Jeanette Hagemeister** replaces Jean Bolt.

Holly Grove - **Delvin Davey** replaces Steven Tyler.

Gould - **Earnest Nash, Jr.** is the new clerk.

St. Charles - **Naomi Mitchell** replaces Louise Morton.

City Court Clerks (continued)

Alma - **Angela Allen** replaces Sherry Haynes.

Bald Knob - **Linda Black** replaces Johnna Brown.

Coal Hill - **Diana Schneider** replaces Kim Tedford.

Cotter - **Mary McLaughlin** replaces Kay Laughry.

Mountain Pine - **Janie Jones** replaces Pamela Irons.

Sulphur Springs - **Regina Kuykendall** replaces Jane Smith.

White Hall - **Pam Allred** replaces Ellen Welch.

Case Coordinators

9th West - (Yeargan) **Linda Ballard** replaces Janice Mack.

21st - (Cottrell) **Vickie Jones** replaces Christine LaRue.

6th - (Gray) **Reda Smedley** replaces Patrice Carey.

14th - (Isbell) **Janette Pedigo** replaces Lorrie McNeil.

Court Reporters

5th (Coker) - **Dianne Hinson** replaces Willma Vaughn.

5th (Sutterfield) - **Willma Vaughn** replaces Mark Scott.

CALENDAR

August

Appellate Staff Orientation (Little Rock) **TBA**

District & City Court Clerks Certification - Senior Clerks (Little Rock) **15**

September

District Judges Fall College (Eureka Springs) **25-27**

October

Fall Judicial College/Judicial Council Meeting (Little Rock) **15-17**

November

District & City Court Clerks Certification (Little Rock) **21**



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**Address
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