

1 **AMENDED ADMINISTRATIVE PLAN**
2 **OF THE FIFTH JUDICIAL DISTRICT**
3 **POPE, JOHNSON, AND FRANKLIN COUNTIES**
4 **STATE OF ARKANSAS**

5 Adopted on: _____

6 EFFECTIVE DATES: JANUARY 1, 2022 THROUGH DECEMBER 31, 2023

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25
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SECTION ONE

ADMINISTRATIVE POLICY STATEMENT

1. Enactment of Plan: Case management and administrative procedures of the Fifth Judicial District will be governed by this Plan. This Plan is submitted pursuant to Ark. Sup. Ct. Admin. Order No. 14. Upon approval of the Arkansas Supreme Court, this Plan carries the force of law.

2. Periodic Review Of Plan And Of The Operations Of The Court System:

The circuit judges of the Fifth Judicial District shall meet no less than twice a year to review the implementation and efficiency of this Plan. The dates, times and places of said meeting shall be set with the unanimous consent of all of the Circuit Judges in the Fifth Judicial District. The Circuit Judges shall also meet monthly to review the performance of each Division and to ensure each Judge has an adequate awareness of the processes, activities, caseloads, calendar, and special circumstances of the judicial system in the Judicial District. Each Circuit Judge should periodically share the upcoming calendar for that Division with the Judges of the other Divisions, including associated support staff (e.g., Trial Court Administrators, Court Reporters, Clerks, and other interested parties).

3. Modifications of Plan: Any future modifications of this Plan shall be in

1 writing and shall require the unanimous consent of all the Circuit Judges in the
2 District, and shall evidence their signatures of approval. Proposed modifications
3 of this Plan shall be the subject of Public Notice with proposed modifications
4 issued in writing at the time of publication of the public notice; there shall be a
5 reasonable amount of time allowed for written public comment; any public
6 comment shall be addressed by the Circuit Judges; and the Circuit Judges shall
7 take final action on any proposed amendments in writing.

8
9 **4. Electronic Filing of Court Notices:** In all cases, notice to a party or
10 interested person who is a registered user of the electronic filing system under
11 Administrative Order 21 shall be considered adequate notice to that party or
12 interested person. If the party or interested person is not a registered user,
13 notice may be sent by email, text message, or other electronic message to the last
14 known electronic address of the party or interested person.

1 **SECTION TWO**

2
3 **CASE ASSIGNMENT PROCESS**

4
5 **1. Considerations in determining case assignment and allocation of**

6 **filings:** The process for assignment and allocation of court case filings in the
7 Fifth Judicial District is set forth below. In arriving at this process, several
8 factors have been taken into consideration which include, but are not limited to,
9 the following: Limitations on courtroom space, parking facilities, and
10 accommodations available to the public; Efficient utilization of jury panels; Equal
11 appointment of filings based upon past case filings and time frames peculiar to
12 different types of filings; Limited resources for juvenile filings; The experience
13 and qualifications of each of the Circuit Judges in the District; Limited resources
14 in support staff for different divisions of Circuit Court including, but not limited
15 to Prosecuting Attorneys, Public Defenders, Attorneys Ad Litem, Juvenile Intake
16 Officers, Juvenile Probation Officers, Adult Probation Officers, Social Workers and
17 specialized staff of the Arkansas Department of Human Services; Cost and
18 expense to each of the Counties of the Fifth Judicial District in implementing this
19 Plan.

20 **2. Identity of Circuit Judges in 5th Judicial District:** The Fifth Judicial District
21 Consists of the three counties: Franklin, Johnson and Pope. There are four

1 Circuit Judges who serve the district:

2 Division One - Circuit Judge James Dunham.

3 judgejamesdunham@gmail.com

4 Division Two - Circuit Judge Gordon “Mack” McCain, Jr. - **Administrative Judge.**

5 arjudgedist5div2@gmail.com

6 Division Three - Circuit Judge Ken D. Coker, Jr.

7 judgekcoker@gmail.com

8 Division Four - Circuit Judge Dennis C. Sutterfield.

9 judgedcs@yahoo.com

10 After January 1, 2023 the Division Four Circuit Judge will be:

11 Division Four - Circuit Judge Jack Patterson

12 JudgeJackPatterson@gmail.com

13

14

15 **3. Creation of Subject Matter Divisions:**

- 16 a. As mandated by Administrative Order 14, this Plan hereby establishes the
17 following subject matter divisions in Circuit Courts of each county of the Fifth
18 Judicial District: Criminal (CR), Civil (CV), Juvenile (JV), Probate (PR) and
19 Domestic Relations (DR).

1 1. Within criminal division, there is also created a specialty court docket
2 or program known as drug court in each County. Specialty court dockets
3 employ a problem-solving approach with a Circuit Judge supervising a
4 treatment plan for a litigant that is designed and implemented by a team
5 of court staff and health professionals.

6 2. Within juvenile division there is also created a specialty court docket
7 or program know as Juvenile Drug Court in each County. Specialty court
8 dockets employ a problem-solving approach with a Circuit Judge
9 supervising a treatment plan for a litigant that is designed and
10 implemented by a team of court staff and health professionals.

11 b. For the purpose of this Plan, “probate” means filings relating to decedent
12 estates, trust administration, adoption, guardianship, conservatorship,
13 commitment and adult protective custody; “Domestic Relations” means filings
14 relating to divorce, annulment, maintenance, custody, visitation, support,
15 paternity and domestic abuse.

16 c. The creation of these divisions is for the purpose of judicial administration
17 and caseload management and is not for the purpose of subject matter
18 jurisdiction.

19 d. The creation of these divisions shall in no way limit the powers and the duties

1 of the Circuit Judges.

2 **4. Effect of Assigning a Case to a Division of Circuit Court.**

3 a. Under this Plan, no Circuit Judge has been assigned exclusively to a particular
4 division in a manner that would preclude or limit that Judge from hearing other
5 filings which may come before the Circuit Judge.

6 b. Once a case is filed and a Circuit Judge is assigned pursuant to this Plan, all
7 future matters in that case shall be heard before the same Judge unless there is
8 a transfer or recusal under the processes described in this Plan.

9 **5. Process of Assigning Court Cases to a Division of Circuit Court:** Case

10 assignments under this Plan shall be accomplished by the Court Clerks by using
11 the Contexte System. The System shall be configured to assign cases to Circuit
12 Judges of this Judicial District in a manner which mirrors the respective
13 percentages of case assignments designated below, and which otherwise
14 accomplishes the assignment of cases pursuant to this Plan.

15

1 **SECTION THREE**

2
3 **CASE ASSIGNMENTS TO CIRCUIT JUDGES**

4
5 **1. CASE ASSIGNMENTS TO DIVISION ONE.** The Circuit Judge for Division One
6 of the Fifth Judicial District shall be assigned the following case filings:

7 **a. Criminal Cases (CR):** 100% of all Criminal (CR) filings in Pope and Franklin
8 Counties.

9 1. The Division One Circuit Judge has the primary responsibility and authority
10 for the criminal justice system in the Fifth Judicial District. The Division One
11 Judge shall supervise all phases of the criminal justice system, and shall arrange
12 for the regular participation of judicial officers in the following proceedings:
13 Probable cause and pretrial release determinations; search warrant applications
14 and returns; preliminary hearings in Petition to Revoke Supervision cases;
15 requests for miscellaneous hearings in criminal justice matters.

16 2. The Division One Judge shall maintain forms and develop standardized
17 procedures and practices, which shall appear on the website for the Division One
18 Judge. An interested party should be able to generally understand the
19 standardized procedures and practices of the criminal justice system in the Fifth
20 Judicial District by reference to that information. The Division One Judge shall,
21 with the participation and consent of the District Judges and Circuit Judges of the

1 Fifth Judicial District, establish a regular schedule for such hearings in
2 consultation with the affected participants (e.g., law enforcement agencies, court
3 clerks, Prosecuting Attorneys, Public Defenders, lawyers who regularly practice
4 in the Fifth Judicial District, etc.). The Division One Judge shall maintain and
5 publicize the usual forms and schedules of such hearings on a website
6 designated as such and available to the public and persons who regularly
7 participate in such cases.

8 **b. Domestic Violence Cases (DR):** Any case other than one arising under the
9 Juvenile Code (which is assigned to Division Three) in which there is a
10 suggestion that domestic violence is or may be a factor in the judgment of the
11 Judge of the Division to which the case is originally assigned shall be transferred
12 from the Division to which the case is originally assigned to Division I. For
13 example, a civil case seeking an injunction; or a domestic relations case; or a
14 probate case such as a guardianship; in any such cases in which there is a
15 suggestion that domestic violence is or may be a factor as described above, and
16 which case begins in Division Two, Three, or Four, the case shall be transferred
17 to Division One upon the determination of the need to transfer. That
18 determination is in the discretion of the transferring Judge, in consultation with
19 the Division One Circuit Judge. Any disagreement regarding whether to transfer

1 the case shall be decided by the Administrative Judge prior to entry of the Order
2 of Transfer.

3 **c. Pope County Domestic Abuse Act Cases (DR):** 100% of Pope County
4 domestic relations cases in which there is a claim for relief under the Arkansas
5 Domestic Abuse Act, Ark. Code Ann. §9-15-101 et. seq. shall be assigned to
6 Division One.

7 **d. Civil Cases (CV):** Pope, Johnson, and Franklin Counties: All civil property
8 forfeiture actions filed pursuant to Ark. Code Ann. §5-64-505 or otherwise
9 designated as property forfeitures on the cover sheet submitted to the Clerk at
10 the time of filing.

11 **e. Transfer of existing Civil (CV) Cases from Division One to Division Three
12 and Division Four:** On January 1, 2022, the existing and open civil cases
13 assigned to Division One shall be transferred to Divisions Three and Four as if
14 they had been originally assigned to those Divisions. One-half ($\frac{1}{2}$) of such cases
15 shall be assigned to Division Three, and one-half ($\frac{1}{2}$) of such cases shall be
16 assigned to Division Four. The circuit clerk shall randomly assign these open
17 cases to each Division as provided above. The Division One Judge may exempt
18 individual cases from such reassignment by notice to the Clerk prior to
19 reassignment (e.g., cases in which pretrial proceedings have occurred; cases that

1 were transferred to Division One due to an earlier transfer or recusal; etc), in
2 which instance the cases exempted shall remain assigned to Division One.

3

1 **2. CASE ASSIGNMENTS TO DIVISION TWO.** The Circuit Judge for Division Two
2 of the Fifth Judicial District shall be assigned the following case filings:

3 **a. Domestic Relations Cases (DR):**

4 1. Pope County: 60% of domestic relations filings, except 100% of Pope County
5 domestic relations cases in which there is a claim for relief under the Arkansas
6 Domestic Abuse Act, Ark. Code Ann. §9-15-101 et. seq. which shall be assigned
7 to Division One.;

8 2. Johnson County: 60% of domestic relations filings;

9 3. Franklin County: 80% of domestic relations filings.

10 **b. Probate Cases (PR):**

11 1. Pope County: 100% of probate filings until January 1, 2023. Beginning
12 January 1, 2023, Division Two shall be assigned 100% of probate filings, except
13 mental health commitments under Ark. Code Ann. § 20-47-101 *et. seq.* and drug
14 and alcohol commitments under Ark. Code Ann. § 20-64-101 et. seq.; all such
15 cases shall be assigned to Division Three.

16 2. Johnson County: 100% of probate filings until January 1, 2023. Beginning
17 January 1, 2023, Division Two shall be assigned 100% of probate filings, except
18 mental health commitments under Ark. Code Ann. § 20-47-101 *et. seq.* and drug
19 and alcohol commitments under Ark. Code Ann. § 20-64-101 et. seq.; all such

1 cases shall be assigned to Division Three.

2 3. Franklin County:100% of probate filings until January 1, 2023. Beginning
3 January 1, 2023, Division Two shall be assigned 100% of probate filings, except
4 mental health commitments under Ark. Code Ann. § 20-47-101 *et. seq.* and drug
5 and alcohol commitments under Ark. Code Ann. § 20-64-101 *et. seq.*; all such
6 cases shall be assigned to Division Three.

7 **c. Criminal Cases (CR):**

8 1. Johnson County Drug Court: All Drug Court filings in Johnson shall be heard
9 in Division Two.

10 2. Franklin County Drug Court: All Drug Court filings in Franklin County shall be
11 heard in Division II.

12 3. Miscellaneous Criminal Hearings: Shared responsibility with other judicial
13 officers regarding applications for search and arrest warrants; probable cause
14 and pretrial release hearings; and other miscellaneous hearings in all counties
15 within the Fifth Judicial District.

16

1 **3. CASE ASSIGNMENTS TO DIVISION THREE.** The Circuit Judge for Division
2 Three of the Fifth Judicial District shall be assigned the following case filings:

3 **a. Juvenile Cases (JV):**

4 1. Pope County: 100% of Juvenile Division filings, including Juvenile Drug Court.

5 2. Johnson County: 100% of Juvenile Division filings, including Juvenile Drug
6 Court.

7 3. Franklin County: 100% of Juvenile Division filings, including Juvenile Drug
8 Court.

9 4. Juvenile Court Administration: The Division Three Circuit Judge shall have
10 the responsibility to be the primary administrator of the juvenile court system
11 throughout the Judicial District. Those duties shall include, but not be limited to,
12 the hiring and supervision of the juvenile intake and probation officers as well
13 as other juvenile support staff, the administration of special juvenile programs,
14 the budgets of the juvenile support systems and any other duties previously
15 delegated to juvenile judges under the laws of the State of Arkansas.

16 **b. Civil Cases (CV):**

17 1. Pope County: 100% of all civil filings, except all civil property forfeiture
18 actions filed pursuant to Ark. Code Ann. §5-64-505 or otherwise designated as
19 property forfeitures on the cover sheet submitted to the Clerk at the time of filing

1 are assigned to Division One.

2 **c. Criminal Cases (CR):**

3 1. Miscellaneous Criminal Hearings: Shared responsibility with other judicial
4 officers regarding applications for search and arrest warrants; probable cause
5 and pretrial release hearings; and other miscellaneous hearings in all counties
6 within the Fifth Judicial District.

7 2. Pope County Drug Court: 100% of Pope County Drug Court cases.

8 **3. Transfer of existing Drug Court Cases from Division Four to Division**

9 **Three:** On January 1, 2023, the existing and open Pope County drug court cases
10 assigned to Division Four shall be transferred to Division Three as if they had
11 been originally assigned to Division Three.

12 **d. Probate Cases (PR):**

13 1. Pope County: Beginning January 1, 2023, Division Three shall be assigned
14 100% of probate filings concerning mental health commitments under Ark. Code
15 Ann. § 20-47-101 *et. seq.* and drug and alcohol commitments under Ark. Code
16 Ann. § 20-64-101 *et. seq.*

17 2. Johnson County: Beginning January 1, 2023, Division Three shall be assigned
18 100% of probate filings concerning mental health commitments under Ark. Code
19 Ann. § 20-47-101 *et. seq.* and drug and alcohol commitments under Ark. Code

1 Ann. § 20-64-101 *et. seq.*

2 3. Franklin County: Beginning January 1, 2023, Division Three shall be assigned

3 100% of probate filings concerning mental health commitments under Ark. Code

4 Ann. § 20-47-101 *et. seq.* and drug and alcohol commitments under Ark. Code

5 Ann. § 20-64-101 *et. seq.*

1 **4. CASE ASSIGNMENTS TO DIVISION FOUR.** The Circuit Judge for Division
2 Four of the Fifth Judicial District shall be assigned the following case filings:

3 **a. Domestic Relations Cases (DR):**

4 1. Pope County: 40% of domestic relations filings, except 100% of Pope County
5 domestic relations cases in which there is a claim for relief under the Arkansas
6 Domestic Abuse Act, Ark. Code Ann. §9-15-101 et. seq. which shall be assigned
7 to Division One.

8 2. Johnson County: 40% of domestic relations filings.

9 3. Franklin County: 20% of domestic relations filings.

10 **b. Civil Cases (CV):**

11 1. Johnson County: 100% of civil filings, except all civil property forfeiture
12 actions filed pursuant to Ark. Code Ann. §5-64-505 or otherwise designated as
13 property forfeitures on the cover sheet submitted to the Clerk at the time of filing
14 are assigned to Division One.

15 2. Franklin County: 100% of civil filings, except all civil property forfeiture
16 actions filed pursuant to Ark. Code Ann. §5-64-505 or otherwise designated as
17 property forfeitures on the cover sheet submitted to the Clerk at the time of filing
18 are assigned to Division One.

1 **c. Criminal Cases (CR):**

- 2 1. Pope County: 100% of Drug Court filings in Pope County. DELETE.
- 3 2. Johnson County: Beginning January 1, 2023 the Division Four Circuit Judge
- 4 shall be assigned 100% of the Criminal Case (CR) filings.
- 5 3. Miscellaneous Criminal Hearings: Shared responsibility with other judicial
- 6 officers regarding applications for search and arrest warrants; probable cause
- 7 and pretrial release hearings; and other miscellaneous hearings in all counties
- 8 within the Fifth Judicial District.

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1 **SECTION FOUR**

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3 **CASELOAD ESTIMATES**

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5 The following are "Caseload Estimates" required by Administrative Order
6 14 (3) (b), and are based upon 2021 data provided by AOC:

7

CASE TYPE	TOTAL	DIV. 1	DIV. 2	DIV. 3	DIV. 4
CIVIL CASES	925	30	0	517	378
CRIMINAL CASES	2971	2328	0	0	643
DOMESTIC CASES	1866	155	1086	0	625
JUVENILE CASES	393	0	0	393	0
PROBATE CASES	877	0	715	162	0
DRUG COURT **	100	0	40	60	0
TOTAL CASES*	7132	2513	1841	1132	1646
	100%	35%	26%	16%	23%

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16 * TOTAL CASES HAVE BEEN INCREASED BY 100 TO ACCOUNT FOR DRUG
17 COURT CASES WHICH ARE NOT OTHERWISE INCLUDED IN THE TOTAL.

18 ** DRUG COURT CASES ARE A SUBSET OF CRIMINAL CASES. ALL SUCH
19 CASES ARISE AS A CRIMINAL CASE. UPON CONCLUSION OF THE CRIMINAL
20 PROCEEDINGS, THE CASE CONTINUES AS A DRUG COURT CASE WITHOUT A

1 NEW CASE-TYPE DESIGNATION. DRUG COURT CASES ARE DESIGNATED AS
2 "CR" CASES, AND ARE ALSO INCLUDED IN CRIMINAL CASES ABOVE. WHEN A
3 CRIMINAL CASE IS TRANSFERRED TO DRUG COURT SUPERVISION FOLLOWING
4 THE ENTRY OF A SENTENCING ORDER IN DIVISION ONE, THE CASE IS THEN
5 THE SUBJECT OF A TRANSFER ORDER TO THE PROPER DIVISION, EITHER
6 DIVISION 2 IN JOHNSON AND FRANKLIN COUNTIES, OR DIVISION 3 IN POPE
7 COUNTY. THE NUMBERS REFLECTED ABOVE ARE ESTIMATES BASED UPON
8 HISTORICAL RECORDS AND CERTIFICATIONS FOR THE REPRESENTED DRUG
9 COURT DOCKETS. POPE COUNTY IS CERTIFIED FOR 60 PARTICIPANTS;
10 JOHNSON COUNTY IS CERTIFIED FOR 20 PARTICIPANTS; FRANKLIN COUNTY
11 IS CERTIFIED FOR 20 PARTICIPANTS.

12

1 **SECTION FIVE**

2
3 **RECUSALS, REASSIGNMENTS,**

4
5 **AND REQUESTS FOR SPECIAL JUDGE ASSIGNMENT**

6
7 **a. Public Interest Recusals:** In any case in which the interest of the public
8 requires the case be reassigned to a judge outside of the Fifth Judicial District,
9 the Administrative Judge may make such determination at any time and direct
10 the Clerk to note the recusal of all circuit judges and to request assignment of a
11 special judge by the Chief Justice.

12 **b. Ordinary Recusals:** A Circuit Judge recusing from a case shall file an Order
13 of Recusal. The Circuit or County Clerk shall enter the case as a “recuse” into the
14 case management system, which will then randomly reassign the case to another
15 Circuit Judge. The case management system shall first reassign the case to
16 another Circuit Judge who hears that case type before assigning the case to other
17 Circuit Judges in the circuit. If the newly assigned Circuit Judge requests a
18 recusal, he or she shall file an Order of Recusal. The reassignment process shall
19 continue until an appropriate Circuit Judge is selected by the case management
20 system or until all Circuit Judges in the Judicial District have filed Orders of
21 Recusal. If all Circuit Judges have been recused, the Circuit or County Clerk shall

1 complete the form provided by the Administrative Office of the Courts to request
2 a Special Circuit Judge. The Clerk shall send the form, along with documentation
3 that all Circuit Judges in the Judicial District have been recused, to the Chief
4 Justice requesting that an assignment be made. Circuit Judges shall not be
5 involved in the process of reassignment due to a recusal other than to accept the
6 case or disqualify from the case. Documentation of recusals and all logistics
7 regarding reassignment shall be handled by the Circuit or County Clerk as an
8 administrative function. After notifying the Clerk's office of the need for
9 reassignment due to a recusal, a Circuit Judge shall take no further action in the
10 case other than to direct the attorneys and self-represented litigants to contact
11 the Clerk's office regarding reassignment. If the case management system lacks
12 the capability to reassign a case as detailed above, the Clerk's office shall be
13 responsible for creating a process to randomly reassign the case. It is the
14 responsibility of the Clerk to document the reassignment process in each case to
15 ensure that the random selection of the Circuit Judge can be independently
16 verified.

17 **c. Transfer of case to another Division:** At any time the Circuit Judge to whom
18 a case is assigned may transfer the case to another Division in order to achieve
19 the interests of this Plan or in the interests of justice.

1 **d. Entry of Order or Judgment on Exchange:** Any Circuit Judge of the Judicial
2 District may enter Orders or Judgments for another Circuit Judge of the Judicial
3 District with the consent of the Circuit Judge to whom the case is assigned. In
4 that event, the Circuit Judge executing the Order or Judgment shall sign the
5 Order as follows: “[Signature of Circuit Judge entering the Order or Judgment]
6 on exchange for [Name of Circuit Judge to whom the case is assigned].”

7 **e. Procedure Regarding Transfers From Criminal Division to Juvenile**
8 **Division Pursuant to Ark. Code Ann. § 9-27-318:** When a criminal case is
9 transferred from criminal division (CR) to juvenile division (JV) pursuant to Ark.
10 Code Ann. § 9-27-318, the transferring Judge shall consult with the Division
11 Three Circuit Judge to determine whether the interests of justice and
12 conservation of judicial knowledge and resources require the case remain
13 assigned to the Judge who entered the transfer order under § 9-27-318, or
14 requires the case be transferred to Division Three. The transferring Judge shall
15 then enter whichever order is proper at the same time as the entry of the Order
16 under § 9-27-318.

1 **SECTION SIX**

2
3 **REQUEST FOR ASSIGNMENT-TEMPORARY**

4
5 **INABILITY TO SERVE (DAY ASSIGNMENTS)**

6
7 Circuit Judges shall configure their calendars so that they are available to
8 hear all matters and sign all orders in cases assigned to them. Circuit Judges are
9 encouraged to use all available technology to fulfill these duties.

10 While it is preferable for Circuit Judges to hear all cases assigned to them,
11 there may be times when the assigned Circuit Judge is temporarily unavailable.

12 In the event the assigned Circuit Judge is temporarily unavailable, he or she may
13 request another Circuit Judge from the Judicial District preside over their cases.

14 The parties shall be promptly notified of the temporary absence of the assigned
15 Circuit Judge and of the Circuit Judge who will preside over the case instead. A
16 party may request a continuance to allow the assigned Circuit Judge to preside
17 over the case and any continuance for this reason shall be granted, unless it is a
18 time sensitive hearing under state or federal law. In criminal matters, a
19 defendant's request for continuance shall toll the intervening time for purposes
20 of speedy trial until the assigned Circuit Judge takes further action in the case.

21 Additionally, an order shall be entered memorializing the exclusion of this
22 time period. If the assigned Circuit Judge determines that all Circuit Judges are

1 unavailable to preside over the cases scheduled for the day(s), the assigned
2 Circuit Judge shall request the Clerk to complete the “Form Requesting Chief
3 Justice to Assign a Special Judge.” The clerk shall send the form to the Chief
4 Justice of the Arkansas Supreme Court for the Chief’s consideration. When a
5 Circuit Judge presides over cases assigned to another Circuit Judge or when a
6 Special Circuit Judge is assigned by the Chief Justice, the cases shall not be
7 permanently reassigned.

8

1 **SECTION SEVEN**

2
3 **SPECIALTY COURTS**

4
5 **Adult Drug Courts:**

6
7 The Fifth Judicial Drug Court provides Drug Court accessibility to all three
8 counties with the District. The statutory authority for this program is Ark. Code
9 Ann. §16-98-301 *et. seq.*

10 The Pope County Drug Court is comprised of Pope County and headed by
11 the Honorable Dennis C. Sutterfield, Circuit Judge for Division IV of the Fifth
12 Judicial District.

13 The two remaining counties, Johnson and Franklin, are served by a drug
14 court program headed by the Honorable Gordon “Mack” McCain, Jr. These two
15 separate drug court programs are provided separate staffs.

16 Judge Sutterfield conducts drug court in Russellville at the Pope County
17 Courthouse. Judge McCain conducts drug court at the Johnson County
18 Courthouse.

19 In addition to regular drug court dockets, there are sanctions dockets,
20 staffings and drug court team meetings held on a regular basis.

21 The drug court programs utilize both post-adjudication and
22 pre-adjudication processes. The programs are funded by the Department of

1 Community Correction which provides a counselor and probation officer in
2 conformity with Arkansas law. The programs are conducted in conformity with
3 the applicable Drug Court statutes and laws of the State of Arkansas and
4 complies with the law regarding assessment of fines, fees, court costs and
5 probation fees.

6 The administration of the Drug Court is a team effort involving the
7 Prosecuting Attorney's Office, Public Defenders Office, the respective Judges and
8 their staffs and provided employees of the Department of Corrections. The
9 programs are structured by phases and performance standards which include,
10 but are not limited to, regular drug testing, employment requirements, meeting
11 requirements, counseling and cooperation with rehabilitative efforts.

12 The combined goals of the drug courts are to assist drug court participants
13 in becoming drug free, productive citizens who will be positive influences to
14 their families and communities.

15 **Pope County Juvenile Drug Court:**

16 The Pope County Juvenile Drug Court Program authorized by Ark. Code
17 Ann. §16-98-301 *et. seq.* has been in operation since 2011. Court sessions are
18 conducted on the third Thursday of every month in the Courtroom on the second
19 floor of the Pope County Courthouse in Russellville, Arkansas. The program uses

1 a post-adjudication process and is open to all juveniles who have committed
2 eligible offenses and are recommended by the prosecuting attorney. The
3 program policies and practices are governed by the Juvenile Drug Court
4 Participant Handbook as developed by the drug court team. All practices and
5 policies are in conformance with State Drug Court statutes and all applicable
6 laws involving the assessment of court costs and probation services fees. The
7 Program receives staff funding from the State of Arkansas.

8 The members of the drug court team are composed of the following
9 members: circuit judge, prosecuting attorney, public defender, juvenile drug
10 court coordinator, education representatives, and the community based drug
11 court treatment staff.

12 Team members participate in monthly staffing's to ensure that all available
13 resources are utilized and participant's needs are met in a timely manner.

1 **SECTION EIGHT**

2
3 **USE OF JURY PANELS**

4
5 1. **Policy Statement.** It is the policy of the Circuit Court that Courts be
6 coordinated and efficient in the use of Jury Panels.

7 2. **Jury Panel Coordinator.** In each County of the 5th Judicial District, a
8 specific Circuit Judge shall be designated as the Circuit Judge who shall
9 have the exclusive authority to form and coordinate a jury panel. *See, Ark.*
10 Code Ann. § 16-30-101. The Circuit Judge so designated shall be referred
11 to as the Jury Panel Coordinator for that County.

12 3. **Authority.** The Jury Panel Coordinator may direct the formation of a Jury
13 Panel and may direct the Jury Panel attend proceedings in any Division of
14 Circuit Court in that County, including proceedings in which a Special or
15 Temporary Judge has been assigned.

16 4. **Duties.** The Jury Panel Coordinator is responsible for ensuring the
17 following:

- 18 a. The proper summons and notification of Jury Panel Members;
- 19 b. The proper completion of Jury Panel Information;
- 20 c. The proper completion of Juror Orientation in all cases, regardless of
21 case type, prior to designated trial dates (except when extraordinary

1 circumstances require an abbreviated process);

2 d. The proper coordination of the Jury Panel proceedings with all Circuit
3 Judges, Clerks, and other interested parties;

4 e. Maintaining a centralized information and notification system which
5 provides electronic notification to Jury Panel Members and other
6 interested persons regarding all appearance dates for Jury Panel Members;

7 f. Maintaining a calendar of all Jury Panel Member dates of attendance.

8 g. Coordinating with all Circuit Judges the available jury trial dates for the
9 Jury Panel;

10 h. Ensuring the interests of the public in the maintenance of the
11 coordinated and efficient use of Jury Panels;

12 i. The delegation to a Circuit Judge of the authority to conduct jury trial
13 proceedings for the Jury Panel;

14 j. Providing and administering all necessary expenses associated with Jury
15 Panels, including administering the County budget associated with the
16 Jury Panel.

17 **5. Preserving The Right Of Citizens To Participate In Jury Panel Service.**

18 **a. Policy and Purpose.** The purpose of this rule is to eliminate the unfair
19 exclusion of potential jurors based on race or ethnicity.

1 **b. Scope:** This rule applies in all jury trials.

2 **c. Objection.** A party may object to the use of a peremptory challenge to
3 raise the issue of improper bias. The court may also raise this objection on
4 its own. The objection shall be made by simple citation to this rule, and
5 any further discussion shall be conducted outside the hearing of the panel.
6 The objection must be made before the potential juror is excused, unless
7 new information is discovered.

8 **d. Response.** Upon objection to the exercise of a peremptory challenge
9 pursuant to this rule, the party exercising the peremptory challenge shall
10 articulate the reasons the peremptory challenge has been exercised.

11 **e. Determination.** The Court shall then evaluate the reasons given to
12 justify the peremptory challenge in light of the totality of circumstances.
13 If the Court determines that an objective observer would view race or
14 ethnicity as a factor in the use of the peremptory challenge, then the
15 peremptory challenge shall be denied. The Court need not find purposeful
16 discrimination to deny the peremptory challenge. The Court should
17 explain its ruling on the record.

18 **f. Nature of Observer.** For purposes of this rule, an objective observer is
19 aware that implicit, institutional, and unconscious biases, in addition to

1 purposeful discrimination, have historically resulted in the unfair
2 exclusion of potential jurors.

3 **g. Circumstances Considered.** In making its determination, the
4 circumstances the Court should consider include, but are not limited to,
5 the following:

6 I. The number and types of questions posed to the prospective
7 juror, which may include consideration of whether the party
8 exercising the peremptory challenge failed to question the
9 prospective juror about the alleged concern or the types of
10 questions asked about it;

11 ii. Whether the party exercising the peremptory challenge asked
12 significantly more questions or different questions of the potential
13 juror against whom the peremptory challenge was used in contrast
14 to other jurors;

15 iii. Whether other prospective jurors provided similar answers but
16 were not the subject of a peremptory challenge by that party;

17 iv. Whether a reason might be disproportionately associated with
18 a race or ethnicity; and

19 v. If the party or counsel has used peremptory challenges

1 disproportionately against a given race or ethnicity in the present
2 case or in past cases.

3 **h. Reasons Presumptively Invalid.** Because historically the following
4 reasons for peremptory challenges have been associated with improper
5 discrimination in jury selection, the following are presumptively invalid
6 reasons for a peremptory challenge:

- 7 1. Having a prior contact with law enforcement officers.
- 8 2. Expressing a distrust of law enforcement or a belief that law
9 enforcement officers engage in racial profiling.
- 10 3. Having a close relationship with people who have been stopped,
11 arrested, or convicted of a crime.
- 12 4. Living in a high-crime neighborhood.
- 13 5. having a child outside of marriage.
- 14 6. Receiving state benefits.
- 15 7. Not being a native English speaker.

16 **i. Reliance On Conduct.** The following reasons for peremptory
17 challenges also have historically been associated with improper
18 discrimination in jury selection: allegations that the prospective juror was
19 sleeping, inattentive, staring or failing to make eye contact, exhibited a

1 problematic attitude, body language, or demeanor, or provided
2 unintelligent or confused answers. If any party intends to offer one of
3 these reasons or a similar reason as the justification for a peremptory
4 challenge, that party must provide reasonable notice to the Court and the
5 other parties so the behavior can be verified and addressed in a timely
6 manner. A lack of corroboration by the Judge or opposing counsel
7 verifying the behavior shall invalidate the given reason for the peremptory
8 challenge.

1 **SECTION NINE**

2 **STATE DISTRICT COURT JUDGES**

3 **A. Administrative Order 18 (6) (c):** This Plan does not provide for the
4 referral of any category of cases to any State District Court Judge pursuant to
5 Administrative Order 18(6)(c).

6 **B. Administrative Order 18 (6) (b):** This Plan does not provide for the referral
7 of any of the following circuit court cases to any State District Court Judge
8 pursuant to Administrative Order 18(6) (b): Consent Jurisdiction; Protective
9 Orders; Forcible Entry and Unlawful Detainer Actions; “Other Matters” described
10 in Administrative Order 18(b)(4); Criminal Matters with respect to an
11 investigation or prosecution of an offense lying within the exclusive jurisdiction
12 of the Circuit Court.

13 **C. Participation of State District Court Judges in miscellaneous**
14 **proceedings:** As “judicial officers,” State District Court Judges are authorized
15 to conduct proceedings that otherwise arise within their jurisdiction including,
16 without limitation, the proceedings listed below. In Johnson and Franklin
17 Counties, the 7th Judicial District Court Judge Sarah Capp is authorized to conduct
18 such proceedings as authorized by the Division One Circuit Court Judge; and in
19 Pope County, the 9th Judicial District Court Judge Donald Bourne is authorized to

1 conduct such proceedings as authorized by the Division One Circuit Court Judge.

2 *See, Section Three (1) (a) (1).*

3 1. Issue warrants for misdemeanors or felonies pursuant to Ark. R. Crim.

4 P., Rule 7 *et. seq.*;

5 2. Conduct first appearances including indigency and appointment of

6 counsel for felony or misdemeanor arrests pursuant to Ark. R. Crim. P.,

7 Rule 8 *et. seq.*;

8 3. Conduct Pretrial Release inquiries and determinations for felonies or

9 misdemeanor arrests pursuant to Ark. R. Crim. P., Rules 9 *et. seq.*;

10 4. Issue search warrants for felonies or misdemeanors pursuant to Ark. R.

11 Crim. P., Rule 13;

12 5. Issue summons pursuant to Rule 6.1;

13 6. Conduct reasonable cause determinations pursuant to Rule 4.1;

14 7. Conduct preliminary hearings pursuant to Ark. Code Ann. § 16-93-307.

15 **D. District Court Verbatim Record:** This Plan does not authorize a State
16 District Court to create a verbatim record of proceedings as described in
17 Administrative Order 4.

1 **SECTION TEN**

2
3 **CERTIFICATION OF MEETING, VOTE, AND SUBMISSION**

4
5 The foregoing Administrative Plan of the 5th Judicial District is hereby
6 submitted to the Arkansas Supreme Court for approval on date below indicated;
7 the Circuit Judges have met and each has had an opportunity to be heard; there
8 has been notice to the public and interested persons; and this Plan has been
9 unanimously approved by the Circuit Judges of the 5th Judicial District as
10 demonstrated by the signatures of each below.

11 Dated: _____.

12
13
14 _____
15 James Dunham
16 Circuit Judge
17 Division One

Gordon "Mack" McCain, Jr.
Circuit Judge
Division Two – Administrative Judge

18
19
20
21
22 _____
23 Ken D. Coker, Jr.
24 Circuit Judge
25 Division Three

Dennis C. Sutterfield
Circuit Judge
Division Four

26
27
28 proposed amendments to Administrative Plan working copy version final
29 12-2022 for public comment.wpd