



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2025-114

March 3, 2026

The Honorable John Maddox
State Representative
520 Church Avenue
Mena, Arkansas 71953

Dear Representative Maddox:

I am writing in response to your request for an opinion on the interpretation of laws concerning civil process and writs in Arkansas, particularly writs of execution. You state that due to the distinct duties and responsibilities sheriffs possess in the State of Arkansas, clarification on these issues is needed.

Against this background, you ask the following 12 questions, each with multiple subparts:

1. Can a district court or district court clerk in Arkansas issue a writ of execution under Arkansas law? Is not the issuance of writs of execution under Arkansas law vested with the circuit courts and circuit clerks?

Brief response: State district courts have the authority to issue writs of execution to enforce their own judgments. This authority is not vested exclusively in circuit courts but extends to any court of record in Arkansas.

2. Does a judgment rendered by a district court in Arkansas constitute a lien on personal property or real property? Is a district court judgment required to be recorded with the circuit clerk to constitute a lien on the subject personal and real property of the defendant?

Brief response: A district court judgment does not automatically constitute a lien. To create a lien on real property, the judgment must be filed and indexed with the circuit court where the real property is located under A.C.A. § 16-65-117. To create a lien on personal property, a writ of execution must be issued and delivered to the sheriff in the county where the personal property is located.

3. May a sheriff lawfully execute a writ of execution issued by a district court or district court clerk in his or her own county? What is the process by which a district court judgment is filed or recorded in a county with the circuit court clerk or recorder in order to constitute a

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lien on personal or real property situated in the county where the district court is located? May a sheriff lawfully execute on personal or real property situated in his or her county in the absence of a judgment being filed or recorded with the circuit court or circuit clerk in his or her county? The following questions involve instances where the defendant's personal property and real property [are] located in another county than [the] county in which the district court or circuit court wherein the judgment was issued.

Brief response: A sheriff may lawfully execute a writ of execution issued by a district court located in a different county, so long as the property is located within the sheriff's jurisdiction. While recording the judgment with the local circuit court is required to create a lien on real estate, it is not a prerequisite for the sheriff to execute a valid writ of execution issued by the district court and directed to the sheriff.

4. What is the proper procedure for recording or filing a judgment from:
 - a) another state?
 - b) a circuit court of another county in Arkansas?
 - c) or district court of another county in Arkansas than where the defendant has personal or real property situated?

What is the process by which a writ of execution may be issued by the circuit clerk or circuit court of the county in which the judgment in (a), (b), or (c) are being recorded and where the real or personal property is located?

Brief response: Foreign judgments must be domesticated under the Uniform Enforcement of Foreign Judgments Act, which requires an authenticated copy, affidavit, and notice. Judgments from other courts of record in Arkansas are registered by filing a certified copy with the circuit clerk. Once properly filed, the local circuit clerk may issue a writ of execution. A judgment from a circuit court or district court of another Arkansas county may be recorded by filing a copy of the judgment with the circuit clerk of the county where the defendant's real or personal property is located.

5. What is the filing fee or recordation fee for filing or recording a judgment with the circuit clerk recorder for a judgment from another state, from a circuit court of Arkansas of another county, or district court in Arkansas of the same or another county? Is tender and payment of that fee required? In addition to recording, in order to get a writ of execution issued by the circuit court and circuit clerk, must a circuit court case be opened, case number assigned, and filing fee paid for commencing a circuit court case have to be fulfilled, to

have a judgment of another county able to have a writ of execution issued on property in the county? If so, what filing fee is required to be paid to the circuit court clerk?

Brief response: Fees vary depending on the type of judgment. Filing a foreign judgment requires the payment of the regular filing fee for a new action—\$165.00. Registering an Arkansas judgment typically costs \$15.00. The fee to issue a writ of execution is \$20.00. Payment of these fees is mandatory to perform the filings and issue any writs of execution.

6. Is following and fulfilling the process in the answer to (4) and (5) required for the judgment (from another state, a circuit court of another county in Arkansas, or district court of another county in Arkansas) to constitute a lien on the personal or real property situated in the county? Is following and fulfilling the process described in the answer to (4) and (5) above required in order for a writ of execution to be issued by the circuit clerk or circuit court in the subject county where the personal and real property of the defendant is situated?

Brief response: Compliance with the filing procedures is required for a judgment to constitute a lien on real property or for a local circuit court clerk to issue a writ of execution. But these steps are not required for a sheriff to execute a writ of execution that was validly issued by the original Arkansas court of record and delivered to the sheriff.

7. May a sheriff lawfully execute a writ of execution issued by his or her circuit court or circuit clerk upon personal or real property of the defendant situated in his or her county in the absence of the plaintiff following the process of recording the underlying judgment from another state, from a district court, or from a circuit court of another county as described in the answers to (4) and (5) above? In the absence of a writ of execution issued by his or her own circuit court or circuit clerk?

Brief response: A sheriff generally has a duty to execute a writ delivered to him or her by an Arkansas court of record. The sheriff is neither required nor permitted to independently determine whether the writ of execution was validly issued or whether it suffers from any procedural defects. A sheriff is not legally obligated to execute a foreign judgment until it has been domesticated by an Arkansas court of record.

8. May a sheriff lawfully execute a writ of execution issued by a district court or district court clerk located outside [of] his or her own county, in another jurisdiction?

Brief response: Yes, a sheriff may lawfully execute a writ of execution issued by a district court located in another county, provided the property to be seized is located within the sheriff's own jurisdiction.

9. May a sheriff lawfully execute a writ of execution issued by a circuit court or circuit court clerk located outside [of] his or her own county, in another jurisdiction?

Brief response: Yes, a sheriff may lawfully execute a writ of execution issued by a circuit court located in another county, provided the property to be seized is located within the sheriff's own jurisdiction.

10. Are plaintiffs required to record the judgment of another state, or another circuit court, or another district court with the circuit clerk recorder as described in the answers to (4) and (5) above? And have a writ of execution issued by the circuit court or circuit clerk where the personal property, real property, and sheriff are situated as described in the answers to (4), (5), and (6) above?

Brief response: No. While registering the judgment locally is necessary to create a lien on real property and to obtain a writ of execution from the local circuit court, it is not required for the sheriff to execute a writ of execution issued by the original Arkansas court of record.

11. What civil process does the law set forth in A.C.A. § 9-19-201 et seq. or A.C.A. § 9-19-301 et seq. for sheriffs to be given notice and to have an obligation to enforce a civil order to take physical custody of a child in Arkansas? Does not the obligation arise from a circuit court in Arkansas undertaking jurisdiction and directing the sheriff?

Brief response: The primary process is a Warrant to Take Physical Custody issued by an Arkansas circuit court under A.C.A. § 9-19-311. The sheriff's obligation arises only when an Arkansas court issues this specific warrant or a similar writ of assistance, not merely upon a request based on a foreign order.

12. Do sheriffs in Arkansas have any authority, duty, or responsibility to serve or execute the civil process or civil orders of municipal, district, or circuit court orders of another state? What is the process for sheriffs when a child-custody determination ordered by a court of another state is not registered in and [brought] before an Arkansas court and the petitioner seeks enforcement? Does not the obligation of the sheriff arise from an Arkansas or local circuit court undertaking jurisdiction and directing the sheriff?

Brief response: An Arkansas sheriff's authority is derived from Arkansas court orders. A foreign child-custody determination must be registered and enforced through an Arkansas court. The sheriff acts upon the order or warrant issued by the Arkansas judge, not the foreign order alone.

DISCUSSION

To better understand the answers that follow, it is helpful to first review the general principles of Arkansas law governing writs of execution. A writ of execution “is an order to the sheriff of the county in which property of the judgment debtor is located commanding the sheriff to take property of the judgment debtor so as to obtain a stated sum of money for the judgment creditor.”¹ Title 16, Chapter 66 of the Arkansas Code governs the execution of judgments.²

1. State courts of record. A writ of execution may issue on any final judgment of a court of record.³ A court of record is one “that is required to keep a record of its proceedings, and that may fine or imprison” for contempt.⁴ Arkansas law expressly identifies the Arkansas Supreme Court, Court of Appeals, and all circuit and county courts as courts of record.⁵ Several questions below turn on whether a state district court qualifies as a court of record for purposes of A.C.A. § 16-66-101. Section 16-10-104 does not list district courts. But that omission does not resolve whether state district courts are courts of record within the meaning of the execution statute. This Office has previously opined that Arkansas district courts are courts of record within the meaning of A.C.A. § 16-66-101.⁶ The statutory and structural characteristics of state district courts support that conclusion.

District court clerks must “keep a fair record of all the acts done and proceedings had in the court and ... enter all judgments of the court, under the direction of the judge.”⁷ District courts have jurisdiction, concurrently with circuit courts, over misdemeanors.⁸ A person convicted of a

¹ David Newbern et al., *Execution*, 2 *Arkansas Civil Prac. & Proc.* § 33:1 (5th Ed.); A.C.A. § 16-66-104 (providing a form that may be varied as a particular case requires). See also *Moory v. Quadras, Inc.*, 333 Ark. 624, 628, 970 S.W.2d 275, 276 (1998) (“A writ of execution is ... a command to the sheriff to take into possession property of the judgment debtor.”); *Campbell v. White*, 294 Ark. 656, 658, 746 S.W.2d 42, 43 (1998) (“A ‘writ of execution’ ... evidence[es] the debt of the defendant to the plaintiff and command[s] the officer to take the property of the defendant in satisfaction of the debt.”); Ark. Att’y Gen. Op. 2011-143.

² A.C.A. §§ 16-66-101 to -619.

³ A.C.A. § 16-66-101.

⁴ *Dodrill v. Exec. Dir.*, 308 Ark. 301, 306, 824 S.W.2d 383, 385 (1992) (quoting *Black’s Law Dictionary*, 353 (6th ed. 1990)).

⁵ A.C.A. § 16-10-104.

⁶ Ark. Att’y Gen. Op. 2011-143 (opining that Arkansas district courts were courts of record, within the meaning of A.C.A. § 16-66-101).

⁷ A.C.A. § 16-17-211(c).

⁸ Ark. Const. amend 80, § 7(B).

misdemeanor may be fined or imprisoned.⁹ District courts have the authority to hold individuals in contempt.¹⁰

When a court has both a clerk and seal, a presumption arises that it is a court of record.¹¹ Arkansas district courts have clerks and must maintain seals.¹² Finally, district courts replaced municipal courts and are regarded as a continuation of those courts.¹³ This Office has consistently opined that municipal courts were courts of record.¹⁴ Thus, it is my view that a district court is a court of record within the meaning of A.C.A. § 16-66-101 and has the authority to issue writs of execution.

2. Issuing writs. When a writ of execution is issued, it should substantively follow the form found in A.C.A. § 16-66-104 and be addressed from the issuing court to the sheriff of the county where the judgment debtor maintains real or personal property.¹⁵

Before a writ of execution can be issued by the court clerk of the court of record, the court clerk must first endorse on the writ of execution the “debt, damages, and costs to be recovered before delivery of the execution to the officer by whom it is to be executed.”¹⁶

3. Direction of writ to sheriff. A writ of execution may be issued by any court of record in Arkansas and directed to the sheriff of any county in Arkansas. This does not require the underlying judgment to be registered in the sheriff’s home county first, nor does it require the sheriff’s home county to issue its own writ of execution.¹⁷ But if a judgment creditor wishes to obtain a writ of execution from the circuit court in the county where the judgment debtor has real or personal property, the judgment creditor may register the underlying judgment following the

⁹ A.C.A. §§ 5-4-201(b), 5-4-401(b).

¹⁰ A.C.A. § 16-17-133(d)(1) (statutory authority to find a juvenile in contempt and order the juvenile to be committed for a period not to exceed 10 days); *Arkansas Department of Human Services v. Dowdy*, 2018 Ark. 307, at 9, S.W.3d 847, 853 (a court has inherent power to punish contemptuous behavior committed in its presence, without regard to the restrictions imposed by § 16-10-108(a)). *See also Turquette v. State*, 174 Ark. 875, 298 S.W. 15, 17 (1927) (holding that municipal courts (the precursors to district courts) were courts of record, and thus had the same power to punish for contempt as other courts of record).

¹¹ *Adamson v. Adamson*, 9 Ark. 26 (1848).

¹² A.C.A. §§ 16-10-110(a), 16-17-211.

¹³ Ark. Const. amend 80, § 19(C).

¹⁴ Ark. Att’y Gen. Ops. 2001-133, 92-005, 89-285, 84-215.

¹⁵ A.C.A. § 16-66-104(a).

¹⁶ *Id.* § 16-66-105.

¹⁷ *Id.* § 16-66-109.

steps laid out in A.C.A. § 16-65-117. Once registered, the local circuit court has the authority to issue its own writ of execution under A.C.A. § 16-66-102.

Once the writ of execution is delivered to the sheriff, it is the sheriff's duty to execute the writ within 15 days of its delivery.¹⁸ A sheriff who refuses to accept the writ of execution may be guilty of a misdemeanor and liable to the aggrieved party for the money endorsed on the writ.¹⁹ But sheriffs and other law enforcement officers have immunity when, acting reasonably and in good faith, they exercise due care with serving and executing writs of execution.²⁰

4. Liens. A writ of execution acts as a lien on real and personal property once it is “delivered to the officer in the proper county to be executed.”²¹ For real property, a judgment may operate as a lien, even before a writ of execution has been delivered.²²

Judgments issued from other states may be enforced in Arkansas by following the requirements of the Uniform Enforcement of Foreign Judgments Act, discussed in more detail below.²³

With this general understanding, I turn to your specific questions.

Question 1: Can a district court or district court clerk in Arkansas issue a writ of execution under Arkansas law? Is not the issuance of writs of execution under Arkansas law vested with the circuit courts and circuit clerks?

A district court, as a court of record within the meaning of A.C.A. § 16-66-101, may issue a writ of execution to enforce its own judgments.²⁴ As explained in Section 1 of the Discussion, a state district court is a court of record. Thus, it has the authority to issue a writ of execution.

In addition, A.C.A. § 16-17-211(d)(6) expressly authorizes district court clerks to “[i]ssue and attest all process.” Arkansas courts have held that “[p]rocess ... is a comprehensive term which includes all writs ... issued during the progress of an action, even those used to carry a judgment

¹⁸ *Id.* § 16-66-118(f)(1).

¹⁹ *Id.* § 16-66-118(g).

²⁰ *Id.* § 16-66-119.

²¹ *Id.* § 16-66-112.

²² *Id.* § 16-65-117(a)(1)(A).

²³ *Id.* §§ 16-66-601 to -608.

²⁴ *Id.* § 16-66-101.

into effect”²⁵ Thus, a district court clerk is authorized to issue writs of execution to enforce judgments rendered by the clerk’s district court.

Question 2: Does a judgment rendered by a district court in Arkansas constitute a lien on personal property or real property? Is a district court judgment required to be recorded with the circuit clerk to constitute a lien on the subject personal and real property of the defendant?

A judgment rendered by a state district court does not automatically constitute a lien on real property. Under A.C.A. § 16-65-117(a)(1)(A), a district court judgment “shall not be a lien on the real estate owned by the defendant in the county in which the judgment was rendered until the judgment has been filed and indexed in the judgment records of the circuit court clerk in the county in which the judgment was rendered.” Thus, filing and indexing with the circuit court is required to create a lien on real property stemming from a state district court judgment, even in the county where the district court rendered its judgment.

In any other county, a certified copy of the judgment must be filed with the circuit clerk of the county in which the real property lies before a lien will attach.²⁶

In contrast, a judgment, whether from a state district court or otherwise, never operates as a lien on personal property. As explained in Section 4 of the Discussion, a writ of execution acts as a lien on personal property once delivered to the sheriff in the county where the personal property is located.²⁷

Question 3: May a sheriff lawfully execute a writ of execution issued by a district court or district court clerk in his or her own county? What is the process by which a district court judgment is filed or recorded in a county with the circuit clerk or recorder in order to constitute a lien on personal or real property situated in the county where the district court is located? May a sheriff lawfully execute on personal or real property situated in his or her county in the absence of a judgment being filed or recorded with the circuit clerk in his or her county? And in the absence of a writ of execution issued by the circuit court or circuit clerk in his or her county? The following questions involve instances where the defendant’s personal property and real property [are] located in another county than the county in which the district court or circuit court wherein the judgment was issued.

A sheriff may lawfully execute a writ of execution issued by any court of record in Arkansas, including a district court, even if that writ of execution was not issued by the district court or circuit court in the sheriff’s own county.²⁸ As explained in Section 4 of the Discussion and in my response

²⁵ *Henderson v. Dudley*, 264 Ark. 697, 709, 574 S.W.2d 658, 665 (1978).

²⁶ A.C.A. § 16-65-117(b)(1).

²⁷ *Id.* § 16-66-112.

²⁸ *Id.* § 16-66-109.

to Question 2, the process for filing a district court judgment in the circuit court so that the judgment may operate as a lien is outlined in A.C.A. § 16-65-117.

But even if the judgment creditor does not file the district court judgment with the circuit court to create a lien on real property, the sheriff may still lawfully execute a writ of execution received from the district court, including when the issuing court is in a different county.²⁹ Filing the judgment to create a lien simply provides another layer of protection for the judgment creditor by preventing the judgment debtor from selling the real property to a third party before the writ can be executed.³⁰ It is not a prerequisite for the sheriff to execute the writ.

Likewise, there is no requirement for a judgment creditor to request a writ of execution from the circuit court where the real property or personal property is located. As A.C.A. § 16-66-109 makes clear “[e]xecutions issued upon any judgment, order, or decree rendered in any court of record may be directed to and executed in any county in this state without first procuring an order of the court for that purpose.” Thus, the judgment creditor is not required to secure a new writ of execution from the sheriff’s local circuit court in order to have the sheriff execute the writ of execution issued by a district court, whether the court is located within the sheriff’s county or a different county in Arkansas.

Question 4: What is the proper procedure for recording or filing a judgment from:

- a) another state?***
- b) a circuit court of another county in Arkansas?***
- c) or district court of another county in Arkansas than where the defendant has personal or real property situated?***

What is the process by which a writ of execution may be issued by the circuit clerk or circuit court of the county in which the judgment in (a), (b) or (c) are being recorded and where the real or personal property is located?

Judgments issued by other states may be enforced in Arkansas by following the requirements of the Uniform Enforcement of Foreign Judgments Act.³¹ A person seeking to enforce a foreign judgment under the Act must:

²⁹ *Id.* §§ 16-66-101, -109.

³⁰ *Id.* §§ 16-66-109, 16-66-201(6).

³¹ *Id.* §§ 16-66-601 to -608.

1. Obtain an authenticated copy of the foreign judgment, strictly following the requirements of Ark. R. Civ. P. 44(a)(2).³²
2. File the authenticated copy with the circuit clerk of any county in Arkansas where the individual or entity wishes to enforce the judgment (typically the county where the debtor or the debtor's property is located).³³
3. File an affidavit stating the name and last known post office address of both the judgment debtor and the judgment creditor.³⁴

After filing, the circuit clerk must mail notice of the filing to the judgment debtor. The creditor may also mail the notice and file proof of mailing.³⁵ No execution will be issued until ten days after the judgment is filed.³⁶

Once the ten-day period has expired, and assuming no challenges were made to the validity of the foreign judgment, the writ may be issued and executed in the same manner as any other writ.

As outlined in A.C.A. § 16-66-109, the writ of execution may be directed to any sheriff in the state for execution. Thus, there is no requirement to file a circuit court or district court judgment from another county in the county where the real or personal property is located in order to have an enforceable writ of execution. But, if a judgment creditor wishes, he or she may file judgment with the local circuit court where the real or personal property is located, following the procedure outlined in A.C.A. § 16-65-117. Once that process is complete, the local circuit court may issue a writ of execution under A.C.A. § 16-66-102.

Question 5: What is the filing fee or recordation fee for filing or recording a judgment with the circuit clerk recorder for a judgment from another state, from a circuit of Arkansas of another county, or district court in Arkansas of the same or another county? Is tender and payment of that fee required? In addition to recording, in order to get a writ of execution issued by the circuit court and circuit clerk, must a circuit clerk case be opened, case number assigned, and filing fee paid for commencing a circuit court case have to be fulfilled, to have a judgment of another county able to have a writ of execution issued on property in the county? If so, what filing fee is required to be paid to the circuit clerk?

³² See Ark. R. Civ. P. 44(a)(2); *Agility Fin. Credit Union v. Largent*, 2018 Ark. App. 358, 5–6, 552 S.W.3d 471, 474 (2018) (holding that Ark. R. Civ. P. 44(a)(2) is the exclusive mechanism for authenticating foreign judgments and that A.C.A. § 16-66-602 was repealed by implication).

³³ A.C.A. § 16-66-603(a).

³⁴ *Id.*

³⁵ *Id.* § 16-66-603(b)

³⁶ *Id.* § 16-66-603(c).

Filing fees vary and are subject to change. The best source for the cost of any filing fee is the court of record where a judgment creditor is seeking to file a judgment. Some fees are established by statute. All required fees must be paid before a court of record will take the requested action, whether that be registering an Arkansas judgment, filing a foreign judgment from another state, or issuing a writ of execution.³⁷ For foreign judgments, the Uniform Enforcement of Foreign Judgments Act requires the payment of “the same filing fee that would be paid for the filing of a civil action.”³⁸ In Arkansas, this fee is \$165.00, which consists of the \$150.00 uniform fee and a \$15.00 technology fee.³⁹ To secure a writ of execution, the judgment creditor must also pay the writ fee of \$20.00.⁴⁰

For filing or registering an Arkansas judgment in a circuit court, the fees also vary. For example, Pulaski County charges \$8.00 to register an Arkansas judgment, according to the Court Filing Fee Schedule.⁴¹ Most other counties in Arkansas treat the registration of a foreign judgment as a recordable instrument under A.C.A. § 21-6-311 and thus charge \$15.00 for the first page and \$5.00 for each additional page.⁴²

Question 6: Is following and fulfilling the process in the answer to (4) and (5) required for the judgment (from another state, a circuit court of another county in Arkansas, or district court of another county in Arkansas) to constitute a lien on the personal or real property situated in the county? Is following and fulfilling the process described in the answer to (4) and (5) above required in order for a writ of execution to be issued by the circuit clerk or circuit court in the subject county where the personal and real property of the defendant is situated?

For a judgment—whether foreign or from another Arkansas county—to operate as a lien on real property in a county other than where it was rendered, compliance with the proper filing procedures and payment of all required fees is mandatory. The same is true for a writ of execution. If a judgment creditor wishes to have the local circuit court where the judgment debtor’s property is located issue a writ of execution, the underlying judgment must be registered and all applicable fees paid before the writ of execution will issue. But, as stated above, a writ of execution from any court of record in Arkansas may be delivered to any county sheriff to be executed. A judgment creditor is not required to register a judgment from a different Arkansas circuit court with the sheriff’s local circuit court and secure a second writ of execution from the local circuit court before the sheriff may act. A sheriff may execute any valid writ of execution issued by an Arkansas court

³⁷ *Id.* §§ 21-6-402 to -403.

³⁸ *Id.* § 16-66-605.

³⁹ *Id.* §§ 21-6-403(b)(1), -416(b).

⁴⁰ *Id.* § 21-6-402(b)(2).

⁴¹ Pulaski Cnty. Cir. Clerk, *All Fees*, <https://pulaskiclerkar.gov/about-us/all-fees/> (last visited Jan. 6, 2026).

⁴² A.C.A. § 21-6-306(a)(1)(A).

of record, regardless of whether the underlying judgment has been registered locally. Registering the judgment simply creates a lien on real property, which creates an extra layer of protection for a judgment creditor. It is not a prerequisite for the sheriff to execute a valid writ of execution issued by a court of record located in another county.

Question 7: May a sheriff lawfully execute a writ of execution issued by his or her circuit court or circuit clerk upon personal or real property of the defendant situated in his or her county in the absence of the plaintiff following the process of recording the underlying judgment from another state, from a district court or from a circuit court of another county as described in the answers to (4) or (5) above? In the absence of a writ of execution issued by his or her own circuit clerk or circuit clerk?

A sheriff may lawfully execute a writ of execution issued by an Arkansas court of record, even if there are procedural defects that could lead the defendant to petition to quash the writ under A.C.A. § 16-66-301(c). It is not the sheriff's duty to determine whether a writ of execution has been properly issued by an Arkansas court. A sheriff is not legally obligated to execute a foreign judgment until it has been domesticated by an Arkansas court of record.

Question 8: May a sheriff lawfully execute a writ of execution issued by a district court or district court clerk located outside [off] his or her own county, in another jurisdiction?

A sheriff may lawfully execute a writ of execution issued by any court of record in Arkansas, which includes a state district court, but only on real or personal property located within the sheriff's local jurisdiction.⁴³ A sheriff may not execute a writ of execution for real or personal property located outside his or her jurisdiction.

Question 9: May a sheriff lawfully execute a writ of execution issued by a circuit court or circuit court clerk located outside [off] his or her own county, in another jurisdiction?

A sheriff may lawfully execute a writ of execution issued by any court of record, which includes a circuit court, in his or her local jurisdiction. A sheriff may not execute a writ of execution for real or personal property located outside his or her jurisdiction. Thus, a sheriff may execute a writ of execution only in his or her local county.

Question 10: Are plaintiffs required to record the judgment of another state, or another circuit court, or another district court with the circuit clerk recorder as described in answers to (4) and (5) above? And have a writ of execution issued by the circuit court or circuit clerk where the personal property, real property, and sheriff are situated as described in the answers to (4), (5), and (6) above?

For the purposes of this question, I shall assume that any foreign judgment has already been domesticated by following the requirements of the Uniform Enforcement of Foreign Judgments

⁴³ *Id.* § 14-15-501.

Act, that any Arkansas judgment has been properly issued by a court of record, and that a writ of execution has issued. In those circumstances, a judgment creditor is not required to register the underlying judgment in the circuit court of the county where the sheriff will execute the writ of execution. Registering a judgment from another Arkansas court of record with the local circuit court where the sheriff has jurisdiction has benefits, such as creating a lien on real property located in that county, but it is not a prerequisite for the sheriff to execute the writ of execution.

Question 11: What civil process does the law set forth in A.C.A. § 9-19-201 et seq. or A.C.A. § 9-19-301 et seq. for sheriffs to be given notice and to have an obligation to enforce a civil order to take physical custody of a child in Arkansas? Does not the obligation arise from a circuit court in Arkansas undertaking jurisdiction and directing the sheriff?

The primary civil process set forth in the Arkansas Uniform Child-Custody Jurisdiction and Enforcement Act (“UCCJEA”) for a sheriff to take physical custody of a child is a Warrant to Take Physical Custody under A.C.A. § 9-19-311. Under that statute, the petitioner files a petition for enforcement of a child custody determination (often accompanying a registration of a foreign order). If there is an imminent risk that a child will suffer serious physical harm or be removed from the State, the petitioner files a verified application for a warrant to take physical custody. The circuit court will schedule a hearing, and if the court finds that the child is in imminent danger or likely to be removed from the State, the court will issue the warrant. The warrant itself must explicitly “direct law enforcement officers to take physical custody of the child immediately.”⁴⁴ A sheriff’s duty to act is triggered when the circuit court issues the warrant to take physical custody or a writ of assistance.

In addition to the process set forth above, the UCCJEA gives a local prosecutor the authority to take action to locate a child or enforce a custody determination if there is a finding that the child has been wrongfully removed.⁴⁵ At the request of the prosecutor, a law enforcement officer may take any lawful action reasonably necessary to locate a child or assist the prosecutor.⁴⁶

Question 12: Do sheriffs in Arkansas have any authority, duty, or responsibility to serve or execute the civil process or civil orders of municipal, district, or circuit court civil orders of another state? What is the process for sheriffs when a child-custody determination ordered by a court of another state is not registered in and [brought] before an Arkansas court and the petitioner seeks enforcement? Does not the obligation of the sheriff arise from an Arkansas or local circuit court undertaking jurisdiction and directing the sheriff?

An Arkansas sheriff’s duty to serve or execute civil process or civil orders arises from Arkansas courts, not foreign courts. Courts in other states, like Texas or Oklahoma, do not have jurisdiction

⁴⁴ *Id.* § 9-19-311(c)(2).

⁴⁵ *Id.* § 9-19-315.

⁴⁶ *Id.* § 9-19-316.

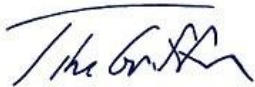
to command an Arkansas sheriff to act. As discussed above, once a foreign judgment is registered in Arkansas, the execution order comes from an Arkansas court, creating a duty for the sheriff to act.

An Arkansas sheriff does not have authority to execute civil orders issued from another state unless those orders have been domesticated following the process outlined in the Uniform Enforcement of Foreign Judgments Act, discussed in response to Question 4. If the order is a child-custody determination, then the process outlined in the UCCJEA must be followed.

While not a mandatory duty, most Arkansas sheriffs will serve foreign summons and complaints if the pleadings are transmitted to them in the form they request, and the personal service fee is paid. Under the Arkansas Rules of Civil Procedure, county sheriffs are authorized to serve process in their own counties.⁴⁷

Assistant Attorney General Justin Hughes prepared this opinion, which I hereby approve.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a stylized flourish at the end.

TIM GRIFFIN
Attorney General

⁴⁷ Ark. R. Civ. P. 4(c)(2).