

Stricken language would be deleted from and underlined language would be added to present law.
Act 1048 of the Regular Session

State of Arkansas *As Engrossed: S4/6/21 H4/19/21 H4/21/21*
93rd General Assembly **A Bill**
Regular Session, 2021

SENATE BILL 353

By: Senator Irvin

By: Representative Lundstrum

For An Act To Be Entitled

AN ACT ELIMINATING DEBTORS' PRISONS; TO ENCOURAGE THE COLLECTION OF ALL OUTSTANDING RESTITUTION, FINES, FEES, AND COURT COSTS; TO ENABLE INCARCERATED PERSONS TO RESOLVE PENDING MISDEMEANOR OFFENSES COMMITTED WITHIN THE STATE AND AVOID EXCESSIVE FINES, FEES, AND COURT COSTS; TO CREATE A TASK FORCE; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ENCOURAGE THE COLLECTION OF ALL OUTSTANDING RESTITUTION, FINES, FEES, AND COURT COSTS OWED BY INCARCERATED PERSONS; TO CREATE A TASK FORCE; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 16, Chapter 90, is amended to add an additional subchapter to read as follows:

Subchapter 15 – Inmate Misdemeanor Offense Reconciliation

16-90-1501. Legislative findings and intent.

(a) The General Assembly finds that:

(1) Arkansas law requires offenders to pay legal financial obligations to the state, cities, and counties imposed by various courts and law enforcement agencies;



(2) Missed payments for fines and fees may lead to charges in court for failure to pay, failure to appear, and contempt, all of which result in additional fines and penalties; and

(3) It is in the state's interest to study the efficacy of streamlining the assessment and collection of financial obligations for incarcerated or formerly incarcerated individuals.

(b) The General Assembly intends to create a framework, consistent with Arkansas Constitution, Amendment 80, and the constitutional prerogatives of the state's prosecuting attorneys and judges, to enable persons who are incarcerated in the Department of Corrections to resolve all pending misdemeanor offenses committed within this state and assist in the identification of corresponding fines, fees, and costs resulting from those misdemeanor offenses.

(c) This subchapter does not limit a court's ability to impose a financial obligation against any person who has been convicted of an offense.

16-90-1502. Compilation of pending misdemeanor offenses.

(a) A person who is incarcerated in the Department of Corrections may request of the department and shall be provided by the department a complete compilation of all outstanding arrest warrants, criminal summons, and pending misdemeanor cases for that person.

(b) The department shall provide information under subsection (a) of this section from information made available to the Arkansas Crime Information Center and the Administrative Office of the Courts.

16-90-1503. Option to resolve pending misdemeanor matters.

(a) As used in this section, "assistance" means the Department of Corrections shall make available means of communication between a person, the prosecuting attorney, the court, local law enforcement agencies, and the person's attorney, if applicable, to help facilitate the entry of pleas remotely from the department, addressing outstanding misdemeanor arrest warrants, and, when required by the court, attendance at the court for the purposes of entry of pleas, hearings, or trials.

(b)(1) A person incarcerated in the department, with the assistance of the department, may petition a court for a quick resolution of a misdemeanor offense pending in the court.

(2) The person may also request to be served with any outstanding misdemeanor arrest warrant in order to begin the process of resolving the misdemeanor arrest warrant.

(3) Upon request to the court with jurisdiction over the outstanding misdemeanor offense, the court may require the misdemeanor arrest warrant to be served by the staff of the department.

(c) Local law enforcement agencies with jurisdiction over the outstanding misdemeanor offense shall also help facilitate transportation of the person to and from the department to the court when the court requires it for trial.

16-90-1504. Remote pleading permitted.

(a) Subject to the rules of the judiciary and the local rules of the court, a person who has opted to resolve pending misdemeanor matters under this subchapter may still be permitted to enter remotely a plea of guilty or nolo contendere to any outstanding or pending misdemeanor charges from where he or she is incarcerated.

(b) A remote plea may be given only through a real-time medium with both an audio and visual feed.

16-90-1505. Negotiated pleas to run concurrent.

(a) A negotiated plea entered into between the state and a person may be imposed using the procedures under § 5-4-403.

(b)(1) The court is also encouraged to refrain from fining a person and instead sentence the person to a period of incarceration only.

(2) This subchapter does not limit a court's ability to impose a financial obligation against any person who has been convicted of an offense.

SECTION 2. DO NOT CODIFY. TEMPORARY LEGISLATION.

(a) There is created the Criminal Justice Task Force on Offender Court Costs and Collections.

(b) The purpose of the task force is to study the methods used to assess, collect, and record fines, fees, restitution, and other financial obligations of persons in the criminal justice system.

(c) The task force shall study the feasibility of notice to outside entities in the event that a person with financial obligations to a court

wins a lottery prize, sells property, or is being released from parole or probation early.

(d)(1) The task force shall be composed of the following members:

(A) Two (2) citizen representatives to be appointed by the Governor;

(B) Two (2) members of the Senate, one (1) member to be appointed by the President Pro Tempore of the Senate and one (1) member to be appointed by the Chair of the Senate Judiciary Committee;

(C) Two (2) members of the House of Representatives, one (1) member to be appointed by the Speaker of the House of Representatives and one (1) member to be appointed by the Chair of the House Committee on Judiciary;

(D) Two (2) members appointed by the Chief Justice of the Supreme Court, one (1) of whom is a circuit court judge and one (1) of whom is a district court judge;

(E) Two (2) members to be appointed by the Secretary of the Department of Corrections;

(F) One (1) member representing the Association of Arkansas Counties;

(G) One (1) member to be appointed by the Director of the Administrative Office of the Courts;

(H) One (1) member of the Board of Corrections to be appointed by the Chair of the Board of Corrections;

(I) One (1) member representing the Arkansas Sheriffs' Association;

(J) One (1) member representing the Office of the Prosecutor Coordinator; and

(K) One (1) member to be appointed by the Director of the Arkansas Crime Information Center.

(2) If a vacancy occurs on the task force, the vacancy shall be filled by the same process as the original appointment.

(e)(1) The legislative members of the task force shall be paid per diem and mileage as authorized by law for attendance at meetings of interim committees of the General Assembly.

(2) Nonlegislative members of the task force shall not be compensated but may be reimbursed under § 25-16-901 et seq. for expenses

actually incurred in the performance of their duties.

(f) The task force shall establish rules and procedures for conducting its business.

(g)(1) Ten (10) members of the task force shall constitute a quorum for transacting business of the task force.

(2) An affirmative vote of a majority of a quorum present shall be required for the passage of a motion or other task force action.

(h) The Department of Corrections shall provide staff, meeting space, and materials for the task force.

(i) The task force shall meet on or before July 15, 2021, at the call of the member appointed by the President Pro Tempore of the Senate, and organize itself by electing one (1) of its legislative members as chair and other officers as the task force may consider necessary.

(j) The task force shall prepare and submit a report of its findings to the Cochairs of the Legislative Council and the Chair of the House Committee on Judiciary and the Chair of the Senate Judiciary Committee.

(k) The report is due by October 31, 2022.

(l) The task force shall expire on December 31, 2022.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Criminal Justice Task Force on Offender Court Costs and Collections has a large task ahead of it concerning the study it is required to conduct and the report it is required to complete. Because of this, the task force needs to begin work in July of 2021, before the normal effective date of this act. Therefore, an emergency is declared to exist with regard to Section 2 of this act, and Section 2 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Irvin

APPROVED: 4/29/21