

INTERIM STUDY PROPOSAL 2019-010

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019

A Bill

HOUSE BILL 1770

4 By: Representatives Boyd, Vaught
5
6 By: Senator M. Pitsch

7
8 Filed with: House Committee on Judiciary
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT TO BE KNOWN AS THE "FRESH START ACT OF 2019";
12 TO REQUIRE THE ATTEMPTED DISPOSITION OF CERTAIN
13 PENDING MISDEMEANOR AND NONVIOLENT FELONY OFFENSES
14 WHILE A PERSON IS INCARCERATED IN THE DEPARTMENT OF
15 CORRECTION; CONCERNING A PERSON'S SENTENCE FOR A
16 CRIMINAL OFFENSE; AND FOR OTHER PURPOSES.

Subtitle

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19 TO BE KNOWN AS THE "FRESH START ACT OF
20 2019"; AND TO ATTEMPT DISPOSITION OF
21 CERTAIN PENDING MISDEMEANOR AND
22 NONVIOLENT FELONY OFFENSES WHILE THE
23 PERSON IS INCARCERATED IN THE DEPARTMENT
24 OF CORRECTION.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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30 SECTION 1. Arkansas Code Title 16, is amended to add an additional
31 chapter to read as follows:

32 Chapter 101

33 Fresh Start Act of 2019

34
35 16-101-101. Title.

1 This chapter may be known as and cited as the "Fresh Start Act of
2 2019".

3
4 16-101-102. Legislative intent.

5 (a) It is the intent of the General Assembly to create a framework,
6 consistent with Arkansas Constitution, Amendment 80, and the constitutional
7 prerogatives of the state's prosecuting attorneys and judges, to enable
8 persons who are incarcerated or who will soon be incarcerated in the
9 Department of Correction to dispose of all pending misdemeanor and nonviolent
10 felony offenses committed within this state and, if found guilty of those
11 offenses, to run those sentences concurrently with the sentence for which the
12 person is already serving or will be serving.

13 (b) Unless the person still has to answer for a violent felony offense
14 after he or she is released from the department, a framework of this nature
15 would give the person a fresh start upon his or her parole and reintegration
16 into society, one that hopefully leads to full employment and a return to
17 being a productive member of society.

18
19 16-101-103. Definitions.

20 As used in this chapter, "felony involving violence" means the same as
21 defined in § 5-4-501(d)(2).

22
23 16-101-104. Compilation of pending criminal offenses.

24 (a) A person who is currently incarcerated in the Department of
25 Correction may request, and a person who will be incarcerated in the
26 department after the effective date of this act shall be provided, a complete
27 compilation of all outstanding arrest warrants, criminal summons, pending
28 misdemeanor cases, and pending cases for any felony involving violence.

29 (b) The department shall compile this information in cooperation with
30 the Arkansas Crime Information Center and the Administrative Office of the
31 Courts.

32
33 16-101-105. Option to resolve pending criminal matters.

34 (a)(1) A person incarcerated in the Department of Correction, with the
35 assistance of the department, may petition a court for a quick resolution of

1 an offense pending in the court as long as the offense is not a felony
2 involving violence.

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

6 (b) The department shall make available means of communication between
7 the person, the prosecuting attorney, the court, local law enforcement
8 agencies, and the person's attorney, if applicable, to help facilitate the
9 entry of pleas remotely from the department, addressing outstanding arrest
10 warrants, and, when required by the court, attendance at the court for the
11 purposes of entry of pleas, hearings, or trials.

12 (c) Local law enforcement agencies shall also help facilitate
13 transportation of the person to and from the department to the court or local
14 law enforcement agency when the court requires it.

15
16 16-101-106. Remote pleading permitted.

17 (a) Subject to the rules of the judiciary and the local rules of the
18 court, the person may enter a plea of guilty or nolo contendere to the
19 charges remotely from where he or she is incarcerated.

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

22
23 16-101-107. Negotiated pleas to run concurrent.

24 (a) When the court permits, a negotiated plea entered into between the
25 state and the person using the procedures under this chapter shall run
26 concurrent with the sentence for which the person is currently serving.

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

29
30 16-101-108. Rescinding or eliminating outstanding fines, fees, and
31 costs.

32 (a) A person may also petition a court before which the person still
33 has outstanding fines, fees, or costs associated with a prior conviction to
34 request that the court rescind the assessment of the fine, fee, or cost, or
35 to show that the person is indigent and that the person is no longer required
36 to pay the fine, fee, or cost.

1 (b) The court is encouraged to eliminate the fines, fees, or costs
2 which the person was assessed due to the person's current incarceration in
3 the department.

4

5 16-101-109. Notice to prosecuting attorney.

6 The prosecuting attorney shall be served with a petition under this
7 chapter by the court in which the petition is filed and may answer the
8 petition as well as object to any request made by the person in the petition.

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11 Referred requested by the Arkansas House of Representatives

12 Prepared by: BPG/VJF

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