

1 State of Arkansas As Engrossed: S4/6/21 H4/19/21 H4/21/21

2 93rd General Assembly

# A Bill

3 Regular Session, 2021

SENATE BILL 353

4

5 By: Senator Irvin

6 By: Representative Lundstrum

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## For An Act To Be Entitled

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

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## Subtitle

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

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

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

30 Subchapter 15 – Inmate Misdemeanor Offense Reconciliation

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32 16-90-1501. Legislative findings and intent.

33 (a) The General Assembly finds that:

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



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

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

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

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

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17           16-90-1502. Compilation of pending misdemeanor offenses.

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

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

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26           16-90-1503. Option to resolve pending misdemeanor matters.

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

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

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

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

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

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12           16-90-1504. Remote pleading permitted.

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

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

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21           16-90-1505. Negotiated pleas to run concurrent.

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

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

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

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29           SECTION 2. DO NOT CODIFY. TEMPORARY LEGISLATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 actually incurred in the performance of their duties.

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

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

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

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

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

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

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

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

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20 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
21 General Assembly of the State of Arkansas that the Criminal Justice Task  
22 Force on Offender Court Costs and Collections has a large task ahead of it  
23 concerning the study it is required to conduct and the report it is required  
24 to complete. Because of this, the task force needs to begin work in July of  
25 2021, before the normal effective date of this act. Therefore, an emergency  
26 is declared to exist with regard to Section 2 of this act, and Section 2 of  
27 this act being immediately necessary for the preservation of the public  
28 peace, health, and safety shall become effective on:

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

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

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

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*/s/ Irvin*