



Background on The Criminal Justice Reform Act, HB 1352

Background

HB 1352 passed off the Senate floor on March 13th and now heads back to the House for a concurrence vote and then, most likely, on to conference committee. The bill has changed several times throughout the legislative process. An updated list of the policies included in the current bill can be found below.

What's in the latest version of HB 1352 as of March 13th?

Intervention Courts

HB 1352 would allow people to receive court-approved medication-assisted treatments at their own expense while participating in drug court.

The bill would also make permanent a pilot program of mental health courts and reorganize the state's "intervention" courts (i.e. drug, mental health, and veterans courts) together under the Administrative Office of the Courts. The bill contains no funding for new intervention courts.

Drivers License Suspension

Current law allows for the state to suspend someone's driver's license if they are convicted of any controlled substance violation, including simple drug possession, even if the person was not driving a car at the time of the offense. Licenses can also be suspended for unpaid legal fines and fees.

HB 1352 would prevent drivers license suspensions for non-driving related drug offenses and unpaid legal fines and fees.

Expungement

Only a small number of felonies are currently eligible to be expunged from a person's record in Mississippi.

HB 1352 would expand expungement eligibility to most nonviolent felonies, with a few exceptions like drug trafficking and embezzlement. People would still only be able eligible for one felony expungement in their lifetime, and the costs for expungement will still fall on the applicant.

Jail Data Collection

Currently, little is known about how many people are in jail in Mississippi, why they are there, or how long they have been there.

HB 1352 would task the Administrative Office of the Courts with working with sheriffs across the state to create a publicly accessible jail census database with demographic, arrest, and sentence information, as recommended by the PEER committee. The law also establishes an advisory committee on jail census data collection.

Supervision

People on community supervision are required to pay a monthly supervision fee of \$55 per month. They may also have other incurred other legal fines and fees as a result in their conviction.

HB 1352 would extend the period of time before which a person on supervision must pay their first supervision fee from 30 days to 60 days. The law would also enable people to earn time off their supervision sentence if their only rule violation is unpaid fines and fees, only if that person was granted a "hardship waiver" from a judge or the Mississippi Department of Corrections.



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Pretrial

Current law allows for the court to set bail when any person is accused of any charge, including misdemeanors.

HB 1352 contains a provision that would limit bail setting for some misdemeanor charges. However, there is a long list of circumstances in which courts can continue to impose bail for people charged with misdemeanors, including if the person has ever previously failed to appear in court or if the judge believes that the person poses a danger to the community or is highly unlikely to return to court for their next hearing. No definition or threshold for these terms, (i.e. “danger to the community” or “highly unlikely”) are provided in the law. Thus, judges maintain broad discretion to continue setting bail in misdemeanor cases.

Eligibility for Family Nutrition Assistance and Workforce Training

People convicted of drug-related felonies in Mississippi are not currently eligible for federal SNAP (Supplemental Food Assistance Program), TANF (Temporary Assistance for Needy Families), or workforce training benefits. People convicted of all other felonies are eligible. Only 2 other states in the country still maintain these exclusions.

HB 1352 would extend eligibility for those programs to people convicted of drug-related felonies.

What’s the impact of HB 1352?

According to one estimate, roughly 175,000 people in Mississippi have a felony conviction on their record. And a large percentage of justice-involved people in the state have been convicted of drug-related crimes: 20% of the prison population, 38% of the probation population, and 48% of the parole population. That means that thousands of Mississippians will stand to benefit from the expungement, drivers license, and nutrition and workforce assistance policies in the bill.

However, this bill will have a limited impact on low-income Mississippians, who are more likely to be caught up in the criminal justice system in the first place. In fact, one study showed that 57% of incarcerated men and 72% of incarcerated women nationally were living on an annual income below \$22,500 prior to their incarceration. The record clearing provision in HB 1352 requires people to pay all of the legal fines and fees associated with a conviction prior to expungement and to bear the cost of the application process. Further, the earned discharge credit policy grants relief only to people who receive a hardship waiver from a court or MDOC, which are uncommon. And several fines and fees reforms have been removed from this and other bills throughout the legislative process, including policies that would have waived supervision fees for people who are indigent and allowed people to participate in drug court even if they are unable to afford the participation fee.

Finally, the most recent version of the bill contains no reforms that would impact Mississippi’s incarceration rate. Provisions that would have reclassified first- and second-time drug possession as a misdemeanor, ensured that 10+ year old convictions do not lead to longer sentences through the state’s “habitual offender” law, and a prohibition on incarceration as a response to low-level supervision violations were removed from the bill. All of these policies would have reduced the state’s prison population. And the pretrial reform in the bill is unlikely to have an impact on the jail population given the large number of carve-outs in the proposal.

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