

House Bills 3653

Comprehensive Criminal Justice Reform Package

Sponsor: Senator Elgie R. Sims, Jr. (D-Chicago)

House Bill 3653 (formerly HB163) enacts the reforms of the Black Caucus' Criminal Justice policy pillar, the culmination of nine public hearings during which over 30 hours of testimony was gathered by the General Assembly.

This comprehensive criminal justice reform bill makes significant reforms in the areas of police training in everything from crisis intervention tactics to de-escalation, police accountability, transparency in law enforcement and the rights of detainees and prisoners.

What the bill does:

- Modernizes sentencing laws.
- Replaces the cash bail system with a new system that detains all dangerous defendants, regardless of their ability to pay.
- Institutes certification & decertification system statewide for police officers.
- Requires the use of body cameras.
- Reforms crowd control response.
- Amplifies law enforcement training standards.
- Prevents destruction of law enforcement misconduct records.
- Connects substance abuse treatment programs with first responder duties.
- Increases and improves de-escalation and mental health training for law enforcement.
- Creates two police misconduct databases for public viewing and transparency.
- Requires police to develop a plan to protect children during search warrant raids.
- Empowers the attorney general to investigate deaths occurring in police custody.
- Addresses officer wellness and mental health awareness and screenings.
- Bans use of chokeholds and other extreme measures.
- Establishes statewide use of force standards by 2022.

What it does NOT do:

- Defund the police.
- Modify or remove qualified immunity protections for police departments.
- Change or take away collective bargaining rights.
- Does not allow those that are charged with a serious offense and are a risk to a person or the community or is a flight risk to be released.
- Does not prevent a judge from revoking pretrial release.
- Does not alter prison time for individuals serving time for heinous crimes.

Police Accountability

House Bill 3653 includes a number of measures to increase police transparency and accountability.

House Bill 3653:

- Requires reporting on deaths in police custody.
- Requires police to provide a predicate offense for resisting arrest. (That is, a reason for why an arrested was occurring in the first place.)
- Expands police training on use of force and crisis intervention, as well as first aid training.
- Requires statewide standards and services for officers to receive regular mental health screenings and assistance, while ensuring that counseling and screenings remain confidential.
- Requires police departments to participate in the FBI's use of force database and strengthens the requirements for use of deadly force.
- Prohibits chokeholds by police officers.
- Imposes upon police a duty to intervene in the excessive use of force by another officer and to render aid when necessary.
- Enhances whistleblower protections.
- Extends all restrictions of the use of force that apply to law enforcement officers to bounty hunters as well.
- Bans the use of certain military equipment and provides guidance on the use of crowd control measures.
- Requires the maintenance of police misconduct records.
- Requires the use of body cameras statewide by 2025.
- Removes the requirement for sworn affidavits for police misconduct complaints.
- Creates a police decertification process for the commission of certain crimes and conduct.
- Allows the attorney general to investigate patterns and practices of misconduct within Illinois law enforcement agencies.

Detainee, prisoner, and citizens' rights

Several measures in HB 3653 are aimed at reforming detainee and prisoner rights, and to ensure Illinois' criminal justice system is fairer for everyone. Among other things, the bill:

- Increases services and programming for pregnant prisoners, and requires medical treatment of prisoners and detainees without unreasonable delay.
- Adds new detainee rights when in police custody including:
 - The right to make three free phone calls within three hours of arrival at the police station.
 - The ability to retrieve phone numbers contained in their cell phone's contact list prior to the phone being placed in inventory.
 - Requires that an easily seen public notice of these rights be posted in police stations and booking rooms.
 - Requires that the telephone number to the public defender or appointed attorney's office must also be displayed.
 - In the event a person who is in police custody is transferred to a new place of custody, they have the right to again make a phone call.

- Prohibits people with less than four months on their sentence from being imprisoned and allows them to be diverted to electronic monitoring or another DOC facility or program.
- Ends “prison gerrymandering,” the practice under current law of counting prisoners toward a jurisdiction’s census count rather than their last known address.
- Makes changes to streamline the crime victims compensation process.
- Promotes the use of co-responder models and enhances data collection on mental health crisis response.
- Codifies that the use of force by police as a punishment or retaliation is prohibited.
- Creates new requirements in the event police execute no-knock warrants, including that: (1) each participating member is assigned a body worn camera and is following policies and procedures; (2) steps are taken in planning the search to ensure accuracy and plan for children or other vulnerable people on-site; and (3) if an officer becomes aware the search warrant was executed at an address, unit, or apartment different from the location listed on the search warrant, that member will immediately notify a supervisor who will ensure an internal investigation ensues. These requirements are based on Chicago Police Department reforms.

Military Equipment

Bans the purchase and use of certain military equipment by law enforcement, specifically:

- Tracked armored vehicles
- Weaponized aircraft, vessels, or vehicles
- Firearms and ammunition of .50-caliber or higher
- Grenade launchers
- Bayonets

Law enforcement agencies must also publish notice of any requests for property from a military equipment surplus program.

Court Reforms

HB 3653 also makes a number of changes that specifically affect how people interact with the courts, in ways that aim to interrupt the cycles of recidivism and incarceration in which many Illinois families find themselves. Among those reforms, House Bill 3653:

- Replaces the cash bail system with a new system that detains all dangerous defendants, regardless of their ability to pay.
- Ends the practice of suspending drivers’ licenses for failure to pay.
- Aligns the eligibility for the Mental Health Court or Veterans and Service members Court with the other specialty courts.
- Modernizes earned sentence credits, and shortens mandatory supervised release times for certain offenses.
- Clarifies that the “Felony-murder rule” applies to deaths that happen at the hands of participants in the crime.

- Modernizes the three strikes rules to comply with recent Supreme Court hearings on age and removes non-violent offenses from counting as the three strikes.
- Allows the courts to deviate from mandatory minimums and implement alternate sentencing for certain offenses.

Law Enforcement Decertification

Under current law, a law enforcement officer can only lose their certification if they are convicted of or found guilty of a felony offense or certain misdemeanors. HB 3653 expands the list of misdemeanors which would prohibit a person from becoming a law enforcement officer or result in their decertification. This bill:

- Gives the Illinois Law Enforcement Training Standards Board the discretionary authority to decertify an officer under certain circumstances.
- Outlines the process for receiving and reviewing violations, notice and hearing requirements, and the appeals process.
- Applies to all law enforcement agencies, including the State Police.
- Expands the State Police Merit Board to seven members.
- Requires officers to complete training verification forms.
- Implements two new public databases for transparency.

The following are misdemeanors that would result in decertification for police officers, should they be convicted, found guilty, enter a plea of nolo contendere, or be sentenced to supervision, conditional discharge, or first offender provision:

Existing:

- Criminal Sexual Abuse
- Indecent Solicitation of a Child
- Sexual Exploitation of a Child
- Prostitution, Keeping a Place of Prostitution
- Pimping
- Aggravated Assault
- Criminal Sexual Abuse
- Theft
- Deceptive Practices
- Impersonating a Police Officer
- Keeping a Gambling Place
- Offering a Bribe
- Resisting or Obstructing a Peace Officer
- Escape
- Aiding Escape
- Harassment of Jurors or Witnesses
- Simulating Legal Process
- Advances Prostitution
- Profits from Prostitution

- Manufacture or Delivery of Cannabis
- Delivery of Cannabis on School Grounds
- Solicitation of a sexual act

New:

- Public indecency
- Indecent solicitation of an adult
- Solicitation to meet a child
- Domestic battery (all domestic violence convictions prohibit one from carrying a gun)
- Interfering with the reporting of domestic violence
- Transmission of obscene messages
- Harassment by telephone
- Harassment through electronic communication
- Evidence interference
- Any misdemeanor offenses affecting governmental function such as resisting a peace officer or witness tampering.

The following actions could result in an officer's decertification at a court's discretion:

- Committing an act which would constitute an automatic decertification if it were prosecuted as a felony or misdemeanor.
- Using excessive force in violation of state or federal law.
- Failing to intervene to prevent harm from occurring including the not knowingly and willingly refusing to render aid when it is reasonable to administer aid and aid is required.
- Tampering with a dash camera or body-worn camera or directing another for the purpose of concealing, destroying, or altering potential evidence.
- Committing perjury, making a false statement, or knowingly tampering with or fabricating evidence.
- Engaging in unprofessional, unethical, deceptive, deleterious conduct, or practices harmful to the public (including any departure from, or failure to conform to, the minimal standards of acceptable and prevailing practice of an officer).