

**CHAPTER NO. 378**

**SENATE BILL NO. 254**

**By Crutchfield**

**Substituted for: House Bill No. 1562**

**By Buck, Newton**

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 11, relative to bail.

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

SECTION 1. Tennessee Code Annotated, Section 40-11-130, is amended by deleting the section in its entirety and substituting instead the following:

§ 40-11-130 (a) (1) If a defendant in a criminal case executes a bond or recognizance before any court or other person authorized by law to take the same for the defendant's personal appearance before a court to answer a criminal charge, such bond or recognizance shall be valid and binding upon the defendant and the defendant's sureties thereon until the time allowed by law for the defendant to appeal a finding of guilt to the court of criminal appeals. If the defendant timely appeals, the defendant shall be required to make a new bond to the court of criminal appeals unless the trial judge, after examination of the original bond, shall set out in a written order that such original bond is sufficient. The court shall use its discretion in determining whether the bond at issue should be changed. No presumption is otherwise intended to be raised in this section. If the time for appealing to the court of criminal appeals expires and the defendant has not filed an appeal, the bondsman may be required to surrender the defendant to the court for service of sentence.

(2) If the defendant files a timely appeal, and the trial court judge orders that a new bond be made, such new bond or recognizance shall be made to the court of criminal appeals and shall not terminate until the final state court to which the defendant may appeal has rendered a decision on such appeal. Upon the conclusion of the appellate process, the bondsman shall be required to surrender the defendant.

(b) (1) If the defendant is placed on pre-trial, post-plea or judicial diversion, community correction, fined or if the defendant's sentence is suspended and probation granted, any such action shall constitute a disposition pursuant to § 40-11-138(b), the bond or recognizance is terminated, and the bondsman or other surety shall be released from their obligations.

(2) If the court orders that the defendant is required to make a new bond or recognizance while on any of the programs set out in subdivision (1), such new bond or recognizance shall be made to the court granting such placement. Such new bond or recognizance shall not terminate until the defendant has completed the period of court-ordered supervision or until the defendant's diversion, community correction or probation is revoked. If the defendant's diversion, community correction or probation is revoked, the bondsman may be required to surrender the defendant.

(c) (1) A defendant is not required to make any bond or recognizance other than is required by subsection (a) or (b) unless ordered to do so by the appropriate court because the:

- (A) Bond is insufficient in amount;
- (B) Defendant's sureties are insolvent;
- (C) Bail is forfeited; or
- (D) Court finds other good and sufficient cause for doing so.

(2) If the defendant is required to make another bond or recognizance for any reason set out in subdivision (1), the sureties on the original bond may surrender the defendant and be released on the bond as is provided by law.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 25, 2005

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 9<sup>th</sup> day of June 2005

  
PHIL BREDESEN, GOVERNOR