

Amendment No. 1 to SB2576

Kelsey
Signature of Sponsor

AMEND Senate Bill No. 2576

House Bill No. 1427*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 11, Part 1, is amended by adding the following as a new section:

40-11-153.

(a) After an officer arrests a person for one (1) of the offenses listed in this subsection (a), but prior to the determination of bail for the arrest offense by the judge or magistrate, the arresting officer or the officer's agency shall exercise due diligence in determining the existence of prior arrests for, and violations of, § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401.

(b) Using due diligence to determine a person's criminal history means the officer makes use of all available databases, including the Tennessee bureau of investigation interstate identification index (III), the Tennessee criminal history database, driver license history, relevant information related to those prior convictions provided pursuant to § 40-6-203, and other official records regarding the person's prior criminal and arrest history to which the officer or officer's agency has access.

SECTION 2. Tennessee Code Annotated, Section 40-11-118, is amended by deleting subdivision (d)(1) and substituting instead the following:

(1)

(A)

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(i) If a defendant is charged with a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401, in determining the amount and conditions of bail to place on the defendant's release, the judge or magistrate shall consider the defendant's criminal history data furnished by the law enforcement officer, or the officer's agency, pursuant to § 40-11-153. The judge or magistrate shall also consider imposing special conditions of bail, including those set out in subdivision (d)(2), upon a defendant charged with an offense listed in this subdivision (d)(1).

(ii) If a defendant is charged with a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401, and the defendant's criminal history data furnished pursuant to § 40-11-153 indicates that the defendant has one (1) or more prior convictions for a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401, the judge or magistrate shall impose the use of special conditions on the defendant, including the conditions set out in subdivision (d)(2).

(B) If the judge orders a defendant charged with an offense listed in this subdivision (d)(1) to be subject to the special condition of monitoring as provided in subdivision (d)(2), the defendant's bonding

company or bonding agent, the judge or magistrate, the department of correction, or any other agency, department, program, group, private entity, or association that is responsible for the supervision of such person shall:

(i) Require periodic reporting by the defendant for verification of the proper operation of the monitoring device;

(ii) Require the defendant to have the device monitored for proper use and accuracy by an entity approved by the supervising entity at least every thirty (30) days, or more frequently as the circumstances may require; and

(iii) Notify the court of any of the defendant's violations of this part for bond revocation purposes.

SECTION 3. Tennessee Code Annotated, Section 40-11-141, is amended by deleting subsection (b) and substituting instead the following:

(b)

(1) If, after the defendant is released upon personal recognizance, an unsecured personal appearance bond, or any other bond approved by the court, the continued release of the defendant is contingent upon the defendant complying with the conditions of release. The grounds for revocation named in subdivisions (b)(2)(B) and (C) shall be considered conditions of any release, whether specified in the release document or not. If the defendant does not comply with the conditions of release, the court may revoke the defendant's bond and terminate the defendant's continued release. All bond revocations for conduct engaged in, on, or after July 1, 2016, shall comply with the procedure established by this subsection.

(2) Grounds for the revocation of a bond pursuant to this section are that the defendant:

(A) Violates a condition of release;

(B) Is charged with an offense committed during the defendant's release; or

(C) Engages in conduct that results in the obstruction of the orderly and expeditious progress of the trial or other proceedings.

(c)

(1) If the state believes the defendant has engaged in conduct that is a ground or grounds for the revocation of the defendant's bail, a pretrial bail revocation hearing may be initiated by filing a written motion with the court.

(2) If the state files a motion for a revocation hearing, it shall contain at least one (1) of the statutory grounds for revocation set out in subsection (b).

(d) If the state's motion for a pretrial revocation hearing is granted, or if the hearing is initiated on the court's own motion, notice shall be given to the defendant.

The notice shall contain:

(1) A description of the conduct that is alleged to be grounds for the revocation;

(2) A statement that, upon request, the state will disclose all evidence in its possession relevant to the conduct resulting in the motion for revocation; and

(3) The date, place, and time of the hearing.

(e) The revocation hearing shall be conducted at or reasonably near the place of the alleged violation and as promptly as convenient. At the revocation hearing:

(1) The defendant shall have the following rights:

(A) To be heard;

(B) To present evidence;

(C) To confront and cross-examine witnesses; and

(D) To make arguments in the defendant's defense;

(2) The state shall be required:

(A) To prove, by a preponderance of the evidence, that at least one (1) of the grounds for revocation set out in subsection (b) has occurred; and

(B) To produce factual testimony from at least one (1) corroborating witness supporting the allegations in the state's motion for revocation; and

(3) The trial court, may:

(A) Consider factual testimony and documentary proof supporting the grounds for revocation of pretrial bail; and

(B) Admit any hearsay evidence the court finds to be reliable.

(f) At the conclusion of the hearing, the court shall continue the defendant's bail under the same conditions and amount if the court finds that the state did not prove by a preponderance of the evidence that the defendant engaged in conduct that violated one (1) or more of the grounds for revocation set out in subsection (b).

(g) If the court finds by a preponderance of the evidence that the defendant engaged in conduct that violated one (1) or more of the grounds for revocation set out in subsection (b), the court shall consider:

(1) Whether any additional bail conditions or an increased amount of bail would assure the appearance of the defendant at trial and protect the safety of the community under § 40-11-116; and

(2) The bail factors listed in § 40-11-118.

(h) After consideration of subsection (g), the court shall:

(1) Impose additional bail conditions or an increased amount of bail and release the defendant on the new bail upon a finding that additional conditions or bail amount would assure the appearance of the defendant at trial and protect the safety of the community under § 40-11-116; or

(2) Revoke and terminate the defendant's bond and order the defendant held without bail pending trial or without release during trial upon a finding that additional conditions or bail amount would not assure the appearance of the defendant at trial and would not protect the safety of the community under § 40-11-116.

SECTION 4. This act shall take effect July 1, 2016, the public welfare requiring it.