

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 41 – SB 610

March 5, 2015

**SUMMARY OF ORIGINAL BILL:** Repeals a judge's discretion to release someone arrested for stalking, aggravated stalking, or especially aggravated stalking relative to domestic abuse before the 12-hour minimum confinement.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (003697):** Deletes all language after the enacting clause.

Authorizes a magistrate to waive the 12-hour hold period for persons arrested for stalking, aggravated stalking, especially aggravated stalking, or for any other crime against the person in one of two ways. First, the magistrate may waive the hold period if the person is not in custody, if 48 hours or more have elapsed since the offense was committed, the person voluntarily turned himself or herself in, or was taken into custody and the magistrate made reasonable efforts to contact the victim. Second, the magistrate may waive the hold based on an order from an elected judge.

If the magistrate orders the 12-hour hold, then the person can request a hearing before an elected judge. The elected judge must determine whether there was probable cause to believe the person poses an imminent threat to the victim if released.

The hearing does not confer upon the accused a right to have an attorney appointed to represent the arrested person.

The time within which to hold the hearing is within the discretion of the judge.

Sets the same procedures for someone arrested for harming or abusing an adult of advanced age.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Under current law, someone arrested for stalking, aggravated stalking, or especially aggravated stalking relative to domestic abuse must be confined for 12 hours if a judge finds that the offender is a threat to the victim. A judge may also release an offender before the 12-hour confinement is complete if a judge finds that sufficient time has passed to protect the victim.
- The bill repeals this discretion and requires all persons arrested for stalking, aggravated stalking, or especially aggravated stalking relative to domestic abuse to be confined for 12 hours, unless the magistrate waives the hold under the circumstances outlined in the bill.
- It is assumed that most offenders already spend the entire 12 hours in confinement and that any increase in confinement resulting from the bill is not significant.
- The Administrative Office of the Courts confirms that the bill will not significantly impact the courts.
- The District Public Defenders confirms that the bill will not significantly impact their caseload as they are not likely to be appointed to represent any person at these hearings.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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