

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 623 – SB 642

March 10, 2015

SUMMARY OF ORIGINAL BILL: Deletes a provision of Tenn. Code Ann. § 40-11-141 relative to bail that was ruled unconstitutional by the Tennessee Court of Criminal Appeals in *State v. Burgins*.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004057): Deletes Section 1 of the bill.

Codifies a procedure that conforms to the holding in *State v. Burgins*.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

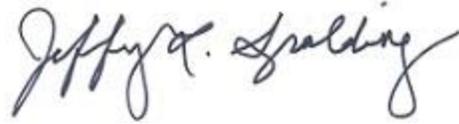
Assumptions for the bill as amended:

- Tenn. Code Ann. § 40-11-141(b) allowed a court to revoke and terminate a defendant's bond and order the defendant held without bail pending trial if the defendant was charged with an offense committed during the defendant's release on bail.
- Article I, § 15 of the Tennessee Constitution states that "all prisoners shall be bailable except for capital offenses." The Tennessee Criminal Court of Appeals held in *State v. Burgins*, 2014 Tenn. Crim. App. LEXIS 1089 (Ten. Crim. App. 2014), that Tenn. Code Ann. § 40-11-141(b) was unconstitutional as it allowed a defendant to be held without bail for a noncapital offense.
- The bill adds a provision to Tenn. Code Ann. § 40-11-141(b) to clarify that if a bond is revoked and terminated pursuant to Tenn. Code Ann. § 40-11-141(b) then the magistrate or judge shall conduct a new hearing to set a new bail amount. The Administrative Office of the Courts confirms that the bill will not significantly impact the courts' caseloads or operations so as to require any additional appropriations.

CERTIFICATION:

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

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Jeffrey L. Spalding, Executive Director

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