

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1427 – SB 2576

March 14, 2016

SUMMARY OF ORIGINAL BILL: Requires a law enforcement officer to run, at the time of arrest or as soon as possible thereafter, a criminal history background check on the person being arrested using the National Crime Information Center (NCIC), which is run by the Federal Bureau of Investigation (FBI). A copy of the criminal history must be attached to the original warrant and becomes a part of the person's law enforcement record until the disposal of the matter.

The background check must be run and attached to the warrant for all misdemeanors, felonies, summonses issued in lieu of arrest, citations issued in lieu of continued custody, and warrantless arrests.

Requires a court to consider the use of special conditions for any person charged with vehicular assault, vehicular homicide by intoxication, or driving under the influence (DUI); rather than for any person charged with vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI who had a prior conviction for vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI.

Requires a court to impose a special bond condition for any person who is charged with vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI and who has a prior conviction for vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI.

Establishes a procedure for revoking a person's bond. Requires a hearing to be conducted before bond can be revoked.

FISCAL IMPACT OF ORIGINAL BILL:

Increase Local Expenditures – Exceeds \$6,000/Incarceration*
Exceeds \$124,900*

Other Fiscal Impact – Requiring an NCIC background check to be attached to a warrant could be considered dissemination by the FBI. If the FBI considers the practice dissemination, then the FBI could pull Tennessee's access to NCIC. The impact of losing NCIC access would be significant. However, the impact cannot be reasonably determined because of multiple, unknown variables.

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SUMMARY OF AMENDMENTS (013099, 013670): Amendment 013099 deletes all language after the enacting clause.

Requires a law enforcement officer, after arresting a person for vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI, but prior to the determination of bail, to exercise due diligence to determine whether the person has any prior arrests for vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI.

Requires a court to consider the use of special conditions for any person charged with vehicular assault, vehicular homicide by intoxication, or driving under the influence (DUI); rather than for any person charged with vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI who had a prior conviction for vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI.

Requires a court to impose a special bond condition for any person who is charged with vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI and who has a prior conviction for vehicular assault, vehicular homicide by intoxication, aggravated vehicular homicide, or DUI.

For any person required to be monitored as a condition of bail, requires a 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 the defendant, to require periodic reporting by the defendant for verification of the proper operation of the monitoring device, require the defendant to have the device monitored for proper use and accuracy by an entity approved by the supervising entity at least every 30 days, and to notify the court of any of the defendant's violations for purposes of bond revocation.

Establishes a procedure for revoking a person's bond. Requires a hearing to be conducted before bond can be revoked.

Amendment 013670 deletes Section 2 of Amendment 013099 that required the court to consider special bond conditions for any person charged and required the court to impose special bond conditions for any person charged who also had at least one prior conviction.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

NOT SIGNIFICANT

Assumptions for the bill as amended:

Assumptions Relative to Due Diligence of the Arresting Officer

- The bill as amended requires law enforcement officers to exercise due diligence in determining whether the defendant has any prior convictions for vehicular assault, vehicular homicide by intoxication, or DUI, when the person is arrested for a violation of vehicular assault, vehicular homicide by intoxication, or DUI.

- It is assumed that law enforcement agencies can exercise due diligence within their existing resources.

Assumptions Relative to Bond Revocation

- The bill as amended establishes a procedure for bond revocations, including, among other requirements, a hearing and a finding by the court.
- According to the Administrative Office of the Courts, courts currently hold hearings for bond revocations though there is not a statutory requirement to conduct such a hearing.
- Any impact to the courts can be accommodated within existing resources.
- The District Attorneys General Conference and the District Public Defenders Conference report that they can handle any impact within their existing resources.

CERTIFICATION:

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



Krista M. Lee, Executive Director

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