

HOUSE BILL 1427

By White M

AN ACT to amend Tennessee Code Annotated, Title 40,
relative to criminal procedure.

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

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 6, Part 1, is amended by adding the following as a new section.

Section ___.

(a) When an officer stops a person with the intent to effectuate an arrest of the person, if the officer has the capability of doing so, the officer shall, at the time of the stop or as soon as possible thereafter, conduct a criminal history background check on the person being arrested using the National Crime Information Center (NCIC) database. If the stop results in the officer arresting the person, the officer shall make a copy of the person's criminal history at the time of arrest, if the officer has the capability of doing so. If a copy cannot be obtained at the time of the arrest, a copy shall be made at the person's booking. The copy of the person's NCIC criminal history shall be attached to the original of the charging instrument. The criminal history of the person shall become a part of the person's law enforcement record until the disposal of the matter giving rise to the grounds for arrest.

(b) Subsection (a) shall apply regardless of whether the person:

- (1) Is arrested for a misdemeanor or felony offense;
- (2) Is issued a citation in lieu of continued custody pursuant to § 40-7-118; or
- (3) Is arrested without a warrant pursuant to § 40-7-103.

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

(d)(1)

(A) When the court is determining the amount and conditions of bail to impose upon a defendant charged with a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401, the court shall consider the use of special conditions for the defendant, including the conditions set out in subdivision (d)(2).

(B) When the court is determining the amount and conditions of bail to impose upon a defendant charged with a violation of § 39-13-106, § 39-13-115, § 39-13-213(a)(2), § 39-13-218, or § 55-10-401, the court shall impose the use of special conditions for the defendant, including the conditions set out in subdivision (d)(2), if 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.

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 which 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.