

HOUSE BILL 2098

By Kumar

AN ACT to amend Tennessee Code Annotated, Title 40
and Title 55, relative to TN Sobriety.

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

SECTION 1. Tennessee Code Annotated, Section 40-11-118, is amended by adding the following as a new subsection:

The court shall condition any bond or pretrial release for a defendant charged with an offense listed in § 40-11-153(a) upon participation in the TN Sobriety program created by § 40-11-153, and payment of associated costs and expenses. This subsection shall not apply to a defendant that is subject to transdermal monitoring as a condition of bond.

SECTION 2. Tennessee Code Annotated, Title 40, Chapter 11, Part 1, is amended by adding the following as new section:

40-11-153.

(a) This section shall apply to any person who:

(1) Is charged with a violation of § 55-10-401 and has one (1) or more prior convictions under § 55-10-401 within the last ten (10) years or an offense listed in subdivision (b)(2); or

(2) Is charged with a violation of §§ 39-13-106, 39-13-115, 39-13-213(a)(2), or 39-13-218.

(b) When a defendant charged with an offense listed in subsection (a) is released on bond pending trial for the offense, the court shall require the defendant to maintain total abstinence from the use of alcohol and to participate in a TN Sobriety

program as a condition of bond, pursuant to § 40-11-118. This section shall not apply to a defendant that is subject to transdermal monitoring as a condition of bond.

(c) TN Sobriety shall be administered by the sheriff's department for the county in which the defendant resides. TN Sobriety shall include the defendant submitting to sobriety testing twice a day to ensure compliance with the conditions of bond and the payment of associated costs and expenses. If a sheriff is unwilling or unable to participate in the TN Sobriety program, the sheriff may designate an entity willing to provide the service. If twice-daily sobriety testing is ordered for a resident of the county as a condition of bond, the sheriff or designated entity shall establish the testing locations and times for each county but shall have at least one (1) location and two (2) daily testing times approximately twelve (12) hours apart.

(d) If a defendant's sobriety testing shows that the alcohol concentration in the defendant's blood is more than two-hundredths of one percent (0.02%), the sheriff, deputy, or the sheriff's designee who is performing the sobriety testing shall immediately notify the court that granted the bond of the test results and take the defendant into custody for violating a condition of bond. Within twenty-four (24) hours, the court shall review the sobriety test results and may:

(1) Declare the defendant's bail forfeited, pursuant to § 40-11-139;

(2) Revoke and terminate the defendant's bond and order the defendant held without bail pending trial or without release during trial, pursuant to § 40-11-141; or

(3) Impose a change in bail or additional conditions of bond, pursuant to § 40-11-143, including, but not limited to, the use of a transdermal monitoring device.

(e) The Tennessee peace officer standards and training commission may promulgate rules for the administration of the TN Sobriety program to:

(1) Regulate the nature and manner of testing;

(2) Provide for procedures and apparatus for testing, including electronic monitoring devices; and

(3) Set uniform participation and user fees to be charged by the sheriff's department or the sheriff's designee. The fees shall be calculated to cover the reasonable costs of administering the program; provided, however, that user fees for twice-a-day testing shall not be less than one dollar (\$1.00) per test.

SECTION 3. This act shall take effect January 1, 2017, the public welfare requiring it.