

HOUSE BILL 2701

By Doggett

AN ACT to amend Tennessee Code Annotated, Title 5,
Chapter 1, Part 3; Title 16, Chapter 15; Title 40,
Chapter 11 and Title 40, Chapter 1, relative to bail.

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

SECTION 1. Tennessee Code Annotated, Section 40-11-124, is amended by adding the following new subsections:

(c) On or before March 1, 2023, and on or before March 1 of each year thereafter, the clerk for each court of record with criminal jurisdiction shall provide the administrative office of the courts a list of professional bondsmen or other sureties approved and qualified as solvent to write bail by those courts within the county. Each clerk shall notify the administrative office of the courts of any change to the list within two (2) business days of the change. The administrative office of the courts shall post the list on its website and update the website with any changes as appropriate.

(d) The duty of the administrative office of the courts is limited to keeping and reporting the information provided by the clerk pursuant to subsection (c). The administrative office of the courts is not responsible for the accuracy or completeness of the information provided by the clerk pursuant to subsection (c) or for resolving disputes regarding bonding companies.

SECTION 2. Tennessee Code Annotated, Section 40-11-404(a), is amended by adding the following language at the end of the subsection:

The Tennessee association of professional bail agents shall provide the administrative office of the courts a complete list of each certificate issued within two (2) weeks from the date of issuance.

SECTION 3. Tennessee Code Annotated, Section 40-11-102, is amended by designating the existing language as subsection (a) and adding the following new subsection:

(b) A defendant may be admitted to bail on any day and at any time.

SECTION 4. Tennessee Code Annotated, Section 40-11-105(a)(1), is amended by adding the following language at the end of the subdivision:

The defendant must receive a bail hearing to address any conditions of release within forty-eight (48) hours of arrest or being held to answer for a bailable offense, unless the defendant waives the right to a hearing.

SECTION 5. Tennessee Code Annotated, Section 40-11-143, is amended by designating the existing language as subsection (a) and adding the following new subsections:

(b) Upon request of the defendant or the district attorney general or by the issuing authority sua sponte, after notice to the defendant and the district attorney general and an opportunity to be heard at a de novo hearing, an issuing authority may modify the amount of bail or conditions of release. If the defendant is detained, the hearing must be conducted within seven (7) days of the defendant's request for a hearing. If the defendant is not detained, the hearing may be held at any time before a verdict is reached.

(c) An existing bail order may be modified at the preliminary hearing.

(d) An existing bail order may be modified by the criminal court judge:

(1) At any time before a verdict upon motion of counsel for either party with notice to opposing counsel and after a hearing on the motion; or

(2) At trial or a pretrial hearing in open court on the record when both parties are present.

(e) When bail is modified pursuant to this section, the modification must be explained to the defendant and stated in writing or on the record by the issuing authority or the judge.

SECTION 6. Tennessee Code Annotated, Section 5-1-307(a), is amended by designating the existing language as subdivision (1) and adding the following new subdivision:

(2) Of the twenty-four (24) course-specific hours for sheriffs and state court clerks who serve courts of criminal jurisdiction, three (3) hours on bail law must be included. The University of Tennessee institute of public service for government training may establish an agreement with the Tennessee association of professional bail agents for the instruction of the three (3) hours of course work.

SECTION 7. Tennessee Code Annotated, Section 40-1-111(f)(3)(B), is amended by deleting the language "At least one (1) hour concerning bail" and substituting instead the language "At least two (2) hours concerning bail".

SECTION 8. Tennessee Code Annotated, Section 40-1-111(f)(1), is amended by adding the following language at the end of the subdivision:

The Judicial Commissioners Association of Tennessee may establish an agreement with the Tennessee association of professional bail agents for the two (2) hours of course work concerning bail.

SECTION 9. Tennessee Code Annotated, Section 16-15-211, is amended by designating the existing language as subsection (a) and adding the following new subsection:

(b) For general sessions judges who exercise criminal jurisdiction, the administrative director of the courts shall include on a regular basis a training session concerning bail law. The administrative director of the courts may establish an agreement with the Tennessee association of professional bail agents for the training session on bail law.

SECTION 10. Tennessee Code Annotated, Section 40-11-401, is amended by deleting subsection (b) and substituting the following:

(b) Each person acting as a bounty hunter pursuant to § 40-11-318, including a professional bondsman acting as a bounty hunter, must obtain twelve (12) hours of continuing education credits during each twelve-month period beginning on January 1, 2023, and at least four (4) of the twelve (12) hours must have a specific focus on bounty hunting.

SECTION 11. Tennessee Code Annotated, Section 40-11-404, is amended by deleting subsection (b) and substituting the following:

(b) The Tennessee association of professional bail agents shall either provide or contract for a minimum of twelve (12) hours of continuing education classes to be held on a regular basis in each of the grand divisions and may provide additional classes as necessary. The association may present no more than three (3) virtual classes annually. The association is authorized to subcontract with any of its subassociations for classes. A schedule of these classes must be provided to all agents. The association may charge not more than three hundred sixty dollars (\$360) annually for the twelve (12) hours of continuing education, and the cost of any course with less than twelve (12) hours must be prorated.

SECTION 12. Tennessee Code Annotated, Section 40-11-404, is amended by adding the following as a new subsection:

() The Tennessee association of professional bail agents shall provide twelve (12) hours of instruction to bounty hunters, four (4) hours of which must be on matters specific to bounty hunters. Any certificate, pocket card, or other proof of attendance must bear a unique endorsement to differentiate the proof from the general educational requirements for bail agents.

SECTION 13. Tennessee Code Annotated, Title 40, Chapter 11, Part 4, is amended by adding the following as a new section:

(a) Beginning January 1, 2023, a person may not attend a continuing education class under this part who has been convicted in any state of a crime equivalent to a felony in this state or two (2) or more misdemeanors that are equivalent to Class A or Class B misdemeanors in this state; provided, however, the misdemeanor convictions must have occurred within five (5) years of the date of the continuing education class.

(b) The Tennessee association of professional bail agents and the Tennessee bureau of investigation shall:

(1) Create practices and procedures that allow the Tennessee association of professional bail agents to receive, review, interpret, and store the results of the criminal background check required in this section in a manner that ensures the confidentiality of the information. The Tennessee bureau of investigation is authorized to promulgate rules and regulations to effectuate this section in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(2) Maintain and provide a list of agencies and vendors capable of providing the appropriate background check or, in the alternative, provide the background check directly.

(c) Not less than ninety (90) days before a scheduled continuing education class, a person seeking to attend must submit to a criminal history background check as provided by § 38-6-109, with the results being reported directly to the Tennessee association of professional bail agents. The person submitting to the criminal history background check is responsible for any fees associated with the background check. The criminal background check must include fingerprint checks against state and federal

criminal records maintained by the Tennessee bureau of investigation and the federal bureau of investigation.

(d) If the Tennessee association of professional bail agents determines that an applicant has a disqualifying criminal history, then the association must inform the applicant of the association's determination not less than sixty (60) days prior to the scheduled continuing education class. If the association fails to make a determination as to a disqualifying criminal history, then the applicant is presumed to have no disqualifying criminal history.

(e) If the applicant believes that the decision of the association is in error or that there are extenuating circumstances that would permit attendance notwithstanding the criminal history, the applicant may appeal the association's decision within ten (10) days to the court of record with criminal jurisdiction within the county where the applicant resides or intends to do business, if not a resident of this state.

(1) All appeals must be in writing, setting forth the grounds thereof.

(2) The court hearing the appeal shall give written notice of its decision not less than fifteen (15) days before the scheduled continuing education class. If the court fails to provide written notice within that time period, the court must give written notice as to when the decision will occur or if no such notice is given, the association's decision is deemed final.

(f) An applicant has a right to appeal the court's decision to the court of criminal appeals within thirty (30) days.

(g) The Tennessee association of professional bail agents and its agents, contractors, or employees are not liable to any person for damages resulting from a determination made pursuant to this section.

SECTION 14. Sections 1 through 3, 5, 9, and 10 of this act take effect upon becoming a law, the public welfare requiring it. Section 4 of this act takes effect July 1, 2022, the public welfare requiring it. Sections 6, 7, 8, 11, 12, and 13 take effect January 1, 2023, the public welfare requiring it.