

SENATE BILL 813

By Yarbro

AN ACT to amend Tennessee Code Annotated, Title 40,  
Chapter 11, relative to bail.

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

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

The defendant is entitled to a bail hearing to address any conditions of release, with the assistance of counsel, within forty-eight (48) hours of arrest or being held to answer for any bailable offense.

SECTION 2. Tennessee Code Annotated, Section 40-11-115, is amended by deleting subsection (a) and substituting:

(a) Any person charged with a bailable offense must, before a magistrate authorized to admit the person to bail, be ordered released pending trial on the person's personal recognizance or upon execution of an unsecured appearance bond in an amount specified by the magistrate, unless the magistrate determines by clear and convincing evidence that more restrictive conditions are necessary to reasonably assure the appearance of the person or ensure the safety of another person or the community.

SECTION 3. Tennessee Code Annotated, Section 40-11-117, is amended by deleting the section and substituting:

Upon a showing by clear and convincing evidence that conditions on a release on recognizance or unsecured bond are insufficient to reasonably assure the appearance of the defendant as required or ensure the safety of another person or the

community, the magistrate shall, in lieu of the conditions of release set out in § 40-11-115 or § 40-11-116, require bail to be given.

SECTION 4. Tennessee Code Annotated, Section 40-11-118(a), is amended by deleting the third sentence and substituting:

Bail must be set at the lowest amount necessary to reasonably assure the appearance of the defendant as required.

SECTION 5. Tennessee Code Annotated, Section 40-11-118, is amended by inserting the following language as a new subsection (c) and redesignating existing subsection (c) and remaining subsections accordingly:

(c) In determining the amount of bail pursuant to subsection (b), the magistrate shall not set bail at an amount that a defendant does not have the ability to pay, for the purpose of detaining a defendant who is otherwise eligible for pretrial release, or impose a monetary condition that results in pretrial incarceration solely because the defendant is unable to pay the imposed monetary condition. In making that determination, the magistrate may consider all resources available to the defendant from any lawful source.

SECTION 6. This act takes effect July 1, 2021, the public welfare requiring it.