~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 26, 2014

**S. 19**

Introduced by Senators Ford, Campsen and Shealy

S. Printed 2/26/14--H.

Read the first time May 2, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 19) to amend Section 17-15-55, Code of Laws of South Carolina, 1976, relating to bond and the authority of the circuit court to revoke bond under certain, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 17‑15‑55 of the 1976 Code is amend by adding:

“(C) If a person released on bond pursuant to the provisions of this chapter for a violent crime, as defined in Section 16‑1‑60, is charged with a subsequent violent crime, as defined by Section 16‑1‑60, not arising out of the same series of events as the initial violent crime the bond hearing for the subsequent violent crime must be held in the circuit court within thirty days. If the court finds that certain conditions of release on bond will ensure that the person is unlikely to flee or pose a danger to any other person or the community and the person will abide by the terms of release on bond, the judge shall consider bond in accordance with the provisions of this chapter and set or amend bond accordingly. If the court finds no such conditions will ensure that the person is unlikely to flee or not pose a danger to the community, the court shall not set a bond for the instant offense and must revoke all previously set bonds.

(D) If a person while released on bond for a violent crime, as defined in Section 16‑1‑60, is charged with another violent crime not arising out of the same series of events as the initial violent crime, then the jail, prison, or corrections facility where the person is housed must transmit notice of the second arrest, implicating subsection (C), to the solicitor of the circuit in which the crime was committed and the administrative chief judge of the circuit in which the crime was committed. The prosecuting agency must notify any victims of the initial or subsequent crimes pursuant to Chapter 3, Title 16 of any bond hearings.”

SECTION 2. Section 17‑15‑30 of the 1976 Code is amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, a court may, on the basis of ~~available~~ the following information, consider the nature and circumstances of an offense charged and ~~an accused’s~~ the charged person’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court shall consider~~, if available~~:

(1) ~~an accused’s~~ a person’s criminal record;

(2) any charges pending against ~~an accused~~  a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged; ~~and~~

(4) whether ~~an accused~~  a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information~~, if available~~:

(a) the ~~accused’s~~ a person’s criminal record;

(b) any charges pending against ~~the accused~~ a person at the time release is requested;

(c) all incident reports generated as a result of the offense charged; and

(d) any other information that will assist the court in determining conditions of release.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person’s hearing.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.”

SECTION 3. Section 22‑5‑510 of the 1976 Code, as last amended by Act 273 of 2010, is further amended to read:

“Section 22‑5‑510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. ‘Violent offenses’ as used in this section means the offenses contained in Section 16‑1‑60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty‑four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(D) A court shall consider:

(1) a person’s criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement ~~officer, local detention facility officer, or local jail officer, as applicable, attending the hearing~~ agency shall provide the court with the following information ~~if available~~:

(1) the person’s criminal record;

(2) any charges pending against the person at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining ~~bail~~ conditions of release.

~~(D)~~(F) The arresting law enforcement ~~officer, local detention facility officer, or local jail officer, as applicable,~~ agency shall inform the court if any of the information required in ~~subsection~~ subsections (C), (D), and (E) is not available at the time of the ~~bond~~ hearing and the reason the information is not available. Failure on the part of the law enforcement ~~officer, local detention facility officer, or local jail officer, as applicable,~~ agency to provide the court with the information ~~required in subsection (C)~~ does not constitute grounds for the postponement or delay of the person’s bond hearing.

~~(E)~~(G) A court hearing this matter has contempt powers to enforce these provisions.”

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. This act takes effect upon approval by the Governor.\

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 17-15-55, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO BOND AND THE AUTHORITY OF THE CIRCUIT COURT TO REVOKE BOND UNDER CERTAIN CIRCUMSTANCES, SO AS TO INCLUDE THE COMMISSION OF A SUBSEQUENT VIOLENT CRIME BY A PERSON RELEASED ON BOND IN THE PURVIEW OF THE STATUTE AND TO ADD AN ADDITIONAL PENALTY IF A PERSON COMMITS A GENERAL SESSIONS COURT OFFENSE WHILE ON RELEASE ON BOND.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 17‑15‑55 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) If a person released on bond pursuant to the provisions of this chapter for a serious or most serious offense, as defined in Section 17-25-45, is charged with a serious or most serious offense, as defined in Section 17‑25‑45, while released on bond, the bond hearing for the subsequent serious or most serious offense must be held in the circuit court within thirty days. If the court finds probable cause that the person committed the current offense or that the person is unlikely to comply with any condition of release, a rebuttable presumption arises that no condition will assure the person will not pose a danger to the safety of any other person or the community. If the court finds that certain conditions of release on bond will ensure that the person is unlikely to flee or pose a danger to any other person or the community and the person will abide by the terms of release on bond, the judge shall consider bond in accordance with the provisions of this chapter and set or amend bond accordingly. If the court finds no such conditions will ensure that the person is unlikely to flee or not pose a danger to the community, bond must be revoked.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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