**South Carolina General Assembly**

120th Session, 2013-2014

**A144, R152, S19**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Ford, Campsen and Shealy

Document Path: l:\council\bills\ms\7042ahb13.docx

Companion/Similar bill(s): 3051

Introduced in the Senate on January 8, 2013

Introduced in the House on May 2, 2013

Last Amended on March 19, 2014

Passed by the General Assembly on March 25, 2014

Governor's Action: April 7, 2014, Signed

Summary: Bond revocations

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/13/2012 Senate Prefiled

 12/13/2012 Senate Referred to Committee on **Judiciary**

 1/8/2013 Senate Introduced and read first time ([Senate Journal‑page 33](file:///H%3A%5CSJ%20Archive%5C2013%5C01-08-13.docx))

 1/8/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 33](file:///H%3A%5CSJ%20Archive%5C2013%5C01-08-13.docx))

 3/8/2013 Senate Referred to Subcommittee: Hutto (ch), Corbin, Young

 4/24/2013 Senate Polled out of committee **Judiciary** ([Senate Journal‑page 8](file:///H%3A%5CSJ%20Archive%5C2013%5C04-24-13.docx))

 4/24/2013 Senate Committee report: Favorable **Judiciary** ([Senate Journal‑page 8](file:///H%3A%5CSJ%20Archive%5C2013%5C04-24-13.docx))

 4/25/2013 Senate Amended ([Senate Journal‑page 30](file:///H%3A%5CSJ%20Archive%5C2013%5C04-25-13.docx))

 4/26/2013 Scrivener's error corrected

 4/30/2013 Senate Read second time ([Senate Journal‑page 36](file:///H%3A%5CSJ%20Archive%5C2013%5C04-30-13.docx))

 4/30/2013 Senate Roll call Ayes‑42 Nays‑0 ([Senate Journal‑page 36](file:///H%3A%5CSJ%20Archive%5C2013%5C04-30-13.docx))

 5/1/2013 Senate Amended ([Senate Journal‑page 74](file:///H%3A%5CSJ%20Archive%5C2013%5C05-01-13.docx))

 5/1/2013 Senate Read third time and sent to House ([Senate Journal‑page 74](file:///H%3A%5CSJ%20Archive%5C2013%5C05-01-13.docx))

 5/1/2013 Senate Roll call Ayes‑42 Nays‑0 ([Senate Journal‑page 74](file:///H%3A%5CSJ%20Archive%5C2013%5C05-01-13.docx))

 5/2/2013 House Introduced and read first time ([House Journal‑page 8](file:///H%3A%5CHJ%20Archive%5C2013%5C05-02-13.docx))

 5/2/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 16](file:///H%3A%5CHJ%20Archive%5C2013%5C05-02-13.docx))

 2/26/2014 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 56](file:///H%3A%5CHJ%20Archive%5C2014%5C02-26-14.docx))

 3/4/2014 House Amended ([House Journal‑page 104](file:///H%3A%5CHJ%20Archive%5C2014%5C03-04-14.docx))

 3/4/2014 House Read second time ([House Journal‑page 104](file:///H%3A%5CHJ%20Archive%5C2014%5C03-04-14.docx))

 3/4/2014 House Roll call Yeas‑108 Nays‑0 ([House Journal‑page 110](file:///H%3A%5CHJ%20Archive%5C2014%5C03-04-14.docx))

 3/5/2014 House Reconsidered ([House Journal‑page 20](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Amended ([House Journal‑page 23](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Read second time ([House Journal‑page 23](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Roll call Yeas‑104 Nays‑1 ([House Journal‑page 23](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Reconsidered ([House Journal‑page 62](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Amended ([House Journal‑page 62](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Read second time ([House Journal‑page 62](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/5/2014 House Roll call Yeas‑110 Nays‑0 ([House Journal‑page 63](file:///H%3A%5CHJ%20Archive%5C2014%5C03-05-14.docx))

 3/6/2014 House Read third time and returned to Senate with amendments ([House Journal‑page 14](file:///H%3A%5CHJ%20Archive%5C2014%5C03-06-14.docx))

 3/6/2014 House Roll call Yeas‑96 Nays‑0 ([House Journal‑page 14](file:///H%3A%5CHJ%20Archive%5C2014%5C03-06-14.docx))

 3/13/2014 Senate House amendment amended ([Senate Journal‑page 30](file:///H%3A%5CSJ%20Archive%5C2014%5C03-13-14.docx))

 3/19/2014 Senate House amendment amended ([Senate Journal‑page 116](file:///H%3A%5CSJ%20Archive%5C2014%5C03-19-14.docx))

 3/19/2014 Senate Returned to House with amendments ([Senate Journal‑page 116](file:///H%3A%5CSJ%20Archive%5C2014%5C03-19-14.docx))

 3/25/2014 House Concurred in Senate amendment and enrolled ([House Journal‑page 38](file:///H%3A%5CHJ%20Archive%5C2014%5C03-25-14.docx))

 3/25/2014 House Roll call Yeas‑98 Nays‑0 ([House Journal‑page 38](file:///H%3A%5CHJ%20Archive%5C2014%5C03-25-14.docx))

 4/3/2014 Ratified R 152

 4/7/2014 Signed By Governor

 4/9/2014 Effective date 04/07/14

 4/14/2014 Act No. 144

**VERSIONS OF THIS BILL**

[12/13/2012](file:///p%3A%5Cpprever%5C2013-14%5C19_20121213.docx)

[4/24/2013](file:///p%3A%5Cpprever%5C2013-14%5C19_20130424.docx)

[4/25/2013](file:///p%3A%5Cpprever%5C2013-14%5C19_20130425.docx)

[4/26/2013](file:///p%3A%5Cpprever%5C2013-14%5C19_20130426.docx)

[5/1/2013](file:///p%3A%5Cpprever%5C2013-14%5C19_20130501.docx)

[2/26/2014](file:///p%3A%5Cpprever%5C2013-14%5C19_20140226.docx)

[3/4/2014](file:///p%3A%5Cpprever%5C2013-14%5C19_20140304.docx)

[3/5/2014](file:///p%3A%5Cpprever%5C2013-14%5C19_20140305.docx)

[3/13/2014](file:///p%3A%5Cpprever%5C2013-14%5C19_20140313.docx)

[3/19/2014](file:///p%3A%5Cpprever%5C2013-14%5C19_20140319.docx)

(A144, R152, S19)

**AN ACT 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 PROVIDE THAT A BOND HEARING MUST BE HELD IN CIRCUIT COURT WITHIN THIRTY DAYS WHEN A PERSON COMMITS A SUBSEQUENT VIOLENT CRIME WHILE ON BOND FOR A PREVIOUS VIOLENT CRIME AND TO PROVIDE FOR THE REVOCATION OF BOND ON PREVIOUSLY SET BONDS AND FOR NO BOND ON THE CURRENT VIOLENT OFFENSE WHEN THE COURT FINDS THAT NO CONDITIONS WILL ENSURE THE PERSON WILL NOT FLEE OR POSE A DANGER TO THE COMMUNITY; TO AMEND SECTION 17‑15‑30, RELATING TO MATTERS TO BE CONSIDERED WHEN DETERMINING CONDITIONS OF RELEASE ON BOND, SO AS TO INCLUDE THAT THE COURT SHALL CONSIDER WHETHER THE CHARGED PERSON APPEARS IN THE STATE GANG DATABASE MAINTAINED BY THE STATE LAW ENFORCEMENT DIVISION; TO AMEND SECTION 22‑5‑510, AS AMENDED, RELATING TO BOND HEARINGS AND INFORMATION TO BE PROVIDED TO THE COURT, SO AS TO MAKE CONFORMING CHANGES TO SECTION 17‑15‑30 TO INCLUDE THE SAME FACTORS A COURT MAY AND SHALL CONSIDER IN DETERMINING RELEASE ON BOND; TO AMEND SECTION 22‑5‑530, RELATING TO DEPOSITS IN LIEU OF RECOGNIZANCE IN MAGISTRATES AND MUNICIPAL COURTS, SO AS TO PROVIDE FOR THE PAYMENT OF BOND SET BY A SUMMARY COURT JUDGE TO THE JAIL OR DETENTION FACILITY IN WHICH THE PERSON IS HELD; AND TO CREATE THE STUDY COMMITTEE ON BONDS TO REVIEW THE BOND LAWS OF THE STATE AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY CONCERNING PROPOSED CHANGES TO THE BOND LAWS.**

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

**Bond, circuit court**’**s authority to revoke bond, subsequent violent offenders**

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

 “(C) If a person commits a violent crime, as defined in Section 16‑1‑60, which was committed when the person was already out on bond for a previous violent crime and the subsequent violent crime did not arise out of the same series of events as the previous violent crime, then 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 commits a violent crime, as defined in Section 16‑1‑60, which was committed when the person was already out on bond for a previous violent crime, and the subsequent violent crime did not arise out of the same series of events as the previous violent crime, then the arresting law enforcement agency 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.”

**Conditions of release on bond, inclusion of persons on state gang database**

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 the following information, 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.

 (B) 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.

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

 (a) a person’s criminal record;

 (b) any charges pending against 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.”

**Bond hearings, factors to be considered, conforming changes**

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, 1895, 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 agency shall provide the court with the following information:

 (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 conditions of release.

 (F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) 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 bond hearing.

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

**Bond in summary courts, payment of bonds to jail or detention facilities**

SECTION 4. Section 22‑5‑530(B) of the 1976 Code is amended to read:

 “(B) In a jurisdiction in which the governing body has established a system for receipt of deposits in lieu of recognizance:

 (1) a person held or incarcerated in a jail or detention center who is entitled to deposit a sum of money in lieu of entering into recognizance pursuant to this section may secure the person’s immediate release from custody by paying to or depositing the sum of money required by this section with the jail or detention facility in which the person is being held; and

 (2) a person held or incarcerated in a jail or detention center whose bond has been set by a summary court judge may secure the person’s immediate release from custody by paying to or depositing the sum of money set by the summary court judge with the jail or detention facility in which the person is being held.”

**Study Committee on Bonds**

SECTION 5. (A) There is created the Study Committee on Bonds to review the bond laws of the State and make recommendations to the General Assembly concerning proposed changes to the bond laws.

 (B) The study committee must be composed of three members of the Senate, appointed by the Chairman of the Senate Judiciary Committee, and three members of the House of Representatives, appointed by the Chairman of the House Judiciary Committee.

 (C) Vacancies in the membership of the study committee must be filled for the remainder of the unexpired term in the manner of original appointment.

 (D) The Chairmen of the Senate and House Judiciary Committees shall provide appropriate staffing for the study committee.

 (E) The study committee shall make a report of its recommendations to the General Assembly by December 31, 2014, at which time the study committee must be dissolved.

**Savings Clause**

SECTION 6. 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.

**Time effective**

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 3rd day of April, 2014.

Approved the 7th day of April, 2014.

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