**A** **BILL**

TO AMEND SECTION 17-15-30 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, RELATING TO THE BAIL AND RECOGNIZANCES, TO REQUIRE THE COURT TO SET A CASH OR SURETY BOND FOR ANY PERSON CHARGED WITH AN OFFENSE WHO THE COURT FINDS IS AN ALIEN UNLAWFULLY PRESENT IN THE UNITED STATES; AND TO AMEND SECTION 17-15-260 RELATING TO THE DISTRIBUTION OF FORFEITED BONDS TO REQUIRE IN ANY SUCH CASE WHERE THE BOND IS ORDERED FORFEITED THAT TWENTY-FIVE PERCENT OF THE FORFEITED FUNDS BE DISTRIBUTED TO THE ARRESTING LAW ENFORCEMENT AGENCY.

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

SECTION 1. 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 or an individual, 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. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person's criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty‑four hours after the arrest.

(D) If the court finds that the defendant is an alien unlawfully present in the United States, the court must impose a cash or surety bond.

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

SECTION 2. Section 17-15-260 of the 1976 Code is amended to read:

“Section 17-15-260. The funds collected pursuant to this chapter must be remitted in the following manner: twenty‑five percent to the general fund of the State, twenty‑five percent to the solicitor's office in the county in which the forfeiture is ordered, and fifty percent to the county general fund of the county in which the forfeiture is ordered.

However,

(A) if the case in which forfeiture is ordered is originated by a municipality, the funds collected pursuant to this chapter must be remitted in the following manner: twenty‑five percent to the general fund of the State, twenty‑five percent to the solicitor's office in the county in which the forfeiture is ordered, and twenty‑five percent to the county general fund of the county in which the forfeiture is ordered and twenty‑five percent to the municipality; and

(B) if the case in which the forfeiture is ordered involves a defendant who is found by the court to be an alien unlawfully in the United States and the bond was set pursuant to Section 17-15-30(D), the funds collected pursuant to this chapter must be remitted in the following manner: twenty-five percent to the general fund of the State, twenty-five percent to the solicitor's office in the county in which the forfeiture is ordered, twenty-five percent to the county or municipality general fund of the county or municipality in which the forfeiture is ordered, and twenty-five percent to the arresting law enforcement agency.

All funds to be deposited in the state general fund shall be transmitted to the State Treasurer.”

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

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