

HOUSE BILL 1363

By Todd

AN ACT to amend Tennessee Code Annotated, Title 40,  
relative to pretrial release.

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

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 11, is amended by  
adding a new part thereto:

§ 40-11-501.

There is created a Citizens' Right to Know: Pretrial Release Program.

§ 40-11-502. As used in this part

(1) "Agency" means the agency in a county responsible for the operation  
of a pretrial release program;

(2) "Non-secured release" means any release of a defendant from  
pretrial custody where no financial guarantee is required as a condition of such  
release, including but not limited to, release on recognizance or release on an  
unsecured appearance bond;

(3) "Register" means a public record prepared by the agency responsible  
for the operation of a pretrial release program in a county within the state that is  
readily available in the clerk's office of the court in which the agency is located;  
and

(4) "Secured release" means any release of a defendant from pretrial  
custody where a financial guarantee, including, but not limited to, security set out  
in § 40-11-122, is required as a condition of such release.

§ 40-11-503.

(a) In counties where there is a pretrial release program in operation, the

agency responsible for the operation of such program shall prepare a register displaying information regarding the cases and defendants who are recommended for release by such agency. The register shall be located in the clerk's office of the court in which the agency is located and the register shall be readily available for public inspection.

(b) The register shall be updated on a weekly basis and shall display accurate information regarding the following information for each defendant whose non-secured release was recommended by the agency:

- (1) The charge or charges against the defendant;
- (2) The nature of any prior criminal convictions against the defendant;
- (3) Any court appearances the defendant is required to attend;
- (4) Any court dates the defendant may have missed;
- (5) Any bench warrants issued for the defendant; and
- (6) Any instances of the defendant failing to comply with pretrial release conditions.

§ 40-11-504.

(a) On or before February 1 of each year, every agency responsible for the operation of a pretrial release program shall submit an annual report to the judiciary committees of the senate and the house of representatives for the prior calendar year.

(b) The annual report shall include, but not be limited to, the following information:

- (1) The complete operating budget of the agency;
- (2) The number of personnel employed by the agency;

(3) The total number of release recommendations made by the agency;

(4) The total number of cases reviewed by the agency;

(5) The total number of cases in which non-secured release was denied by the agency;

(6) The number of defendants released on non-secured release after a positive recommendation by the agency;

(7) The average period of time the defendant is incarcerated before being released on recommendation by the agency responsible for the operation of a pretrial release program;

(8) The total number of cases where the defendant was released on a non-secured release after a positive recommendation by the agency and the defendant had at least one missed court date within one year of the date of such release;

(9) The total number of cases where a defendant was released on a non-secured release after a positive recommendation by the agency and a bench warrant was issued by the court on the defendant's failure to appear on a non-secured release;

(10) The total number of cases where a defendant was released on a non-secured release after a positive recommendation by the agency and a bench warrant was issued by the court but remained unserved after one (1) year;

(11) The total number of cases where a defendant was released on a non-secured release after a positive recommendation by the agency

and a warrant was issued for the defendant after such release for additional criminal charges within one (1) year; and

(12) Total number of cases where a defendant was released on a non-secured release after a positive recommendation by the agency and the defendant was arrested on a new offense while on release under the agency's recommendation.

(c) The annual report shall also contain an accounting of the percentage of the agency's annual budget which is allocated to steering defendants eligible for secured release toward obtaining their own release through non-government sponsored programs.

§ 40-11-505.

Every agency responsible for the operation of a pretrial release program shall prepare the register and annual report out of its existing budget, and no additional government funds shall be made available for the production of these items.

§ 40-11-506.

If the presiding judge of the judicial district in which the agency is located finds that the agency has not maintained the register or filed an annual report as required by this part, the presiding judge shall:

(1) For a first occurrence of noncompliance, require the agency immediately to prepare a written report explaining the noncompliance and what measures will be taken to bring the program into compliance and the date by which the noncompliance will be corrected.

(2) For a second or subsequent occurrence of noncompliance, order the agency to show why it should not be sanctioned for its continued

noncompliance. If the agency cannot justify the continued noncompliance, the presiding judge of the judicial district in which the agency is located may order the program to reduced its budget by twenty-five percent (25%) if it is a pretrial release program receiving public funds, and if the pretrial release program is a private entity, suspend further agency operation until full compliance is demonstrated.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.