

SENATE BILL 409

By Stevens

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 11 and Title 40, Chapter 7, relative to criminal procedure.

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

SECTION 1. Tennessee Code Annotated, Section 40-11-115, is amended by deleting subsection (b) and substituting instead the following:

(b)

(1) There is a rebuttable presumption that a person charged with an offense will not violate the conditions of the person's release if:

(A) The person is charged with an offense that, if convicted, would be eligible for expunction as provided by § 40-32-101(g); and

(B) The person has not been convicted of an offense previously that is not eligible for expunction under § 40-32-101(g).

(2) A person described in subdivision (b)(1) shall be released pending trial on the person's recognizance or upon the execution of an unsecured appearance bond.

SECTION 2. Tennessee Code Annotated, Section 40-11-115, is amended by adding the following language as a new, appropriately designated subsection:

() In making a release determination, as provided for by subsection (a), for a person not covered by subsection (b) and a determination that release will reasonably assure the appearance of the person as required, the magistrate shall take into account:

(1) The defendant's length of residence in the community;

(2) The defendant's employment status, history, and financial condition;

- (3) The defendant's family ties and relationships;
- (4) The defendant's reputation, character, and mental condition;
- (5) The defendant's prior criminal record, including prior releases on recognizance or bail;
- (6) The identity of responsible members of the community who will vouch for the defendant's reliability;
- (7) The nature of the offense and the apparent probability of conviction and the likely sentence, insofar as these factors are relevant to the risk of nonappearance; and
- (8) Any other factors indicating the defendant's ties to the community or bearing on the risk of willful failure to appear.

SECTION 3. This act shall take effect July 1, 2019, the public welfare requiring it, and shall apply to bail determinations made on or after that date.