

A BILL TO ADD SECTIONS (C) AND (D) TO 17-15-55

“Section 17-15-55.(A)(1) The circuit courts, at their discretion, may review and reconsider bond for general sessions offenses set by summary court judges. Also, the circuit courts may consider motions regarding reconsideration of bond for general sessions offenses set by summary court judges upon motions filed with the clerks of court. Hearings on these motions must be scheduled. The rules of evidence do not apply to bond hearings.

(2) After a circuit court judge has heard and ruled upon a defendant’s motion to reconsider a bond set by a summary court judge, further defense motions to reconsider may be heard by the circuit court only upon the defendant’s prima facie showing of a material change in circumstances which relate to the factors provided in Section 17-15-30, and which have arisen since the prior motion to reconsider. In addition, the circuit court may hear further defense motions to reconsider based on the length of time the defendant has been held for trial after six months. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances. Information regarding the defendant’s guilt or innocence does not qualify as a change in circumstances for purposes of reconsidering bond absent the solicitor’s consent.

(B)(1) Motions by the State to revoke or modify a bond must be made in writing, state with particularity the grounds for revocation or modification, and set forth the relief or order sought. The motions must be filed with the clerks of court, and a copy must be served on the chief judge, defense counsel of record, and bond surety, if any.

(2) After a circuit court judge has heard and ruled upon the state’s motion to reconsider a bond set by a summary court judge, further state motions to reconsider may be heard by the circuit court only upon the state’s prima facie showing of a material change in circumstances which have arisen since the prior motion to reconsider. The chief judge shall schedule a hearing or if such showing is not set forth in the written motion, deny the motion for failure to make a prima facie showing of a material change in circumstances.

(3) If the state’s motion to revoke or modify bond includes a prima facie showing of imminent danger to the community, imminent danger to the defendant, or flight by the defendant, the chief judge or presiding judge shall conduct or order an emergency bond hearing to be conducted by the circuit court judge within forty-eight hours of receiving service of the state’s motion or as soon as practical. The chief judge shall order the solicitor to notify the defense counsel of record and bond surety of the time and date of the hearing, and the solicitor shall provide proof reasonable efforts were made to affect the notice. Upon notice by the State, the defense counsel of record and bond surety shall make reasonable efforts to notify the defendant of the emergency hearing. The court may proceed with the hearing despite the absence of the defendant or bond surety. The court may not proceed with the hearing if the defense counsel of record is not present. If an emergency bond hearing is held without the presence of the defendant and bond is revoked, the judge having heard the matter may conduct the hearing on the defendant’s motion to reconsider the revocation. Defense motions to reconsider revocation must be filed with the clerk of court and served on the solicitor and bond surety.”

(C) Bond shall be revoked if the judge finds that the there is probable cause that the person has committed a violent crime, as defined in 16-1-60, while on bond or the person is unlikely to comply with any condition or combination of conditions while on release.

If there is probable cause to believe that, while a person is on bond, the person committed a violent crime, as defined in 16-1-60, a rebuttable presumption arises that no condition or

combination of conditions will assure the person will not pose a danger to the safety of any other person or the community. If the judge determines that there are conditions of bond that will assure that the person will not flee or pose a danger to any other person or the community, and that person will abide by such terms of bond, the judge shall consider setting bond in accordance with the provision of this title and may set or amend bond accordingly.

(D)(1) If a person is convicted of committing or attempting to commit a general sessions offense while released on a bail bond or personal recognizance bond, the person must be imprisoned for five years in addition to the punishment provided for the principal offense. The five year sentence does not apply in cases where the death penalty or a life sentence without the possibility of parole is imposed.

(2) The court shall impose the mandatory five year sentence to run consecutively.

(3) A person sentenced pursuant to this section is not eligible during the five year period for parole, work release or extended work release. The five years must not be suspended, and the person may not complete the term of imprisonment in less than five years pursuant to good-time credits or work credits, but may earn credits during the five year period.

(4) The additional punishment must not be imposed unless the indictment for the substantive general sessions offense alleges as a separate count and pursuant to this section that the person was on pre-trial release subject to the terms of a bail bond when the substantive general sessions offense was committed and conviction was had upon this count of the indictment. The penalties prescribed in this section must not be imposed unless the person convicted was at the same time convicted of the underlying, substantive general sessions offense.

(5) Written notice of the intention to prosecute under this section must be given to the defendant and the defendant's counsel no less than ten days before trial.