**South Carolina General Assembly**

125th Session, 2023-2024

**S. 368**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Adams, M. Johnson, Kimbrell, Garrett, Rice, Cash, Harpootlian, Cromer and Verdin

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Introduced in the Senate on January 10, 2023

Currently residing in the Senate

Summary: Bond Reform - Subsequent Violent Offense

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/10/2023 Senate Introduced and read first time (Senate Journal‑page 210)

 1/10/2023 Senate Referred to Committee on **Judiciary** (Senate Journal‑page 210)

 1/12/2023 Senate Referred to Subcommittee: Malloy (ch), Sabb,
 Adams, Garrett, Gustafson

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**VERSIONS OF THIS BILL**

[01/10/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/368_20230110.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 17‑15‑55, RELATING TO RECONSIDERATION BY the CIRCUIT COURT OF BOND SET BY the SUMMARY COURT, SO AS TO PROVIDE THAT IF A PERSON RECEIVES A SUBSEQUENT BOND AFTER BEING RELEASED ON BOND FOR A previous VIOLENT OFFENSE OR FELONY OFFENSE INVOLVING A FIREARM, THE BONDsMAN MUST CERTIFY THAT ALL FEES ASSOCIATED WITH THE BOND WERE PAID IN FULL AT THE TIME OF THE BONDING, AND TO PROVIDE THAT IF A PERSON RECEIVES A BOND AFTER TWO PRIOR BONDS SET FOR SEPaRATE VIOLENT OR FELONY OFFENSES INVOLVING A FIREARM, THAT BOND MAY NOT BE POSTED BY A BOND SURETY; BY AMENDING SECTION 17‑15‑30, RELATING TO MATTERS TO BE CONSIDERED IN DETERMINING CONDITIONS OF RELEASE, SO AS TO PROVIDE THAT THE COURT MUST CONSIDER WHETHER A PERSON IS currently OUT ON BOND FOR A PRIOR OFFENSE WHEN SETTING BOND; AND BY AMENDING SECTION 22‑5‑510, RELATING TO BAIL and BOND HEARINGs and INFORMATION TO BE PROVIDED TO the magistrate, SO AS TO PROVIDE THAT A MAGISTRATE MUST CONSIDER WHETHER A PERSON IS OUT ON BOND FOR ANOTHER PRIOR OFFENSE WHEN SETTING a BOND.

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

SECTION 1. Section 17‑15‑55 of the S.C. Code is amended to read:

 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) If a person commits a violent crime offense, as defined in Section 16‑1‑60, or any felony offense involving a firearm, which was committed when the person was already out on bond for a previous violent crime offense or any felony offense involving a firearm and the subsequent violent crime offense did not arise out of the same series of events as the previous violent crime offense, then:

 (1) the bond hearing for the subsequent violent crime offense or any felony offense involving a firearm must be held in the circuit court within thirty days.;

 (2) If 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. Notwithstanding the provisions of Sections 17‑15‑15, any bond set for a violent offense or felony offense involving a firearm committed when the person was already out on bond for a previous violent offense or felony offense involving a firearm must be deposited to the court in cash or its equivalent in full, regardless of if the bond was posted by the defendant, his representative, or by a bond surety. If the secondary bond is posted by a bond surety, the surety must certify to the court that all costs and fees required by the contract or agreement with the defendant were paid in full at the time of the bonding and that no future payments, fees, or interest are due from the defendant. A failure by the defendant to make payments or to pay fees or interest to a bond surety after the release from custody for any contract or agreement made in violation of this subsection shall not be enforceable in any court;

 (3) If 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)(4) If if a person commits a violent crime offense, as defined in Section 16‑1‑60, or a felony offense involving a firearm which was committed when the person was already out on bond for a previous violent crime offense or felony offense involving a firearm, and the subsequent violent crime offense 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 this subsection (C), to the solicitor of the circuit in which the crime offense was committed and the administrative chief judge of the circuit in which the crime offense was committed. The prosecuting agency must notify any victims of the initial or subsequent crimes offenses pursuant to Chapter 3, Title 16 of any bond hearings.

 (D) If a person commits a violent offense, as defined in Section 16‑1‑60, or a felony offense involving a firearm which was committed when the person was already out on bond for two or more previous, separate violent offenses or felony offenses involving a firearm for which separate bonds were set, and the subsequent offense did not arise out of the same series of events as the two or more previous, separate offenses, and the court determines that under the totality of the circumstances the previous bonds should not be revoked and another bond should be set, any bond set by the court must be deposited in full and may not be posted by any bond surety company, unless this person is not tried within ninety days, the charge must revert back to a surety bond.

 (E) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for ten thirty days from the date bond is first set on a charge by the summary court or the date of the grand jury indictment, whichever occurs first, to determine if bond should be revoked.

SECTION 2. Section 17‑15‑30(B) of the S.C. Code is amended to read:

 (B) A court shall must 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; and

 (6) whether the charged person is currently out on bond for another offense.

SECTION 3. Sections 22‑5‑510(D) and (E) of the S.C. Code are amended to read:

 (D) A court shall must 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; and

 (6) whether the charged person is currently out on bond for another offense.

 (E) Prior to or at the time of the bond hearing, the arresting law enforcement agency shall must 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.

SECTION 4. This act takes effect upon approval by the Governor.

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