

ADD ON county commission meeting (5.15.2023)

Moved by: _____

Prepared by: Mick Wright

Seconded by: _____

Reviewed by: Marlinee Iverson

**RESOLUTION REQUESTING THE GENERAL SESSIONS JUDGES TO
CONDUCT BAIL HEARINGS IN A MANNER THAT CONFORMS WITH
RECENT AMENDMENTS TO STATE LAW THAT WILL TAKE EFFECT
ON JULY 1, 2023. SPONSORED BY COMMISSIONER MICK WRIGHT.**

WHEREAS, Tenn. Code Ann. § 40-1-111 authorizes certain counties to appoint judicial commissioners whose duties shall include the setting and approving of bail and the release on recognizance of defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county; and

WHEREAS, Title 40 of the Tennessee Code Annotated has been amended and signed by Governor Bill Lee on May 5, 2023 as Public Chapter No. 362 ("Exhibit A"), attached hereto.

WHEREAS, the amendments to Title 40 as set forth in Exhibit A provide that any person charged with one or more of the following offenses not be released on their own recognizance and/or released pursuant to Tenn. Code Ann. § 40-11-116 without the approval of a general sessions judge, criminal court judge, or circuit court judge having jurisdiction over the charges: (1) A Class A felony; (2) A Class B felony; (3) Aggravated assault as defined in Tenn. Code Ann. § 29-13-102; (4) Aggravated assault against a first responder as defined in Tenn. Code Ann. 39-13-116; or (5) Domestic assault as defined by Tenn. Code Ann. § 39-13-111, if the violation is a felony.

WHEREAS, additional amendments to Title 40 as set forth in Exhibit A provide that if a defendant who has been admitted to and released on bail for a criminal offense,

whether prior to or during trial or pending appeal, and the defendant is charged with the commission of one or more bailable offenses while on release, then the defendant shall only be released pursuant to Tenn. Code Ann. § 40-11-118 or § 40-11-122 regarding bail amounts and security for bail, and the defendant's bail shall be set on each new offense in an amount not less than twice that which is customarily set for the offense charged.

WHEREAS, Tenn. Code Ann. § 40-1-105 as amended takes effect July 1, 2023; and

WHEREAS, the Board of County Commissioners has now determined that it is in the best interest of Shelby County and for the protection of the public who live, work, and visit Shelby County, that judicial commissioners who preside over bail hearings should immediately begin following the new state law as set forth in Exhibit A; and

WHEREAS, the Board of County Commissioners hereby requests that the General Sessions Judges require that the setting of bail and all bail hearings be conducted in conformity with the law as set forth in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that this body hereby requests that the General Sessions Judges require that the setting of bail and all bail hearings be conducted in conformity with the law as set forth in Exhibit A.

BE IT FURTHER RESOLVED, that this Resolution become effective in accordance with the Shelby County Charter, Article II, Section 2.06(B).

Lee Harris
Shelby County Mayor

Date: _____

ATTEST:

Clerk of County Commission