

SENATE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

March 4, 2021

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB21-062 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 3, line 7, after the second "PRESENCE," insert "A
- 2 WARRANTLESS ARREST".
  
- 3 Page 3, line 11, strike "16-1-104 (8.5)." and substitute "18-1.3-406".
  
- 4 Page 3, line 12, after "TO A" insert "WARRANTLESS".
  
- 5 Page 3, line 21 insert "THE" before "PERSON".
  
- 6 Page 3, line 22, strike "TWELVE MONTHS; OR" and substitute "FIVE YEARS
- 7 OR WAS PREVIOUSLY CONVICTED FOR A VIOLATION OF SECTION 42-4-1301
- 8 THREE OR MORE TIMES; EXCEPT THAT A PEACE OFFICER MAY SUBJECT A
- 9 PERSON TO CUSTODIAL ARREST BASED ON PROBABLE CAUSE TO BELIEVE
- 10 THE PERSON VIOLATED SECTION 42-4-1301 WHEN A DETOXIFICATION
- 11 FACILITY, SOBER PARTY, OR HOSPITAL IS UNAVAILABLE AND THE OFFICER
- 12 HAS REASONABLE SUSPICION TO CONCLUDE THE PERSON POSES A
- 13 SUBSTANTIAL RISK TO THE SAFETY OF ANOTHER, ABSENT CUSTODIAL
- 14 ARREST; OR".
  
- 15 Page 3, line 23, strike "A CRIME," and substitute "THE OFFENSE IS A
- 16 VICTIMS' RIGHTS ACT CRIME,".
  
- 17 Page 3, line 26, after "16-22-102 (9)," insert "THE OFFENSE IS FAILURE TO
- 18 REGISTER AS A SEX OFFENDER IN VIOLATION OF SECTION 18-3-412.5,".

- 1 Page 4, line 22, strike ""CUSTODIAL" and substitute  
2 ""DETENTION-ELIGIBLE".
- 3 Page 5, line 1, strike ""CUSTODIAL" and substitute  
4 ""DETENTION-ELIGIBLE".
- 5 Page 5, line 5, strike "BREATHALCOHOL TESTING" and substitute "TESTING  
6 OF BLOOD, BREATH, SALIVA OR URINE".
- 7 Page 5, line 9, strike "STATUTORY OR COURT ORDERED".
- 8 Page 5, line 10, strike "HOSPITAL" and substitute "HOSPITAL,  
9 DETOXIFICATION FACILITY,".
- 10 Page 5, lines 11 and 12, strike "TRANSPORTED TO BE".
- 11 Page 5, line 13, strike "(3)" and substitute "(3) and (4)".
- 12 Page 5, line 23, after "(b)" insert "(I)".
- 13 Page 5, line 25, strike "THE DEFENDANT" and substitute "THE  
14 DEFENDANT:".
- 15 Page 5, strike lines 26 and 27 substitute:  
16 "(A) FAILED TO APPEAR THREE OR MORE TIMES IN THE CASE; OR".
- 17 Page 6, strike line 1 and substitute:  
18 "(B) FAILED TO APPEAR FOR ANY PROCEEDING FOR WHICH A  
19 WITNESS WAS SUBPOENAED AND APPEARED OR FOR WHICH A CIVILIAN  
20 WITNESS WAS PLACED ON CALL BY THE PROSECUTION; OR  
21 (C) INTENTIONALLY FAILED TO APPEAR FOR THE PURPOSE OF  
22 INTERFERING WITH OR DETERRING VICTIM OR WITNESS PARTICIPATION IN  
23 THE CASE.  
24 (II) THE COURT MAY IMPOSE MONETARY BOND IN THE  
25 CIRCUMSTANCES DESCRIBED IN SUBSECTIONS (3)(b)(I)(A) TO (3)(b)(I)(C)  
26 OF THIS SECTION WHEN THE COURT FINDS NO OTHER CONDITIONS OF  
27 RELEASE CAN REASONABLY MITIGATE THE RISK OF FUTURE FAILURE TO  
28 APPEAR.".
- 29 Page 6, strike line 6 and substitute "BOND UNLESS:



1 (A) THE VIOLATION WAS A FAILURE TO COMPLY WITH ANY COURT  
2 ORDERED TREATMENT RELATED TO A SEX OFFENSE OR A CRIME OF  
3 DOMESTIC VIOLENCE, AND THE COURT FINDS ON THE RECORD THAT THE  
4 FAILURE TO COMPLY POSES A SUBSTANTIAL RISK TO THE SAFETY OF  
5 ANOTHER AND WAS NOT BASED SOLELY ON AN INABILITY TO PAY; OR

6 (B) THE DEFENDANT HAS ALREADY HAD PROBATION REVOKED FOR  
7 FAILURE TO COMPLY IN THE CASE."

8 Page 6, lines 7 through 10, strike "NOTWITHSTANDING THE PROVISIONS OF  
9 SUBSECTION (3)(c)(I) OF THIS SECTION, A COURT MAY ISSUE A MONETARY  
10 BOND IF THE DEFENDANT HAS ALREADY HAD PROBATION REVOKED FOR  
11 FAILURE TO COMPLY IN THAT CASE."

12 Page 6, after line 12 insert:

13 "(d) NOTWITHSTANDING THE PROVISIONS THIS SUBSECTION (3),  
14 THIS SECTION DOES NOT PROHIBIT THE RELEASE OF A PERSON PURSUANT  
15 TO LOCAL PRETRIAL RELEASE POLICIES THAT REQUIRE PAYMENT OF A  
16 MONETARY CONDITION OF RELEASE PRIOR TO AN INDIVIDUALIZED  
17 DECISION BY A JUDGE, A PRETRIAL OFFICER, A BONDING AND RELEASE  
18 COMMISSIONER, OR ANY OTHER JUDICIAL OFFICER.

19 (e) NOTHING IN THIS SUBSECTION (3) LIMITS THE COURTS  
20 AUTHORITY TO SET MONEY BOND WHEN THE COURT FINDS A DEFENDANT  
21 IS LIKELY TO FLEE PROSECUTION AND THAT THERE ARE NO OTHER  
22 CONDITIONS OF RELEASE THAT CAN REASONABLY MITIGATE THAT RISK."

23 (4) AS USED IN THIS SECTION, "FLEE PROSECUTION" MEANS  
24 PLANNING OR ATTEMPTING TO INTENTIONALLY EVADE PROSECUTION BY  
25 CONCEALING ONESELF. SIMPLE, PAST NONAPPEARANCE IN COURT ALONE  
26 IS NOT EVIDENCE OF FUTURE INTENT TO FLEE PROSECUTION. CITIZENSHIP  
27 STATUS ALONE IS NOT EVIDENCE OF FUTURE INTENT TO FLEE  
28 PROSECUTION."

29 Strike "CUSTODIAL ARREST" and substitute "DETENTION-ELIGIBLE ARREST"  
30 on: **Page 3**, lines 13, 17, and 19; and **Page 4**, lines 4 and 8.

31 Page 1, line 101, strike "REDUCE JAIL POPULATIONS." and substitute  
32 "SAFELY REDUCE JAIL POPULATIONS BY AMENDING PROCEDURES PRIOR  
33 TO CONVICTION."

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