



A Resolution to endorse, support, and encourage the passage and enactment of a proposed Amendment to Article I, Section 15 of the Tennessee Constitution to remove the right to bail and allow judges and magistrates the discretion to deny bail to individuals charged with certain heinous and serious violent and sexual crimes when the proof is evident or the presumption great, and require that judges and magistrates place in the Court record the reasons for granting or denying bail.

Whereas, under current Tennessee law, judges and magistrates have no discretion or authority to deny bail (unless for capital offenses when the proof is evident or the presumption great) to a defendant charged with a serious violent or sexual offense, no matter how heinous the nature of the crime or grievous the harm to the victim, and further have no requirement to make public their reasoning to set, grant, or deny bail; and

Whereas, leaders and members of the Tennessee General Assembly have urgently called for a need to amend the Tennessee Constitution to change this limitation on the denial of bail, and have cited specific cases where such an amendment could have protected victims from recidivist violent criminals who have been released on bail, to wit:

(1) In Montgomery County, defendant Cornel Oliver was released on a \$200,000 bond — reduced from \$500,000 in December, 2021 for First Degree Murder and several other felonies, and was thereafter arrested in December, 2022 for Aggravated Domestic Assault, Especially Aggravated Burglary, Evading Arrest, Possession of a Firearm in the Commission of a Dangerous Felony, and False Imprisonment, and then released again on bail for those offenses.

(2) In Montgomery County, defendant Mark Ellis was released on bond in August, 2021 for 2018 murder charges stemming from the death of 22-year-old Taren Lyles, who was shot while her two young children were strapped in their car seats. Thereafter, Ellis was arrested and charged with a shooting at a Waffle House on Fort Campbell Boulevard in Clarksville on January 23, 2022 that left three victims with gunshot wounds and several others injured. While serving an arrest warrant, officers found Ellis with a loaded firearm and a felony amount of narcotics with him. He was previously convicted of a violent felony which prohibited him from possessing a firearm.

(3) In Montgomery County, defendant Joshua Aretz was released on bond for homicide charges from a shooting in 2014 at a residence on Needmore Road that left 19-year-old Adam Marquez dead. Thereafter, Artez was involved in the 2015 murder of Liperial “Savon” Easterling, a Fort Campbell soldier who was found shot

to death on the porch of his Teakwood Drive home. In 2017, Aretz was sentenced to 47 1/2 years in prison after pleading guilty in both murder cases.

4) In Davidson County, defendant Timothy Frazier was free on \$125,000 bail, awaiting trial for the October 14, 2018 shooting death of 18-year-old Brandon Adams when he was arrested in April, 2022 for drug and gun possession. Despite being prohibited from possessing firearms due to his bond conditions, Frazier was seen handling an AR-style rifle near four vehicles believed to be involved in gun and drug transactions. Frazier was thereafter charged by the federal government for firearms violations, and a federal hold was placed against Frazier, making him ineligible to post bond.

(5) In Davidson County, defendant Davion Buford was free on \$50,000 bail, accused of shooting three teenagers during a robbery in the parking lot of the Brick Church Pike motel in Nashville in June, 2021. Thereafter, Buford was arrested and charged in April, 2022 with two counts of gun possession during the commission of a dangerous felony, possession of marijuana for resale and possession of cocaine for resale. Buford's new bond was set at \$95,000.

Whereas, the 113th General Assembly of the State of Tennessee took an important step forward for the safety of this state and toward amending the State Constitution by its passage of Senate Joint Resolution 919/House Joint Resolution 859 by an overwhelming Senate vote of 22-6 and a House concurring vote of 82-15-1. In short, SJR 919/HJR 859 would allow judges and magistrates the discretion to deny bail to individuals charged with certain enumerated heinous and serious violent and sexual crimes when the proof is evident or the presumption great, and require that judges and magistrates place in the Court record the reasons for granting or denying bail so as to provide transparency to the public about how and why these bail decisions are made; and

Whereas, to take the next step in amending the Tennessee Constitution for the above stated purpose, the 114th General Assembly will be considering the adoption of similar joint resolutions, Senate Joint Resolution 0025 by Leader Jack Johnson and House Joint Resolution 0049 by Speaker Cameron Sexton, which must receive a two-thirds vote of both houses; and

Whereas Tennessee District Attorneys General are constitutional officers whose function is to prosecute criminal offenses in their respective districts and who, as a Conference, are charged by statute with the duty to give consideration to the enactment of such laws and rules of procedure as in its judgment may be necessary to suppress crime more effectively, and thus promote peace and good order in the state; and

Whereas the Tennessee District Attorneys General Conference has closely reviewed and given great consideration to this particular proposed amendment to the Tennessee Constitution and finds that its adoption and enactment:

- Will help to enhance public safety by providing judges and magistrates with the discretion to deny bail to certain serious violent and sexual offenders, thereby incapacitating them and reducing the risk of them posing a threat to their victims or others in the community;
- Will help reduce the revolving door of dangerous offenders charged with violent and sexual crimes who are released on bail only to commit further violent crimes victimizing others while they are out on bail;
- Will promote general and specific deterrence with a strong message of accountability for past conduct and pretrial detention without bond for violent offenders, and will promote greater public confidence in the criminal justice system and the rule of law in this state by protecting them from dangerous repeat offenders; and
- Will allow judges and magistrates to use their discretion to assess the individualized risks of each defendant to the public, make bail decisions in the highest best interests of justice and according to due process of law, and give transparency to the process by requiring judges and magistrates to state in the Court record the reasons and justifications for granting or denying bail;

NOW, THEREFORE, BE IT RESOLVED BY THE TENNESSEE DISTRICT ATTORNEYS GENERAL CONFERENCE that it endorses, supports, and encourages the passage and enactment of this proposed Amendment to Article I, Section 15 of the Tennessee Constitution regarding bail, and further directs the Executive Director of the Conference to provide a copy of this resolution to each member of the 114th Tennessee General Assembly.