

STATE OF TENNESSEE

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Opinion No. 11-12

Sentence Credit for Criminal Defendant's First Day of Incarceration Following Arrest

QUESTIONS

1. Are criminal defendants given credit at sentencing for their first day of incarceration upon being arrested?
2. If so, is this credit required to be documented by the court?
3. If so, does this initial incarceration count toward release eligibility and sentence expiration.

OPINIONS

1. Yes, at sentencing criminal defendants are given credit for their first day of incarceration upon being arrested.
2. Yes, pretrial jail credit must be documented by the court in the judgment order.
3. Pretrial jail credits affect release eligibility and sentence expiration in the same manner as other types of credit for time served.

ANALYSIS

A defendant is given credit on his sentence by the trial court for any period of time in which the defendant was committed and held in the county jail or workhouse pending arraignment and trial, provided the time spent in jail arises out of the original offense for which the defendant was tried. Tenn. Code Ann. § 40-23-101(c). The statute provides specifically in pertinent part:

The trial court shall, at the time the sentence is imposed and the defendant is committed to jail, the workhouse or the state penitentiary for imprisonment, render the judgment of the court so as to allow the defendant credit on the sentence *for any period of time* for which the defendant was committed and held in the city jail or juvenile court

detention prior to waiver of juvenile court jurisdiction, or county jail or workhouse, pending arraignment and trial.

(emphasis added). The provisions of this code section are mandatory. *Stubbs v. State*, 216 Tenn. 567, 393 S.W.2d 150 (1965). Pretrial jail credit must be documented by the court in the judgment order. Tenn. Code Ann. § 40-35-209(e)(1)(P). Pretrial jail credits affect release eligibility and sentence expiration in the same manner as other types of credit for time served.

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