

1                                   A bill to be entitled  
 2           An act relating to pretrial detention; amending s.  
 3           907.041, F.S.; adding additional offenses to the  
 4           definition of the term "dangerous crime" for purposes  
 5           of determining pretrial release eligibility; providing  
 6           an effective date.

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 8   Be It Enacted by the Legislature of the State of Florida:

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 10           Section 1. Paragraph (a) of subsection (4) of section  
 11           907.041, Florida Statutes, is amended, and paragraphs (b) and  
 12           (c) of that subsection are republished, to read:

13           907.041 Pretrial detention and release.—

14           (4) PRETRIAL DETENTION.—

15           (a) As used in this subsection, "dangerous crime" means  
 16 any of the following:

- 17           1. Arson;
- 18           2. Aggravated assault;
- 19           3. Aggravated battery;
- 20           4. Illegal use of explosives;
- 21           5. Child abuse or aggravated child abuse;
- 22           6. Abuse of an elderly person or disabled adult, or
- 23 aggravated abuse of an elderly person or disabled adult;
- 24           7. Aircraft piracy;
- 25           8. Kidnapping;

- 26 9. Homicide;
- 27 10. Manslaughter;
- 28 11. Sexual battery;
- 29 12. Robbery;
- 30 13. Carjacking;
- 31 14. Lewd, lascivious, or indecent assault or act upon or
- 32 in presence of a child under the age of 16 years;
- 33 15. Sexual activity with a child, who is 12 years of age
- 34 or older but less than 18 years of age, by or at solicitation of
- 35 person in familial or custodial authority;
- 36 16. Burglary of a dwelling;
- 37 17. Stalking and aggravated stalking;
- 38 18. Act of domestic violence as defined in s. 741.28;
- 39 19. Home invasion robbery;
- 40 20. Act of terrorism as defined in s. 775.30;
- 41 21. Manufacturing any substances in violation of chapter
- 42 893;
- 43 22. Attempting or conspiring to commit any such crime; ~~and~~
- 44 23. Human trafficking;
- 45 24. Extortion in violation of s. 836.05; and
- 46 25. Written threats to kill in violation of s. 836.10.
- 47 (b) No person charged with a dangerous crime shall be
- 48 granted nonmonetary pretrial release at a first appearance
- 49 hearing; however, the court shall retain the discretion to
- 50 release an accused on electronic monitoring or on recognizance

51 | bond if the findings on the record of facts and circumstances  
52 | warrant such a release.

53 |       (c) The court may order pretrial detention if it finds a  
54 | substantial probability, based on a defendant's past and present  
55 | patterns of behavior, the criteria in s. 903.046, and any other  
56 | relevant facts, that any of the following circumstances exist:

57 |       1. The defendant has previously violated conditions of  
58 | release and that no further conditions of release are reasonably  
59 | likely to assure the defendant's appearance at subsequent  
60 | proceedings;

61 |       2. The defendant, with the intent to obstruct the judicial  
62 | process, has threatened, intimidated, or injured any victim,  
63 | potential witness, juror, or judicial officer, or has attempted  
64 | or conspired to do so, and that no condition of release will  
65 | reasonably prevent the obstruction of the judicial process;

66 |       3. The defendant is charged with trafficking in controlled  
67 | substances as defined by s. 893.135, that there is a substantial  
68 | probability that the defendant has committed the offense, and  
69 | that no conditions of release will reasonably assure the  
70 | defendant's appearance at subsequent criminal proceedings;

71 |       4. The defendant is charged with DUI manslaughter, as  
72 | defined by s. 316.193, and that there is a substantial  
73 | probability that the defendant committed the crime and that the  
74 | defendant poses a threat of harm to the community; conditions  
75 | that would support a finding by the court pursuant to this

76 | subparagraph that the defendant poses a threat of harm to the  
77 | community include, but are not limited to, any of the following:

78 |       a. The defendant has previously been convicted of any  
79 | crime under s. 316.193, or of any crime in any other state or  
80 | territory of the United States that is substantially similar to  
81 | any crime under s. 316.193;

82 |       b. The defendant was driving with a suspended driver  
83 | license when the charged crime was committed; or

84 |       c. The defendant has previously been found guilty of, or  
85 | has had adjudication of guilt withheld for, driving while the  
86 | defendant's driver license was suspended or revoked in violation  
87 | of s. 322.34;

88 |       5. The defendant poses the threat of harm to the  
89 | community. The court may so conclude, if it finds that the  
90 | defendant is presently charged with a dangerous crime, that  
91 | there is a substantial probability that the defendant committed  
92 | such crime, that the factual circumstances of the crime indicate  
93 | a disregard for the safety of the community, and that there are  
94 | no conditions of release reasonably sufficient to protect the  
95 | community from the risk of physical harm to persons;

96 |       6. The defendant was on probation, parole, or other  
97 | release pending completion of sentence or on pretrial release  
98 | for a dangerous crime at the time the current offense was  
99 | committed;

100 |       7. The defendant has violated one or more conditions of

101 pretrial release or bond for the offense currently before the  
102 court and the violation, in the discretion of the court,  
103 supports a finding that no conditions of release can reasonably  
104 protect the community from risk of physical harm to persons or  
105 assure the presence of the accused at trial; or

106 8.a. The defendant has ever been sentenced pursuant to s.  
107 775.082(9) or s. 775.084 as a prison releasee reoffender,  
108 habitual violent felony offender, three-time violent felony  
109 offender, or violent career criminal, or the state attorney  
110 files a notice seeking that the defendant be sentenced pursuant  
111 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,  
112 habitual violent felony offender, three-time violent felony  
113 offender, or violent career criminal;

114 b. There is a substantial probability that the defendant  
115 committed the offense; and

116 c. There are no conditions of release that can reasonably  
117 protect the community from risk of physical harm or ensure the  
118 presence of the accused at trial.

119 Section 2. This act shall take effect July 1, 2023.