

By Senator Campbell

33-1149-99

1                                   A bill to be entitled  
2           An act relating to pretrial detention and  
3           release; amending s. 903.047, F.S.; providing  
4           conditions and procedures for revoking a  
5           defendant's pretrial release; amending s.  
6           907.041, F.S.; authorizing the court to revoke  
7           a defendant's pretrial release and require  
8           pretrial detention if the court finds that the  
9           defendant violated any condition of pretrial  
10          release; providing an effective date.

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

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14           Section 1. Section 903.047, Florida Statutes, is  
15 amended to read:

16           903.047 Conditions of pretrial release; violation and  
17 revocation; procedure.--

18           (1) As a condition of pretrial release, whether such  
19 release is by surety bail bond or recognizance bond or in some  
20 other form, the court shall require that:

21           (a) The defendant refrain from criminal activity of  
22 any kind; and

23           (b) The defendant refrain from any contact of any type  
24 with the victim, except through pretrial discovery pursuant to  
25 the Florida Rules of Criminal Procedure.

26           (2) Upon motion by the defendant when bail is set, or  
27 upon later motion properly noticed pursuant to law, the court  
28 may modify the condition required by paragraph (1)(b) if good  
29 cause is shown and the interests of justice so require. The  
30 victim shall be permitted to be heard at any proceeding in  
31 which such modification is considered, and the state attorney

1 shall notify the victim of the provisions of this subsection  
2 and of the pendency of any such proceeding.

3 (3) The court may revoke a defendant's pretrial  
4 release, whether such release is by surety bail bond,  
5 recognizance bond, or some other form of pretrial release, and  
6 order that the defendant be detained pending trial if the  
7 defendant violates a condition of paragraph (1)(a) or  
8 paragraph (1)(b), a court-ordered condition of bond, or other  
9 condition of pretrial release.

10 (4) The court may revoke the pretrial release of the  
11 defendant and order pretrial detention of the defendant after  
12 a hearing in which the court finds that the defendant violated  
13 any condition of his or her pretrial release, whether such  
14 release is by surety bond, recognizance bond, or some other  
15 form of pretrial release. The hearing on the pretrial-release  
16 revocation must be held within 5 days after a motion by the  
17 state attorney to revoke pretrial release. The defendant may  
18 request a continuance. No continuance may be for longer than 5  
19 days unless there are extenuating circumstances. The defendant  
20 may be detained pending the hearing. The state attorney is  
21 entitled to one continuance for good cause if the defendant is  
22 detained pending the hearing.

23 (5) The defendant is entitled to be represented by  
24 counsel, to present witnesses and evidence, and to  
25 cross-examine witnesses at the hearing for pretrial release  
26 revocation. The court may admit relevant evidence without  
27 complying with the rules of evidence, but evidence secured in  
28 violation of the United States Constitution or the State  
29 Constitution is not admissible. No testimony by the defendant  
30 is admissible to prove guilt at any other judicial proceeding,  
31 but such testimony may be admitted in an action for perjury,

1 based upon the defendant's statements made at the  
2 pretrial-detention hearing, or for purposes of impeachment.

3 (6) The order of revocation of pretrial release which  
4 requires pretrial detention may be made either in writing or  
5 orally on the record. The court must render its findings  
6 within 24 hours after the hearing for revocation of pretrial  
7 release and pretrial detention.

8 (7) A defendant convicted at trial following the  
9 issuance of an order revoking pretrial release and ordering  
10 pretrial detention shall have the time he or she was held in  
11 detention under the order credited to his sentence, if  
12 imprisonment is imposed under s. 921.161.

13 (8) The defendant is entitled to dissolution of the  
14 pretrial-detention order whenever the court finds that a  
15 subsequent event has eliminated the basis for detention.

16 Section 2. Subsection (5) is added to section 907.041,  
17 Florida Statutes, to read:

18 907.041 Pretrial detention and release.--

19 (5) If the court finds that a defendant violated any  
20 condition of pretrial release, whether such release is by  
21 surety bail bond, recognizance bond, or in some other form,  
22 the court may revoke the defendant's pretrial release and  
23 require pretrial detention under s. 903.047.

24 Section 3. This act shall take effect July 1, 1999.

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27 SENATE SUMMARY

28 Provides conditions and procedures for revoking a  
29 defendant's pretrial release. Authorizes the court to  
30 revoke a defendant's pretrial release and require  
pretrial detention if the court finds that the defendant  
violated any condition of pretrial release.