SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1020

SPONSOR: Committee on Judiciary, Criminal Justice and Senator Campbell

SUBJECT: Pretrial Release

DATE: April 8, 2003 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable/CS
2.	Greenbaum	Roberts	JU	Favorable/CS
3.			ACJ	
4.			AP	
5.				
6.				

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 1020 makes technical changes to redesignate “general or special masters” as “general or special magistrate” and the attendant necessary changes to replace references to the historical magistrate with the term “trial court judge.” The bill also makes a few conforming changes to redesginate hearing officers as “administrative law judges” where applicable based on statutory changes enacted in previous years. The bill makes no change to the existing authority, powers or duties of these officers as set forth in the constitution, statute or rule, or as practiced.

Committee Substitute for Committee Substitute for Senate Bill 1020 would also amend the current law with regard to the obligations of the bail bond industry, and the responsibility of the court and the clerk of court as they relate to the bail bond industry. The bill restricts court discretion in certain decisions about pretrial release. The bill would also require pretrial release services to provide the court with a certified report, in writing, regarding its investigation of an offender regarding the offender’s qualification for nonmonetary pretrial release under the supervision of the service, prior to the offender’s release. Current law requires that the pretrial release service certify the findings of its investigation to the court, but not in written form.

To replace the term “master,” the bill amends the following sections of the Florida Statutes: 56.071, 56.29, 61.1826, 64.061, 65.061, 69.051, 70.51, 92.142, 112.41, 112.43, 112.47, 162.03, 162.06, 162.09, 173.09, 173.10, 173.11, 173.12, 194.013, 194.034, 194.035, 206.16, 207.016,320.411, 393.11, 394.467, 397.311, 397.681, 447.207, 447.403, 447.405, 447.406, 447.407, 447.409, 475.011, 489.127, 489.531, 496.420, 501.207, 501.618, 559.936, 582.23, 631182, 631.331, 633.052, 744.369, 760.11, 837.011, 838.014, 839.17, 916.107, 938.30, and 945.43.

To replace the term "magistrate," the bill amends the following sections of the Florida Statutes: 27.06, 34.01, 48.20, 142.09, 316.635, 373.603, 381.0012, 450.121, 560.306, 633.14, 648.44, 816.482, 817.482, 828.122, 832.05, 876.42, 893.12, 901.01, 901.02, 901.07, 901.08, 901.09, 901.011, 901.12, 901.144, 901.25, 902.15, 902.17, 902.20, 902.21, 903.03, 903.32, 903.34, 914.22, 923.01, 933.01, 933.06, 933.07, 933.10, 933.101, 933.13, 933.14, 939.02, 939.14, 941.13, 941.14, 941.15, 941.17, 941.18, 941.1441, 948.06, and 985.05.

The bill also amends s. 394.467, F.S., to replace the term "hearing officer" with the term "administrative law judge" consistent with its use in other subsections of this section and consistent with prior legislative directive to redesignate the title of this office. It also amends s. 26.012, F.S., to clarify that a circuit court is a trial court.

With regard to the bail bond industry, this bill substantially amends for following sections of the Florida Statutes: 903.02, 903.046, 903.047, 903.26, 903.27, 903.31 and 907.041.

II. Present Situation:

The use of the terms "general masters" and "special masters" in the Florida Statutes

The use of the terms "general masters" or "special masters" in the courtroom received increased legal and judicial attention four years ago. *See* The Florida Bar News, August 15, 1999. The Family Law Section Executive Council and the Family Law Rules Committee passed resolutions at the annual Florida Bar meeting in June 1999, to recommend a title change in the family law rules for these court-appointed officers from "masters" to "magistrates." In response, the Florida Supreme Court directed the Family Law Rules Committee to review the proposed change. In turn, the Committee filed an emergency petition to amend the Florida Family Law Rules and Forms. *See* In re: Amendment to Florida Family Law Rule 12.490, September 1999. The Supreme Court denied the petition on the grounds that the term "master" appears in other court rules and forms and throughout the Florida Statutes and that a term change made solely to the Florida Family Law rules would create "unnecessary confusion system-wide" at this time. *See* Order, In re Amendment to Florida Family Law Rule of Procedure 12.490, Case No. 96,402 (Fla. October 25, 1999).

Master System

The judicial master system originated in common law borrowed from the old English court system. The statutory reference to the judicial master system in Florida dates back to at least 1845 in which the court could appoint *masters in chancery* to serve in a ministerial capacity in chancery proceedings. ch. 51, L.O.F. (1845). The master in chancery exercised limited judicial powers and functions delegated by the court, including those powers conferred on masters in chancery by the United States Supreme Court. They generally served for specific terms and were required to be members of the Florida Bar and to take a judicial oath. Subsequent legislation (*See* ch. 14658, L.O.F., "The Chancery Act of 1931" and ss. 63.54-63.65, F.S. (1949), whose language was used as the primary basis for the superseding court rules, was repealed in 1951 (*See* ch. 26962, Laws of Florida). The title and primary powers of the historical master in chancery now reside with the courts rules governing *general masters* and *special masters*. *See* Fla.R.Civ.P.1.490, Fla.Fam.L.R.P. 12.490 and 12.492, Fla.R.Juv.P. 8.255 and 8.625, and Fla.Prob.R. 5.697. The general master must be a member of the Florida Bar, must take a judicial

oath, may be required to provide a bond, and continues in office until removed by court order. The special master is distinguished from general masters in that they are appointed for task-specific service which may be judicial or administrative in nature. A special master is not required to take an oath or provide a bond unless required by the court.

General and special masters are just one category of non-constitutional judicial staffing alternative used by the courts to discharge specific judicial responsibilities. The courts also appoint child support enforcement hearing officers (Fla. Fam.L.R.P. 12.491) and civil traffic infraction hearing officers (s. 1, art. V, Fla. Const., ss. 318.30-318.38, F.S., Fla. R. Traf. Ct. 6.630).

The use of the terms "master," "general master," and "special master" is not unique to the judiciary but these terms are historically and primarily associated with the courts. However, a person, unconnected with the courts, may be appointed or selected to act as a "master" or "special master" and perform expressly defined duties within a legislative, executive or local governmental proceeding or function. *See e.g.*, s.70.51, F.S. (selection of special master by the parties to conduct proceedings to resolve land use and environmental disputes regarding issuance of local government development orders), s. 447.207, F.S. (appointment of special master by Public Employee Relations Commission to conduct dispute resolution proceedings in the event of an impasse), and s. 112.47, F.S. (appointment of special master by the Senate to receive evidence and make recommendations regarding suspension of an official).

The master system in the federal judiciary is governed by Federal Rule 53 in which the master=s powers are limited to expressly enumerated ministerial duties. The master system has become the exception rather than the rule and is overshadowed by the formal establishment of the federal magistrate judge system.

Magistrate System

The magistrate system also originated in the old English court system which the United States adopted through common and statutory law. The magistrate is generally regarded as a judicial officer with strictly limited jurisdiction and authority. *See* Black Law=s Dictionary, 7th ed., August 1999.

The magistrate system in Florida as existed before 1972 appears to have never formally been established in the constitution or the statutes. The existence of magistrate=s courts and the use of magistrates were not uniform in the state. Depending on the county, the magistrate court was synonymous with small claims court, county court, justice of the peace court, court of record, or a civil court of record. In 1972, amendments to Article V of the Florida consolidated the various inferior trial courts into Florida=s two-tier trial court system. The county courts assumed the powers previously conferred on those courts including the small claims magistrate courts and magistrates courts. *See* In re Transition Rules 2, 3, 4, 5, and 6, 269 So.2d 665 (Fla. 1972); s. 34.01(2), F.S.

Although concurrent statutory changes were made to harmonize the provisions with the 1972 constitutional amendments, a number of statutory provisions still retain references to the "committing magistrate" or "magistrate" For example, section 34.01(3), F.S., contains language appearing originally in the 1885 Constitution of Florida that states that the county judge is the

committing magistrate. However, section 901.01, F.S., relating to arrests, states any state judicial officer is a committing magistrate with authority to issue warrants of arrest, commit offenders to jail, and recognize them to appear to answer the charge. In practice, either county and circuit court judge act as committing magistrates.

The federal magistrate system is formally established in law. *See* Federal Magistrates Act of 1968, 28 U.S.C. 631. The Act created a new type of judicial officer to replace the 175 year-old U.S. commissioner system in an effort to increase the overall efficiency of the federal judiciary. Addressed as federal magistrate judges, they (with the exception of bankruptcy referees, U.S. clerks of the court, or retired military officers) may not hold any other civil or military office or employment. A federal magistrate judge, appointed by the district court judge, serves an 8-year term. A federal magistrate judge=s duties fall into four general categories: 1) conducting most of the initial criminal proceedings (including search and arrest warrants, detention hearings, probable cause hearings, and attorney appointments); 2) deciding criminal misdemeanor cases; 3) deciding civil trial cases with the consent of the parties, and 4) conducting a variety of other assigned proceedings (including motions, prisoner petition reviews, and pretrial and settlement conferences). *See* Understanding the Federal Courts, The Administrative Office of the U.S. Courts. 1999.

Bail Bonds

A bail bond serves as a pledge by a bail bond agent that a defendant will appear at all scheduled proceedings before a court.

Bail bond agent – Bail bond agents are licensed and regulated by the Department of Insurance, pursuant to chapter 648, F.S. A bail bond agent may either be a limited surety agent who is appointed by a surety insurance company to execute or countersign bail bonds, or a professional bail bond agent who pledges his or her own funds as security for a bail bond. The chapter provides requirements for licensure of bail bond agents; limits the amount of premium and expenses which can be charged; restricts the types of collateral which can be demanded and requires that such collateral be returned in a timely manner once the bond has been canceled; prohibits certain acts by bail bond agents; and other provisions directly related to bail bond agents.

Statutory Bail Requirements – Chapter 903, F.S., sets forth the requirements relating to bail and bail bonds, including all forms of pretrial release. After a defendant has been released on bail, the bail bond agent has the authority to “surrender,” or return, the defendant to the custody of the person who would have held the defendant absent the bail. Section 903.20, F.S. Ordinarily, a bail bond agent will do this if the bail bond agent believes the defendant is a flight risk or if the collateral provided for bail is discovered to be insufficient. Upon surrender, the official taking custody of the defendant will issue a certificate acknowledging the surrender. The bail bond agent then can present the certificate and bond to the court which will issue an order exonerating the obligors and refunding money or bonds deposited as bail. Section 903.21(2), F.S.

Forfeiture of the bond – If a defendant does not appear for judicial proceedings as ensured by the bail bond, the bond is considered breached and the court declares the bond "forfeited."[1] Within 5 days after forfeiture of a bail bond, the court must mail a notice to the surety agent and the surety company. However, the court may determine, in the interest of justice, that an appearance by the defendant on the same day as required does not warrant forfeiture of the bond and may direct the clerk to set aside the forfeiture. If their is a breach of the bond, the clerk must provide, upon request, a certified copy of the warrant or capias to the bail bond agent or surety company. Section 903.26(2), F.S.

Discharge of forfeiture – The forfeiture of a bond must be paid within 60 days of the date the notice to the bail bond agent and surety was filed. State and county officials must deposit the money in the county fine and forfeiture fund, and municipal officials must deposit the money in a designated municipal fund. However, after a breach of the bond, the law requires a court to "discharge" a forfeiture (before it is paid) within 60 days upon:

(a) a determination that it was impossible for the defendant to appear as required due to circumstances beyond the defendant's control;

(b) a determination that, at the time of the appearance, the defendant was adjudicated insane and confined in an institution or hospital or was confined in a jail or prison; or

(c) surrender or arrest of the defendant if the delay has not thwarted the proper prosecution of the defendant. Section 903.26(5), F.S.

In addition to the above, the clerk of court must discharge the forfeiture of the bond if the defendant is arrested and returned to the county of jurisdiction of the court prior to judgment. The sheriff or the chief correctional officer of the county is required to notify the clerk of court when the defendant is in custody in the county of jurisdiction. The bail bond agent is required to pay the costs associated with returning the defendant to the county of jurisdiction, as a condition of the clerk discharging the forfeiture. Section 903.26(8), F.S.

The discharge of a forfeiture shall not be ordered for any reason other than as specified "herein," apparently referring to the reasons specified in s. 903.26, F.S., as outlined above. Section 903.26(6), F.S.

Forfeiture to judgment – In cases where a bond has been forfeited and not paid or discharged by a court within 60 days, the court enters a judgment against the bail bond agent for the amount of the bond. After the judgment is entered, the court is required to furnish the Department of Insurance and the surety company issuing the bond with a certified copy of the judgment. If this judgment is not paid within 35 days, the court provides the Department of Insurance and the sheriff of the county in which the bond was executed, copies of the judgment and a certification that the judgment has not been satisfied. The Department of Insurance receives notice of the

[1] A bond shall not be forfeited unless the information, indictment, or affidavit was filed within 6 months of the date of the arrest and the clerk of the court gave the bail bond agent at least 72 hours notice before the time of the required appearance of the defendant. Section 903.26(1), F.S.

judgment and monitors unpaid judgments as a part of its regulation of surety insurance companies.

Bail bond agents who have outstanding judgments which are unpaid for 35 days are precluded by law from executing bail bonds. After 50 days of an unpaid judgment, the surety company is precluded by law from issuing bail bonds. Section 903.27, F.S.

Remission of forfeiture – If there is a breach of a bail bond and a bond is forfeited and paid, the law provides several conditions upon which the court must order "remission" (or return) of some or all of the forfeiture. *See* s. 903.28, F.S.

Canceling the bond – The law provides that within 10 days after all of the conditions of a bond have been satisfied or the forfeiture discharged or remitted, the court shall order the bond canceled. All of the conditions of a bond are deemed to be satisfied after the defendant has been adjudicated guilty or not guilty. Section 903.31. F.S.

Cases Interpreting Section 903.31, F.S.

Section 903.31(1), F.S., states in part: "An adjudication of guilt or innocence of the defendant shall satisfy the conditions of the bond."

Section 903.31(2), F.S. states as follows:

> The original appearance bond shall not be construed to guarantee deferred sentences, appearance during or after a presentence investigation, appearance during or after appeals, conduct during or appearance after admission to a pretrial intervention program, payment of fines, or attendance at educational or rehabilitation facilities the court otherwise provides in the judgment. If the original appearance bond has been forfeited or revoked, the bond shall not be reinstated without approval from the surety on the original bond.

In *Polakoff Bail Bonds v. Orange County,* 634 So.2d 1083 (Fla. 1994) the certified question before the Florida Supreme Court was "is the condition of an appearance bond satisfied when the court accepts a plea of guilty and enters a finding of guilt, but withholds adjudication and judgment and continues the case for sentencing until the completion of the presentence investigation?" *Id.* at 1084. The Court answered the question in the negative.

The court found that a judgment must be entered in order for the conditions of bond to be satisfied. The court read s. 903.31, F. S., in conjunction with s. 903.045, F.S., which explains the nature of a surety bail bond:

> It is the public policy of this state and the intent of the Legislature that a criminal surety bail bond, executed by a bail bond agent licensed pursuant to chapter 648 in connection with the pretrial or appellate release of a criminal defendant, shall be construed as a commitment by and an obligation upon the bail bond agent to ensure that the defendant appears at all subsequent criminal proceedings and otherwise fulfills all conditions of the bond. The failure of a defendant to appear at any subsequent criminal proceeding or the

> breach by the defendant of any other condition of the bond constitutes a breach by the bail bond agent of this commitment and obligation. s. 903.045, F.S.

The court found that "in the context of a presentence investigation, unless the trial court adjudicates the defendant guilty and provides for the presentence investigation within the judgment, the bond is not satisfied and the defendant must continue to appear at all subsequent proceedings to avoid forfeiture." *Polakoff,* at 1085.

Subsequent to the *Polakoff* decision, the Fifth District Court of Appeal found that the Florida Supreme Court's decision in *Polakoff* was limited to the circumstances of a presentence investigation where no judgment had been entered, but reasoned that "because there is never an adjudication of guilt or innocence before a defendant is accepted into a pretrial intervention program, we believe that the legislature must have intended, in cases involving pretrial intervention, an exception to the general rule requiring an adjudication for discharge of a bond." *Rosenberg Bail Bonds v. Orange County,* 663 So.2d 1389, 1392 (Fla. 5th DCA 1995).

Pretrial Release

Section 907.041, F.S., sets forth the intent of the Legislature regarding pretrial detention and release, which is that persons who commit serious offenses, which pose a threat to the community or the integrity of the judicial process, or those defendants who fail to appear for trial should be detained upon arrest. However, those who meet certain criteria should be released under conditions imposed by the court until the criminal case is resolved.

In s. 907.041, F.S., the Legislature created a presumption in favor of release on nonmonetary conditions unless monetary conditions are necessary to assure the defendant's presence at trial or other proceedings, to assure the integrity of the judicial process, or to protect the community from risk of physical harm to persons.

Subsection (3)(b) of s. 907.041, F.S., currently provides:

> (b) No person shall be released on nonmonetary conditions under the supervision of a pretrial release service, unless the service certifies to the court that it has investigated or otherwise verified:
>
> 1. The circumstances of the accused's family, employment, financial resources, character, mental condition, and length of residence in the community;
> 2. The accused's record of convictions, of appearances at court proceedings, of flight to avoid prosecution, or of failure to appear at court proceedings; and
> 3. Other facts necessary to assist the court in its determination of the indigency of the accused and whether she or he should be released under the supervision of the service.

Subsection (4) of s. 907.041, F.S., sets forth a definition of "dangerous crime" for purposes of pretrial detention, and states as follows: "No person charged with a dangerous crime shall be granted nonmonetary pretrial release at a first appearance hearing; however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release."

As a practical matter, the pretrial release service typically presents its findings to the court at the First Appearance hearing. Florida Rule of Criminal Procedure 3.130 requires that "every arrested person shall be taken before a judicial officer, either in person or by electronic audiovisual device in the discretion of the court, within 24 hours of arrest."

First Appearance is the accused's first appearance before the court, at which he or she is informed about the reason(s) for the arrest, is given the opportunity to have a Public Defender appointed, and may be released from custody, under monetary or nonmonetary conditions.

Some courts rely upon the assistance of a pretrial release service to have made preliminary inquiries of the accused as to those matters mentioned above (employment, length of residence in the community, and so on). This service may also have acquired and evaluated the accused's criminal history for convictions and previous failures to appear in court.

Employees of the pretrial release service have usually spent the night at the jail, interviewing and processing arrestees as they come in, in preparation for First Appearance. Typically the information gathered is then conveyed to the court, orally, on the record, during First Appearance. The court considers the information gathered by the service in determining whether to release the accused, and if so, under what conditions.

In addition to providing the court with information on the arrestees appearing at First Appearance, the service is called upon to assist the court in implementing certain conditions of release. For instance, the accused may be released to the supervision of the service and required to have daily contact with the service, or attend drug treatment which will be verified by the service. The service is obligated to notify the court if the conditions of release are not met, and presumably, the release status of the accused would be revisited by the court.

The Association of Pretrial Professionals of Florida reports that 25 of Florida's 67 counties have a pretrial release service. There is some concern on the part of the Association, that requiring a written report, as CS for SB 1020 does, will result in delays in getting the necessary information to the court or in the need for increased personnel and the concomitant cost to the counties.

III. Effect of Proposed Changes:

Court Magistrates and Masters

The bill makes two primary technical changes to implement the universal substitution of the term "general or special master" with "general or special magistrate." First, all relevant statutory provisions with reference to the historical A committing magistrate" or "magistrate" are replaced with the terms "committing trial court judge" or "trial court judge," respectively, who now exercise those duties once exercised by the magistrate. Second, all relevant statutory provisions with reference to "master," "special master," or "general master" are replaced with the terms, "special magistrate" or "general magistrate" as appropriate.The bill also makes a conforming statutory change from "hearing officer" to "administrative law judge" consistent with reference in other subsections of s. 394.467, F.S. It also clarifies that the county and circuit courts are the state's trial courts.

No corresponding change is made to the authority, power or duties of these officers' positions as practiced or set forth in statute, the court rules or the constitution.

Bail Bonds Agents

Committee Substitute for Committee Substitute for Senate Bill 1020:

Amends s. 903.02, F.S., to require a judge setting monetary bail to set a separate bail amount for each charge, which would require a separate bond when bail is posted.

Amends s. 903.046, F.S., so that a defendant who has been charged with a second or subsequent felony within three years of a prior felony charge forfeits his or her right to the presumption in favor of release on nonmonetary conditions, as set forth in s. 907.041, F.S.

Amends s. 903.047, F.S., to require that as a condition of pretrial release the defendant comply with all conditions of pretrial release.

Amends s. 903.26, F.S., to provide that the surety is exonerated and any forfeiture or judgment is set aside, and any payment previously made is remitted to the surety, where the surety has agreed to pay transportation costs of extradition of a defendant but the state fails to institute extradition proceedings. From a technical standpoint, this particular text is unclear in that it does not specify what constitutes failure to institute extradition proceedings. There is no time limit specified.

Amends s. 903.27, F.S., to limit the amount of a judgment entered against a surety to the fees and costs, where the bond forfeiture has been conditioned upon the payment of those fees and costs.

Amends s. 903.31, F.S., to delete the requirement of a court order as authority for the clerk of the court to cancel a bond.

This bill also deletes some language from s. 903.31(2), F.S., and creates a new (3) which outlines the limits of the guarantee of an original appearance bond, apparently in response to court rulings to the contrary. The new subsection (3) clarifies that the surety does not guarantee the defendant's appearance in court at any time after:

- the defendant enters a plea of guilty or no contest
- the defendant enters a deferred prosecution agreement or agrees to enter a pretrial intervention program
- the defendant is acquitted
- the defendant is adjudicated guilty
- adjudication is withheld or
- the defendant is found guilty by a judge or jury.

As discussed above in the Present Situation section, this particular section has been the focus of fairly recent case law. This bill would clarify the responsibility of the surety under the circumstances specified in the bill.

This bill further provides that no person may be released on nonmonetary conditions under the supervision of a pretrial release service unless the service certifies in writing and provides the court with a report for review, that it has investigated the statutory factors listed above in the Present Situation section. As a practical matter, this particular provision would not be applicable in those counties that do not have such a service.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Concerns of Legislative Activities Impacting Court Operations

Although this bill effectuates only a technical name change, it may raise some concern regarding legislative encroachment upon judicial authority in violation of the state constitutional separation of powers provision since the court rules govern the appointment of judicially appointed masters. *See* art. II, s. 3, Fla. Const.

Whereas the Legislature has authority to create substantive law, the Florida Supreme Court has sole and preemptive constitutional authority to promulgate court rules of practice and procedure. *See* Art. V, s. 2(a), Fla. Const. However, the Legislature can repeal the court rules by a 2/3 vote. *See* Art. V, s. 2(a), Fla. Const. The Legislature cannot enact law that amends or supersedes existing court rules, it can only repeal them. *See Market v. Johnston,* 367 So.2d 1003 (Fla. 1978).The Florida Supreme Court, however, has acquiesced on occasion and adopted the law as a court rule, either in part or in its entirety and expanding or harmonizing conflicting statutory provisions relating to court procedural matters as needed.

The issue of substantive versus practice and procedure has been decided on a case-by-case basis. Generally substantive laws create, define and regulate rights. Court rules of practice and procedure prescribe the method or process by which a party *See*ks to enforce or obtain redress. *See* H*aven Federal Savings & Loan Assoc.*, 579 So.2d 730 (Fla. 1991). Based on a review of current law, the courts tend to find certain provisions unconstitutional such as those regarding timing and sequence of court procedures, creating expedited proceedings, issuing mandates to the courts to perform certain functions, and attempting to supersede or modify existing rules of court or intrude in areas of practice and procedure within the province of the court.

Since the appointment and powers of the judicial general or special masters currently lie within court rules, this matter may partially lie within the exclusive purview of the court.

Constitutional Concern Regarding Use of Pretrial Release Service

Although the accused is entitled to a First Appearance hearing within 24 hours of his or her arrest, it does not necessarily follow that release on conditions may not be delayed. It is conceivable, however, that a court may opt to release some arrestees without conditions, or without requiring the supervision of pretrial release services, when faced with the decision of detaining an arrestee while awaiting a written report versus simply releasing him on his own recognizance.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Some of the provisions of the bill could relieve the bail bond industry of certain financial obligations in that there is a limitation on the amount for which a judgment may be entered by the court, under the circumstances outlined in section 5 of the bill.

C. Government Sector Impact:

The court may incur some costs amending rules of the court to conform to the provisions of this bill. There may also be some administrative costs associated with renaming the offices described in this bill.

Although no fiscal impact has been provided to staff, it is logical that the counties that currently have pretrial release services likely view the service as a practical way to reduce the jail population, which results in cost savings. Should the bill’s requirement of a written report cause a delay in releasing arrestees, this savings would be reduced.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.