

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Cantens offered the following:

Amendment (with directory and title amendments)

Remove everything after the enacting clause, and insert:

Section 1. Section 903.0465, Florida Statutes, is created to read:

903.0465 Determination of bail at first appearance.--In any case in which a defendant is before the court at a first appearance hearing based on the execution of an arrest warrant, the judge at the first appearance hearing may not reduce the amount of bail indicated on the warrant, unless the judge issuing the warrant indicates that the matter of bail may be reconsidered at the first appearance hearing. This section does not apply when the judge at the first appearance hearing is also the judge who issued the warrant or when the judge at the first

Amendment No. (for drafter's use only)

27 appearance hearing is the judge to whom the case has been
28 assigned.

29 Section 2. Section 903.0471, Florida Statutes, is amended
30 to read:

31 903.0471 Violation of condition of pretrial
32 release.--Notwithstanding s. 907.041, a court may, on its own
33 motion, revoke pretrial release and order pretrial detention if
34 the court finds probable cause to believe that the defendant
35 committed a new crime while on pretrial release. A finding of
36 probable cause under this section may, in the court's
37 discretion, be determined based upon the affidavit of a law
38 enforcement officer without an evidentiary hearing.

39 Section 3. Subsection (4) is added to section 903.02,
40 Florida Statutes, to read:

41 903.02 Actions with respect to denial or conditions of
42 bail or amount of bond prohibited; "court" defined.--

43 (4) Any judge setting or granting monetary bail shall set
44 a separate and specific bail amount for each charge or offense.
45 When bail is posted, each charge or offense requires a separate
46 bond.

47 Section 4. Subsection (3) is added to section 903.046,
48 Florida Statutes, to read:

49 903.046 Purpose of and criteria for bail determination.--

50 (3) If a defendant is charged with a second or subsequent
51 felony within 3 years after the date of a prior felony
52 conviction, regardless of whether adjudication was withheld, the
53 defendant forfeits the right to a presumption in favor of
54 release on nonmonetary conditions as provided in s. 907.041.

Amendment No. (for drafter's use only)

55 Section 5. Subsection (1) of section 903.047, Florida
56 Statutes, is amended to read:

57 903.047 Conditions of pretrial release.--

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

61 (a) The defendant shall refrain from criminal activity of
62 any kind. ~~;~~ ~~and~~

63 (b) The defendant shall refrain from any contact of any
64 type with the victim, except through pretrial discovery pursuant
65 to the Florida Rules of Criminal Procedure.

66 (c) The defendant shall comply with all conditions of
67 pretrial release.

68 Section 6. Subsection (5) of section 903.26, Florida
69 Statutes, is amended to read:

70 903.26 Forfeiture of the bond; when and how directed;
71 discharge; how and when made; effect of payment.--

72 (5) The court shall discharge a forfeiture within 60 days
73 upon:

74 (a) A determination that it was impossible for the
75 defendant to appear as required due to circumstances beyond the
76 defendant's control. The potential adverse economic consequences
77 of appearing as required shall not be considered as constituting
78 a ground for such a determination. ~~;~~

79 (b) A determination that, at the time of the required
80 appearance, the defendant was adjudicated insane and confined in
81 an institution or hospital or was confined in a jail or prison. ~~;~~

82 (c) Surrender or arrest of the defendant if the delay has
83 not thwarted the proper prosecution of the defendant. If the

Amendment No. (for drafter's use only)

84 forfeiture has been before discharge, the court shall direct
85 remission of the forfeiture. The court shall condition a
86 discharge or remission on the payment of costs and the expenses
87 incurred by an official in returning the defendant to the
88 jurisdiction of the court.

89 (d) Refusal of the state attorney to institute extradition
90 proceedings or extradite the principal on a bail bond, after the
91 surety has agreed in writing to pay actual transportation costs,
92 exonerates the surety, and any forfeiture or judgment is set
93 aside or vacated and any payment by the surety of a forfeiture
94 or judgment is remitted in full as provided in s. 903.28.

95 Section 7. Subsection (1) of section 903.27, Florida
96 Statutes, is amended to read:

97 903.27 Forfeiture to judgment.--

98 (1) If the forfeiture is not paid or discharged by order
99 of a court of competent jurisdiction within 60 days and the bond
100 is secured other than by money and bonds authorized in s.
101 903.16, the clerk of the circuit court for the county where the
102 order was made shall enter a judgment against the surety for the
103 amount of the penalty and issue execution. However, in any case
104 in which the bond forfeiture has been discharged by the court of
105 competent jurisdiction conditioned upon the payment by the
106 surety of certain costs or fees as allowed by statute, the
107 amount for which judgment may be entered may not exceed the
108 amount of the unpaid fees or costs upon which the discharge had
109 been conditioned. Judgment for the full amount of the forfeiture
110 shall not be entered if payment of a lesser amount will satisfy
111 the conditions to discharge the forfeiture. Within 10 days, the
112 clerk shall furnish the Department of Insurance with a certified

575389

Amendment No. (for drafter's use only)

113 copy of the judgment docket and shall furnish the surety company
114 at its home office a copy of the judgment, which shall include
115 the power of attorney number of the bond and the name of the
116 executing agent. If the judgment is not paid within 35 days, the
117 clerk shall furnish the Department of Insurance and the sheriff
118 of the county in which the bond was executed, or the official
119 responsible for operation of the county jail, if other than the
120 sheriff, two copies of the judgment and a certificate stating
121 that the judgment remains unsatisfied. When and if the judgment
122 is properly paid or an order to vacate the judgment has been
123 entered by a court of competent jurisdiction, the clerk shall
124 immediately notify the sheriff, or the official responsible for
125 the operation of the county jail, if other than the sheriff, and
126 the Department of Insurance, if the department had been
127 previously notified of nonpayment, of such payment or order to
128 vacate the judgment. The clerk shall also immediately prepare
129 and record in the public records a satisfaction of the judgment
130 or record the order to vacate judgment. If the defendant is
131 returned to the county of jurisdiction of the court, whenever a
132 motion to set aside the judgment is filed, the operation of this
133 section is tolled until the court makes a disposition of the
134 motion.

135 Section 8. Section 903.31, Florida Statutes, is amended to
136 read:

137 903.31 Canceling the bond.--

138 (1) Within 10 business days after the conditions of a bond
139 have been satisfied or the forfeiture discharged or remitted,
140 ~~the court shall order~~ the bond shall be canceled and, if the
141 surety has attached a certificate of cancellation to the

575389

Amendment No. (for drafter's use only)

142 original bond, the clerk of the court shall furnish an executed
143 certificate of cancellation to the surety without cost. An
144 adjudication of guilt or innocence of the defendant shall
145 satisfy the conditions of the bond. The original appearance bond
146 shall expire 36 months after such bond has been posted for the
147 release of the defendant from custody. This subsection does not
148 apply to cases in which a bond has been declared forfeited.

149 (2) The original appearance bond does ~~shall~~ not be
150 ~~construed to~~ guarantee deferred sentences, appearance during or
151 after a presentence investigation, appearance during or after
152 appeals, ~~conduct during or appearance after admission to a~~
153 ~~pretrial intervention program~~, payment of fines, or attendance
154 at educational or rehabilitation facilities the court otherwise
155 provides in the judgment. If the original appearance bond has
156 been forfeited or revoked, the bond shall not be reinstated
157 without approval from the surety on the original bond.

158 (3) The original appearance bond does not guarantee the
159 defendant's conduct or appearance in court at any time after:

160 (a) The defendant enters a plea of guilty or nolo
161 contendere.

162 (b) The defendant enters into an agreement for deferred
163 prosecution or agrees to enter a pretrial intervention program.

164 (c) The defendant is acquitted.

165 (d) The defendant is adjudicated guilty.

166 (e) Adjudication of guilt of the defendant is withheld.

167 (f) The defendant is found guilty by a judge or jury.

168 (4)-(3) In any case where no formal charges have been
169 brought against the defendant within 365 days after arrest, the

Amendment No. (for drafter's use only)

170 court shall order the bond canceled unless good cause is shown
171 by the state.

172 Section 9. Subsection (3) and paragraphs (a) and (b) of
173 subsection (4) of section 907.041, Florida Statutes, are amended
174 to read:

175 907.041 Pretrial detention and release.--

176 (3) RELEASE ON NONMONETARY CONDITIONS.--

177 (a) It is the intent of the Legislature to create a
178 presumption in favor of release on nonmonetary conditions for
179 any person who is granted pretrial release unless such person is
180 charged with a dangerous crime as defined in subsection (4).
181 Such person shall be released on monetary conditions if it is
182 determined that such monetary conditions are necessary to assure
183 the presence of the person at trial or at other proceedings, to
184 protect the community from risk of physical harm to persons, to
185 assure the presence of the accused at trial, or to assure the
186 integrity of the judicial process.

187 (b) A No person may not be accepted for release shall be
188 released on nonmonetary conditions under the supervision of a
189 pretrial release service, unless the service certifies in
190 writing and has provided a report to the court for review that
191 it has investigated or otherwise verified:

192 1. The circumstances of the accused's family, employment,
193 financial resources, character, mental condition, and length of
194 residence in the community.;

195 2. The accused's record of convictions, of appearances at
196 court proceedings, of flight to avoid prosecution, or of failure
197 to appear at court proceedings.;

Amendment No. (for drafter's use only)

198 3. Other facts necessary to assist the court in its
199 determination of the indigency of the accused and whether she or
200 he should be released under the supervision of the service.

201 (4) PRETRIAL DETENTION.--

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

- 204 1. Arson;
- 205 2. Aggravated assault;
- 206 3. Aggravated battery;
- 207 4. Illegal use of explosives;
- 208 5. Child abuse or aggravated child abuse;
- 209 6. Abuse of an elderly person or disabled adult, or
210 aggravated abuse of an elderly person or disabled adult;
- 211 7. Aircraft piracy;
- 212 8. Kidnapping;
- 213 9. Homicide;
- 214 10. Manslaughter;
- 215 11. Sexual battery;
- 216 12. Robbery;
- 217 13. Carjacking;
- 218 14. Lewd, lascivious, or indecent assault or act upon or
219 in presence of a child under the age of 16 years;
- 220 15. Sexual activity with a child, who is 12 years of age
221 or older but less than 18 years of age, by or at solicitation of
222 person in familial or custodial authority;
- 223 16. Burglary of a dwelling;
- 224 17. Stalking and aggravated stalking;
- 225 18. Act of domestic violence as defined in s. 741.28;
- 226 19. Home invasion robbery;

575389

Amendment No. (for drafter's use only)

- 227 20. Act of terrorism as defined in s. 775.30; and
- 228 21. Attempting or conspiring to commit any such crime.

229 (b) Pursuant to the provisions of paragraph (3)(b) No
 230 ~~person charged with a dangerous crime shall be granted~~
 231 ~~nonmonetary pretrial release at a first appearance hearing;~~
 232 ~~however,~~ the court shall retain the discretion to release a
 233 person an accused of a dangerous crime on electronic monitoring
 234 or on recognizance bond if the findings on the record of facts
 235 and circumstances warrant such a release.

236 Section 10. This act shall take effect upon becoming a
 237 law.

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240 ===== T I T L E A M E N D M E N T =====

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242 Remove everything after the enacting clause, and insert:

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A bill to be entitled

245 An act relating to persons awaiting trial; creating s. 903.0465,
 246 F.S.; providing that a judge at a first appearance may not
 247 reduce bail set by another judge issuing an arrest warrant;
 248 amending s. 903.0471, F.S.; authorizing a court to make a
 249 finding of probable cause on the basis of an affidavit of a law
 250 enforcement officer when a person on pretrial release is
 251 arrested for a new law violation; amending s. 903.02, F.S. ;
 252 providing that any judge setting or granting bail shall set a
 253 separate bail amount for each charge or offense; amending s.
 254 903.046, F.S.; providing that a defendant forfeits the right to
 255 a presumption in favor of release on nonmonetary conditions if

Amendment No. (for drafter's use only)

256 charged with a second or subsequent felony within a certain time
257 period; amending s. 903.047, F.S.; providing for standard
258 conditions of pretrial release without the trial judge stating
259 such conditions on the record; requiring a defendant to comply
260 with all conditions of a pretrial release program; amending s.
261 903.26, F.S.; providing that refusal of the state attorney to
262 institute extradition proceedings or extradite the principal on
263 a bail bond, after the surety's written agreement to pay actual
264 transportation costs, exonerates the surety; amending s. 903.27,
265 F.S.; providing that in cases in which the bond forfeiture has
266 been discharged by the court, the amount of the judgment may not
267 exceed the amount of the unpaid fees or costs upon which the
268 discharge had been conditioned; amending s. 903.31, F.S.;
269 providing that the clerk of court shall furnish an executed
270 certificate of cancellation to the surety; providing that the
271 original appearance bond does not guarantee the defendant's
272 conduct or appearance in court at any time under certain
273 circumstances; amending s. 907.041, F.S.; requiring a pretrial
274 release service to certify to the court in writing that it has
275 conducted certain investigations and verified specified
276 conditions before an accused is released on nonmonetary
277 conditions; revising requirements for the pretrial release of a
278 person charged with a dangerous crime; providing an effective
279 date.