



CHAMBER ACTION

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The Committee on Public Safety & Crime Prevention recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to persons awaiting trial; creating s. 903.0465, F.S.; providing that a judge at a first appearance may not reduce bail set by another judge issuing an arrest warrant; amending s. 903.0471, F.S.; authorizing a court to make a finding of probable cause on the basis of an affidavit of a law enforcement officer when a person on pretrial release is arrested for a new law violation; amending s. 903.02, F.S.; providing that any judge setting or granting bail shall set a separate bail amount for each charge or offense; amending s. 903.046, F.S.; providing that a defendant forfeits the right to a presumption in favor of release on nonmonetary conditions if charged with a second or subsequent felony within a certain time period; amending s. 903.047, F.S.; providing for standard conditions of pretrial release without the trial judge stating such conditions on the record; requiring a defendant to comply with all



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29 conditions of a pretrial release program; amending s.  
30 903.26, F.S.; providing that refusal of the state attorney  
31 to institute extradition proceedings or extradite the  
32 principal on a bail bond, after the surety's written  
33 agreement to pay actual transportation costs, exonerates  
34 the surety; amending s. 903.27, F.S.; providing that in  
35 cases in which the bond forfeiture has been discharged by  
36 the court, the amount of the judgment may not exceed the  
37 amount of the unpaid fees or costs upon which the  
38 discharge had been conditioned; amending s. 903.31, F.S.;  
39 providing that the clerk of court shall furnish an  
40 executed certificate of cancellation to the surety;  
41 providing that the original appearance bond does not  
42 guarantee the defendant's conduct or appearance in court  
43 at any time under certain circumstances; amending s.  
44 907.041, F.S.; requiring a pretrial release service to  
45 certify to the court in writing that it has conducted  
46 certain investigations and verified specified conditions  
47 before an accused is released on nonmonetary conditions;  
48 revising requirements for the pretrial release of a person  
49 charged with a dangerous crime; providing an effective  
50 date.

51  
52 Be It Enacted by the Legislature of the State of Florida:

53  
54 Section 1. Section 903.0465, Florida Statutes, is created  
55 to read:



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56        903.0465 Determination of bail at first appearance.--In  
57 any case in which a defendant is before the court at a first  
58 appearance hearing based on the execution of an arrest warrant,  
59 the judge at the first appearance hearing may not reduce the  
60 amount of bail indicated on the warrant, unless the judge  
61 issuing the warrant indicates that the matter of bail may be  
62 reconsidered at the first appearance hearing. This section does  
63 not apply when the judge at the first appearance hearing is also  
64 the judge who issued the warrant or when the judge at the first  
65 appearance hearing is the judge to whom the case has been  
66 assigned.

67        Section 2. Section 903.0471, Florida Statutes, is amended  
68 to read:

69        903.0471 Violation of condition of pretrial  
70 release.--Notwithstanding s. 907.041, a court may, on its own  
71 motion, revoke pretrial release and order pretrial detention if  
72 the court finds probable cause to believe that the defendant  
73 committed a new crime while on pretrial release. A finding of  
74 probable cause under this section may, in the court's  
75 discretion, be determined based upon the affidavit of a law  
76 enforcement officer without an evidentiary hearing.

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

79        903.02 Actions with respect to denial or conditions of  
80 bail or amount of bond prohibited; "court" defined.--

81        (4) Any judge setting or granting monetary bail shall set  
82 a separate and specific bail amount for each charge or offense.



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83 When bail is posted, each charge or offense requires a separate  
84 bond.

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

87 903.046 Purpose of and criteria for bail determination.--

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

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

95 903.047 Conditions of pretrial release.--

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

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

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

104 (c) The defendant shall comply with all conditions of  
105 pretrial release.

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

108 903.26 Forfeiture of the bond; when and how directed;  
109 discharge; how and when made; effect of payment.--



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110 (5) The court shall discharge a forfeiture within 60 days  
111 upon:

112 (a) A determination that it was impossible for the  
113 defendant to appear as required due to circumstances beyond the  
114 defendant's control. The potential adverse economic consequences  
115 of appearing as required shall not be considered as constituting  
116 a ground for such a determination.†

117 (b) A determination that, at the time of the required  
118 appearance, the defendant was adjudicated insane and confined in  
119 an institution or hospital or was confined in a jail or prison.†

120 (c) Surrender or arrest of the defendant if the delay has  
121 not thwarted the proper prosecution of the defendant. If the  
122 forfeiture has been before discharge, the court shall direct  
123 remission of the forfeiture. The court shall condition a  
124 discharge or remission on the payment of costs and the expenses  
125 incurred by an official in returning the defendant to the  
126 jurisdiction of the court.

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

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

135 903.27 Forfeiture to judgment.--

136 (1) If the forfeiture is not paid or discharged by order  
137 of a court of competent jurisdiction within 60 days and the bond



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138 is secured other than by money and bonds authorized in s.  
139 903.16, the clerk of the circuit court for the county where the  
140 order was made shall enter a judgment against the surety for the  
141 amount of the penalty and issue execution. However, in any case  
142 in which the bond forfeiture has been discharged by the court of  
143 competent jurisdiction conditioned upon the payment by the  
144 surety of certain costs or fees as allowed by statute, the  
145 amount for which judgment may be entered may not exceed the  
146 amount of the unpaid fees or costs upon which the discharge had  
147 been conditioned. Judgment for the full amount of the forfeiture  
148 shall not be entered if payment of a lesser amount will satisfy  
149 the conditions to discharge the forfeiture. Within 10 days, the  
150 clerk shall furnish the Department of Insurance with a certified  
151 copy of the judgment docket and shall furnish the surety company  
152 at its home office a copy of the judgment, which shall include  
153 the power of attorney number of the bond and the name of the  
154 executing agent. If the judgment is not paid within 35 days, the  
155 clerk shall furnish the Department of Insurance and the sheriff  
156 of the county in which the bond was executed, or the official  
157 responsible for operation of the county jail, if other than the  
158 sheriff, two copies of the judgment and a certificate stating  
159 that the judgment remains unsatisfied. When and if the judgment  
160 is properly paid or an order to vacate the judgment has been  
161 entered by a court of competent jurisdiction, the clerk shall  
162 immediately notify the sheriff, or the official responsible for  
163 the operation of the county jail, if other than the sheriff, and  
164 the Department of Insurance, if the department had been  
165 previously notified of nonpayment, of such payment or order to



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166 vacate the judgment. The clerk shall also immediately prepare  
167 and record in the public records a satisfaction of the judgment  
168 or record the order to vacate judgment. If the defendant is  
169 returned to the county of jurisdiction of the court, whenever a  
170 motion to set aside the judgment is filed, the operation of this  
171 section is tolled until the court makes a disposition of the  
172 motion.

173 Section 8. Section 903.31, Florida Statutes, is amended to  
174 read:

175 903.31 Canceling the bond.--

176 (1) Within 10 business days after the conditions of a bond  
177 have been satisfied or the forfeiture discharged or remitted,  
178 ~~the court shall order~~ the bond shall be canceled and, if the  
179 surety has attached a certificate of cancellation to the  
180 original bond, the clerk of the court shall furnish an executed  
181 certificate of cancellation to the surety without cost. An  
182 adjudication of guilt or innocence of the defendant shall  
183 satisfy the conditions of the bond. The original appearance bond  
184 shall expire 36 months after such bond has been posted for the  
185 release of the defendant from custody. This subsection does not  
186 apply to cases in which a bond has been declared forfeited.

187 (2) The original appearance bond does ~~shall~~ not be  
188 ~~construed to~~ guarantee deferred sentences, appearance during or  
189 after a presentence investigation, appearance during or after  
190 appeals, ~~conduct during or appearance after admission to a~~  
191 ~~pretrial intervention program,~~ payment of fines, or attendance  
192 at educational or rehabilitation facilities the court otherwise  
193 provides in the judgment. If the original appearance bond has



194 | been forfeited or revoked, the bond shall not be reinstated  
195 | without approval from the surety on the original bond.

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

198 |           (a) The defendant enters a plea of guilty or nolo  
199 | contendere.

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

202 |           (c) The defendant is acquitted.

203 |           (d) The defendant is adjudicated guilty.

204 |           (e) Adjudication of guilt of the defendant is withheld.

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

206 |       ~~(4)~~(3) In any case where no formal charges have been  
207 | brought against the defendant within 365 days after arrest, the  
208 | court shall order the bond canceled unless good cause is shown  
209 | by the state.

210 |       Section 9. Subsection (3) and paragraphs (a) and (b) of  
211 | subsection (4) of section 907.041, Florida Statutes, are amended  
212 | to read:

213 |       907.041 Pretrial detention and release.--

214 |       (3) RELEASE ON NONMONETARY CONDITIONS.--

215 |       (a) It is the intent of the Legislature to create a  
216 | presumption in favor of release on nonmonetary conditions for  
217 | any person who is granted pretrial release unless such person is  
218 | charged with a dangerous crime as defined in subsection (4).  
219 | Such person shall be released on monetary conditions if it is  
220 | determined that such monetary conditions are necessary to assure  
221 | the presence of the person at trial or at other proceedings, to





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222 protect the community from risk of physical harm to persons, to  
223 assure the presence of the accused at trial, or to assure the  
224 integrity of the judicial process.

225 (b) A ~~No~~ person may not be accepted for release ~~shall be~~  
226 ~~released~~ on nonmonetary conditions under the supervision of a  
227 pretrial release service, unless the service certifies in  
228 writing and has provided a report to the court for review that  
229 it has investigated or otherwise verified:

230 1. The circumstances of the accused's family, employment,  
231 financial resources, character, mental condition, and length of  
232 residence in the community. ;

233 2. The accused's record of convictions, of appearances at  
234 court proceedings, of flight to avoid prosecution, or of failure  
235 to appear at court proceedings. ; ~~and~~

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

239 (4) PRETRIAL DETENTION.--

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

- 242 1. Arson;
- 243 2. Aggravated assault;
- 244 3. Aggravated battery;
- 245 4. Illegal use of explosives;
- 246 5. Child abuse or aggravated child abuse;
- 247 6. Abuse of an elderly person or disabled adult, or  
248 aggravated abuse of an elderly person or disabled adult;
- 249 7. Aircraft piracy;



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- 250 8. Kidnapping;
- 251 9. Homicide;
- 252 10. Manslaughter;
- 253 11. Sexual battery;
- 254 12. Robbery;
- 255 13. Carjacking;
- 256 14. Lewd, lascivious, or indecent assault or act upon or
- 257 in presence of a child under the age of 16 years;
- 258 15. Sexual activity with a child, who is 12 years of age
- 259 or older but less than 18 years of age, by or at solicitation of
- 260 person in familial or custodial authority;
- 261 16. Burglary of a dwelling;
- 262 17. Stalking and aggravated stalking;
- 263 18. Act of domestic violence as defined in s. 741.28;
- 264 19. Home invasion robbery;
- 265 20. Act of terrorism as defined in s. 775.30; and
- 266 21. Attempting or conspiring to commit any such crime.
- 267 (b) Pursuant to the provisions of paragraph (3)(b) ~~No~~
- 268 ~~person charged with a dangerous crime shall be granted~~
- 269 ~~nonmonetary pretrial release at a first appearance hearing;~~
- 270 ~~however,~~ the court shall retain the discretion to release a
- 271 person an accused of a dangerous crime on electronic monitoring
- 272 or on recognizance bond if the findings on the record of facts
- 273 and circumstances warrant such a release.
- 274 Section 10. This act shall take effect upon becoming a
- 275 law.