

1 A bill to be entitled
 2 An act relating to drug offenses; amending s. 893.13,
 3 F.S.; requiring a mandatory minimum sentence of
 4 imprisonment for certain third or subsequent felony
 5 offenses; amending s. 893.135, F.S.; providing for
 6 aggregation of amounts of controlled substances in certain
 7 circumstances for offenses involving trafficking; amending
 8 s. 903.047, F.S.; requiring persons charged with specified
 9 felony drug crimes who are seeking pretrial release on
 10 bond to make specified showings as to the source and
 11 legitimacy of funds and the surety's purpose and
 12 intentions; amending s. 903.0471, F.S.; requiring that a
 13 defendant on pretrial release for a felony drug offense
 14 who is subsequently arrested for a new felony drug offense
 15 must be returned to custody and must show that he is not a
 16 danger to the community in order to be released again;
 17 providing an effective date.

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

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 21 Section 1. Subsection (12) is added to section 893.13,
 22 Florida Statutes, to read:

23 893.13 Prohibited acts; penalties.--

24 (12) Notwithstanding any provision of the sentencing
 25 guidelines or the Criminal Punishment Code to the contrary, any
 26 defendant who has twice previously been convicted of any
 27 combination of felony violations under this chapter, each of
 28 which involved the sale, delivery, cultivation, or manufacture

29 of any controlled substance; the possession with the intent to
 30 sell, deliver, cultivate, or manufacture any controlled
 31 substance; or the trafficking of any controlled substance, who
 32 is convicted of another such felony offense under this chapter,
 33 except for a new trafficking offense under s. 893.135, shall be
 34 sentenced to serve a minimum term of imprisonment of 36 months
 35 or the term of imprisonment required under the Criminal
 36 Punishment Code, whichever is greater. If the third or
 37 subsequent conviction under this subsection is for a trafficking
 38 offense under s. 893.135, sentencing shall proceed under that
 39 section.

40 Section 2. Subsection (8) is added to section 893.135,
 41 Florida Statutes, to read:

42 893.135 Trafficking; mandatory sentences; suspension or
 43 reduction of sentences; conspiracy to engage in trafficking.--

44 (8) Amounts of controlled substances sold, purchased,
 45 manufactured, delivered, brought into the state, or actually or
 46 constructively possessed by a specific person in a series of
 47 violations of this chapter committed pursuant to one scheme or
 48 course of conduct extending over a period of no more than 90
 49 days may be aggregated in determining whether the weight
 50 thresholds for offenses in this section have been met or
 51 exceeded.

52 Section 3. Subsection (2) of section 903.047, Florida
 53 Statutes, is renumbered as subsection (3), and a new subsection
 54 (2) is added to said section, to read:

55 903.047 Conditions of pretrial release.--

56 (2) As a condition of pretrial release on appearance or
 57 criminal surety bond of any person charged with a felony
 58 violation under chapter 893, the court shall require that the
 59 defendant prove by a preponderance of the evidence:

60 (a) The source and legitimacy of any funds intended to be
 61 used to obtain his or her release.

62 (b) When the defendant's release is to be guaranteed by
 63 criminal surety bond, the surety's purpose and intention to
 64 secure the appearance of the defendant to answer charges.

65 Section 4. Section 903.0471, Florida Statutes, is amended
 66 to read:

67 903.0471 Violation of condition of pretrial release.--

68 (1) Notwithstanding s. 907.041, a court may, on its own
 69 motion, revoke pretrial release and order pretrial detention if
 70 the court finds probable cause to believe that the defendant
 71 committed a new crime while on pretrial release.

72 (2) Notwithstanding s. 907.041, when a defendant has been
 73 granted pretrial release on a charge of any felony violation of
 74 chapter 893 and is subsequently arrested for a new charge of a
 75 felony violation of chapter 893, the court shall revoke his or
 76 her existing pretrial release and the defendant shall be
 77 returned to custody on the pending charges. The defendant will
 78 not be eligible for pretrial release on the subsequent charge
 79 until an evidentiary hearing is held. At such hearing for
 80 pretrial release on the subsequent charge, the burden shall fall
 81 upon the defendant to prove by a preponderance of the evidence
 82 that his or her release would not be a danger to the community.

83 Section 5. This act shall take effect October 1, 2005.