

1 A bill to be entitled
2 An act relating to pretrial release; amending s. 903.047,
3 F.S.; defining the term "intimate partners"; prohibiting a
4 defendant, as a condition of pretrial release, from
5 purchasing or receiving a firearm under certain specified
6 circumstances; requiring that the defendant surrender any
7 firearm in his or her possession to a law enforcement
8 officer if the defendant poses a credible threat to the
9 safety of the alleged victim, the victim's family, or a
10 witness and if the defendant and the alleged victim are
11 intimate partners; providing for the defendant's pretrial
12 release to be revoked and the defendant placed in pretrial
13 detention if the defendant fails to surrender a firearm;
14 specifying the form for orders for pretrial release
15 conditions, modification of pretrial release conditions,
16 and termination of pretrial release conditions in domestic
17 violence cases involving intimate partners; requiring the
18 clerk of the court to forward a court's domestic violence
19 order to the sheriff no later than 24 hours after the
20 pretrial release conditions are ordered, terminated,
21 modified, or otherwise rendered no longer effective;
22 requiring the sheriff to electronically notify the
23 Department of Law Enforcement of the domestic violence
24 information no later than 24 hours after receiving the
25 information from the clerk of the court; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

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

903.047 Conditions of pretrial release.--

(1) As used in this section, the term "intimate partners" means spouses, former spouses, or persons who presently reside together in an intimate relationship or who have resided together in the past in an intimate relationship, or persons who are parents of a child or children regardless of whether they have been married.

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

(a) ~~The defendant~~ Refrain from criminal activity of any kind; ~~and~~

(b) ~~The defendant~~ Refrain from any contact of any type with the victim, except through pretrial discovery under ~~pursuant to~~ the Florida Rules of Criminal Procedure; ~~-~~

(c) Not purchase or receive a firearm if the offense for which the defendant is granted pretrial release is an offense specified in s. 790.065(2)(c); and

(d) Surrender any firearm in his or her possession to the arresting law enforcement officer or law enforcement agency in the municipality or county in which the defendant resides if it is apparent from the face of the arrest report, complaint affidavit, or information made available to the court under s. 741.2901(3), that:

1. The defendant poses a credible threat to the safety of

57 the alleged victim, the victim's family, or a witness; and
 58 2. The defendant and the alleged victim are intimate
 59 partners.

60
 61 Failure to comply with this subsection shall result in
 62 revocation of pretrial supervision and the defendant shall be
 63 placed in pretrial detention.

64 (3)(a) For a crime of domestic violence involving intimate
 65 partners, the order of pretrial supervision shall be in
 66 substantially the following form:

67
 68 ORDER OF PRETRIAL RELEASE CONDITIONS IN DOMESTIC VIOLENCE
 69 CASES INVOLVING INTIMATE PARTNERS

70
 71 The above-named defendant has been charged with a crime of
 72 domestic violence involving an intimate partner. The term
 73 "intimate partner" means a spouse; a former spouse; a
 74 person who presently resides, or who resided in the past,
 75 in an intimate relationship with the defendant; or a
 76 person who is a parent of a child or children of the
 77 defendant.

78
 79 The monetary bond as required by section 907.041(4),
 80 Florida Statutes, is \$_____ cash or surety.
 81 In addition to any monetary bond required by law, THE
 82 DEFENDANT IS ORDERED AS FOLLOWS:

83
 84 (Initial the blank for condition 4. or 6., if appropriate,

85 or mark "N/A" if it is not applicable.)

86 1. Do not engage in any criminal activity.

87 2. Do not use or possess any illegal drugs.

88 3. Do not purchase or receive a firearm.

89 4. Surrender any firearm in your possession to the
 90 arresting law enforcement officer, or law enforcement
 91 agency in the municipality or county in which you reside,
 92 within 24 hours after your release because it is apparent
 93 from the face of the arrest report, complaint affidavit,
 94 or information made available to the court under section
 95 741.2901(3), Florida Statutes, that you pose a credible
 96 threat to the safety of the alleged victim, victim's
 97 family, or witness. You must provide proof of compliance
 98 with this condition of pretrial supervision with pretrial
 99 services or, if there is no pretrial service program, the
 100 clerk of the court. Failure to comply with this condition
 101 will result in revocation of pretrial supervision and your
 102 being placed in pretrial detention.

103 5. Refrain from any contact with the alleged victim,
 104 directly or indirectly, in person, in writing, by
 105 telephone, pager, fax, or through third persons. Stay at
 106 least 500 feet away from the alleged victim, the alleged
 107 victim's home, place of employment, and school at all
 108 times. Do not knowingly and intentionally come within 100
 109 feet of the alleged victim's motor vehicle.

110 6. If you resided with the alleged victim at the
 111 time of the arrest, you may return to the alleged victim's
 112 residence, one time only, within 48 hours after your

113 release following entry of this order. You must be
114 accompanied by a law enforcement officer from an agency
115 having jurisdiction over the alleged victim's residence.
116 You may retrieve your personal clothing, personal health
117 items, medication, personal and business-related
118 paperwork, and work tools. Going to the alleged victim's
119 home or remaining at the home unaccompanied by the law
120 enforcement officer will subject you to arrest. You must
121 give the law enforcement officer all keys and garage door
122 openers to the alleged victim's home, who will turn them
123 over to the alleged victim.

124
125 The court is aware of a possible conflict between
126 paragraph 5. of this order and a prior visitation order.
127 However, in order to prevent immediate harm, the court has
128 entered this order, which supersedes and takes precedence
129 over any prior court order that allows contact between the
130 parties. Either party may request a hearing before the
131 judge in the case where the visitation order was entered
132 to seek a modified visitation order that does not conflict
133 with the "no contact" provision in this order, and may
134 request modification of this pretrial release order.

135
136 This order shall remain in effect until the pretrial
137 release supervision is terminated or until modified or
138 terminated by the court.

139
140 Violation of this order is a first-degree misdemeanor

141 under section 741.29(6), Florida Statutes, which carries a
 142 maximum punishment upon conviction of 1 year in jail and a
 143 fine of \$1,000, or may subject you to criminal contempt of
 144 court charges, and result in revocation of bond or
 145 pretrial release and pretrial detention.

146
 147 (b) For a crime of domestic violence involving intimate
 148 partners, the order modifying pretrial supervision shall be in
 149 substantially the following form:

150
 151 ORDER MODIFYING PRETRIAL RELEASE CONDITIONS IN DOMESTIC
 152 VIOLENCE CASES INVOLVING INTIMATE PARTNERS

153
 154 This matter came before the court upon the defendant's or
 155 the alleged victim's request to modify the order of
 156 pretrial release conditions previously issued under
 157 section 903.047, Florida Statutes. The court heard the
 158 testimony of the witnesses and hereby ORDERS AND ADJUDGES:

159
 160 (Initial the blank in 1., 2., or 3., if appropriate, or
 161 mark "N/A" if it is not applicable.)

162
 163 1. Paragraph 5. (the "no contact" provision) of the
 164 order of pretrial release conditions issued in this case
 165 on (DATE) _____ in favor of (ALLEGED
 166 VICTIM) _____ is hereby vacated to allow parties
 167 to have contact. The defendant may have contact with the
 168 alleged victim, but may not threaten or act violently

169 towards the alleged victim in any manner. This is a
 170 condition of pretrial release under section 903.047,
 171 Florida Statutes.

172
 173 2. Paragraph 4. of the order of pretrial release
 174 conditions issued in this case on (DATE)_____ is
 175 hereby vacated. The court having confirmed that there is
 176 no injunction in effect, hereby orders that any firearm
 177 surrendered by or taken from the defendant must be
 178 immediately returned to the defendant by the law
 179 enforcement agency with possession of the firearm when the
 180 defendant arrives to retrieve the firearm because the
 181 court finds that the defendant does not pose a credible
 182 threat to the safety of the alleged victim, victim's
 183 family, or witness.

184
 185 3. Paragraph 4. of the order of pretrial release
 186 conditions issued in this case on (DATE)_____ is
 187 hereby retained and the firearms surrendered by or taken
 188 from the defendant may not be returned to his or her
 189 possession because the court finds that the defendant
 190 continues to pose a credible threat to the safety of the
 191 alleged victim, victim's family, or witness, or the
 192 defendant is otherwise ineligible to possess a firearm.

193
 194 4. All other conditions of the order of pretrial
 195 release conditions remain in full force and effect.
 196 However, the defendant remains ineligible to purchase or

197 receive a firearm under section 790.065, Florida Statutes.

198
 199 (c) For a crime of domestic violence involving intimate
 200 partners, the order terminating pretrial supervision shall be in
 201 substantially the following form:

202
 203 ORDER TERMINATING PRETRIAL RELEASE CONDITIONS IN DOMESTIC
 204 VIOLENCE CASES INVOLVING INTIMATE PARTNERS

205
 206 The defendant in this case is no longer on pretrial
 207 release. Any prior order of pretrial release conditions
 208 entered under section 903.047, Florida Statutes, are
 209 hereby TERMINATED AND OF NO FURTHER FORCE OR EFFECT.

210
 211 (d) A program providing pretrial services or, if there is
 212 no pretrial service program, the clerk of the court shall mail a
 213 copy of each of these orders to the alleged victim no later than
 214 24 hours after entry of the order.

215 (4) The clerk of the court shall forward the court's order
 216 to the sheriff no later than 24 hours after the pretrial release
 217 conditions are ordered, terminated, modified, or otherwise
 218 rendered ineffective by a ruling of the court or final
 219 disposition of the case. The sheriff shall, within 24 hours
 220 after receiving the notification from the clerk of the court,
 221 make information relating to the notification available to other
 222 law enforcement agencies by electronically transmitting the
 223 information to the Department of Law Enforcement.

224 (5)(2) Upon motion by the defendant when bail is set, or

HB 1481

2005

225 upon later motion properly noticed under ~~pursuant to~~ law, the
226 court may modify the condition required by paragraph
227 (2)(b)~~(1)(b)~~ if good cause is shown and the interests of justice
228 so require. The victim shall be permitted to be heard at any
229 proceeding in which the ~~such~~ modification is considered, and the
230 state attorney shall notify the victim of ~~the provisions of~~ this
231 subsection and of the pendency of any such proceeding.

232 Section 2. This act shall take effect July 1, 2005.