

By Senator Dockery

15-701B-05

1 | A bill to be entitled
2 | An act relating to pretrial release; amending
3 | s. 903.047, F.S.; defining the term "intimate
4 | partners"; prohibiting a defendant, as a
5 | condition of pretrial release, from purchasing
6 | or receiving a firearm under certain specified
7 | circumstances; requiring that the defendant
8 | surrender any firearm in his or her possession
9 | to a law enforcement officer if the defendant
10 | poses a credible threat to the safety of the
11 | alleged victim, the victim's family, or a
12 | witness and if the defendant and the alleged
13 | victim are intimate partners; providing for the
14 | defendant's pretrial release to be revoked and
15 | the defendant placed in pretrial detention if
16 | the defendant fails to surrender a firearm;
17 | specifying the form for orders for pretrial
18 | release conditions, modification of pretrial
19 | release conditions, and termination of pretrial
20 | release conditions in domestic violence cases
21 | involving intimate partners; requiring the
22 | clerk of the court to forward a court's
23 | domestic violence order to the sheriff no later
24 | than 24 hours after the pretrial release
25 | conditions are ordered, terminated, modified,
26 | or otherwise rendered no longer effective;
27 | requiring the sheriff to electronically notify
28 | the Department of Law Enforcement of the
29 | domestic violence information no later than 24
30 | hours after receiving the information from the
31 |

1 clerk of the court; providing an effective
2 date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Section 903.047, Florida Statutes, is
7 amended to read:

8 903.047 Conditions of pretrial release.--

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

15 (2)(1) As a condition of pretrial release, whether the
16 ~~such~~ release is by surety bail bond or recognizance bond or in
17 some other form, the court shall require that the defendant:

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

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

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

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

- 1 1. The defendant poses a credible threat to the safety
2 of the alleged victim, the victim's family, or a witness; and
3 2. The defendant and the alleged victim are intimate
4 partners.

5
6 Failure to comply with this subsection shall result in
7 revocation of pretrial supervision and the defendant shall be
8 placed in pretrial detention.

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

12
13 ORDER OF PRETRIAL RELEASE CONDITIONS IN
14 DOMESTIC VIOLENCE CASES INVOLVING INTIMATE
15 PARTNERS

16
17 The above-named defendant has been charged with
18 a crime of domestic violence involving an
19 intimate partner. The term "intimate partner"
20 means a spouse; a former spouse; a person who
21 presently resides, or who resided in the past,
22 in an intimate relationship with the defendant;
23 or a person who is a parent of a child or
24 children of the defendant, regardless of
25 whether the defendant and alleged victim have
26 been married.

27
28 The monetary bond as required by section
29 907.041(4), Florida Statutes, is \$
30 cash or surety.

31

1 In addition to any monetary bond required by
2 law, THE DEFENDANT IS ORDERED AS FOLLOWS:
3
4 (Initial the blank for condition 4. or 6., if
5 appropriate, or mark "N/A" if it is not
6 applicable.)
7
8 1. Do not engage in any criminal activity.
9 2. Do not use or possess any illegal drugs.
10 3. Do not purchase or receive a firearm.
11 4. Surrender any firearm in your
12 possession to the arresting law enforcement
13 officer, or law enforcement agency in the
14 municipality or county in which you reside,
15 within 24 hours after your release because it
16 is apparent from the face of the arrest report,
17 complaint affidavit, or information made
18 available to the court under section
19 741.2901(3), Florida Statutes, that you pose a
20 credible threat to the safety of the alleged
21 victim, victim's family, or witness. You must
22 provide proof of compliance with this condition
23 of pretrial supervision with pretrial services
24 or, if there is no pretrial service program,
25 the clerk of the court. Failure to comply with
26 this condition will result in revocation of
27 pretrial supervision and your being placed in
28 pretrial detention.
29
30 5. Refrain from any contact with the alleged
31 victim, _____ directly or indirectly, in

1 person, in writing, by telephone, pager, fax,
2 or through third persons. Stay at least 500
3 feet away from the alleged victim, the alleged
4 victim's home, place of employment, and school
5 at all times. Do not knowingly and
6 intentionally come within 100 feet of the
7 alleged victim's motor vehicle.

8 6. If you resided with the alleged
9 victim at the time of the arrest, you may
10 return to the alleged victim's residence, one
11 time only, within 48 hours after your release
12 following entry of this order. You must be
13 accompanied by a law enforcement officer from
14 an agency having jurisdiction over the alleged
15 victim's residence. You may retrieve your
16 personal clothing, personal health items,
17 medication, personal and business-related
18 paperwork, and work tools. Going to the alleged
19 victim's home or remaining at the home
20 unaccompanied by the law enforcement officer
21 will subject you to arrest. You must give the
22 law enforcement officer all keys and garage
23 door openers to the alleged victim's home, who
24 will turn them over to the alleged victim.

25

26 The court is aware of a possible conflict
27 between paragraph 5. of this order and a prior
28 visitation order. However, in order to prevent
29 immediate harm, the court has entered this
30 order, which supersedes and takes precedence
31 over any prior court order that allows contact

1 between the parties. Either party may request a
2 hearing before the judge in the case where the
3 visitation order was entered to seek a modified
4 visitation order that does not conflict with
5 the "no contact" provision in this order, and
6 may request modification of this pretrial
7 release order.

8
9 This order shall remain in effect until the
10 pretrial release supervision is terminated or
11 until modified or terminated by the court.

12
13 Violation of this order is a first-degree
14 misdemeanor under section 741.29(6), Florida
15 Statutes, which carries a maximum punishment
16 upon conviction of 1 year in jail and a fine of
17 \$1,000, or may subject you to criminal contempt
18 of court charges, and result in revocation of
19 bond or pretrial release and pretrial
20 detention.

21
22 (b) For a crime of domestic violence involving
23 intimate partners, the order modifying pretrial supervision
24 shall be in substantially the following form:

25
26 ORDER MODIFYING PRETRIAL RELEASE CONDITIONS IN
27 DOMESTIC VIOLENCE CASES INVOLVING INTIMATE
28 PARTNERS

29
30 This matter came before the court upon the
31 defendant's or the alleged victim's request to

1 modify the order of pretrial release conditions
2 previously issued under section 903.047,
3 Florida Statutes. The court heard the
4 testimony of the witnesses and hereby ORDERS
5 AND ADJUDGES:
6

7 (Initial the blank in 1., 2., or 3., if
8 appropriate, or mark "N/A" if it is not
9 applicable.)
10

11 1. Paragraph 5. (the "no contact"
12 provision) of the order of pretrial release
13 conditions issued in this case on (DATE)
14 in favor of (ALLEGED
15 VICTIM) is hereby vacated to
16 allow parties to have contact. The defendant
17 may have contact with the alleged victim, but
18 may not threaten or act violently towards the
19 alleged victim in any manner. This is a
20 condition of pretrial release under section
21 903.047, Florida Statutes.
22

23 2. Paragraph 4. of the order of pretrial
24 release conditions issued in this case on
25 (DATE) is hereby vacated. The court
26 having confirmed that there is no injunction in
27 effect, hereby orders that any firearm
28 surrendered by or taken from the defendant must
29 be immediately returned to the defendant by the
30 law enforcement agency with possession of the
31 firearm when the defendant arrives to retrieve

1 the fireman because the court finds that the
2 defendant does not pose a credible threat to
3 the safety of the alleged victim, victim's
4 family, or witness.

5
6 3. Paragraph 4. of the order of pretrial
7 release conditions issued in this case on
8 (DATE) is hereby retained and the
9 firearms surrendered by or taken from the
10 defendant may not be returned to his or her
11 possession because the court finds that the
12 defendant continues to pose a credible threat
13 to the safety of the alleged victim, victim's
14 family, or witness, or the defendant is
15 otherwise ineligible to possess a firearm.

16
17 4. All other conditions of the order of
18 pretrial release conditions remain in full
19 force and effect. However, the defendant
20 remains ineligible to purchase or receive a
21 firearm under section 790.065, Florida
22 Statutes.

23
24 (c) For a crime of domestic violence involving
25 intimate partners, the order terminating pretrial supervision
26 shall be in substantially the following form:

27
28 ORDER TERMINATING PRETRIAL RELEASE CONDITIONS
29 IN DOMESTIC VIOLENCE CASES INVOLVING INTIMATE
30 PARTNERS

31

1 The defendant in this case is no longer on
2 pretrial release. Any prior order of pretrial
3 release conditions entered under section
4 903.047, Florida Statutes, are hereby
5 TERMINATED AND OF NO FURTHER FORCE OR EFFECT.

6
7 (d) A program providing pretrial services or, if there
8 is no pretrial service program, the clerk of the court shall
9 mail a copy of each of these orders to the alleged victim no
10 later than 24 hours after entry of the order.

11 (4) The clerk of the court shall forward the court's
12 order to the sheriff no later than 24 hours after the pretrial
13 release conditions are ordered, terminated, modified, or
14 otherwise rendered ineffective by a ruling of the court or
15 final disposition of the case. The sheriff shall, within 24
16 hours after receiving the notification from the clerk of the
17 court, make information relating to the notification available
18 to other law enforcement agencies by electronically
19 transmitting the information to the Department of Law
20 Enforcement.

21 (5)(2) Upon motion by the defendant when bail is set,
22 or upon later motion properly noticed under ~~pursuant to~~ law,
23 the court may modify the condition required by paragraph
24 ~~(2)(b)(1)(b)~~ if good cause is shown and the interests of
25 justice so require. The victim shall be permitted to be heard
26 at any proceeding in which the ~~such~~ modification is
27 considered, and the state attorney shall notify the victim of
28 ~~the provisions of~~ this subsection and of the pendency of any
29 such proceeding.

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

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SENATE SUMMARY

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3 Provides that, as a condition of pretrial release, a
4 defendant may not purchase or receive a firearm under
5 certain specified circumstances and the defendant must
6 surrender any firearm in his or her possession to a law
7 enforcement officer if the defendant poses a credible
8 threat to the safety of the alleged victim, the victim's
9 family, or a witness and the defendant and the alleged
10 victim are intimate partners. Provides that if the
11 defendant fails to surrender a firearm, the defendant's
12 pretrial release will be revoked and the defendant placed
13 in pretrial detention. Provides a form for orders of
14 pretrial release conditions, modification of pretrial
15 release conditions, and termination of pretrial release
16 conditions in domestic violence cases involving intimate
17 partners. Requires the clerk of the court to forward a
18 court's domestic violence order to the sheriff no later
19 than 24 hours after the pretrial release conditions are
20 ordered, terminated, modified, or otherwise rendered no
21 longer effective. Requires a sheriff to electronically
22 notify the Department of Law Enforcement of the domestic
23 violence information no later than 24 hours after
24 receiving the information from the clerk of the court.
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