

By Senator Fasano

11-1606-05

1 A bill to be entitled
2 An act relating to pretrial release; amending
3 s. 903.047, F.S.; requiring that a defendant
4 charged with an offense involving controlled
5 substances prove the legitimacy of any funds
6 intended to be used to obtain the release of
7 the defendant; requiring proof of the purpose
8 and intention of the surety to secure the
9 appearance of the defendant to answer charges;
10 amending s. 903.0471, F.S.; requiring a court
11 to revoke a defendant's existing pretrial
12 release and return the defendant to custody on
13 the pending charge following the defendant's
14 arrest for a subsequent felony offense
15 involving controlled substances; providing that
16 the defendant is ineligible for pretrial
17 release under certain circumstances; requiring
18 a defendant to prove that releasing the
19 defendant will not pose a danger to the
20 community; creating s. 903.081, F.S.; requiring
21 a surety in a case involving controlled
22 substances to file an affidavit attesting that
23 he or she has made a diligent effort to
24 determine the source and legitimacy of any
25 funds or property intended to be used to pay
26 the premium charged to a defendant or to act as
27 collateral; requiring the surety to provide the
28 detailed information relied on by the surety in
29 preparing the affidavit; providing an effective
30 date.
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1 Be It Enacted by the Legislature of the State of Florida:

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

5 903.047 Conditions of pretrial release.--

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

9 (a) The defendant refrain from criminal activity of
10 any kind; and

11 (b) The defendant refrain from any contact of any type
12 with the victim, except through pretrial discovery under
13 ~~pursuant to~~ the Florida Rules of Criminal Procedure.

14 (2) The court shall require that a defendant prove, by
15 a preponderance of the evidence, as a condition of pretrial
16 release by criminal surety bond, whenever a felony violation
17 under chapter 893 is alleged:

18 (a) The source and legitimacy of any funds intended to
19 be used to obtain the release of the defendant; and

20 (b) Proof of the purpose and intention of the surety
21 to secure the appearance of the defendant to answer charges.

22 ~~(3)(2)~~ Upon motion by the defendant when bail is set,
23 or upon later motion properly noticed by ~~pursuant to~~ law, the
24 court may modify the condition required by paragraph (1)(b) if
25 good cause is shown and the interests of justice so require.
26 The victim shall be permitted to be heard at any proceeding in
27 which the ~~such~~ modification is considered, and the state
28 attorney shall notify the victim of ~~the provisions of~~ this
29 subsection and of the pendency of any the ~~such~~ proceeding.

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

1 903.0471 Violation of condition of pretrial release.--

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

6 (2) Notwithstanding s. 907.041, when a defendant has
7 been granted pretrial release on an alleged felony violation
8 of chapter 893 and is subsequently arrested for a new felony
9 violation of chapter 893, the court shall revoke the
10 defendant's existing pretrial release and return the defendant
11 to custody on the pending charge. The defendant is not
12 eligible for pretrial release on the subsequent charge until
13 such time as an evidentiary hearing is held. At the
14 evidentiary hearing on the subsequent charge, the defendant
15 must prove, by a preponderance of the evidence, that releasing
16 the defendant will not pose a danger to the community.

17 Section 3. Section 903.081, Florida Statutes, is
18 created to read:

19 903.081 Obligations of the surety in an offense
20 involving controlled substances.--Before undertaking to
21 execute a criminal surety bond for any felony violation under
22 chapter 893 for any person, the surety must execute and file
23 an affidavit attesting that he or she has made a diligent
24 effort to determine the source and legitimacy of any funds
25 intended to be used to pay the premium charged to any
26 defendant, as well as the source and legitimacy of any funds
27 used to purchase any property intended to be used as
28 collateral by the defendant, and detailing the information
29 relied on by the surety in preparation for executing the
30 affidavit.

31 Section 4. This act shall take effect July 1, 2005.

SENATE SUMMARY

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3 Requires a defendant to prove the legitimacy of any funds
4 intended to be used to obtain the release of the
5 defendant in an offense involving controlled substances
6 and to provide proof of the purpose and intention of the
7 surety to secure the appearance of the defendant to
8 answer charges. Requires a court to revoke a defendant's
9 existing pretrial release, return the defendant to
10 custody on the pending charge, and not permit the
11 defendant to be released under certain circumstances.
12 Requires a defendant to prove that releasing the
13 defendant will not pose a danger to the community.
14 Requires a surety in a case involving controlled
15 substances to file an affidavit attesting that he or she
16 has made a diligent effort to determine the source and
17 legitimacy of any funds or property intended to be used
18 to pay the premium charged to a defendant or to act as
19 collateral. Requires the surety to provide the detailed
20 information relied on by the surety in preparing the
21 affidavit.
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