

Bill No. SB 2018

Barcode 235016

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Wise) recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 3, line 7, through  
page 7, line 16, delete those lines

and insert:

Section 2. Subsection (1) of section 903.047, Florida Statutes, is amended to read:

903.047 Conditions of pretrial release.--

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

(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 pursuant to the Florida Rules of Criminal Procedure.

(c) Comply with all conditions of pretrial release.

Section 3. Section 903.26, Florida Statutes, is

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1 amended to read:

2 903.26 Forfeiture of ~~the bond; when and how directed;~~  
3 discharge; ~~how and when made;~~ effect of payment.--

4 (1)(a) A bail bond shall not be forfeited unless:

5 ~~1.(a)~~ The information, indictment, or affidavit was  
6 filed within 6 months from the date of arrest; ~~and~~

7 ~~2.(b)~~ The clerk of court gave the surety at least 72  
8 hours' notice, exclusive of Saturdays, Sundays, and holidays,  
9 before the time of the required appearance of the defendant.

10 Notice shall not be necessary if the time for appearance is  
11 within 72 hours from the time of arrest; ~~or if the time is~~  
12 stated on the bond.

13 (b) Instant with any failure to appear by a defendant,  
14 the court shall order and issue to the sheriff for execution a  
15 capias or arrest warrant for the defendant who has failed to  
16 appear. Such capias or warrant shall comply with the  
17 requirements of s. 903.046(2)(d).

18 (2)(a) If there is a breach of the bond, the court  
19 shall declare the bond and any bonds or money deposited as  
20 bail forfeited. The clerk of the court shall mail a notice to  
21 the surety agent and surety company in writing within 5 days  
22 of the forfeiture. A certificate signed by the clerk of the  
23 court or the clerk's designee, certifying that the notice  
24 required herein was mailed on a specified date and accompanied  
25 by a copy of the required notice, shall constitute sufficient  
26 proof that such mailing was properly accomplished as indicated  
27 therein. If such mailing was properly accomplished as  
28 evidenced by such certificate, the failure of the surety  
29 agent, of a company, or of a defendant to receive such mail  
30 notice shall not constitute a defense to such forfeiture and  
31 shall not be grounds for discharge, remission, reduction, set

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1 aside, or continuance of such forfeiture. The forfeiture  
2 shall be paid within 60 days of the date the notice was  
3 mailed.

4 (b) Failure of the defendant to appear at the time,  
5 date, and place of required appearance shall result in  
6 forfeiture of the bond. Such forfeiture shall be  
7 automatically entered by the clerk upon such failure to  
8 appear, and the clerk shall follow the procedures outlined in  
9 paragraph (a). However, the court may determine, in its  
10 discretion, in the interest of justice, that an appearance by  
11 the defendant on the same day as required does not warrant  
12 forfeiture of the bond; and the court may direct the clerk to  
13 set aside any such forfeiture which may have been entered.  
14 Any appearance by the defendant later than the required day  
15 constitutes forfeiture of the bond, and the court shall not  
16 preclude entry of such forfeiture by the clerk.

17 (c) If there is a breach of the bond, the clerk shall  
18 provide, upon request, a certified copy of the warrant or  
19 capias to the bail bond agent or surety company.

20 (3) Sixty days after the forfeiture notice has been  
21 mailed:

22 (a) State and county officials having custody of  
23 forfeited money shall deposit the money in the fine and  
24 forfeiture fund established pursuant to s. 142.01;

25 (b) Municipal officials having custody of forfeited  
26 money shall deposit the money in a designated municipal fund;

27 (c) Officials having custody of bonds as authorized by  
28 s. 903.16 shall transmit the bonds to the clerk of the circuit  
29 court who shall sell them at market value and disburse the  
30 proceeds as provided in paragraphs (a) and (b).

31 (4)(a) When a bond is forfeited, the clerk shall

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1 transmit the bond and any affidavits to the clerk of the  
 2 circuit court in which the bond and affidavits are filed. The  
 3 clerk of the circuit court shall record the forfeiture in the  
 4 deed or official records book. If the undertakings and  
 5 affidavits describe real property in another county, the clerk  
 6 shall transmit the bond and affidavits to the clerk of the  
 7 circuit court of the county where the property is located who  
 8 shall record and return them.

9 (b) The bond and affidavits shall be a lien on the  
 10 real property they describe from the time of recording in the  
 11 county where the property is located for 2 years or until the  
 12 final determination of an action instituted thereon within a  
 13 2-year period. If an action is not instituted within 2 years  
 14 from the date of recording, the lien shall be discharged. The  
 15 lien will be discharged 2 years after the recording even if an  
 16 action was instituted within 2 years unless a lis pendens  
 17 notice is recorded in the action.

18 (5)(a) The court shall discharge a forfeiture within  
 19 60 days upon:

20 ~~1.(a)~~ A determination that it was impossible for the  
 21 defendant to appear as required due to circumstances beyond  
 22 the defendant's control. The potential adverse economic  
 23 consequences of appearing as required shall not be considered  
 24 as constituting a ground for such a determination;

25 ~~2.(b)~~ A determination that, at the time of the  
 26 required appearance, the defendant was adjudicated insane and  
 27 confined in an institution or hospital or was confined in a  
 28 jail or prison; or

29 ~~3.(c)~~ Surrender or arrest of the defendant if the  
 30 delay has not thwarted the proper prosecution of the  
 31 defendant. If the forfeiture has been before discharge, the

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1 court shall direct remission of the forfeiture. The court  
2 shall condition a discharge or remission on the payment of  
3 costs and the expenses incurred by an official in returning  
4 the defendant to the jurisdiction of the court.

5 (b) Failure of the state attorney to institute  
6 extradition proceedings against the principal on a bail bond  
7 after the surety has agreed in writing to pay actual  
8 transportation costs shall exonerate the surety, and any  
9 forfeiture or judgment shall be set aside or vacated and any  
10 payment by the surety of a forfeiture or judgment shall be  
11 remitted in full.

12  
13 (Redesignate subsequent sections.)

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16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 On page 1, lines 6-21, delete those lines

19  
20 and insert:

21 amending s. 903.047, F.S.; requiring a  
22 defendant to comply with all conditions of  
23 pretrial release; amending s. 903.26, F.S.;  
24 providing for issuance of a capias or arrest  
25 warrant for a defendant who has failed to  
26 appear; providing that failure of the state  
27 attorney to institute extradition proceedings  
28 against

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