

1 A bill to be entitled

2 An act relating to pretrial release; amending s. 903.02,
3 F.S.; providing that any judge setting or granting bail
4 shall set a separate bail amount for each charge or
5 offense; amending s. 903.046, F.S.; providing that a
6 defendant forfeits the right to a presumption in favor of
7 release on nonmonetary conditions if charged with a second
8 or subsequent felony within a certain time period;
9 amending s. 903.047, F.S.; requiring a defendant to comply
10 with all conditions of pretrial release; amending s.
11 903.26, F.S.; providing for issuance of a capias or arrest
12 warrant for a defendant who has failed to appear;
13 providing requirements for such a capias or warrant;
14 providing for exoneration of a surety and discharge of any
15 bonds if a court fails or refuses to issue such capias or
16 arrest warrant; providing that failure of the state
17 attorney to institute extradition proceedings or extradite
18 the principal on a bail bond after the surety's written
19 agreement to pay actual transportation costs exonerates
20 the surety; amending s. 903.27, F.S.; providing that in
21 cases in which the bond forfeiture has been discharged by
22 the court, the amount of the judgment may not exceed the
23 amount of the unpaid fees or costs upon which the
24 discharge had been conditioned; amending s. 903.31, F.S.;
25 providing that the clerk of court shall furnish an
26 executed certificate of cancellation to the surety;
27 providing that the original appearance bond does not
28 guarantee the defendant's conduct or appearance in court

29 under certain circumstances; providing an effective date.

30

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

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33 Section 1. Subsection (4) is added to section 903.02,
 34 Florida Statutes, to read:

35 903.02 Actions following with respect to denial; changes
 36 in bail or conditions of bail or bond amount; separation by
 37 charge or offense of bond prohibited; "court" defined.--

38 (4) Any judge setting or granting monetary bail shall set
 39 a separate and specific bail amount for each charge or offense.
 40 When bail is posted, each charge or offense requires a separate
 41 bond.

42 Section 2. Subsection (3) is added to section 903.046,
 43 Florida Statutes, to read:

44 903.046 Purpose of and criteria for bail determination.--

45 (3) If a defendant is charged with a second or subsequent
 46 felony within 3 years after the date of a prior felony charge,
 47 regardless of whether a conviction was entered, the defendant
 48 forfeits the right to a presumption in favor of release on
 49 nonmonetary conditions as provided in s. 907.041.

50 Section 3. Subsection (1) of section 903.047, Florida
 51 Statutes, is amended to read:

52 903.047 Conditions of pretrial release.--

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

56 (a) ~~The defendant~~ Refrain from criminal activity of any

57 kind., ~~and~~

58 (b) ~~The defendant~~ Refrain from any contact of any type
 59 with the victim, except through pretrial discovery pursuant to
 60 the Florida Rules of Criminal Procedure.

61 (c) Comply with all conditions of pretrial release.

62 Section 4. Subsections (1) and (5) of section 903.26,
 63 Florida Statutes, are amended to read:

64 903.26 Forfeiture of ~~the~~ bond; ~~when and how directed,~~
 65 discharge; ~~how and when made,~~ effect of payment.--

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

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

69 2. (b) The clerk of court gave the surety at least 72
 70 hours' notice, exclusive of Saturdays, Sundays, and holidays,
 71 before the time of the required appearance of the defendant.
 72 Notice shall not be necessary if the time for appearance is
 73 within 72 hours from the time of arrest, ~~or if the time is~~
 74 stated on the bond.

75 (b) Instant with any failure to appear by a defendant, the
 76 court shall order and issue to the sheriff for execution a
 77 capias or arrest warrant for the defendant who has failed to
 78 appear. Such capias or warrant shall comply with the
 79 requirements of s. 903.046(2)(d) and shall also require
 80 extradition of the defendant when arrested in another state if
 81 the original charge is a felony and require return
 82 transportation of the defendant when arrested in another state
 83 to the jurisdiction of the court when arrested on any case
 84 within the state. If the court fails or refuses to issue such

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85 capias or arrest warrant, the surety shall immediately be
 86 exonerated and any bonds deposited shall be discharged by the
 87 clerk of the court in compliance with s. 903.31(1).

88 (5) (a) The court shall discharge a forfeiture within 60
 89 days upon:

90 1.(a) A determination that it was impossible for the
 91 defendant to appear as required due to circumstances beyond the
 92 defendant's control. The potential adverse economic consequences
 93 of appearing as required shall not be considered as constituting
 94 a ground for such a determination;

95 2.(b) A determination that, at the time of the required
 96 appearance, the defendant was adjudicated insane and confined in
 97 an institution or hospital or was confined in a jail or prison;

98 3.(e) Surrender or arrest of the defendant if the delay
 99 has not thwarted the proper prosecution of the defendant. If the
 100 forfeiture has been before discharge, the court shall direct
 101 remission of the forfeiture. The court shall condition a
 102 discharge or remission on the payment of costs and the expenses
 103 incurred by an official in returning the defendant to the
 104 jurisdiction of the court.

105 (b) Failure of the state attorney to institute extradition
 106 proceedings or extradite the principal on a bail bond after the
 107 surety has agreed in writing to pay actual transportation costs
 108 shall exonerate the surety, and any forfeiture or judgment shall
 109 be set aside or vacated and any payment by the surety of a
 110 forfeiture or judgment shall be remitted in full.

111 Section 5. Subsection (1) of section 903.27, Florida
 112 Statutes, is amended to read:

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113 903.27 Forfeiture to judgment.--

114 (1) If the forfeiture is not paid or discharged by order

115 of a court of competent jurisdiction within 60 days and the bond

116 is secured other than by money and bonds authorized in s.

117 903.16, the clerk of the circuit court for the county where the

118 order was made shall enter a judgment against the surety for the

119 amount of the penalty and issue execution. However, in any case

120 in which the bond forfeiture has been discharged by the court of

121 competent jurisdiction conditioned upon the payment by the

122 surety of certain costs or fees as allowed by statute, the

123 amount for which judgment may be entered may not exceed the

124 amount of the unpaid fees or costs upon which the discharge had

125 been conditioned. Judgment for the full amount of the forfeiture

126 shall not be entered if payment of a lesser amount will satisfy

127 the conditions to discharge the forfeiture. Within 10 days, the

128 clerk shall furnish the Department of Financial Services and the

129 Office of Insurance Regulation of the Financial Services

130 Commission with a certified copy of the judgment docket and

131 shall furnish the surety company at its home office a copy of

132 the judgment, which shall include the power of attorney number

133 of the bond and the name of the executing agent. If the judgment

134 is not paid within 35 days, the clerk shall furnish the

135 Department of Financial Services, the Office of Insurance

136 Regulation, and the sheriff of the county in which the bond was

137 executed, or the official responsible for operation of the

138 county jail, if other than the sheriff, two copies of the

139 judgment and a certificate stating that the judgment remains

140 unsatisfied. When and if the judgment is properly paid or an

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141 order to vacate the judgment has been entered by a court of
142 competent jurisdiction, the clerk shall immediately notify the
143 sheriff, or the official responsible for the operation of the
144 county jail, if other than the sheriff, and the Department of
145 Financial Services and the Office of Insurance Regulation, if
146 the department and office had been previously notified of
147 nonpayment, of such payment or order to vacate the judgment. The
148 clerk shall also immediately prepare and record in the public
149 records a satisfaction of the judgment or record the order to
150 vacate judgment. If the defendant is returned to the county of
151 jurisdiction of the court, whenever a motion to set aside the
152 judgment is filed, the operation of this section is tolled until
153 the court makes a disposition of the motion.

154 Section 6. Section 903.31, Florida Statutes, is amended to
155 read:

156 903.31 Canceling the bond.--

157 (1) Within 10 business days after the conditions of a bond
158 have been satisfied or the forfeiture discharged or remitted,
159 ~~the court shall order~~ the bond shall be canceled and, if the
160 surety has attached a certificate of cancellation to the
161 original bond, the clerk of the court shall furnish an executed
162 certificate of cancellation to the surety without cost. An
163 adjudication of guilt or innocence of the defendant shall
164 satisfy the conditions of the bond. The original appearance bond
165 shall expire 36 months after such bond has been posted for the
166 release of the defendant from custody. This subsection does not
167 apply to cases in which a bond has been declared forfeited.

168 (2) The original appearance bond does ~~shall~~ not be

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169 ~~construed to~~ guarantee deferred sentences, appearance during or
 170 after a presentence investigation, appearance during or after
 171 appeals, ~~conduct during or appearance after admission to a~~
 172 ~~pretrial intervention program,~~ payment of fines, or attendance
 173 at educational or rehabilitation facilities the court otherwise
 174 provides in the judgment. If the original appearance bond has
 175 been forfeited or revoked, the bond shall not be reinstated
 176 without approval from the surety on the original bond.

177 (3) The original appearance bond does not guarantee the
 178 defendant's conduct or appearance in court at any time after:

179 (a) The defendant enters a plea of guilty or nolo
 180 contendere;

181 (b) The defendant enters into an agreement for deferred
 182 prosecution or agrees to enter a pretrial intervention program;

183 (c) The defendant is acquitted;

184 (d) The defendant is adjudicated guilty;

185 (e) Adjudication of guilt of the defendant is withheld; or

186 (f) The defendant is found guilty by a judge or jury.

187 (4)~~(3)~~ In any case where no formal charges have been
 188 brought against the defendant within 365 days after arrest, the
 189 court shall order the bond canceled unless good cause is shown
 190 by the state.

191 Section 7. This act shall take effect October 1, 2006.