

1 A bill to be entitled
2 An act relating to pretrial release programs; creating s.
3 907.043, F.S.; creating the "Citizens' Right-to-Know Act";
4 defining the terms "nonsecured release," "pretrial release
5 program," "register," and "secured release"; requiring
6 each pretrial release program to prepare a register
7 displaying information relevant to the defendants released
8 through such a program; requiring that a copy of the
9 register be located at the office of the clerk of the
10 circuit court in the county where the program is located
11 and readily accessible to the public; specifying the
12 contents of the register; requiring each pretrial release
13 program to submit an annual report to the Office of the
14 State Court Administrator and to the clerk of the circuit
15 court by a specified date; specifying the content of the
16 annual report; providing penalties for noncompliance by
17 the pretrial release program; amending s. 903.011, F.S.;
18 providing requirements for the form of bail or bond
19 required for release from detention; amending s. 903.09,
20 F.S.; providing that the requirements and conditions
21 applicable to surety bonds apply to cash bond deposits;
22 amending s. 903.286, F.S.; requiring that all cash bond
23 forms prominently display a notice explaining that cash
24 funds are subject to forfeiture and withholding by the
25 clerk of the court for the payment of court fees, court
26 costs, and criminal penalties on behalf of the criminal
27 defendant regardless of who posted the funds; providing an
28 effective date.

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

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

Section 1. Section 907.043, Florida Statutes, is created to read:

907.043 Pretrial release; citizens' right to know.--

(1) This section may be cited as the "Citizens' Right-to-Know Act."

(2) As used in this section, the term:

(a) "Nonsecured release" means the release of a defendant from pretrial custody when no secured surety or cash bond is required as a condition of the release.

(b) "Pretrial release program" means an entity, public or private, that conducts investigations of pretrial detainees, makes pretrial release recommendations to a court, and electronically monitors and supervises pretrial defendants.

(c) "Register" means a public record prepared by a pretrial release program which furnishes specified data and is readily available to the public at the office of the clerk of the circuit court.

(d) "Secured release" means the release of a defendant from pretrial custody with a financial guarantee, such as cash or a surety bond, required as a condition of the release.

(3) (a) Each pretrial release program must prepare a register displaying information that is relevant to the defendants released through such a program. A copy of the register must be located at the office of the clerk of the

HB 1441

2008

56 circuit court in the county where the program is located and
57 must be readily accessible to the public.

58 (b) The register must be updated weekly and display
59 accurate data regarding the following information:

60 1. The name, location, and funding source of the pretrial
61 release program.

62 2. The number of defendants assessed and interviewed for
63 pretrial release.

64 3. The number of indigent defendants assessed and
65 interviewed for pretrial release.

66 4. The names and number of defendants accepted into the
67 pretrial release program.

68 5. The names and number of indigent defendants accepted
69 into the pretrial release program.

70 6. The charges filed against and the case numbers of
71 defendants accepted into the pretrial release program.

72 7. The nature of any prior criminal conviction of a
73 defendant accepted into the pretrial release program.

74 8. The court appearances required of defendants accepted
75 into the pretrial release program.

76 9. The date of each defendant's failure to appear for a
77 scheduled court appearance.

78 10. The number of warrants, if any, which have been issued
79 for a defendant's arrest for failing to appear at a scheduled
80 court appearance.

81 11. The number and type of program noncompliance
82 infractions committed by a defendant in the pretrial release

83 program and whether the pretrial release program recommended
84 that the court revoke the defendant's release.

85 (4) (a) No later than March 31 of every year, each pretrial
86 release program must submit an annual report for the previous
87 calendar year to the Office of the State Court Administrator and
88 to the clerk of the circuit court in the county where the
89 pretrial release program is located. The annual report must be
90 readily accessible to the public.

91 (b) The annual report must contain, but need not be
92 limited to:

93 1. The name, location, and funding sources of the pretrial
94 release program, including the amount of public funds, if any,
95 received by the pretrial release program.

96 2. The operating and capital budget of each pretrial
97 release program receiving public funds.

98 3. The percentage of the total budget representing receipt
99 of public funds.

100 4. The number of persons employed by the pretrial release
101 program.

102 5. The number of defendants assessed and interviewed for
103 pretrial release.

104 6. The number of defendants recommended for pretrial
105 release.

106 7. The number of defendants for whom the pretrial release
107 program recommended against nonsecured release.

108 8. The number of defendants granted nonsecured release
109 after the pretrial release program recommended nonsecured
110 release.

HB 1441

2008

111 9. The number of defendants assessed and interviewed for
112 pretrial release who were declared indigent by the court.

113 10. The name and case number of each person granted
114 nonsecured release who:

115 a. Failed to attend a scheduled court appearance.

116 b. Was issued a warrant for failing to appear.

117 c. Was arrested for any offense while on release through
118 the pretrial release program.

119 11. Any additional information deemed necessary by the
120 chief judge of the circuit court of the county or the Office of
121 the State Court Administrator to assess the performance and cost
122 efficiency of the pretrial release program.

123 (c) The annual report must disclose the percentage of the
124 pretrial release program's budget which is allocated to
125 assisting defendants obtain release through a nonpublicly funded
126 program.

127 (d) The amount of fees paid by defendants to the pretrial
128 release program.

129 (5) If the chief judge of the circuit court finds that the
130 pretrial release program has not maintained the register or
131 filed an annual report as required by this section, the chief
132 judge shall:

133 (a) For a first occurrence of noncompliance, require the
134 pretrial release program to immediately prepare a written report
135 explaining the noncompliance and what measures will be taken to
136 bring the pretrial release program into compliance and the date
137 by which the noncompliance will be cured.

138 (b) For a second or subsequent occurrence of
 139 noncompliance, order the pretrial release program to show why it
 140 should not be held in contempt for its continued noncompliance.
 141 If the pretrial release program cannot justify the continued
 142 noncompliance, the chief judge may order the program to reduce
 143 its budget by 25 percent if it is a pretrial release program
 144 receiving public funds and, if the pretrial release program is a
 145 private entity, immediately cancel all pretrial release
 146 contracts.

147 Section 2. Section 903.011, Florida Statutes, is amended
 148 to read:

149 903.011 "Bail" and "bond" defined; general terms.--

150 (1) As used in this chapter, the terms "bail" and "bond"
 151 include any and all forms of pretrial release.

152 (2) Any monetary or cash component of any form of pretrial
 153 release may be met by a surety bond.

154 (3) Differing monetary amounts may not be set for cash,
 155 surety, or other forms of pretrial release.

156 Section 3. Subsection (2) of section 903.09, Florida
 157 Statutes, is amended to read:

158 903.09 Justification of sureties.--

159 (2) A bond agent, as defined in s. 648.25(2), shall
 160 justify her or his suretyship by attaching a copy of the power
 161 of attorney issued by the company to the bond or by attaching to
 162 the bond United States currency, a United States postal money
 163 order, or a cashier's check in the amount of the bond; but the
 164 United States currency, United States postal money order, or
 165 cashier's check cannot be used to secure more than one bond.

HB 1441

2008

166 These requirements and conditions apply also to cash bond
 167 deposits. This section does not ~~Nothing herein shall~~ prohibit
 168 two or more qualified sureties from each posting any portion of
 169 a bond amount, and being liable for only that amount, so long as
 170 the total posted by all cosureties is equal to the amount of
 171 bond required.

172 Section 4. Section 903.286, Florida Statutes, is amended
 173 to read:

174 903.286 Return of cash bond; requirement to withhold
 175 unpaid fines, fees, and court costs; cash bond forms.--

176 (1) Notwithstanding the provisions of s. 903.31(2), the
 177 clerk of the court shall withhold from the return of a cash bond
 178 posted on behalf of a criminal defendant by a person other than
 179 a bail bond agent licensed pursuant to chapter 648 sufficient
 180 funds to pay any unpaid court fees, court costs, and criminal
 181 penalties. ~~If In the event that~~ sufficient funds are not
 182 available to pay all unpaid court fees, court costs, and
 183 criminal penalties, the clerk of the court shall immediately
 184 obtain payment from the defendant or enroll the defendant in a
 185 payment plan pursuant to s. 28.246.

186 (2) All cash bond forms used in conjunction with the
 187 requirements of s. 903.09(2) must prominently display a notice
 188 explaining that all funds are subject to forfeiture and
 189 withholding by the clerk of the court for the payment of court
 190 fees, court costs, and criminal penalties on behalf of the
 191 criminal defendant regardless of who posted the funds.

192 Section 5. This act shall take effect July 1, 2008.