

By Senator Crist

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

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

34 907.043 Pretrial release; citizens' right to know.--

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

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

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

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

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

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

52 (3) (a) Each pretrial release program must prepare a
53 register displaying information that is relevant to the
54 defendants released through such a program. A copy of the
55 register must be located at the office of the clerk of the
56 circuit court in the county where the program is located and must
57 be readily accessible to the public.

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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 that
84 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

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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 limited
92 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.

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.

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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 assisting
125 defendants obtain release through a nonpublicly funded program.

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

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

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

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

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145 Section 2. Section 903.011, Florida Statutes, is amended to
146 read:

147 903.011 "Bail" and "bond" defined; general terms.--

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

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

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

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

156 903.09 Justification of sureties.--

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

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

170 Section 4. Section 903.286, Florida Statutes, is amended to
171 read:

172 903.286 Return of cash bond; requirement to withhold unpaid
173 fines, fees, ~~and~~ court costs; cash bond forms.--

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

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

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