

By the Committee on Judiciary; and Senator Crist

590-07903-08

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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 Courts 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. 903.286,  
20 F.S.; requiring that all cash bond forms prominently  
21 display a notice explaining that cash funds are subject to  
22 forfeiture and withholding by the clerk of the court for  
23 the payment of court fees, court costs, and criminal  
24 penalties on behalf of the criminal defendant regardless  
25 of who posted the funds; providing an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:  
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29 Section 1. Section 907.043, Florida Statutes, is created to  
30 read:

31 907.043 Pretrial release; citizens' right to know.--

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

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

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

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

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

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

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

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

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57 1. The name, location, and funding source of the pretrial  
58 release program.

59 2. The number of defendants assessed and interviewed for  
60 pretrial release.

61 3. The number of indigent defendants assessed and  
62 interviewed for pretrial release.

63 4. The names and number of defendants accepted into the  
64 pretrial release program.

65 5. The names and number of indigent defendants accepted  
66 into the pretrial release program.

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

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

71 8. The court appearances required of defendants accepted  
72 into the pretrial release program.

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

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

78 11. The number and type of program noncompliance  
79 infractions committed by a defendant in the pretrial release  
80 program and whether the pretrial release program recommended that  
81 the court revoke the defendant's release.

82 (4) (a) No later than March 31 of every year, each pretrial  
83 release program must submit an annual report for the previous  
84 calendar year to the Office of the State Courts Administrator and  
85 to the clerk of the circuit court in the county where the

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86 pretrial release program is located. The annual report must be  
87 readily accessible to the public.

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

90 1. The name, location, and funding sources of the pretrial  
91 release program, including the amount of public funds, if any,  
92 received by the pretrial release program.

93 2. The operating and capital budget of each pretrial  
94 release program receiving public funds.

95 3.a. The percentage of the pretrial release program's total  
96 budget representing receipt of public funds.

97 b. The percentage of the total budget which is allocated to  
98 assisting defendants obtain release through a nonpublicly funded  
99 program.

100 c. The amount of fees paid by defendants to the pretrial  
101 release program.

102 4. The number of persons employed by the pretrial release  
103 program.

104 5. The number of defendants assessed and interviewed for  
105 pretrial release.

106 6. The number of defendants recommended for pretrial  
107 release.

108 7. The number of defendants for whom the pretrial release  
109 program recommended against nonsecured release.

110 8. The number of defendants granted nonsecured release  
111 after the pretrial release program recommended nonsecured  
112 release.

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

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115       10. The name and case number of each person granted  
116 nonsecured release who:

117           a. Failed to attend a scheduled court appearance.

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

119           c. Was arrested for any offense while on release through  
120 the pretrial release program.

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

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

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

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

142       Section 2. Section 903.011, Florida Statutes, is amended to  
143 read:

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144 903.011 "Bail" and "bond" defined; general terms.--

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

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

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

151 Section 3. Section 903.286, Florida Statutes, is amended to  
152 read:

153 903.286 Return of cash bond; requirement to withhold unpaid  
154 fines, fees, ~~and~~ court costs; cash bond forms.--

155 (1) Notwithstanding ~~the provisions of~~ s. 903.31(2), the  
156 clerk of the court shall withhold from the return of a cash bond  
157 posted on behalf of a criminal defendant by a person other than a  
158 bail bond agent licensed pursuant to chapter 648 sufficient funds  
159 to pay any unpaid court fees, court costs, and criminal  
160 penalties. ~~If in the event that~~ sufficient funds are not  
161 available to pay all unpaid court fees, court costs, and criminal  
162 penalties, the clerk of the court shall immediately obtain  
163 payment from the defendant or enroll the defendant in a payment  
164 plan pursuant to s. 28.246.

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

171 Section 4. This act shall take effect July 1, 2008.