

HB 445

2010

1                   A bill to be entitled  
2           An act relating to pretrial detention and release;  
3           amending s. 907.041, F.S.; requiring all pretrial release  
4           programs established by an ordinance of a county  
5           commission, by an administrative order of a court, or by  
6           any other means to facilitate the release of defendants  
7           from pretrial custody to conform to the policies and  
8           restrictions established in the act; requiring that the  
9           defendant meet certain specified criteria in order to be  
10          eligible for pretrial release; requiring that the pretrial  
11          release program certify in writing that the defendant  
12          satisfies each requirement for eligibility; requiring the  
13          court to determine whether a defendant is eligible to  
14          participate in the pretrial release program after  
15          reviewing certain reports; requiring that the pretrial  
16          release program notify each defendant of the time and  
17          place of each required court appearance; providing that  
18          the act does not prohibit a court from releasing a  
19          defendant on the defendant's own recognizance; prohibiting  
20          the assessment of any fee or charge against a released  
21          defendant other than those authorized by state law;  
22          providing an effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Subsection (5) is added to section 907.041,  
27   Florida Statutes, to read:

28           907.041 Pretrial detention and release.—

29 (5) PRETRIAL RELEASE PROGRAMS.—

30 (a) A pretrial release program established by ordinance of  
 31 the county commission, by administrative order of the court, or  
 32 by any other means, enacted or established to facilitate the  
 33 release of defendants from pretrial custody, is subject to the  
 34 policies and restrictions established in this subsection.

35 (b) A defendant is eligible to participate in a pretrial  
 36 release program only if the defendant is charged with a  
 37 misdemeanor or is charged with a felony that is not a dangerous  
 38 crime, as defined in subsection (4), and:

39 1. Has no history of failing to appear at any court  
 40 proceeding;

41 2. Is not, at the time of the arrest, subject to or on  
 42 probation for another charge and is not facing charges for  
 43 another crime anywhere in this state;

44 3. Has no prior convictions involving violence. For  
 45 purposes of this subsection with respect to any prior  
 46 conviction, if adjudication was withheld by the sentencing  
 47 court, the withheld adjudication is deemed a conviction;

48 4. Satisfies any other limitation upon eligibility for  
 49 release which is in addition to those in this subsection,  
 50 whether established by the board of county commissioners or the  
 51 court; and

52 5. Is indigent as defined in Rule 3.111, Florida Rules of  
 53 Criminal Procedure.

54 (c) The pretrial release program must certify in writing  
 55 to the court that the defendant satisfies each requirement of  
 56 eligibility which is set forth in paragraph (b) before a

HB 445

2010

57 determination is made concerning the defendant's eligibility for  
58 placement in the pretrial release program.

59 (d) If a defendant seeks to post a surety bond pursuant to  
60 a bond schedule established by the administrative order, he or  
61 she must do so without any interaction with, or restriction by,  
62 the pretrial release program.

63 (e) The court shall determine whether the defendant is  
64 eligible to participate in the pretrial release program after  
65 the pretrial release program evaluates the defendant's  
66 eligibility and reports its findings to the court.

67 (f) The pretrial release program shall notify every  
68 defendant released under this subsection of the times and places  
69 at which he or she is required to appear before the court.

70 (g) This subsection does not prohibit a court from  
71 releasing a defendant on the defendant's own recognizance.

72 (h) A defendant who is released pursuant to a pretrial  
73 release program may not be assessed any fee or charge other than  
74 those authorized by state law.

75 Section 2. This act shall take effect July 1, 2010.