

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 ordinance of a county commission,
5 by administrative order of a court, or by any other means
6 to facilitate the release of defendants from pretrial
7 custody to conform to the policies and restrictions
8 established in the act; preempting local ordinances,
9 orders, or practices; requiring that the defendant meet
10 certain specified criteria in order to be eligible for
11 pretrial release; requiring that the pretrial release
12 program certify in writing that the defendant satisfies
13 each requirement for eligibility; requiring the court to
14 determine whether a defendant is eligible to participate
15 in the pretrial release program after reviewing certain
16 reports; requiring that the pretrial release program
17 notify each defendant of the time and place of each
18 required court appearance; providing that the act does not
19 prohibit a court from releasing a defendant on the
20 defendant's own recognizance; providing that the act does
21 not prohibit a court from imposing any other reasonable
22 condition of release; prohibiting a pretrial release
23 program from charging a defendant any administrative fees;
24 providing that a pretrial release program may charge a
25 defendant fees for services that have been ordered by the
26 court; providing that a defendant may participate in
27 pretrial release programs if the defendant qualifies for
28 drug court, mental health court, or other similar

29 programs; amending s. 907.043, F.S.; providing that
 30 pretrial release program registers be updated monthly
 31 rather than weekly; providing an effective date.

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

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35 Section 1. Subsection (5) is added to section 907.041,
 36 Florida Statutes, to read:

37 907.041 Pretrial detention and release.—

38 (5) PRETRIAL RELEASE PROGRAMS.—

39 (a) A pretrial release program established by ordinance of
 40 the county commission, by administrative order of the court, or
 41 by any other means enacted or established to facilitate the
 42 release of defendants from pretrial custody is subject to the
 43 policies and restrictions established in this subsection which
 44 supersedes and preempts all local ordinances, orders, or
 45 practices.

46 (b) A defendant is eligible to participate in a pretrial
 47 release program only by order of a court if the defendant:

48 1. Is not charged with a capital, life, or a first degree
 49 felony offense;

50 2. Has not, within the past year, willfully failed to
 51 appear at any court proceeding;

52 3. Is not, at the time of the arrest, subject to or on
 53 probation for another charge and is not facing charges for
 54 another crime anywhere in this state;

55 4. Has no prior convictions involving violence; and

56 5. Satisfies any other limitation upon eligibility for

57 release which is in addition to those in this subsection,
58 whether established by the board of county commissioners or the
59 court.

60 (c) The pretrial release program must certify in writing
61 to the court that the defendant satisfies each requirement of
62 eligibility in paragraph (b) before a determination is made
63 concerning the defendant's eligibility for placement in the
64 pretrial release program.

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

69 (e) The court shall determine whether the defendant is
70 eligible to participate in the pretrial release program after
71 the pretrial release program evaluates the defendant's
72 eligibility and certifies its findings to the court.

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

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

78 (h) This subsection does not prohibit a court from
79 imposing any reasonable conditions of release, including, but
80 not limited to, electronic monitoring, drug testing, substance
81 abuse treatment, and domestic violence counseling. A court may
82 order the defendant pay for any services ordered as a condition
83 of release.

84 (i) A pretrial release program may not charge a defendant

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85 who is participating in the program any fees other than those
86 authorized by state law. However, a pretrial release program may
87 charge a defendant fees for electronic monitoring, drug testing,
88 substance abuse treatment, and other services that have been
89 ordered by the court as a condition of release prior to trial.

90 (j) A court may order a defendant who does not meet the
91 eligibility criteria in paragraph (b) to participate in a
92 pretrial release program if the defendant is eligible under
93 state law to participate in a drug court program, mental health
94 court program, or a prison diversion program established under
95 s. 921.00241.

96 Section 2. Subsection (3) of section 907.043, Florida
97 Statutes, is amended to read

98 907.043 Pretrial release; citizens' right to know.—

99 (3) (a) Each pretrial release program must prepare a
100 register displaying information that is relevant to the
101 defendants released through such a program. A copy of the
102 register must be located at the office of the clerk of the
103 circuit court in the county where the program is located and
104 must be readily accessible to the public.

105 (b) The register must be updated monthly ~~weekly~~ and
106 display accurate data regarding the following information:

107 1. The name, location, and funding source of the pretrial
108 release program.

109 2. The number of defendants assessed and interviewed for
110 pretrial release.

111 3. The number of indigent defendants assessed and
112 interviewed for pretrial release.

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113 4. The names and number of defendants accepted into the
114 pretrial release program.

115 5. The names and number of indigent defendants accepted
116 into the pretrial release program.

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

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

121 8. The court appearances required of defendants accepted
122 into the pretrial release program.

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

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

128 11. The number and type of program noncompliance
129 infractions committed by a defendant in the pretrial release
130 program and whether the pretrial release program recommended
131 that the court revoke the defendant's release.

132 Section 3. This act shall take effect October 1, 2010.