

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 every pretrial release
10 program to provide the first appearance court all
11 pertinent information about the defendant, including the
12 defendant's ability to pay for a surety appearance bond;
13 requiring that the defendant meet certain specified
14 criteria in order to be eligible for pretrial release;
15 requiring that the pretrial release program certify in
16 writing that the defendant satisfies each requirement for
17 eligibility; requiring the court to determine whether a
18 defendant is eligible to participate in the pretrial
19 release program after reviewing certain reports; requiring
20 that the pretrial release program notify each defendant of
21 the time and place of each required court appearance;
22 providing that the act does not prohibit a court from
23 releasing a defendant on the defendant's own recognizance;
24 providing that the act does not prohibit a court from
25 imposing any other reasonable condition of release;
26 prohibiting a pretrial release program from charging a
27 defendant any administrative fees; providing that a
28 pretrial release program may charge a defendant fees for

29 | services that have been ordered by the court; providing
 30 | that a defendant may participate in pretrial release
 31 | programs if the defendant qualifies for drug court, mental
 32 | health court, or other similar programs; amending s.
 33 | 907.043, F.S.; providing that pretrial release program
 34 | registers be updated monthly rather than weekly; providing
 35 | an effective date.

36 |

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

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39 | Section 1. Subsection (5) is added to section 907.041,
 40 | Florida Statutes, to read:

41 | 907.041 Pretrial detention and release.—

42 | (5) PRETRIAL RELEASE PROGRAMS.—

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

50 | (b) Every pretrial release program shall provide the first
 51 | appearance court all pertinent information about the defendant,
 52 | including the defendant's ability to pay for a surety appearance
 53 | bond, so that the court may determine the defendant's conditions
 54 | of release. A defendant is eligible to participate in a pretrial
 55 | release program by order of the court only if the court finds
 56 | that the defendant does not have the ability to pay or arrange

57 for the posting of a surety appearance bond, and if the
58 defendant:

59 1. Is not charged with a capital, life, or first degree
60 felony;

61 2. Subject to the limitations of s. 903.046(2)(d), has not
62 failed to appear at any court proceedings within the 12 months
63 preceding the current arrest;

64 3. Is not, at the time of the arrest, on probation for
65 another charge and is not facing charges for another crime in
66 this state;

67 4. Has no prior convictions involving violence; and

68 5. Satisfies any other limitation upon eligibility for
69 release which is in addition to those in this subsection,
70 whether established by the board of county commissioners or the
71 court.

72 (c) The pretrial release program must certify in writing
73 to the court that the defendant satisfies each requirement of
74 eligibility in paragraph (b) before a determination is made
75 concerning the defendant's eligibility for placement in the
76 pretrial release program.

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

81 (e) The court shall determine whether the defendant is
82 eligible to participate in the pretrial release program after
83 the pretrial release program evaluates the defendant's
84 eligibility and certifies its findings to the court.

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

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

90 (h) This subsection does not prohibit a court from
 91 imposing any reasonable conditions of release, including, but
 92 not limited to, electronic monitoring, drug testing, substance
 93 abuse treatment, and domestic violence counseling. A court may
 94 order the defendant pay for any services ordered as a condition
 95 of release.

96 (i) A pretrial release program may not charge a defendant
 97 who is participating in the program any fees other than those
 98 authorized by state law. However, a pretrial release program may
 99 charge a defendant fees for electronic monitoring, drug testing,
 100 substance abuse treatment, and other services that have been
 101 ordered by the court as a condition of release prior to trial.

102 (j) A court may order a defendant who does not meet the
 103 eligibility criteria in paragraph (b) to participate in a
 104 pretrial release program if the defendant is eligible under
 105 state law to participate in a drug court program, mental health
 106 court program, or a prison diversion program established under
 107 s. 921.00241.

108 Section 2. Subsection (3) of section 907.043, Florida
 109 Statutes, is amended to read:

110 907.043 Pretrial release; citizens' right to know.—

111 (3) (a) Each pretrial release program must prepare a
 112 register displaying information that is relevant to the

113 defendants released through such a program. A copy of the
114 register must be located at the office of the clerk of the
115 circuit court in the county where the program is located and
116 must be readily accessible to the public.

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

119 1. The name, location, and funding source of the pretrial
120 release program.

121 2. The number of defendants assessed and interviewed for
122 pretrial release.

123 3. The number of indigent defendants assessed and
124 interviewed for pretrial release.

125 4. The names and number of defendants accepted into the
126 pretrial release program.

127 5. The names and number of indigent defendants accepted
128 into the pretrial release program.

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

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

133 8. The court appearances required of defendants accepted
134 into the pretrial release program.

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

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

140 11. The number and type of program noncompliance

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141 | infractions committed by a defendant in the pretrial release
142 | program and whether the pretrial release program recommended
143 | that the court revoke the defendant's release.

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