



668264

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/26/2010	.	
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The Committee on Criminal Justice (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

907.041 Pretrial detention and release.-

(5) (a) PRETRIAL RELEASE PROGRAMS.-A pretrial release program established by ordinance of the county commission, by administrative order of the court, or by any other means, which is enacted or established to facilitate the release of



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13 defendants from pretrial custody, is subject to the policies and
14 restrictions established in this subsection which supersede and
15 preempt all local ordinances, orders, or practices.

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

18 1. Is not charged with a with a capital, life, or first
19 degree felony;

20 2. Has not failed to appear at any court proceeding within
21 the preceding 12 months of the current arrest;

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

25 4. Has no prior convictions involving violence;

26 5. Satisfies any other limitation upon eligibility for
27 release which is in addition to those in this subsection,
28 whether established by the board of county commissioners or the
29 court; and

30 6. Is indigent as defined in Rule 3.111, Florida Rules of
31 Criminal Procedure and s. 27.52.

32 (c) The pretrial release program must certify in writing to
33 the court that the defendant satisfies each requirement of
34 eligibility which is set forth in paragraph (b) before a
35 determination is made concerning the defendant's eligibility for
36 placement in the pretrial release program.

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

41 (e) The court shall determine whether the defendant is



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42 eligible to participate in the pretrial release program after
43 the pretrial release program evaluates the defendant's
44 eligibility and certifies its findings to the court.

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

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

50 (h) A defendant who is released pursuant to a pretrial
51 release program may not be assessed any fee or charge other than
52 those authorized by state law. However, the court may assess
53 fees for electronic monitoring services and other services that
54 have been ordered as a condition of release prior to trial.

55 (i) This subsection does not prohibit a court from
56 requiring compliance with any reasonable condition of release,
57 including, but not limited to, electronic monitoring or domestic
58 violence counseling or participation in drug court, mental
59 health court, or a similar program.

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

61
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:

64 Delete everything before the enacting clause
65 and insert:

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67 A bill to be entitled
68 An act relating to pretrial detention and release;
69 amending s. 907.041, F.S.; requiring programs
70 established by an ordinance of a county commission, by



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71 an administrative order of a court, or by any other
72 means to facilitate the release of defendants from
73 pretrial custody to conform to the policies and
74 restrictions established in the act; providing that
75 the state's policies preempt local ordinances;
76 providing specified criteria for a defendant to be
77 eligible for pretrial release; requiring a pretrial
78 release program to certify in writing that the
79 defendant satisfies each eligibility criteria;
80 requiring the court to determine whether a defendant
81 is eligible to participate in the pretrial release
82 program after reviewing certain reports; requiring the
83 pretrial release program to notify each defendant of
84 the time and place of each required court appearance;
85 providing that a court is not precluded from releasing
86 a defendant on the defendant's own recognizance;
87 providing that the act does not prohibit a court from
88 requiring compliance with any other reasonable
89 condition of release; prohibiting the assessment of
90 any fee or charge against a released defendant other
91 than those authorized by law; providing an exception;
92 providing an effective date.