



LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
05/18/2011	.	
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The Committee on Judiciary (Bogdanoff) recommended the following:

1           **Senate Amendment to Amendment (332504) (with title**  
2 **amendment)**

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4           Delete line 254  
5 and insert:

6           Section 25. Eligibility criteria for government-funded  
7 pretrial release.-

8           (1) It is the policy of this state that only defendants who  
9 are indigent and therefore qualify for representation by the  
10 public defender are eligible for government-funded pretrial  
11 release. Further, it is the policy of this state that, to the  
12 greatest extent possible, the resources of the private sector be



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13 used to assist in the pretrial release of defendants. It is the  
14 intent of the Legislature that this section not be interpreted  
15 to limit the discretion of courts with respect to ordering  
16 reasonable conditions for pretrial release for any defendant.  
17 However, it is the intent of the Legislature that government-  
18 funded pretrial release be ordered only as an alternative to  
19 release on a defendant's own recognizance or release by the  
20 posting of a surety bond.

21 (2) A pretrial release program established by an ordinance  
22 of the county commission, an administrative order of the court,  
23 or by any other means in order to assist in the release of  
24 defendants from pretrial custody is subject to the eligibility  
25 criteria set forth in this section. These eligibility criteria  
26 supersede and preempt all conflicting local ordinances, orders,  
27 or practices. Each pretrial release program shall certify  
28 annually, in writing, to the chief circuit court judge, that it  
29 has complied with the reporting requirements of s. 907.043(4),  
30 Florida Statutes.

31 (3) A defendant is eligible to receive government-funded  
32 pretrial release only by order of the court after the court  
33 finds in writing upon consideration of the defendant's affidavit  
34 of indigence that the defendant is indigent or partially  
35 indigent as set forth in Rule 3.111, Florida Rules of Criminal  
36 Procedure, and that the defendant has not previously failed to  
37 appear at any required court proceeding. A defendant may not  
38 receive a government-funded pretrial release if the defendant's  
39 income is above 300 percent of the then-current federal poverty  
40 guidelines prescribed for the size of the household of the  
41 defendant by the United States Department of Health and Human



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42 Services, unless the defendant is receiving Temporary Assistance  
43 for Needy Families-Cash Assistance, poverty-related veterans'  
44 benefits, Supplemental Security Income (SSI), food stamps, or  
45 Medicaid.

46 (4) If a defendant seeks to post a surety bond pursuant to  
47 a bond schedule established by administrative order as an  
48 alternative to government-funded pretrial release, the defendant  
49 shall be permitted to do so without any interference or  
50 restriction by a pretrial release program.

51 (5) This section does not prohibit the court from:

52 (a) Releasing a defendant on the defendant's own  
53 recognizance.

54 (b) Imposing upon the defendant any additional reasonable  
55 condition of release as part of release on the defendant's own  
56 recognizance or the posting of a surety bond upon a finding of  
57 need in the interest of public safety, including, but not  
58 limited to, electronic monitoring, drug testing, substance abuse  
59 treatment, or attending a batterers' intervention program.

60 (6) In lieu of using a government-funded program to ensure  
61 the court appearance of any defendant, a county may reimburse a  
62 licensed surety agent for the premium costs of a surety bail  
63 bond that secures the appearance of an indigent defendant at all  
64 court proceedings if the court establishes a bail bond amount  
65 for the indigent defendant.

66 (7) A defendant who is not otherwise eligible for  
67 government-funded pretrial release under subsection (3) is  
68 eligible for government-funded pretrial release 48 hours after  
69 the defendant's arrest.

70 (8) The income eligibility limitations applicable to



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71 government-funded pretrial release programs apply only to those  
72 counties with a population equal to or greater than 350,000  
73 persons.

74 (9) This section does not prohibit a law enforcement  
75 officer or a code enforcement officer authorized under s.  
76 162.23, Florida Statutes, from issuing a notice to appear in  
77 lieu of jail.

78 Section 26. (1) Sections 1 through 24 of this act shall  
79 take effect January 1, 2012.

80 (2) Section 25 of this act pertaining to government-funded  
81 pretrial release shall take effect October 1, 2011.

82 Section 27. Except as otherwise expressly provided in this  
83 act, this act shall take effect October 1, 2011.

84  
85 ===== T I T L E A M E N D M E N T =====

86 And the title is amended as follows:

87 Delete lines 323 - 324

88 and insert:

89 provisions to changes made by the act; providing state  
90 policy and legislative intent; requiring each pretrial  
91 release program established by ordinance of a county  
92 commission, by administrative order of a court, or by  
93 any other means in order to assist in the release of a  
94 defendant from pretrial custody to conform to the  
95 eligibility criteria set forth in the act; preempting  
96 any conflicting local ordinances, orders, or  
97 practices; requiring that the defendant satisfy  
98 certain eligibility criteria in order to be assigned  
99 to a pretrial release program; providing that the act



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100 does not prohibit a court from releasing a defendant  
101 on the defendant's own recognizance or imposing any  
102 other reasonable condition of release on the  
103 defendant; authorizing a county to reimburse a  
104 licensed surety agent for the premium costs of a bail  
105 bond for the pretrial release of an indigent defendant  
106 under certain circumstances; providing that a  
107 defendant who is not otherwise eligible for  
108 government-funded pretrial release becomes eligible  
109 for government-funded pretrial release 48 hours after  
110 the defendant's arrest; providing that the income  
111 eligibility limitations applicable to government-  
112 funded pretrial release programs apply only to certain  
113 specified counties; providing that the act does not  
114 prohibit a law enforcement officer or a code  
115 enforcement officer from issuing a notice to appear in  
116 certain conditions; providing effective dates.