The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL:	SB 372
INTRODUCER:	Senator Bogdanoff
SUBJECT:	Pretrial Programs
DATE:	March 15, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Pre-meeting**
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

Senate Bill 372 creates an undesignated new section of Florida Statutes that would implement statutory eligibility criteria for defendants admitted to the county pretrial release programs.

The bill sets forth a state policy that only indigent defendants who qualify for the appointment of the public defender are eligible for participation in pretrial release programs.

The policy that private entities be used to assist defendants in pretrial release, to the greatest possible extent, is also set forth in the bill

The bill expresses the intent of the Legislature that the bill not be interpreted to restrict courts from placing reasonable conditions on a defendant who is being released from custody by the court.

The state requires locally-created pretrial release programs to adhere to the indigency eligibility requirement of the bill and preempts all conflicting local ordinances, practices, or (court) orders.

The court must find a defendant indigent, in writing, pursuant to the procedures set forth in Florida Rule of Criminal Procedure 3.111, and order that the defendant is eligible to participate in a pretrial release program.

The bill prohibits interference by a pretrial release program when a defendant seeks to post a surety bond set forth in a predetermined bond schedule.

The bill declares that a county may reimburse a licensed surety agent for the costs of a bail bond that secures the appearance of the defendant at all court proceedings in lieu of utilizing the services of a local pretrial release program.

The bill creates an undesignated section of the Florida Statutes.

II. Present Situation:

Article I, section 14 of the Florida Constitution provides that unless a person is charged with a capital offense or one punishable by life and "the proof of guilt is evident or the presumption great," every person *shall be entitled* to pretrial release on reasonable conditions. If, however, no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.[1]

Section 907.041(3), F.S., sets forth the Legislature's intention that there be a presumption in favor of nonmonetary release for any person who is granted release *unless* such person is charged with a dangerous crime. Subsection (4) of the same section of law defines the term "dangerous crime" for purposes of pretrial release.[2]

When a person is arrested and appears before the court at First Appearance, the court must determine whether the defendant should remain in custody or grant the defendant's release pending the outcome of the charges. The decision is, practically-speaking, based upon consideration of the nature of the charges (and whether the court finds probable cause for the arrest), the defendant's criminal history, his or her ties to the community, whether he or she presents a flight risk, and the safety of the victim and community at large.

The court has certain options available with regard to a person's release at first appearance. These are:

- Release on own Recognizance (ROR) allows defendants to be released from jail based on their promise to return for mandatory court appearances. Defendants released on recognizance are not required to post a bond and are not supervised.
- Posting bond is a monetary requirement to ensure that defendants appear in court when required. A defendant whom the court approves for this release must post a cash bond to the court or arrange for a surety bond through a private bondsman. Defendants typically pay a nonrefundable fee to the bondsman of 10 percent of the bond required by the court for release. If the defendant does not appear, the bondsman is responsible for paying the entire

[1] Art. I, section 14, Constitution of Florida.
[2] Section 907.041(4), F.S., defines the term "dangerous crime" to include arson; aggravated assault; aggravated battery; illegal use of explosives; child abuse or aggravated child abuse; abuse or aggravated abuse of an elderly person or disabled adult; aircraft piracy; kidnapping; homicide; manslaughter; sexual battery; robbery; carjacking; lewd, lascivious, or indecent assault or act upon or in presence of a child under 16 years; sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority; burglary of a dwelling; stalking or aggravated stalking; act of domestic violence; home invasion robbery; act of terrorism; manufacturing any substances in violation of ch. 893; and attempting or conspiring to commit any of the aforementioned crimes.

amount. As such, bondsmen have a vested interest in ensuring that their clients attend their court dates and do not abscond. Bondsmen are not required to supervise a defendant.

- Pretrial release programs[3] supervise approved defendants. The programs do so through phone contacts, visits, and/or electronic monitoring until the defendant's case is disposed or until the defendant's supervision is revoked. Defendants generally are released into a pretrial release program without paying a bond, although this is not always the case. According to the OPPAGA report, judges in 23 of the 28 counties that have pretrial release programs may require defendants to post a bond *and* participate in a pretrial release program[4], perhaps providing the defendants with an extra layer of accountability to the court. Defendants may be assigned to the program by a judge or selected for participation by the program. There are no pretrial release program eligibility criteria in the Florida Statutes – each county develops its own criteria for determining who is eligible for its pretrial release program.

Prior to a defendant being released to a pretrial release program, the program must certify to the court that it has investigated or otherwise verified:

- The circumstances of the accused's family, employment, financial resources, character, mental condition, and length of residence in the community;
- The accused's record of convictions, of appearances at court proceedings, of flight to avoid prosecution, or of failure to appear at court proceedings; and
- Other facts necessary to assist the court in its determination of the indigency of the accused and whether the accused should be released under the supervision of the program.[5]

Pretrial Release Programs in Florida

Currently there are 28 local pretrial release programs in Florida. Section 907.044, F.S., requires the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to conduct annual studies to evaluate the effectiveness and cost efficiency of pretrial release programs in the state. The county pretrial release programs are required to submit annual reports to OPPAGA by March 31 of every year which OPPAGA uses to gather the data for OPPAGA's annual evaluation of the programs. The OPPAGA report issued in December of 2010 analyzed the programs' performance for the 2009 calendar year. There are four primary questions OPPAGA must consider in conducting its annual study.

How are Florida's Pretrial Release Programs Funded? None of the programs receive state general revenue funding. The programs are initiated, administrated, and funded at the county government level. The counties that operate these programs determine their budgets, funding sources and the scope of the programs' services.[6]

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[3] Section 907.043(2)(b), F.S., defines the term "pretrial release program" as an entity, public or private, that conducts investigations of pretrial detainees, makes pretrial release recommendations to a court, and electronically monitors and supervises pretrial defendants.

[4] For example, 85-90% of Polk County defendants who participated in local pretrial release programs also paid a bond, while 42% did so in Broward County, 60% in Osceola County, and 24% of Palm Beach County defendants in the pretrial release program also paid a bond. *Pretrial Release Programs' Data Collection Methods and Requirements Could Improve;* OPPAGA Report No. 10-66, issued December 2010, including Appendices and Supplemental Materials and Exhibits on file with the Senate Criminal Justice Committee. See Exhibit 2, page 3.

[5] s. 907.041(3)(b), F.S.

[6] OPPAGA Report 10-66, December 2010.

Five of the 28 programs have sought and received grant funding. Twelve programs charge fees to defendants participating in the program. Two of those counties (Leon and Palm Beach) require payment of cost of supervision which is used to help pay for the pretrial release programs. Some counties collect fees for urinalysis, electronic monitoring, GPS monitoring or telephone monitoring. These fees and costs are paid to vendors such as laboratories or other service providers and some portion of the funds may be deposited as county general revenue.[7]

What is the nature of the criminal charges of defendants in pretrial release programs? Although OPPAGA is expected to report this data, it is not generally collected by the programs in either the content or the form that s. 907.044, F.S., requires OPPAGA to analyze.

Section 907.043, F.S., requires that data be gathered and reported on a *weekly* basis by the pretrial release programs in a register held in the office of the local clerk of the circuit court. Section 907.043(3)(b)6., F.S., requires weekly program reporting of "*the charges* filed against and the case numbers of defendants accepted into the pretrial release program."

Subsection (4) of the same statute, which contains the *annual* reporting requirements to OPPAGA by the programs, does not contain a component that is similar to either the weekly component nor the component OPPAGA must analyze.[8]

Due to the dissimilarity in reporting requirements, OPPAGA has only been able to report on seven county programs regarding this particular measure. Of those seven, one county reported that approximately 70 percent of its participants had prior violent felonies. The other six counties reported a much larger number of participants with no prior violent felonies.[9]

How many defendants served by pretrial release programs were issued warrants for failing to appear in court or were arrested while in the program? Two counties reported that no warrants were issued for defendants participating in their programs for failure to appear in court. At the other end of the spectrum, Miami-Dade reported that of 16,342 participants, 1,861 (11.4%) had warrants issued for their failure to appear.[10]

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[7] *Id. Appendix B.*

[8] Section 907.043(4)(b), F.S. requires the following:
1. The name, location, and funding sources of the pretrial release program, including the amount of public funds, if any, received by the pretrial release program. 2. The operating and capital budget of each pretrial release program receiving public funds. 3. The percentage of the pretrial release program's total budget representing receipt of public funds; the percentage of the total budget which is allocated to assisting defendants obtain release through a nonpublicly funded program; the amount of fees paid by defendants to the pretrial release program. 4. The number of persons employed by the pretrial release program. 5. The number of defendants assessed and interviewed for pretrial release. 6. The number of defendants recommended for pretrial release. 7. The number of defendants for whom the pretrial release program recommended against nonsecured release. 8. The number of defendants granted nonsecured release after the pretrial release program recommended nonsecured release. 9. The number of defendants assessed and interviewed for pretrial release who were declared indigent by the court. 10. The name and case number of each person granted nonsecured release who: failed to attend a scheduled court appearance; was issued a warrant for failing to appear; was arrested for any offense while on release through the pretrial release program; and any additional information deemed necessary by the governing body to assess the performance and cost efficiency of the pretrial release program.

[9] *Pretrial Release Programs' Data Collection Methods and Requirements Could Improve;* OPPAGA Report issued December 2010, page 3.

[10] *Id.* page 4. See also Appendix A.

It should be noted that because of the ambiguity in the statutory language, persons who were arrested for failure to appear might be counted in both of the two categories this question is meant to analyze: a warrant may have been issued for failure to appear *and* the person may have been *arrested* on that warrant for failure to appear.

Are pretrial release programs complying with statutory reporting requirements? Apparently because of the ambiguous and problematic statutory language (discussed above), OPPAGA has had challenges collecting the data that Office needs to complete a thorough analysis.

All of the data elements do not apply to all of the programs. There is variation among the county programs in areas such as whether the program selects its participants, whether the program makes release recommendations to the court, or even whether pretrial services personnel attend First Appearance. Therefore, data elements like 'the number of defendants recommended for pretrial release'[11] simply may not have a response.

Another problem encountered in the reporting process has been the restrictions by federal law on public access to national criminal history records and the Florida Department of Law Enforcement's determination that the statute cannot authorize the dissemination of that information. This restriction resulted in most programs not providing the criminal history information required by s. 907.043(3)(b)7., F.S.[12]

OPPAGA suggested several possibilities to assist the programs in reporting and allowing OPPAGA to compile a more complete report each year. The OPPAGA report suggests statutory revisions that should lead to better data reporting and analysis in the future if they are enacted. It should be remembered, however, that the county pretrial release programs cannot be directly compared to other pretrial release options (bond and ROR) without comparative data on those other release options.[13]

Determination of Indigency

In Florida, a person who is arrested and before the court at First Appearance is likely to have the public defender appointed to represent he or she, if only temporarily for the purposes of the First Appearance hearing, unless the arrest is on a minor misdemeanor offense which is unlikely to result in a loss of liberty.

With the defendant placed under oath, a court generally inquires about whether the defendant can afford to hire a lawyer, and may question the defendant regarding employment and property ownership. If the court is satisfied that the defendant is most likely indigent based upon the answers given, an application seeking appointment of the public defender is signed by the defendant at that time. Some jurisdictions may complete the application process in a different manner, but if the defendant is incarcerated it is the responsibility of the public defender to assist the defendant in the application process.[14]

[11] s. 907.043(4)(b)6., F.S.
[12] OPPAGA Report 10-66, page 4.
[13] *Id.* page 4-6 See also Appendix D.
[14] s. 27.52(1), F.S.

The application seeking appointment of the public defender is submitted to the clerk of the court, with a $50 application fee, for verification of the information required in the application.[15] The clerk also considers the following:

- A person is indigent if the applicant's income is equal to or below 200 percent of the then-current federal poverty guidelines prescribed for the size of the household of the applicant by the United States Department of Health and Human Services or if the person is receiving Temporary Assistance for Needy Families-Cash Assistance, poverty-related veterans' benefits, or Supplemental Security Income (SSI).
- There is a presumption that the applicant is not indigent if the applicant owns, or has equity in, any intangible or tangible personal property or real property or the expectancy of an interest in any such property having a net equity value of $2,500 or more, excluding the value of the person's homestead and one vehicle having a net value not exceeding $5,000.
- The clerk conducts a review of the property records for the county in which the applicant resides and the motor vehicle title records of the state to identify any property interests of the applicant.[16]

The clerk then determines whether the applicant is indigent or not indigent. The determination of indigent status is a ministerial act of the clerk and not a decision based on further investigation or the exercise of independent judgment by the clerk. The clerk may contract with third parties to perform functions assigned to the clerk by Florida Statute.[17]

As previously mentioned, if the clerk of the court has not made a determination of indigent status at the time a person requests appointment of a public defender, most likely at First Appearance or possibly Arraignment, the court shall make a preliminary determination of indigent status, pending further review by the clerk, and may, by court order, appoint a public defender, the office of criminal conflict and civil regional counsel, or private counsel on an interim basis.[18]

The Florida Rules of Criminal Procedure define indigency and set forth the procedures the court must follow in appointing counsel to represent the indigent.

> "Indigent" shall mean a person who is unable to pay for the services of an attorney, including costs of investigation, without substantial hardship to the person or the person's family; "partially indigent" shall mean a person unable to pay more than a portion of the fee charged by an attorney, including costs of investigation, without substantial hardship to the person or the person's family.
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> Before appointing a public defender, the court shall: (A) inform the accused that, if the public defender or other counsel is appointed, a lien for the services rendered by counsel may be imposed as provided by law; (B) make inquiry into the financial status of the accused in a manner not inconsistent with the guidelines established by section 27.52, Florida Statutes. The accused shall respond to the inquiry under oath; (C) require the

[15] s. 27.52(1)(a), F.S.
[16] s. 27.52(2)(a), F.S.
[17] s. 27.52(2)(d), F.S.
[18] s. 27.52(3), F.S.

accused to execute an affidavit of insolvency as required by section 27.52, Florida Statutes.[19]

Indigency is not a requirement for participation in Florida's pretrial release programs.

III. Effect of Proposed Changes:

Senate Bill 372 creates an undesignated new section of Florida Statutes that would implement statutory eligibility criteria for defendants admitted to the county pretrial release programs.

The bill sets forth a state policy that only indigent defendants who qualify for the appointment of the public defender are eligible for participation in pretrial release programs.

The policy that private entities be used to assist defendants in pretrial release, to the greatest possible extent, is also set forth in the bill.

The bill expresses the intent of the Legislature that the bill not be interpreted to restrict courts from placing reasonable conditions on a defendant who is being released from custody by the court.

The state requires locally-created pretrial release programs to adhere to the indigency eligibility requirement of the bill and preempts all conflicting local ordinances, practices, or (court) orders.

The court must find a defendant indigent, in writing, pursuant to the procedures set forth in Florida Rule of Criminal Procedure 3.111, and order that the defendant is eligible to participate in a pretrial release program.

The bill prohibits interference by a pretrial release program when a defendant seeks to post a surety bond set forth in a predetermined bond schedule. This is generally an option at the jail prior to First Appearance, in limited cases. Some pretrial release programs have personnel at local jails during the night performing intake and interviews of people who are arrested.

The bill clarifies that the court is not prohibited from releasing a defendant from custody with or without any reasonable conditions of release.

The bill declares that a county may reimburse a licensed surety agent for the costs of a bail bond that secures the appearance of the defendant at all court proceedings - if the court establishes a bond amount for an indigent defendant – in lieu of using a "governmental program" to ensure the defendant's appearance.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[19] Rule 3.111(b)(4)-(5), Fl.R.Crim.P.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Demand For Private Surety Bond Services Will Likely Increase
Since current local pretrial release programs in this state are available to defendants regardless of their financial status, this bill will likely increase the number of pretrial detainees who pay for a commercial bond in order to be released from jail. Consequently, bail bondsmen are likely to see an increase in revenue if the bill becomes law.

More Non-Indigent Defendants Will Pay the Private Sector Rather Than the Public Sector For Release from Jail
Non-indigent defendants who were previously eligible for a local pretrial release program will not be eligible under the bill and must post a commercial bond to be released from jail. If these non-indigent defendants are unable to post a bond, then they will remain incarcerated until the disposition of their criminal charges. For those defendants who do post a bond, insufficient information on the cost of bonds, participant fees, and program costs makes it difficult to ascertain whether the total costs to the affected defendants will be higher or lower as a result of this bill.

Vendors Who Provide Supervision Services to Pretrial Release Participants Will Lose Revenue
Six of the 28 pretrial release programs contract with vendors for GPS and electronic monitoring, drug and alcohol testing, kiosk reporting, and other services rendered to defendants.[20] These services are fully or partially supported by program participant fees. If this bill passes and the eligibility criteria for the pretrial release program is narrowed to only indigents, these contractual services will likely decline because the sheer number of participants will be less and because indigent defendants will be less likely to afford these types of supervision and support services.

It should be noted that bondsmen are not required to supervise defendants but have a vested interest in making sure their clients keep their court dates and do not abscond. Judges in many circuits require defendants who post bond to also be supervised by a

[20] Program Survey Responses from 2010 OPPAGA Annual Report. Counties include: Alachua, Broward, Charlotte, Escambia, Orange, and Osceola.

pretrial release program and receive these contractual services as an added layer of accountability. Effective pretrial release programs supervise the defendants and decrease the likelihood of reoffending and enhance public safety. If this bill passes and the eligibility criteria for the pretrial release program is narrowed to indigents, this additional layer of accountability and public safety will not be available to the judge for those non-indigent defendants.

C. Government Sector Impact:

All of the state's pretrial release programs are funded from county funds, grants, and participant fees. According to OPPAGA, the pretrial release program budgets vary greatly, ranging from $60,000 in Bay County to $5.3 million in Broward County. None of the 28 programs in Florida receive state general revenue. Consequently, there is no direct fiscal impact from the state's perspective. However, county governments anticipate an indeterminant but significant negative fiscal impact if this bill becomes law.

Jail Population May Be Impacted
According to OPPAGA, jail population and occupancy rates vary widely throughout the state and there appears to be no correlation between a counties' occupancy rate and whether or not they have a local pretrial release program. The potential impact of this bill on the states' local jail population is difficult to predict in any scientific way or with any measure of certainty because of a multitude of factors. As a result of this bill, some defendants who are ineligible to participate in pretrial release programs will instead have to post a bond to gain pretrial release. Some defendants will have the ability to immediately post a bond. Others may ultimately post a bond, but may spend additional time in jail while accumulating the funds to do so. For these reasons, counties may see an increase in their jail population and need for jail beds. The potential jail impact is indeterminant and highly dependent upon what portion of the non-indigent defendants have the resources to post bond and how long they stay in jail until they are able to make the financial arrangements for their release.

On April 15, 2010, the Criminal Justice Impact Conference (CJIC) determined that Senate Bill 782 from the 2010 Session, which is similar to this bill, would have an indeterminate prison bed impact on the Department of Corrections. CJIC commented that the state prison bed impact was based on an anticipated increase in the county jail population, which they found was also indeterminate. This bill, SB 372, has yet to be scheduled for a CJIC.

According to the Association of Counties, all of the 28 pretrial release programs in the state serve non-indigent defendants.[21] It can be expected that the greatest impact from this bill may be experienced in the counties that have pretrial programs who admit a large percentage of non-indigents like Okaloosa, Broward and Sarasota.

[21] The percentage of pretrial release participants who are non-indigent varies from program to program, with a high of 56% in Sarasota to a low of 10% in Escambia.

It is important to note that the Pasco County jail population did not increase after it abolished its pretrial program in February of 2009.[22] Advocates of this bill point to the Pasco County experience as an indicator that this bill will not cause an increase in the county jail population. Despite the Pasco County experience, the counties and some representatives from law enforcement predict that this bill could potentially lead to an indeterminant but significant number of more pretrial detainees remaining incarcerated for longer periods of time in the local jail.

Collection of Participant Fees That Support Pretrial Program Budgets and Provide Support and Surveillance Services Will Decline

Of the 28 local pretrial release programs in Florida, twelve[23] charge fees to program participants to support program budgets and to pay vendors for services to defendants, primarily electronic monitoring. If this bill becomes law, it is estimated that the number of participants in the pretrial release program will decline and the collection of fees associated with their participation will be substantially reduced since the remaining indigent defendants will be less likely to be able to pay such fees.

D. Other Constitutional Issues:

There is a delicate balance between the power of the courts and the power of the Legislature in matters such as pretrial detention and release, as evidenced by the 2000 Legislature's amendments to s. 907.041, F.S., and the events that followed.

In 2000, the Legislature amended s. 907.041, F.S., to insert the following pertinent paragraphs, and also repealed certain inconsistent Rules of Procedure:

> (3)(b) No person shall be released on nonmonetary conditions under the supervision of a pretrial release service, unless the service certifies to the court that it has investigated or otherwise verified:
> 1. The circumstances of the accused's family, employment, financial resources, character, mental condition, and length of residence in the community;
> 2. The accused's record of convictions, of appearances at court proceedings, of flight to avoid prosecution, or of failure to appear at court proceedings; and
> 3. Other facts necessary to assist the court in its determination of the indigency of the accused and whether she or he should be released under the supervision of the service. …
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> (4)(b) No person charged with a dangerous crime shall be granted nonmonetary pretrial release at a first appearance hearing; however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release.

In *State v. Raymond*, the defendant qualified for nonmonetary release to pretrial services because she had no prior offenses, but because she was charged with domestic violence

[22] OPPAGA Report, Pretrial Release Programs, Pasco County's Jail Population
[23] OPPAGA Program Survey Responses from 2010 Annual Report. Twelve counties include: Alachua, Broward, Charlotte, Citrus, Escambia, Leon, Okaloosa, Orange, Osceola, Palm Beach , Santa Rosa, and St. Lucie.

the court could not release her under s. 907.041(4)(b), F.S., (2000) *at first appearance*. The Supreme Court found that by enacting s. 907.041(4)(b), F.S., "which is *a rule of procedure* affecting the *timing* of a defendant's eligibility for pretrial release," the Legislature had encroached upon the court's power, by "imposing a new procedural rule."[24] The Court then temporarily readopted the Rules and then stated: "We are particularly concerned that we be fully informed as to the policy concerns of the Florida Legislature before we take any final action on these rules. For that reason, we expressly invite the Legislature to file comments particularly addressing the policy concerns that the Legislature was attempting to address by enacting section 907.041(4)(b)."[25]

Subsequently, during the Court's rulemaking process to fill the void left by the rules that had been repealed, the House of Representatives issued an official comment indicating the reasoning behind the Legislature's passage of 2000-178, Laws of Florida. The stated purpose was to *delay the release* of persons (on nonmonetary conditions) to pretrial release programs until the certification process required in s. 907.041(3)(b), F.S., could be completed.[26]

The court took the House's comment and the plain language of the statute, and amended the Rule regarding pretrial release to read:

> No person charged with a dangerous crime as defined in section 907.041(4)(a), Florida Statutes, shall be released on nonmonetary conditions under the supervision of a pretrial release service, unless the service certifies to the court that it has investigated or otherwise verified the conditions set forth in section 907.041(3)(b), Florida Statutes.[27]

Although it does not appear that Senate Bill 372 encroaches upon the rulemaking authority of the court, as was the case in the 2000 amendments to this section of law, it is not that clear that requiring a person to be indigent in order to qualify for a local pretrial release program will necessarily escape constitutional scrutiny. A person who is unable to be released from jail to a pretrial release program because he is not indigent (although otherwise qualifying under the statute) may raise an Equal Protection challenge.

VI. Technical Deficiencies:

The bill is unclear as to the role of the clerk of the court in the declaration of indigency procedures going forward. It appears that the intent of the bill is that the onus be on the court to find a person indigent pursuant to the applicable court rule, for purposes of pretrial release determinations. If it is the intent that the court's (First Appearance) determination be the final order on the matter, that needs to be clarified. If it is the bill's intent that a preliminary or temporary finding of indigency by the court at First Appearance will suffice for the "court order" as required for pretrial release program participation, that, too, needs clarification.

[24] *State v. Raymond*, 906 So.2d 1045 (Fla. 2005).
[25] *Id.* at 1051.
[26] *In re Florida Rules of Criminal Procedure 3.131 and 3.132*, 948 So.2d 731, 733 (Fla. 2007).
[27] *Id.* and Florida Rule of Criminal Procedure 3.131(b)(4).

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.