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1 A bill to be entitled
2 An act relating to pretrial detention; amending s.
3 907.041, F.S.; providing additional factors a court
4 may consider when ordering pretrial detention;
5 amending s. 903.046, F.S.; requiring a court
6 considering whether to release a defendant on bail to
7 determine whether the defendant is subject to
8 registration as a sexual offender or sexual predator
9 and, if so, to hold the defendant without bail until
10 the first appearance on the case; providing an
11 exception; providing an effective date.

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

14
15 Section 1. Paragraph (c) of subsection (4) of section
16 907.041, Florida Statutes, is amended to read:

17 907.041 Pretrial detention and release.—

18 (4) PRETRIAL DETENTION.—

19 (c) The court may order pretrial detention if it finds a
20 substantial probability, based on a defendant's past and present
21 patterns of behavior, the criteria in s. 903.046, and any other
22 relevant facts, that any of the following circumstances exists:

23 1. The defendant has previously violated conditions of
24 release and that no further conditions of release are reasonably
25 likely to assure the defendant's appearance at subsequent
26 proceedings;

27 2. The defendant, with the intent to obstruct the judicial
28 process, has threatened, intimidated, or injured any victim,
29 potential witness, juror, or judicial officer, or has attempted

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30 or conspired to do so, and that no condition of release will
31 reasonably prevent the obstruction of the judicial process;

32 3. The defendant is charged with trafficking in controlled
33 substances as defined by s. 893.135, that there is a substantial
34 probability that the defendant has committed the offense, and
35 that no conditions of release will reasonably assure the
36 defendant's appearance at subsequent criminal proceedings; ~~or~~

37 4. The defendant is charged with DUI manslaughter, as
38 defined by s. 316.193, and that there is a substantial
39 probability that the defendant committed the crime and that the
40 defendant poses a threat of harm to the community; conditions
41 that would support a finding by the court pursuant to this
42 subparagraph that the defendant poses a threat of harm to the
43 community include, but are not limited to, any of the following:

44 a. The defendant has previously been convicted of any crime
45 under s. 316.193, or of any crime in any other state or
46 territory of the United States that is substantially similar to
47 any crime under s. 316.193;

48 b. The defendant was driving with a suspended driver's
49 license when the charged crime was committed; or

50 c. The defendant has previously been found guilty of, or
51 has had adjudication of guilt withheld for, driving while the
52 defendant's driver's license was suspended or revoked in
53 violation of s. 322.34;

54 5. The defendant poses the threat of harm to the community.
55 The court may so conclude, if it finds that the defendant is
56 presently charged with a dangerous crime, that there is a
57 substantial probability that the defendant committed such crime,
58 that the factual circumstances of the crime indicate a disregard

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59 for the safety of the community, and that there are no
60 conditions of release reasonably sufficient to protect the
61 community from the risk of physical harm to persons;~~;~~

62 6. The defendant was on probation, parole, or other release
63 pending completion of sentence or on pretrial release for a
64 dangerous crime at the time the current offense was committed;
65 ~~or~~

66 7. The defendant has violated one or more conditions of
67 pretrial release or bond for the offense currently before the
68 court and the violation, in the discretion of the court,
69 supports a finding that no conditions of release can reasonably
70 protect the community from risk of physical harm to persons or
71 assure the presence of the accused at trial; or

72 8.a. The defendant has previously been sentenced pursuant
73 to s. 775.082(9) or s. 775.084 as a prison releasee reoffender,
74 habitual violent felony offender, three-time violent felony
75 offender, or violent career criminal, or the state attorney
76 files a notice seeking that the defendant be sentenced pursuant
77 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
78 habitual violent felony offender, three-time violent felony
79 offender, or violent career criminal;

80 b. There is a substantial probability that the defendant
81 committed the current offense; and

82 c. There are no conditions of release that can reasonably
83 protect the community from risk of physical harm or ensure the
84 presence of the accused at trial.

85 Section 2. Paragraph (m) is added to subsection (2) of
86 section 903.046, Florida Statutes, to read:

87 903.046 Purpose of and criteria for bail determination.—

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88 (2) When determining whether to release a defendant on bail
89 or other conditions, and what that bail or those conditions may
90 be, the court shall consider:

91 (m) Whether the defendant, other than a defendant whose
92 only criminal charge is a misdemeanor offense under chapter 316,
93 is required to register as a sexual offender under s. 943.0435
94 or a sexual predator under s. 775.21; and, if so, he or she is
95 not eligible for release on bail or surety bond until the first
96 appearance on the case in order to ensure the full participation
97 of the prosecutor and the protection of the public.

98 Section 3. This act shall take effect July 1, 2013.