

HB 7035

2013

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 providing an effective date.

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

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9 Section 1. Paragraph (c) of subsection (4) of section
10 907.041, Florida Statutes, is amended to read:

11 907.041 Pretrial detention and release.—

12 (4) PRETRIAL DETENTION.—

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

17 1. The defendant has previously violated conditions of
18 release and that no further conditions of release are reasonably
19 likely to assure the defendant's appearance at subsequent
20 proceedings;

21 2. The defendant, with the intent to obstruct the judicial
22 process, has threatened, intimidated, or injured any victim,
23 potential witness, juror, or judicial officer, or has attempted
24 or conspired to do so, and that no condition of release will
25 reasonably prevent the obstruction of the judicial process;

26 3. The defendant is charged with trafficking in controlled
27 substances as defined by s. 893.135, that there is a substantial
28 probability that the defendant has committed the offense, and

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29 | that no conditions of release will reasonably assure the
30 | defendant's appearance at subsequent criminal proceedings; ~~or~~

31 | 4. The defendant is charged with DUI manslaughter, as
32 | defined by s. 316.193, and that there is a substantial
33 | probability that the defendant committed the crime and that the
34 | defendant poses a threat of harm to the community; conditions
35 | that would support a finding by the court pursuant to this
36 | subparagraph that the defendant poses a threat of harm to the
37 | community include, but are not limited to, any of the following:

38 | a. The defendant has previously been convicted of any
39 | crime under s. 316.193, or of any crime in any other state or
40 | territory of the United States that is substantially similar to
41 | any crime under s. 316.193;

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

44 | c. The defendant has previously been found guilty of, or
45 | has had adjudication of guilt withheld for, driving while the
46 | defendant's driver's license was suspended or revoked in
47 | violation of s. 322.34;

48 | 5. The defendant poses the threat of harm to the
49 | community. The court may so conclude, if it finds that the
50 | defendant is presently charged with a dangerous crime, that
51 | there is a substantial probability that the defendant committed
52 | such crime, that the factual circumstances of the crime indicate
53 | a disregard for the safety of the community, and that there are
54 | no conditions of release reasonably sufficient to protect the
55 | community from the risk of physical harm to persons;;-

56 | 6. The defendant was on probation, parole, or other

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57 | release pending completion of sentence or on pretrial release
58 | for a dangerous crime at the time the current offense was
59 | committed; ~~or~~

60 | 7. The defendant has violated one or more conditions of
61 | pretrial release or bond for the offense currently before the
62 | court and the violation, in the discretion of the court,
63 | supports a finding that no conditions of release can reasonably
64 | protect the community from risk of physical harm to persons or
65 | assure the presence of the accused at trial; or

66 | 8.a. The defendant has ever been sentenced pursuant to s.
67 | 775.082(9) or s. 775.084 as a prison releasee reoffender,
68 | habitual violent felony offender, three-time violent felony
69 | offender, or violent career criminal, or the state attorney
70 | files a notice seeking that the defendant be sentenced pursuant
71 | to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
72 | habitual violent felony offender, three-time violent felony
73 | offender, or violent career criminal;

74 | b. There is a substantial probability that the defendant
75 | committed the offense; and

76 | c. There are no conditions of release that can reasonably
77 | protect the community from risk of physical harm or ensure the
78 | presence of the accused at trial.

79 | Section 2. This act shall take effect July 1, 2013.