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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2018	.	
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The Committee on Appropriations (Brandes) recommended the following:

Senate Amendment (with title amendment)

Before line 55

insert:

Section 1. Section 907.042, Florida Statutes, is created to read:

907.042 Supervised bond program.-

(1) LEGISLATIVE FINDINGS.-The Legislature finds that there is a need to use evidence-based methods to identify defendants that can successfully comply with specified pretrial release



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11 conditions. The Legislature finds that the use of actuarial
12 instruments that evaluate criminogenic based needs and classify
13 defendants according to levels of risk provides a more
14 consistent and accurate assessment of a defendant's risk of
15 noncompliance while on pretrial release pending trial. The
16 Legislature also finds that both the community and a defendant
17 are better served when a defendant, who poses a low risk to
18 society, is provided the opportunity to fulfill employment and
19 familial responsibilities in the community under a structured
20 pretrial release plan that ensures the best chance of remaining
21 compliant with all pretrial conditions rather than remaining in
22 custody. The Legislature finds that there is a benefit to
23 establishing a supervised bond program in each county for the
24 purpose of providing pretrial release to certain defendants who
25 may not otherwise be eligible for pretrial release on
26 unsupervised nonmonetary conditions and who do not have the
27 ability to satisfy the bond imposed by the court. The
28 Legislature finds that the creation of such a program will
29 reduce the likelihood of defendants remaining unnecessarily in
30 custody pending trial.

31 (2) CREATION.—A supervised bond program may be established
32 in each county with the terms of each program to be developed
33 with concurrence of the chief judge of the circuit, the county's
34 chief correctional officer, the state attorney, and the public
35 defender. A county that has already established and implemented
36 a supervised bond program whose program and risk assessment
37 instrument is in compliance with subsections (3) and (4) may
38 continue to operate without such concurrence.

39 (3) PROGRAM REQUIREMENTS.—A supervised bond program, at a



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40 minimum, shall:

41 (a) Require the county's chief correctional officer to
42 administer the supervised bond program.

43 (b) Require the county's chief correctional officer, or his
44 or her designee, to administer the risk assessment instrument to
45 a potential defendant.

46 (c) Utilize a risk assessment instrument to determine
47 eligible defendants and determine an appropriate level of
48 supervision for each defendant upon release.

49 (d) Review the bond of a defendant who is being accepted
50 into the supervised bond program to determine if a reduction of
51 the court-ordered bond, up to its entirety, is appropriate.

52 (e) Provide that the findings of the risk assessment
53 instrument will be used to create an individualized supervision
54 plan for each eligible defendant that is tailored to the
55 defendant's risk level and supervision needs.

56 (f) Require, as part of the individualized supervision
57 plan, that any defendant released in the supervised bond program
58 must be placed on active electronic monitoring or active
59 continuous alcohol monitoring, or both, dependent upon the level
60 of risk indicated by the risk assessment instrument.

61 (g) Require weekly communication between the office of the
62 county's chief correctional officer and the defendant as part of
63 the individualized supervision plan, which can be satisfied via
64 telephone or in person contact, dependent upon the level of risk
65 indicated by the risk assessment instrument.

66 (h) Establish procedures for reassessing or terminating
67 defendants from the supervised bond program who do not comply
68 with the terms of the individualized supervision plan imposed



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69 through the program.

70 (4) RISK ASSESSMENT INSTRUMENT.—

71 (a) Each county must utilize a risk assessment instrument
72 for the supervised bond program that conducts a criminogenic
73 assessment for use in evaluating the proper level of supervision
74 appropriate to ensure compliance with pretrial conditions and
75 safety to the community. The risk assessment instrument must
76 consider, but need not be limited to, the following criteria:

77 1. The nature and circumstances of the offense the
78 defendant is alleged to have committed.

79 2. The nature and extent of the defendant's prior criminal
80 history, if any.

81 3. Any prior history of the defendant failing to appear in
82 court.

83 4. The defendant's employment history, employability
84 skills, and employment interests.

85 5. The defendant's educational, vocational, and technical
86 training.

87 6. The defendant's background, including his or her family,
88 home, and community environment.

89 7. The defendant's physical and mental health history,
90 including any substance use.

91 8. An evaluation of the defendant's criminal thinking,
92 criminal associates, and social awareness.

93 (b) A county may contract with the Department of
94 Corrections to develop a risk assessment instrument or modify an
95 instrument that has already been developed by the department,
96 provided the instrument contains the criteria enumerated in
97 paragraph (a). If a county elects to utilize a risk assessment



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98 instrument developed or modified by the department in accordance
99 with this paragraph, the county's chief correctional officer
100 shall enter into a contract with the department for such use.

101 (c) Each county may create its own risk assessment
102 instrument for the purpose of operating a supervised bond
103 program or may utilize a risk assessment instrument that has
104 previously been developed for a similar purpose as provided for
105 in this section. Additionally, a county may utilize a risk
106 assessment instrument that has been developed by another county
107 for a similar purpose as provided for in this section. To
108 utilize a risk assessment instrument developed by a county in
109 accordance with this paragraph, the risk assessment instrument
110 must be validated by the Department of Corrections and contain
111 the criteria enumerated in paragraph (a). If a county elects to
112 utilize a risk assessment instrument developed or modified by
113 another county in accordance with this paragraph, the counties'
114 chief correctional officers shall enter into a contract for such
115 use.

116 (d) A county may contract with an independent entity to
117 utilize a risk assessment instrument that has previously been
118 developed for a similar purpose as provided for in this section.
119 To utilize a risk assessment instrument developed by an
120 independent entity in accordance with this paragraph, the risk
121 assessment instrument must be validated by the Department of
122 Corrections and contain the criteria enumerated in paragraph
123 (a). If a county elects to utilize a risk assessment instrument
124 developed or modified by an independent entity in accordance
125 with this paragraph, the county's chief correctional officer
126 shall enter into a contract with the independent entity for such



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127 use.

128 (e) A county may begin to implement its supervised bond
129 program immediately upon securing a contract for the utilization
130 of or the completion of development or modification, and if
131 applicable, validation of, a risk assessment instrument. A
132 county that intends to utilize a risk assessment instrument it
133 has already developed or modified may implement a supervised
134 bond program immediately upon validation of the risk assessment
135 instrument. A county that has already implemented a supervised
136 bond program may continue to operate such program while the risk
137 assessment instrument it utilizes is being validated.

138 Implementation must include training of all county staff that
139 will administer the risk assessment instrument.

140 (5) REPORTING.—Each county that establishes a supervised
141 bond program pursuant to this section, or has an existing
142 supervised bond program that operates in compliance with this
143 section, shall provide an annual report to the Office of Program
144 Policy Analysis and Government Accountability that details the
145 results of the administration of the risk assessment instrument,
146 programming used for defendants who received the assessment and
147 were accepted into the supervised bond program, the success rate
148 of such program, and savings realized by the county as a result
149 of such defendants being released from custody pending trial.

150 The annual report from the county must be submitted to OPPAGA by
151 October 1 each year. OPPAGA shall compile the results of the
152 counties reports for inclusion in an independent section of its
153 annual report developed and submitted to the Governor, the
154 President of the Senate, and the Speaker of the House of
155 Representatives in accordance with s. 907.044.



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156 Section 2. Paragraph (b) of subsection (1) of section
157 945.091, Florida Statutes, is amended, and paragraph (d) is
158 added to that subsection, to read:

159 945.091 Extension of the limits of confinement; restitution
160 by employed inmates.—

161 (1) The department may adopt rules permitting the extension
162 of the limits of the place of confinement of an inmate as to
163 whom there is reasonable cause to believe that the inmate will
164 honor his or her trust by authorizing the inmate, under
165 prescribed conditions and following investigation and approval
166 by the secretary, or the secretary's designee, who shall
167 maintain a written record of such action, to leave the confines
168 of that place unaccompanied by a custodial agent for a
169 prescribed period of time to:

170 (b) Work at paid employment, participate in an education or
171 a training program, or voluntarily serve a public or nonprofit
172 agency or faith-based service group in the community, while
173 continuing as an inmate of the institution or facility in which
174 the inmate is confined, except during the hours of his or her
175 employment, education, training, or service and traveling
176 thereto and therefrom. An inmate may travel to and from his or
177 her place of employment, education, or training only by means of
178 walking, bicycling, or using public transportation or
179 transportation that is provided by a family member or employer.
180 Contingent upon specific appropriations, the department may
181 transport an inmate in a state-owned vehicle if the inmate is
182 unable to obtain other means of travel to his or her place of
183 employment, education, or training.

184 1. An inmate may participate in paid employment only during



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185 the last 36 months of his or her confinement, unless sooner
186 requested by the Florida Commission on Offender Review or the
187 Control Release Authority.

188 2. An inmate who may not otherwise be approved for release
189 under this paragraph due to a higher custody level or other risk
190 factor may be released and placed on an electronic monitoring
191 device. The department must administer a risk assessment
192 instrument to appropriately determine such inmate's ability to
193 be released with electronic monitoring for work, educational, or
194 training purposes.

195 32. While working at paid employment and residing in the
196 facility, an inmate may apply for placement at a contracted
197 substance abuse transition housing program. The transition
198 assistance specialist shall inform the inmate of program
199 availability and assess the inmate's need and suitability for
200 transition housing assistance. If an inmate is approved for
201 placement, the specialist shall assist the inmate. If an inmate
202 requests and is approved for placement in a contracted faith-
203 based substance abuse transition housing program, the specialist
204 must consult with the chaplain before such placement. The
205 department shall ensure that an inmate's faith orientation, or
206 lack thereof, will not be considered in determining admission to
207 a faith-based program and that the program does not attempt to
208 convert an inmate toward a particular faith or religious
209 preference.

210 (d) Participate in supervised community release as
211 prescribed by the department by rule. The inmate's participation
212 may begin 90 days before his or her provisional or tentative
213 release date. Such supervised community release must include



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214 electronic monitoring and community control as defined in s.
215 948.001. The department must administer a risk assessment
216 instrument to appropriately determine an inmate's ability to be
217 released pursuant to this paragraph.

218 1. If a participating inmate fails to comply with the
219 conditions prescribed by the department by rule for supervised
220 community release, the department may terminate the inmate's
221 supervised community release and return him or her to the same
222 or another institution designated by the department. A law
223 enforcement officer or a probation officer may arrest the inmate
224 without a warrant in accordance with s. 948.06, if there are
225 reasonable grounds to believe he or she has violated the terms
226 and conditions of supervised community release. The law
227 enforcement officer or probation officer must report the
228 inmate's alleged violations to a correctional officer for
229 disposition of disciplinary charges as prescribed by the
230 department by rule.

231 2. Inmates participating in supervised community release
232 under this paragraph remain eligible to earn or lose gain-time
233 in accordance with s. 944.275 and department rule, but may not
234 receive gain-time or other sentence credit in an amount that
235 would cause his or her sentence to expire, end, or terminate, or
236 that would result in his or her release, before serving a
237 minimum of 85 percent of the sentence imposed. The inmate may
238 not be counted in the population of the prison system and the
239 inmate's approved community-based housing location may not be
240 counted in the capacity figures for the prison system.

241 Section 3. Section 948.33, Florida Statutes, is created to
242 read:



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243 948.33 Prosecution for violation of probation and community
244 control arrest warrants of state prisoners.—A prisoner in a
245 state prison in this state who has an unserved violation of
246 probation or an unserved violation of community control warrant
247 for his or her arrest may file a state prisoner’s notice of
248 unserved warrant in the circuit court of the judicial circuit in
249 which the unserved warrant was issued. The prisoner must also
250 serve notice on the state attorney of that circuit. The circuit
251 court shall schedule the notice for a status hearing within 90
252 days after receipt of the notice. The state prisoner may not be
253 transported to the status hearing. At the status hearing, the
254 state attorney shall inform the court as to whether there is an
255 unserved violation of probation warrant or an unserved violation
256 of community control warrant for the arrest of the state
257 prisoner. If a warrant for either violation exists, the court
258 must enter an order within 30 days after the status hearing for
259 the transport of the state prisoner to the county jail of the
260 county that issued the warrant for prosecution of the violation,
261 and the court shall send the order to the county sheriff for
262 execution.

263
264 ===== T I T L E A M E N D M E N T =====

265 And the title is amended as follows:

266 Delete line 2

267 and insert:

268 An act relating to criminal justice; creating s.
269 907.042, F.S.; authorizing each county to create a
270 supervised bond release program; providing legislative
271 findings; providing a supervised bond program must be



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272 created with the concurrence of the chief judge,
273 county's chief correctional officer, state attorney,
274 and public defender; providing an exception to a
275 county that has already established and implemented a
276 supervised bond program that utilizes a risk
277 assessment instrument; providing specified program
278 components; providing guidelines for the risk
279 assessment instrument; authorizing the county to
280 contract with the Department of Corrections to develop
281 or modify a risk assessment instrument if such
282 instrument meets certain requirements; authorizing a
283 county to develop or use an existing risk assessment
284 instrument if validated by the department and such
285 instrument meets certain requirements; authorizing a
286 county to contract with another county for the use of
287 a risk assessment instrument if validated and such
288 instrument meets certain requirements; authorizing the
289 county to contract with an independent entity for use
290 of a risk assessment instrument if validated and such
291 instrument meets certain requirements; specifying
292 requirements for the use, implementation, and
293 distribution of the risk assessment instrument;
294 requiring each county that establishes a supervised
295 bond program to submit a report annually by a certain
296 date to the Office of Program Policy Analysis and
297 Government Accountability; requiring OPPAGA to compile
298 the reports and include such information in a report
299 sent to the Governor, President of the Senate, and
300 Speaker of the House of Representatives in accordance



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301 with s. 907.044, F.S.; amending s. 945.091, F.S.;
302 authorizing the department to extend the limits of
303 confinement to allow an inmate that may not otherwise
304 qualify for work release to be released on electronic
305 monitoring; requiring the department to administer a
306 risk assessment instrument to determine an inmate's
307 appropriateness for release on electronic monitoring;
308 authorizing the department to extend the limits of
309 confinement to allow an inmate to participate in
310 supervised community release, subject to certain
311 requirements, as prescribed by the department by rule;
312 requiring the department to administer a risk
313 assessment instrument to determine an inmate's
314 appropriateness for release on electronic monitoring;
315 authorizing the department to terminate an inmate's
316 participation under certain circumstances; authorizing
317 a law enforcement or a probation officer to arrest
318 such an inmate without warrant in accordance with
319 specified authority; requiring the law enforcement or
320 probation officer to report alleged violations to a
321 correctional officer for disposition of disciplinary
322 charges as prescribed by the department by rule;
323 providing that participating inmates remain eligible
324 to earn or lose gain-time, but not in an amount that
325 results in a defendant being released prior to serving
326 85 percent of the sentence imposed; providing that
327 such inmates may not be counted in the population of
328 the prison system and that their approved community-
329 based housing location may not be counted in the



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330 capacity figures for the prison system; creating s.
331 948.33, F.S.; authorizing a prisoner in a state prison
332 who has an unserved violation of probation or an
333 unserved violation of community control warrant to
334 file a notice of unserved warrant in the circuit court
335 where the warrant was issued and to serve notice on
336 the state attorney; requiring the circuit court to
337 schedule a status hearing within a certain timeframe
338 after receiving notice; specifying procedures and
339 requirements for the status hearing; providing for
340 prosecution of the violation; requiring that if the
341 court enters an order, it send the order to the county
342 sheriff; amending