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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/18/2019	.	
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The Committee on Criminal Justice (Brandes) recommended the following:

Senate Amendment

Delete lines 783 - 865
and insert:
classify defendants according to the likelihood of failure to appear at subsequent hearings or to engage in criminal conduct while awaiting trial provides a more consistent and accurate assessment of a defendant's risk of noncompliance while on pretrial release pending trial. The Legislature also finds that research indicates that using accurate risk and needs assessment



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11 instruments ensures successful compliance with pretrial release
12 conditions imposed on a defendant and reduces the likelihood of
13 a defendant remaining unnecessarily in custody pending trial.

14 (2) The chief judge of each judicial circuit, with the
15 concurrence of the county's chief correctional officer, the
16 state attorney, and the public defender, may enter an
17 administrative order to administer a risk assessment instrument
18 in preparation for first appearance or may enter such an order
19 within 72 hours after arrest so that the instrument may be used
20 in pretrial release determinations. The risk assessment
21 instrument must be objective, standardized, and based on
22 analysis of empirical data and risk factors relevant to failure
23 to meet pretrial release conditions which evaluates the
24 likelihood of failure to appear in court and the likelihood of
25 rearrest during the pretrial release period and which is
26 validated on the pretrial population.

27 (3) (a) The risk assessment instrument results must be used
28 as supplemental factors for the court to consider when
29 determining the appropriateness of first appearance pretrial
30 release and, if applicable, the conditions of release which are
31 appropriate based on predicted level of risk and the risk of
32 failure to meet pretrial release conditions. Based on the risk
33 assessment instrument results, the court shall impose the least
34 restrictive conditions necessary to reasonably ensure that the
35 defendant will be present at subsequent hearings.

36 (b) A court that uses the results from a risk assessment
37 instrument in first appearance pretrial release determinations
38 retains sole discretion to impose any pretrial conditions it
39 deems necessary to ensure the defendant's appearance at



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40 subsequent hearings.

41 (4) A circuit that intends to use a risk assessment
42 instrument in pretrial release determinations must have the
43 instrument independently validated by the Department of
44 Corrections. A circuit may begin to use the instrument in
45 pretrial release determinations immediately after its validation
46 and the completion of training of all local staff who will
47 administer the risk assessment instrument.

48 (5) (a) Each circuit that establishes an administrative
49 order for the use of risk assessment instruments in first
50 appearance pretrial release determinations shall provide an
51 annual report to the Office of Program Policy Analysis and
52 Government Accountability (OPPAGA) which details:

53 1. The risk assessment instrument used;

54 2. The results of the administration of the risk assessment
55 instrument, including the results of defendants who were
56 detained in custody awaiting trial and those who were released
57 from custody awaiting trial;

58 3. The frequency with which released defendants failed to
59 appear at one or more subsequent court hearings; and

60 4. The level of risk determined in the risk assessment
61 instrument associated with a defendant who failed to appear for
62 any court hearing.

63 (b) Beginning October 1, 2020, and by each October 1
64 thereafter, the annual report from each circuit must be
65 submitted to OPPAGA, which shall compile the results of such
66 reports for inclusion in an independent section of its annual
67 report developed and submitted to the President of the Senate
68 and the Speaker of the House of Representatives in accordance



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69 with s. 907.044.

70 (6) The department may adopt rules to administer this
71 section.

72 Section 10. Paragraph (d) is added to subsection (1) of
73 section 945.091, Florida Statutes, to read:

74 945.091 Extension of the limits of confinement; restitution
75 by employed inmates.-

76 (1) The department may adopt rules permitting the extension
77 of the limits of the place of confinement of an inmate as to
78 whom there is reasonable cause to believe that the inmate will
79 honor his or her trust by authorizing the inmate, under
80 prescribed conditions and following investigation and approval
81 by the secretary, or the secretary's designee, who shall
82 maintain a written record of such action, to leave the confines
83 of that place unaccompanied by a custodial agent for a
84 prescribed period of time to:

85 (d) Participate in supervised community release as
86 prescribed by the department by rule. The inmate's participation
87 may begin 180 days before his or her provisional or tentative