

By Senator Brandes

24-00752-19

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1                                   A bill to be entitled  
2       An act relating to pretrial release; creating s.  
3       907.042, F.S.; providing legislative findings;  
4       authorizing each county to establish a supervised bond  
5       program with the concurrence of the chief judge of the  
6       judicial circuit, the county's chief correctional  
7       officer, the state attorney, and the public defender;  
8       providing an exception for a county that has already  
9       established and implemented a supervised bond program  
10      that uses a risk assessment instrument; providing  
11      minimum program requirements; requiring each county  
12      that establishes a supervised bond program to have the  
13      risk assessment instrument validated by the Department  
14      of Corrections; requiring each county that establishes  
15      a supervised bond program to submit an annual report  
16      by a certain date to the Office of Program Policy  
17      Analysis and Government Accountability; requiring the  
18      Office of Program Policy Analysis and Government  
19      Accountability to compile such reports and include  
20      such information in a specified report sent to the  
21      Legislature; authorizing the department to adopt  
22      rules; creating s. 907.0421, F.S.; providing  
23      legislative findings; authorizing the chief judge of  
24      each circuit, with the concurrence of the county's  
25      chief correctional officer, the state attorney, and  
26      the public defender, to enter an administrative order  
27      for the use of a risk assessment instrument in  
28      pretrial release determinations; requiring the risk  
29      assessment instrument results to be used as

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30 supplemental factors for the court's evaluation of  
31 appropriate pretrial release conditions; requiring the  
32 court to impose the least restrictive conditions  
33 necessary to reasonably ensure the defendant's  
34 appearance at subsequent hearings; providing that a  
35 court retains sole discretion to determine the  
36 appropriateness of pretrial release and any necessary  
37 pretrial release conditions; requiring a circuit that  
38 uses a risk assessment instrument to have the  
39 instrument validated by the department; authorizing  
40 the circuit to implement the risk assessment  
41 instrument immediately after validation and  
42 implementation of training of all local staff who will  
43 administer the risk assessment instrument; requiring  
44 each circuit that enters an administrative order to  
45 use risk assessment instruments in pretrial release  
46 determinations to submit an annual report by a certain  
47 date to the Office of Program Policy Analysis and  
48 Government Accountability; requiring the Office of  
49 Program Policy Analysis and Government Accountability  
50 to compile the reports and include such information in  
51 a specified report sent to the Legislature;  
52 authorizing the department to adopt rules; providing  
53 an effective date.

54  
55 Be It Enacted by the Legislature of the State of Florida:

56  
57 Section 1. Section 907.042, Florida Statutes, is created to  
58 read:

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59 907.042 Supervised bond program.—

60 (1) LEGISLATIVE FINDINGS.—The Legislature finds that there  
61 is a need to use evidence-based methods to identify defendants  
62 who can successfully comply with specified pretrial release  
63 conditions. The Legislature finds that the use of actuarial  
64 instruments that evaluate criminogenic-based needs and classify  
65 defendants according to levels of risk provides a more  
66 consistent and accurate assessment of a defendant's risk of  
67 noncompliance while on pretrial release pending trial. The  
68 Legislature also finds that both the community and a defendant  
69 are better served when a defendant who poses a low risk to  
70 society is provided the opportunity to fulfill employment and  
71 familial responsibilities in the community under a structured  
72 pretrial release plan that ensures the best chance of remaining  
73 compliant with all pretrial conditions, rather than remaining in  
74 custody. The Legislature finds that there is a benefit to  
75 establishing a supervised bond program in each county for the  
76 purpose of providing pretrial release to certain defendants who  
77 may not otherwise be eligible for pretrial release on  
78 unsupervised nonmonetary conditions and who do not have the  
79 ability to satisfy the bond imposed by the court. The  
80 Legislature finds that the creation of such a program will  
81 reduce the likelihood of defendants remaining unnecessarily in  
82 custody pending trial.

83 (2) CREATION.—A supervised bond program may be established  
84 in each county with the terms of each program to be developed  
85 with concurrence of the chief judge of the judicial circuit, the  
86 county's chief correctional officer, the state attorney, and the  
87 public defender. A county that has already established and

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88 implemented a supervised bond program that uses a validated risk  
89 assessment instrument for similar pretrial or supervision  
90 determinations may continue to operate without such concurrence,  
91 as long as the program meets all other requirements of this  
92 section.

93 (3) PROGRAM REQUIREMENTS.—A supervised bond program, at a  
94 minimum, shall:

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

97 (b) Use the results of a validated pretrial risk assessment  
98 instrument that has been administered to the defendant for the  
99 purposes of pretrial release or supervision determinations.

100 (c) Assess the defendant's behavioral characteristics and  
101 needs that increase the likelihood of criminal activity and that  
102 are able to be addressed through the placement of services.

103 (d) Coordinate necessary services and supervision through  
104 the program to reduce the likelihood of criminal activity and to  
105 increase the likelihood of compliance with pretrial release  
106 conditions.

107 (e) Require the appropriate court to make a final  
108 determination regarding whether a defendant will be placed into  
109 the supervised bond program. If such a determination is made,  
110 the court must also:

111 1. Determine the conditions of the individualized  
112 supervision plan with which the defendant must comply as a part  
113 of the supervised bond program, including, but not limited to,  
114 the requirement that the defendant must:

115 a. Be placed on active electronic monitoring or active  
116 continuous alcohol monitoring, or both, dependent upon the level

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117 of risk indicated by the risk assessment instrument; and

118 b. Communicate weekly, via telephone or in-person contact,  
119 as determined by the court, with the office of the county's  
120 chief correctional officer.

121 2. Review the bond of a defendant who is being accepted  
122 into the supervised bond program to determine if a reduction of  
123 the court-ordered bond, up to and including its entirety, is  
124 appropriate.

125 (f) Establish procedures for reassessing or terminating  
126 from the supervised bond program defendants who do not comply  
127 with the terms of the individualized supervision plan imposed  
128 through the program.

129 (4) VALIDATION.—Each county that establishes a supervised  
130 bond program in accordance with this section must use a risk  
131 assessment instrument that is validated by the Department of  
132 Corrections. A risk assessment instrument that is used for other  
133 pretrial release determinations in accordance with s. 907.0421  
134 and that has previously been validated by the department does  
135 not need to be validated for use in the supervised bond program.  
136 A supervised bond program that is in operation on October 1,  
137 2019, and that uses a risk assessment instrument may continue to  
138 operate while the department validates the risk assessment  
139 instrument used by the program.

140 (5) REPORTING.—

141 (a) Each county that establishes a supervised bond program  
142 in accordance with this section, or that has an existing  
143 supervised bond program that operates in compliance with this  
144 section, shall provide an annual report to the Office of Program  
145 Policy Analysis and Government Accountability which details:

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146 1. The results of the administration of the risk assessment  
147 instrument;

148 2. The programming used for defendants who received the  
149 assessment and were accepted into the supervised bond program;

150 3. The success rate of the program; and

151 4. Any savings realized by the county as a result of such  
152 defendants being released from custody pending trial.

153 (b) Beginning in 2020, and by each October 1 thereafter,  
154 the annual report from the county must be submitted to the  
155 Office of Program Policy Analysis and Government Accountability.

156 The Office of Program Policy Analysis and Government  
157 Accountability shall compile the results of such reports for  
158 inclusion in an independent section of its annual report  
159 developed and submitted to the President of the Senate and the  
160 Speaker of the House of Representatives in accordance with s.  
161 907.044.

162 (6) RULEMAKING.—The department may adopt rules to  
163 administer this section.

164 Section 2. Section 907.0421, Florida Statutes, is created  
165 to read:

166 907.0421 Use of risk assessment instruments in pretrial  
167 release determinations.—

168 (1) The Legislature finds that there is a need to use  
169 evidence-based methods to identify defendants who can  
170 successfully comply with specified pretrial release conditions.  
171 The Legislature finds that the use of actuarial instruments that  
172 classify offenders according to the likelihood of failure to  
173 appear at subsequent hearings or to engage in criminal conduct  
174 while awaiting trial provides a more consistent and accurate

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175 assessment of a defendant's risk of noncompliance while on  
176 pretrial release pending trial. The Legislature also finds that  
177 research indicates that using accurate risk and needs assessment  
178 instruments ensures successful compliance with pretrial release  
179 conditions imposed on a defendant and reduces the likelihood of  
180 a defendant remaining unnecessarily in custody pending trial.

181 (2) The chief judge of each judicial circuit, with the  
182 concurrence of the county's chief correctional officer, the  
183 state attorney, and the public defender, may enter an  
184 administrative order to administer a risk assessment instrument  
185 in preparation for first appearance or within 72 hours after  
186 arrest for use in pretrial release determinations. The risk  
187 assessment instrument must be objective, standardized, and based  
188 on analysis of empirical data and risk factors relevant to  
189 failure of pretrial release conditions which evaluates the  
190 likelihood of failure to appear in court and the likelihood of  
191 rearrest during the pretrial release period and which is  
192 validated on the pretrial population.

193 (3) (a) The risk assessment instrument results must be used  
194 as supplemental factors for the court to consider when  
195 determining the appropriateness of first appearance pretrial  
196 release and, if applicable, the conditions of release which are  
197 appropriate based on predicted level of risk and failure of  
198 pretrial release conditions. Based on the risk assessment  
199 instrument results, the court shall impose the least restrictive  
200 conditions necessary to reasonably ensure that the defendant  
201 will be present at subsequent hearings.

202 (b) A court that uses the results from a risk assessment  
203 instrument in first appearance pretrial release determinations

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204 retains sole discretion to impose any pretrial conditions it  
205 deems necessary to ensure the defendant's subsequent appearance  
206 at hearings.

207 (4) A circuit that intends to use a risk assessment  
208 instrument in pretrial release determinations must have such  
209 instrument independently validated by the Department of  
210 Corrections. A circuit may begin to use such instrument in  
211 pretrial release determinations immediately after validation of  
212 such instrument and implementation of training of all local  
213 staff who will administer the risk assessment instrument.

214 (5) (a) Each circuit that establishes an administrative  
215 order for the use of risk assessment instruments in first  
216 appearance pretrial release determinations shall provide an  
217 annual report to the Office of Program Policy Analysis and  
218 Government Accountability which details:

- 219 1. The risk assessment instrument used;  
220 2. The results of the administration of the risk assessment  
221 instrument, including the results of defendants who were  
222 detained in custody awaiting trial and those who were released  
223 from custody awaiting trial;  
224 3. The frequency at which released defendants failed to  
225 appear at one or more subsequent court hearings; and  
226 4. The level of risk determined in the risk assessment  
227 instrument associated with a defendant that failed to appear for  
228 any court hearings.

229 (b) Beginning in 2020, and by each October 1 thereafter,  
230 the annual report from each circuit must be submitted to the  
231 Office of Program Policy Analysis and Government Accountability.  
232 The Office of Program Policy Analysis and Government



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233 Accountability shall compile the results of such reports for  
234 inclusion in an independent section of its annual report  
235 developed and submitted to the President of the Senate and the  
236 Speaker of the House of Representatives in accordance with s.  
237 907.044.

238 (6) The department may adopt rules to administer this  
239 section.

240 Section 3. This act shall take effect October 1, 2019.