

By Senator Perry

8-00654B-22

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1 A bill to be entitled
2 An act relating to delayed arraignment; amending s.
3 901.28, F.S.; defining the term "notice to appear";
4 requiring a law enforcement officer to issue a notice
5 to appear when there are reasonable grounds to believe
6 that a person is committing or has committed a
7 misdemeanor offense or a violation of a municipal or
8 county ordinance; providing exceptions; providing an
9 effective date.

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

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13 Section 1. Section 901.28, Florida Statutes, is amended to
14 read:

15 901.28 Notice to appear for misdemeanors or violations of
16 municipal or county ordinances; effect on authority to conduct
17 search.-

18 (1) As used in this section, the term "notice to appear"
19 means a written order issued by a law enforcement officer in
20 lieu of custodial arrest which requires a person accused of
21 violating the law to appear in a designated court or
22 governmental office for arraignment at a specified date and time
23 or to pay a fine.

24 (2) When there are reasonable grounds to believe that a
25 person is committing or has committed an offense that is a
26 misdemeanor of the first degree, a misdemeanor of the second
27 degree, or a violation of a municipal or county ordinance, a law
28 enforcement officer shall issue a notice to appear unless any of
29 the following applies:

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30 (a) The offense is of a sexual or violent nature.

31 (b) The person does not have or will not provide valid
32 identification or the provided identification cannot be
33 verified.

34 (c) The person refuses to sign a notice to appear or
35 requests to be taken before a judge.

36 (d) There are reasonable grounds to believe that the person
37 poses a danger to himself or herself, to others, or to property
38 or that the offense will continue.

39 (e) The person has no ties with the jurisdiction reasonably
40 sufficient to assure his or her appearance or the person has
41 previously failed to appear.

42 (f) There are reasonable grounds to believe that a
43 legitimate investigation or prosecution in any jurisdiction
44 would be jeopardized by the person's release.

45 (g) The person is on parole or probation or has violated
46 the conditions of a pretrial release program.

47 (h) The person has an outstanding warrant.

48 (i) The person requires physical or behavioral health care.

49 (j) The person has a criminal record with an arrest or a
50 conviction for an offense that is sexual or violent in nature.

51 (k) The person was issued a notice to appear within the
52 last 6 months.

53 (3) The issuance of a notice to appear ~~may~~ shall not be
54 construed to affect a law enforcement officer's authority to
55 conduct an otherwise lawful search, as provided by law.

56 Section 2. This act shall take effect July 1, 2022.