

By Senator Martin

33-00880B-23

20231534__

1 A bill to be entitled
2 An act relating to pretrial release and detention;
3 amending s. 903.011, F.S.; specifying that only a
4 judge is authorized to set, reduce, or alter a
5 defendant's bail; authorizing a court to reconsider
6 the monetary component imposed as part of bail under a
7 certain circumstance; requiring the Florida Supreme
8 Court to adopt by a specified date, and annually
9 thereafter, a uniform statewide bond schedule for
10 specified offenses; prohibiting judges of inferior
11 courts from establishing a bond schedule that is less
12 restrictive; authorizing the chief judge of a judicial
13 circuit to petition the Florida Supreme Court for
14 approval of a countywide or circuitwide bond schedule
15 that sets a lower bond amount than required by the
16 uniform statewide bond schedule; authorizing the chief
17 judge of a judicial circuit to establish a countywide
18 or circuitwide bond schedule that meets certain
19 criteria; prohibiting a person who meets specified
20 criteria from being released before his or her first
21 appearance hearing; amending s. 903.047, F.S.;
22 revising the requirements with which a defendant must
23 comply as conditions of pretrial release imposed by
24 the court; authorizing a court to consider specified
25 nonmonetary conditions in determining appropriate
26 conditions of release; amending s. 903.0471, F.S.;
27 authorizing a court to revoke pretrial release and
28 order pretrial detention if the court finds probable
29 cause to believe that the defendant materially

33-00880B-23

20231534__

30 violated any condition of his or her pretrial release;
31 amending s. 907.041, F.S.; revising the definition of
32 the term "dangerous crime"; prohibiting persons
33 arrested for, rather than charged with, a dangerous
34 crime from being granted nonmonetary pretrial release
35 at a first appearance hearing; deleting a provision
36 granting a court discretion to release an accused
37 person on electronic monitoring or recognizance bond;
38 requiring a court to hold a detention hearing under
39 specified circumstances; authorizing a state attorney
40 to move for the pretrial detention of a defendant not
41 charged with a dangerous crime under certain
42 circumstances; requiring, rather than authorizing, a
43 court to order pretrial detention if it finds, because
44 of specified circumstances, that no conditions of
45 release or bail will reasonably protect the community
46 from risk of physical harm, assure the presence of the
47 accused at trial, or assure the integrity of the
48 judicial process; authorizing the arresting agency to
49 detain a defendant before his or her first appearance
50 hearing for a certain period of time when a person is
51 arrested in connection with a crime for which pretrial
52 detention could be ordered; revising the circumstances
53 and requirements of a pretrial detention hearing;
54 authorizing the detention of the defendant pending
55 completion of the hearing; specifying that the state
56 attorney has the burden of showing the need for
57 pretrial detention by clear and convincing evidence;
58 requiring that the defendant be afforded specified

33-00880B-23

20231534__

59 rights during the pretrial detention hearing;
60 providing and revising requirements related to the
61 pretrial detention hearing and the pretrial detention
62 order; making technical changes; providing an
63 effective date.

64

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

66

67 Section 1. Section 903.011, Florida Statutes, is amended to
68 read:

69 903.011 Pretrial release ~~"Bail" and "bond" defined;~~ general
70 terms; statewide uniform bond schedule.-

71 (1) As used in this chapter, the terms "bail" and "bond"
72 include any and all forms of pretrial release.

73 (2) Any monetary or cash component of any form of pretrial
74 release may be met by a surety bond.

75 (3) Differing monetary amounts may not be set for cash,
76 surety, or other forms of pretrial release.

77 (4) Except as authorized in subsection (5), only a judge
78 may set, reduce, or otherwise alter a defendant's bail. Upon
79 motion by a defendant, or on the court's own motion, a court may
80 reconsider the monetary component of a defendant's bail if he or
81 she is unable to post a monetary bond.

82 (5) (a) Beginning January 1, 2024, and annually thereafter,
83 the Florida Supreme Court shall adopt a uniform statewide bond
84 schedule for criminal offenses not described in subsection (6)
85 for which a person may be released on bail before and in lieu of
86 his or her first appearance hearing or bail determination. The
87 Florida Supreme Court shall make the revised uniform statewide

33-00880B-23

20231534__

88 bond schedule available to each judicial circuit.

89 (b) Except as provided in paragraph (c), a judge of an
90 inferior court may not establish a countywide or circuitwide
91 bond schedule that sets a lower bond amount than that required
92 by the uniform statewide bond schedule for the purpose of
93 setting a defendant's bail before a first appearance hearing or
94 bail determination.

95 (c) The chief judge of a judicial circuit may petition the
96 Florida Supreme Court for approval of a countywide or
97 circuitwide bond schedule that sets a lower bond amount than
98 required by the uniform statewide bond schedule. If the Florida
99 Supreme Court reviews and approves such countywide or
100 circuitwide bond schedule, such schedule may be used for the
101 purpose of setting a defendant's bail before a first appearance
102 hearing or bail determination pending the adoption of a new or
103 revised uniform statewide bond schedule pursuant to paragraph
104 (a).

105 (d) The chief judge of a judicial circuit may establish a
106 countywide or circuitwide bond schedule that:

107 1. Requires additional nonmonetary conditions to be imposed
108 upon a defendant who is charged with specified offenses or who
109 has a specified criminal history; or

110 2. Increases the monetary bond applicable to an offense
111 that is included in the uniform statewide bond schedule adopted
112 by the Florida Supreme Court.

113 (e) In adopting the uniform statewide bond schedule or
114 reviewing a petition for a countywide or circuitwide bond
115 schedule that deviates from the uniform statewide bond schedule,
116 the Florida Supreme Court shall evaluate the amount of monetary

33-00880B-23

20231534__

117 bond necessary to protect the community from risk of physical
118 harm, to assure the presence of the accused at trial, and to
119 protect the integrity of the judicial process.

120 (f) The uniform statewide bond schedule may not bind a
121 judge in an individual case who is conducting a first appearance
122 hearing or bail determination.

123 (6) A person may not be released before his or her first
124 appearance hearing, and a judge must determine the appropriate
125 bail, if any, based on an individualized consideration of the
126 criteria in s. 903.046(2), if the person meets any of the
127 following criteria:

128 (a) The person was, at the time of arrest for any felony,
129 on pretrial release, probation, or community control in this
130 state or any other state.

131 (b) The person was, at the time of arrest, designated as a
132 sexual offender or sexual predator in this state or any other
133 state.

134 (c) The person was arrested for violating a protective
135 injunction.

136 (d) The person was, at the time of arrest, on release from
137 supervision under s. 947.1405, s. 947.146, s. 947.149, or s.
138 944.4731.

139 (e) The person has, at any time before the current arrest,
140 been sentenced pursuant to s. 775.082(9) or s. 775.084 as a
141 prison releasee reoffender, habitual violent felony offender,
142 three-time violent felony offender, or violent career criminal.

143 (f) The person was previously arrested or issued a summons
144 for a criminal violation within the immediately preceding 6
145 months.

33-00880B-23

20231534__

146 (g) The offense for which he or she is currently arrested
147 is for committing one or more of the following crimes:

148 1. A capital felony, life felony, felony of the first
149 degree, or felony of the second degree;

150 2. A homicide, or any attempt, solicitation, or conspiracy
151 to commit a homicide, under chapter 782;

152 3. Assault in furtherance of a riot or an aggravated riot;
153 felony battery; domestic battery by strangulation; an act of
154 domestic violence as defined in s. 741.28; stalking; mob
155 intimidation; assault or battery on a law enforcement officer;
156 assault or battery on a juvenile probation officer, a staff
157 member of a detention center, a staff member of a commitment
158 facility, or a health care services personnel; assault or
159 battery on a person 65 years of age or older; robbery; burglary;
160 carjacking; or resisting an officer with violence;

161 4. Kidnapping, false imprisonment, human trafficking, or
162 human smuggling;

163 5. Possession of a firearm or any ammunition by a felon,
164 violent career criminal, or person subject to an injunction
165 against committing acts of domestic violence, stalking, or
166 cyberstalking;

167 6. Sexual battery; indecent, lewd, or lascivious touching;
168 exposure of sexual organs; incest; luring or enticing a child;
169 or child pornography;

170 7. Abuse, neglect, or exploitation of an elderly person or
171 disabled adult;

172 8. Child abuse or aggravated child abuse;

173 9. Arson; riot, aggravated riot, inciting a riot, or
174 aggravated inciting a riot; or burglary or theft during a riot;

33-00880B-23

20231534__

175 10. Escape; tampering or retaliating against a witness,
176 victim, or informant; destruction of evidence; or tampering with
177 a jury;

178 11. Any offense committed for the purpose of benefiting,
179 promoting, or furthering the interests of a criminal gang;

180 12. Trafficking in a controlled substance, including
181 conspiracy to engage in trafficking in a controlled substance;

182 13. Racketeering; or

183 14. Failure to appear at a required court proceeding while
184 on bail.

185 Section 2. Paragraph (c) of subsection (1) of section
186 903.047, Florida Statutes, is amended to read:

187 903.047 Conditions of pretrial release.—

188 (1) As a condition of pretrial release, whether such
189 release is by surety bail bond or recognizance bond or in some
190 other form, the defendant must:

191 (c) Comply with all conditions of pretrial release imposed
192 by the court. In determining appropriate conditions of release,
193 a court may consider imposing nonmonetary conditions in addition
194 to or in lieu of monetary bond subject to the limitations
195 contained in ss. 903.046 and 903.0471. Such nonmonetary
196 conditions may include, but are not limited to, requiring a
197 defendant to:

198 1. Maintain employment or, if unemployed, actively seek
199 employment;

200 2. Maintain or commence an educational program;

201 3. Abide by specified restrictions on personal
202 associations, place of residence, or travel;

203 4. Report on a regular basis to a designated law

33-00880B-23

20231534__

204 enforcement agency, pretrial services agency, or other agency;

205 5. Comply with a specified curfew;

206 6. Refrain from possessing a firearm, destructive device,
207 or other dangerous weapon;

208 7. Refrain from excessive use of alcohol, or any use of a
209 narcotic drug or other controlled substance without a
210 prescription from a licensed medical practitioner;

211 8. Undergo available medical, psychological, psychiatric,
212 mental health, or substance abuse evaluation and follow all
213 recommendations, including treatment for drug or alcohol
214 dependency, and remain in a specified institution, if required
215 for that purpose;

216 9. Return to custody for specified hours following release
217 for employment, school, or other limited purposes; and

218 10. Comply with any other condition that is reasonably
219 necessary to assure his or her appearance at subsequent
220 proceedings and to protect the community against unreasonable
221 danger of harm.

222 Section 3. Section 903.0471, Florida Statutes, is amended
223 to read:

224 903.0471 Violation of condition of pretrial release.—
225 Notwithstanding s. 907.041, a court may, on its own motion,
226 revoke pretrial release and order pretrial detention if the
227 court finds probable cause to believe that the defendant
228 committed a new crime while on pretrial release or violated any
229 other condition of pretrial release in a material respect.

230 Section 4. Subsection (4) of section 907.041, Florida
231 Statutes, is amended to read:

232 907.041 Pretrial detention and release.—

33-00880B-23

20231534__

- 233 (4) PRETRIAL DETENTION.—
- 234 (a) As used in this subsection, the term "dangerous crime"
- 235 includes all ~~means~~ any of the following:
- 236 1. Arson;
- 237 2. Aggravated assault;
- 238 3. Aggravated battery;
- 239 4. Illegal use of explosives;
- 240 5. Child abuse or aggravated child abuse;
- 241 6. Abuse of an elderly person or disabled adult, or
- 242 aggravated abuse of an elderly person or disabled adult;
- 243 7. Aircraft piracy;
- 244 8. Kidnapping;
- 245 9. Homicide;
- 246 10. Manslaughter, including DUI manslaughter and BUI
- 247 manslaughter;
- 248 11. Sexual battery;
- 249 12. Robbery;
- 250 13. Carjacking;
- 251 14. Lewd, lascivious, or indecent assault or act upon or in
- 252 presence of a child under the age of 16 years;
- 253 15. Sexual activity with a child, who is 12 years of age or
- 254 older but less than 18 years of age, by or at solicitation of
- 255 person in familial or custodial authority;
- 256 16. Burglary of a dwelling;
- 257 17. Stalking and aggravated stalking;
- 258 18. Act of domestic violence as defined in s. 741.28;
- 259 19. Home invasion robbery;
- 260 20. Act of terrorism as defined in s. 775.30;
- 261 21. Manufacturing any substances in violation of chapter

33-00880B-23

20231534__

262 893;

263 22. Attempting or conspiring to commit any such crime; ~~and~~264 23. Human trafficking; and265 24. Trafficking in any controlled substance described in s.
266 893.135(1)(c)4.267 (b) A ~~No~~ person arrested for ~~charged with~~ a dangerous crime
268 ~~may not shall~~ be granted nonmonetary pretrial release at a first
269 appearance hearing; ~~however, the court shall retain the~~
270 ~~discretion to release an accused on electronic monitoring or on~~
271 ~~recognizance bond if the findings on the record of facts and~~
272 ~~circumstances warrant such a release.~~273 (c) The court must hold a detention hearing during, or
274 within 5 days after, the defendant's:275 1. First appearance hearing, if the defendant has been
276 arrested for a dangerous crime; or277 2. Arraignment, if the defendant is charged at any time
278 subsequent to his or her arrest with a dangerous crime, has
279 failed to appear at any court proceeding at which his or her
280 appearance was required, or has violated the conditions of his
281 or her pretrial release for the current offense two or more
282 times.283 (d) The state attorney may move for pretrial detention of a
284 defendant who is not charged with a dangerous crime, but for
285 whom the state attorney otherwise believes that pretrial
286 detention is necessary to protect the community from
287 unreasonable danger of harm or to assure the defendant's
288 appearance at court proceedings.289 (e) ~~(e)~~ The court must ~~may~~ order pretrial detention if it
290 finds a substantial probability, based on a defendant's past and

33-00880B-23

20231534__

291 present patterns of behavior, the criteria in s. 903.046, and
292 any other relevant facts, that no conditions of release or bail
293 will reasonably protect the community from risk of physical harm
294 from the defendant, assure the presence of the defendant at
295 trial, or assure the integrity of the judicial process because
296 any of the following circumstances exist:

297 1. There is a substantial probability that the defendant
298 committed a dangerous crime;

299 2. The defendant has previously violated conditions of
300 release and that no further conditions of release are reasonably
301 likely to assure the defendant's appearance at subsequent
302 proceedings;

303 ~~3.2.~~ There is a substantial probability that the defendant,
304 with the intent to obstruct the judicial process, has
305 threatened, intimidated, or injured any victim, potential
306 witness, juror, or judicial officer or has tampered with
307 evidence, or, with regard to any such action, has attempted or
308 conspired to do so or has previously been convicted of doing so,
309 ~~and that no condition of release will reasonably prevent the~~
310 ~~obstruction of the judicial process;~~

311 ~~3. The defendant is charged with trafficking in controlled~~
312 ~~substances as defined by s. 893.135, that there is a substantial~~
313 ~~probability that the defendant has committed the offense, and~~
314 ~~that no conditions of release will reasonably assure the~~
315 ~~defendant's appearance at subsequent criminal proceedings;~~

316 4. ~~The defendant is charged with DUI manslaughter, as~~
317 ~~defined by s. 316.193, and that there is a substantial~~
318 ~~probability that the defendant committed the crime and that the~~
319 ~~defendant poses a threat of harm to the community; conditions~~

33-00880B-23

20231534__

320 ~~that would support a finding by the court pursuant to this~~
321 ~~subparagraph that the defendant poses a threat of harm to the~~
322 ~~community include, but are not limited to, any of the following:~~

323 ~~a. The defendant has previously been convicted of any crime~~
324 ~~under s. 316.193, or of any crime in any other state or~~
325 ~~territory of the United States that is substantially similar to~~
326 ~~any crime under s. 316.193;~~

327 ~~b. The defendant was driving with a suspended driver~~
328 ~~license when the charged crime was committed; or~~

329 ~~c. The defendant has previously been found guilty of, or~~
330 ~~has had adjudication of guilt withheld for, driving while the~~
331 ~~defendant's driver license was suspended or revoked in violation~~
332 ~~of s. 322.34;~~

333 ~~4.5. The defendant poses a the threat of harm to the~~
334 ~~community, which may include his or her past or current~~
335 ~~involvement in a criminal gang or in the manufacturing or~~
336 ~~trafficking of substances in violation of chapter 893. The court~~
337 ~~may so conclude, if it finds that the defendant is presently~~
338 ~~charged with a dangerous crime, that there is a substantial~~
339 ~~probability that the defendant committed such crime, that the~~
340 ~~factual circumstances of the crime indicate a disregard for the~~
341 ~~safety of the community, and that there are no conditions of~~
342 ~~release reasonably sufficient to protect the community from the~~
343 ~~risk of physical harm to persons;~~

344 ~~5.6. The defendant was on probation, parole, or other~~
345 ~~release pending completion of sentence or on pretrial release~~
346 ~~for a dangerous crime at the time the current offense was~~
347 ~~committed;~~

348 ~~6.7. The defendant has violated one or more conditions of~~

33-00880B-23

20231534__

349 pretrial release or bond for the offense currently before the
350 court ~~and the violation, in the discretion of the court,~~
351 ~~supports a finding that no conditions of release can reasonably~~
352 ~~protect the community from risk of physical harm to persons or~~
353 ~~assure the presence of the accused at trial; or~~

354 7.a.8.a. The defendant has ever been sentenced pursuant to
355 s. 775.082(9) or s. 775.084 as a prison releasee reoffender,
356 habitual violent felony offender, three-time violent felony
357 offender, or violent career criminal, or the state attorney
358 would be authorized to file files a notice seeking that the
359 defendant be sentenced pursuant to s. 775.082(9) or s. 775.084,
360 as a prison releasee reoffender, habitual violent felony
361 offender, three-time violent felony offender, or violent career
362 criminal for the offense currently before the court; and

363 b. There is a substantial probability that the defendant
364 committed the current offense for which he or she was arrested;
365 or and

366 ~~e. There are no conditions of release that can reasonably~~
367 ~~protect the community from risk of physical harm or ensure the~~
368 ~~presence of the accused at trial.~~

369 8.a. The defendant has been convicted on more than five
370 occasions of a misdemeanor of the first degree or a felony and
371 at least one of his or her prior convictions was for a dangerous
372 crime, including any attempt or conspiracy to commit a dangerous
373 crime; and

374 b. There is a substantial probability that the defendant
375 committed the current offense for which he or she was arrested.

376 (f)-(d) When a person charged with a crime for which
377 pretrial detention could be ordered is arrested, the arresting

33-00880B-23

20231534__

378 agency shall promptly notify the state attorney of the arrest
379 and shall provide the state attorney with such information as
380 the arresting agency has obtained relative to:

381 1. The nature and circumstances of the offense charged;

382 2. The nature of any physical evidence seized and the
383 contents of any statements obtained from the defendant or any
384 witness;

385 3. The defendant's family ties, residence, employment,
386 financial condition, and mental condition; and

387 4. The defendant's past conduct and present conduct,
388 including any record of convictions, previous flight to avoid
389 prosecution, or failure to appear at court proceedings.

390 (g) ~~(e)~~ When a person charged with a crime for which
391 pretrial detention could be ordered is arrested, the arresting
392 agency may detain such defendant, before his or her first
393 appearance hearing or before ~~prior to~~ the filing by the state
394 attorney of a motion seeking pretrial detention, for a period
395 not to exceed 24 hours.

396 (h) ~~(f)~~ The pretrial detention hearing must ~~shall~~ be held
397 within 5 days after the defendant's first appearance hearing,
398 after arraignment, or after ~~of the filing by~~ the state attorney
399 files of a motion ~~complaint~~ to seek pretrial detention,
400 whichever is applicable. The defendant may request a
401 continuance. A ~~No~~ continuance may not exceed ~~shall be for longer~~
402 ~~than~~ 5 days, unless there are extenuating circumstances. The
403 defendant may be detained pending the completion of the hearing.
404 The state attorney is ~~shall be~~ entitled to one continuance for
405 good cause.

406 (i) ~~(g)~~ The state attorney has the burden of showing the

33-00880B-23

20231534__

407 need for pretrial detention by clear and convincing evidence.
408 The state attorney may satisfy his or her burden by proffering
409 the facts and circumstances of the underlying crime and any
410 other relevant criteria specified in s. 903.046. If the court
411 finds that there is a substantial probability that the defendant
412 committed a dangerous crime or that the defendant meets the
413 criteria in subparagraph (e)7. or subparagraph (e)8., it must be
414 presumed, subject to rebuttal by the defendant, that no
415 conditions of release or bail will reasonably protect the
416 community from risk of physical harm to persons and assure the
417 appearance of the defendant at trial.

418 (j)~~(h)~~ The defendant is entitled to be represented by
419 counsel and must be afforded an opportunity to testify, to
420 present witnesses, to cross-examine witnesses who appear at the
421 hearing, and to present information by proffer or otherwise.

422 (k) The rules concerning admissibility of evidence in
423 criminal trials do not apply to the presentation and
424 consideration of information at the pretrial detention hearing,
425 ~~to present witnesses and evidence, and to cross-examine~~
426 ~~witnesses. The court may admit relevant evidence without~~
427 ~~complying with the rules of evidence, but evidence secured in~~
428 ~~violation of the United States Constitution or the Constitution~~
429 ~~of the State of Florida shall not be admissible. No Testimony or~~
430 proffer by or on behalf of the defendant is not shall be
431 admissible to prove guilt at any other judicial proceeding, but
432 such testimony may be admitted in an action for perjury, based
433 upon the defendant's statements made at the pretrial detention
434 hearing, or for impeachment.

435 (l) A party may move that a pretrial detention order be

33-00880B-23

20231534__

436 reconsidered at any time before a defendant's trial if the judge
437 finds that information exists that was not known to the party
438 moving for reconsideration at the time of the pretrial detention
439 hearing and that such information has a material bearing on
440 determining whether there are conditions of release or bail that
441 will reasonably assure the required appearance of the defendant
442 and the safety of any other person and the community from harm.

443 (m)-(i) The pretrial detention order of the court must ~~shall~~
444 be based solely upon facts and circumstances proffered,
445 testimony received, or evidence produced at the hearing and must
446 ~~shall~~ contain findings of fact and conclusions of law to support
447 it. The order must ~~shall~~ be made either in writing or orally on
448 the record. The court shall render its findings within 24 hours
449 after ~~of~~ the pretrial detention hearing.

450 (n)-(j) A defendant convicted at trial following the
451 issuance of a pretrial detention order must ~~shall~~ have credited
452 to his or her sentence, if imprisonment is imposed, the time the
453 defendant was held under the order, pursuant to s. 921.161.

454 (o)-(k) The defendant is ~~shall be~~ entitled to dissolution of
455 the pretrial detention order whenever the court finds that a
456 subsequent event has eliminated the basis for detention.

457 ~~(l) The Legislature finds that a person who manufactures~~
458 ~~any substances in violation of chapter 893 poses a threat of~~
459 ~~harm to the community and that the factual circumstances of such~~
460 ~~a crime indicate a disregard for the safety of the community.~~
461 ~~The court shall order pretrial detention if the court finds that~~
462 ~~there is a substantial probability that a defendant charged with~~
463 ~~manufacturing any substances in violation of chapter 893~~
464 ~~committed such a crime and if the court finds that there are no~~

33-00880B-23

20231534__

465 ~~conditions of release reasonably sufficient to protect the~~
466 ~~community from the risk of physical harm to persons.~~

467 Section 5. This act shall take effect January 1, 2024.