

By the Committee on Fiscal Policy; and Senator Martin

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1 A bill to be entitled
2 An act relating to pretrial release and detention;
3 amending s. 903.011, F.S.; providing for setting,
4 reduction, and alteration of bail; requiring the
5 Supreme Court to create and periodically update a
6 statewide uniform bail bond schedule for certain
7 offenses; providing for the chief judge of a judicial
8 circuit to establish a lower bail bond schedule in
9 certain cases; requiring Supreme Court approval for
10 local deviations from the statewide uniform bail bond
11 schedule; providing that arrested persons in certain
12 categories may not be released until a first
13 appearance and that bond for such persons be
14 individually determined based on specified factors;
15 amending s. 903.047, F.S.; authorizing a court to
16 consider nonmonetary conditions in addition to or in
17 lieu of a monetary amount subject to specified
18 limitations; listing possible nonmonetary conditions;
19 amending s. 903.0471, F.S.; providing that a court may
20 revoke pretrial release and order pretrial detention
21 if a defendant materially violates any release
22 condition; amending s. 907.041, F.S.; revising the
23 definition of the term "dangerous crime"; providing
24 that a person arrested for a dangerous crime may not
25 be granted nonmonetary pretrial release at a first
26 appearance hearing; specifying that upon motion by the
27 state attorney, a court may order pretrial detention
28 in certain circumstances; providing for a detention
29 hearing for persons charged with dangerous crimes;

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30 authorizing a state attorney or a court to move for
31 detention of persons charged with dangerous crimes in
32 certain circumstances; requiring a court to order
33 pretrial detention in certain circumstances; providing
34 requirements for detention hearings; revising
35 requirements for a pretrial detention order; requiring
36 a court to provide specified information to certain
37 defendants; providing that a party may move for
38 reconsideration of a pretrial detention order any time
39 before trial in certain circumstances; removing a
40 requirement for pretrial detention for defendants
41 charged with illegally manufacturing controlled
42 substances in certain cases; providing an effective
43 date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Subsections (4), (5), and (6) are added to
48 section 903.011, Florida Statutes, to read:

49 903.011 Pretrial release ~~"Bail" and "bond"~~ defined; general
50 terms; statewide uniform bond schedule.-

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

56 (5) (a) Beginning January 1, 2024, and annually thereafter,
57 the Supreme Court must adopt a uniform statewide bond schedule
58 for criminal offenses not described in subsection (6) for which

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59 a person may be released on bail before and in lieu of his or
60 her first appearance hearing or bail determination. The Supreme
61 Court must make the revised uniform statewide bond schedule
62 available to each judicial circuit.

63 (b) Except as provided in paragraph (c), the chief judge of
64 a judicial circuit may not establish a local bond schedule that
65 sets a lower bond amount than that required by the uniform
66 statewide bond schedule for the purpose of setting a defendant's
67 bail before a first appearance hearing or bail determination.

68 (c) The chief judge of a judicial circuit may petition the
69 Supreme Court for approval of a local bond schedule that sets a
70 lower bond amount than that required by the uniform statewide
71 bond schedule. If the Supreme Court reviews and approves the
72 local bond schedule, such schedule may be used for the purpose
73 of setting a defendant's bail before a first appearance hearing
74 or bail determination pending the adoption of a new or revised
75 uniform statewide bond schedule pursuant to paragraph (a).

76 (d) The chief judge of a judicial circuit may establish a
77 local bond schedule that increases the monetary bond applicable
78 to an offense that is included in the uniform statewide bond
79 schedule adopted by the Supreme Court. Such a deviation from the
80 uniform statewide bond schedule does not require approval by the
81 Supreme Court.

82 (e) In adopting the uniform statewide bond schedule or
83 reviewing a petition for a local bond schedule that deviates
84 from the uniform statewide bond schedule, the Florida Supreme
85 Court shall evaluate the amount of monetary bond necessary to
86 protect the community from risk of physical harm, to assure the
87 presence of the accused at trial, and to protect the integrity

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88 of the judicial process.

89 (f) The uniform statewide bond schedule shall not bind a
90 judge in an individual case who is conducting a first appearance
91 hearing or bail determination.

92 (6) A person may not be released before his or her first
93 appearance hearing or bail determination and a judge must
94 determine the appropriate bail, if any, based on an
95 individualized consideration of the criteria in s. 903.046(2),
96 if the person meets any of the following criteria:

97 (a) The person was, at the time of arrest for any felony,
98 on pretrial release, probation, or community control in this
99 state or any other state;

100 (b) The person was, at the time of arrest, designated as a
101 sexual offender or sexual predator in this state or any other
102 state;

103 (c) The person was arrested for violating a protective
104 injunction;

105 (d) The person was, at the time of arrest, on release from
106 supervision under s. 947.1405, s. 947.146, s. 947.149, or s.
107 944.4731;

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

112 (f) The person has been arrested three or more times in the
113 12 months immediately preceding his or her arrest for the
114 current offense; or

115 (g) The person's current offense of arrest is for one or
116 more of the following crimes:

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- 117 1. A capital felony, life felony, felony of the first
118 degree, or felony of the second degree;
- 119 2. A homicide under chapter 782; or any attempt,
120 solicitation, or conspiracy to commit a homicide;
- 121 3. Assault in furtherance of a riot or an aggravated riot;
122 felony battery; domestic battery by strangulation; domestic
123 violence, as defined in s. 741.28; stalking; mob intimidation;
124 assault or battery on a law enforcement officer; assault or
125 battery on juvenile probation officer, or other staff of a
126 detention center or commitment facility, or a staff member of a
127 commitment facility, or health services personnel; assault or
128 battery on a person 65 years of age or older; robbery; burglary;
129 carjacking; or resisting an officer with violence;
- 130 4. Kidnapping, false imprisonment, human trafficking, or
131 human smuggling;
- 132 5. Possession of a firearm or ammunition by a felon,
133 violent career criminal, or person subject to an injunction
134 against committing acts of domestic violence, stalking, or
135 cyberstalking;
- 136 6. Sexual battery; indecent, lewd, or lascivious touching;
137 exposure of sexual organs; incest; luring or enticing a child;
138 or child pornography;
- 139 7. Abuse, neglect, or exploitation of an elderly person or
140 disabled adult;
- 141 8. Child abuse or aggravated child abuse;
- 142 9. Arson; riot, aggravated riot, inciting a riot, or
143 aggravated inciting a riot; or a burglary or theft during a
144 riot;
- 145 10. Escape; tampering or retaliating against a witness,

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146 victim, or informant; destruction of evidence; or tampering with
147 a jury;

148 11. Any offense committed for the purpose of benefitting,
149 promoting, or furthering the interests of a criminal gang;

150 12. Trafficking in a controlled substance, including
151 conspiracy to engage in trafficking in a controlled substance;

152 13. Racketeering; or

153 14. Failure to appear at required court proceedings while
154 on bail.

155 Section 2. Paragraph (c) of subsection (1) of section
156 903.047, Florida Statutes, is amended to read:

157 903.047 Conditions of pretrial release.—

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

161 (c) Comply with all conditions of pretrial release imposed
162 by the court. A court must consider s. 903.046(2) when
163 determining whether to impose nonmonetary conditions in addition
164 to or in lieu of monetary bond. Such nonmonetary conditions may
165 include, but are not limited to, requiring a defendant to:

166 1. Maintain employment, or, if unemployed, actively seek
167 employment.

168 2. Maintain or commence an educational program.

169 3. Abide by specified restrictions on personal
170 associations, place of residence, or travel.

171 4. Report on a regular basis to a designated law
172 enforcement agency, pretrial services agency, or other agency.

173 5. Comply with a specified curfew.

174 6. Refrain from possessing a firearm, destructive device,

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175 or other dangerous weapon.

176 7. Refrain from excessive use of alcohol, or any use of a
177 narcotic drug or other controlled substance without a
178 prescription from a licensed medical practitioner.

179 8. Undergo available medical, psychological, psychiatric,
180 mental health, or substance abuse evaluation and follow all
181 recommendations, including treatment for drug or alcohol
182 dependency, and remain in a specified institution, if required
183 for that purpose.

184 9. Return to custody for specified hours following release
185 for employment, school, or other limited purposes.

186 10. Any other condition that is reasonably necessary to
187 assure the appearance of the defendant at subsequent proceedings
188 and to protect the community against unreasonable danger of
189 harm.

190 Section 3. Section 903.0471, Florida Statutes, is amended
191 to read:

192 903.0471 Violation of condition of pretrial release.—
193 Notwithstanding s. 907.041, a court may, on its own motion,
194 revoke pretrial release and order pretrial detention if the
195 court finds probable cause to believe that the defendant
196 committed a new crime while on pretrial release or violated any
197 other condition of pretrial release in a material respect.

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

200 907.041 Pretrial detention and release.—

201 (4) PRETRIAL DETENTION.—

202 (a) As used in this subsection, "dangerous crime" means any
203 of the following:

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- 204 1. Arson;
- 205 2. Aggravated assault;
- 206 3. Aggravated battery;
- 207 4. Illegal use of explosives;
- 208 5. Child abuse or aggravated child abuse;
- 209 6. Abuse of an elderly person or disabled adult, or
- 210 aggravated abuse of an elderly person or disabled adult;
- 211 7. Aircraft piracy;
- 212 8. Kidnapping;
- 213 9. Homicide;
- 214 10. Manslaughter, including DUI manslaughter and BUI
- 215 manslaughter;
- 216 11. Sexual battery;
- 217 12. Robbery;
- 218 13. Carjacking;
- 219 14. Lewd, lascivious, or indecent assault or act upon or in
- 220 presence of a child under the age of 16 years;
- 221 15. Sexual activity with a child, who is 12 years of age or
- 222 older but less than 18 years of age, by or at solicitation of
- 223 person in familial or custodial authority;
- 224 16. Burglary of a dwelling;
- 225 17. Stalking and aggravated stalking;
- 226 18. Act of domestic violence as defined in s. 741.28;
- 227 19. Home invasion robbery;
- 228 20. Act of terrorism as defined in s. 775.30;
- 229 21. Manufacturing any substances in violation of chapter
- 230 893;
- 231 22. Attempting or conspiring to commit any such crime; ~~and~~
- 232 23. Human trafficking;

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233 24. Trafficking in any controlled substance described in s.
234 893.135(1) (c) 4.;

235 25. Extortion in violation of s. 836.05; and

236 26. Written threats to kill in violation of s. 836.10.

237 (b) A ~~No~~ person arrested for ~~charged with~~ a dangerous crime
238 may not ~~shall~~ be granted nonmonetary pretrial release at a first
239 appearance hearing if the court has determined there is probable
240 cause to believe the person has committed the offense; ~~however,~~
241 ~~the court shall retain the discretion to release an accused on~~
242 ~~electronic monitoring or on recognizance bond if the findings on~~
243 ~~the record of facts and circumstances warrant such a release.~~

244 (c) Upon motion by the state attorney, the court may order
245 pretrial detention if it finds a substantial probability, based
246 on a defendant's past and present patterns of behavior, the
247 criteria in s. 903.046, and any other relevant facts, that any
248 of the following circumstances exist:

249 1. The defendant has previously violated conditions of
250 release and that no further conditions of release are reasonably
251 likely to assure the defendant's appearance at subsequent
252 proceedings;

253 2. The defendant, with the intent to obstruct the judicial
254 process, has threatened, intimidated, or injured any victim,
255 potential witness, juror, or judicial officer, or has attempted
256 or conspired to do so, and that no condition of release will
257 reasonably prevent the obstruction of the judicial process;

258 3. The defendant is charged with trafficking in controlled
259 substances as defined by s. 893.135, that there is a substantial
260 probability that the defendant has committed the offense, and
261 that no conditions of release will reasonably assure the

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262 defendant's appearance at subsequent criminal proceedings;

263 4. The defendant is charged with DUI manslaughter, as
264 defined by s. 316.193, and that there is a substantial
265 probability that the defendant committed the crime and that the
266 defendant poses a threat of harm to the community; conditions
267 that would support a finding by the court pursuant to this
268 subparagraph that the defendant poses a threat of harm to the
269 community include, but are not limited to, any of the following:

270 a. The defendant has previously been convicted of any crime
271 under s. 316.193, or of any crime in any other state or
272 territory of the United States that is substantially similar to
273 any crime under s. 316.193;

274 b. The defendant was driving with a suspended driver
275 license when the charged crime was committed; or

276 c. The defendant has previously been found guilty of, or
277 has had adjudication of guilt withheld for, driving while the
278 defendant's driver license was suspended or revoked in violation
279 of s. 322.34;

280 5. The defendant poses the threat of harm to the community.
281 The court may so conclude, if it finds that the defendant is
282 presently charged with a dangerous crime, that there is a
283 substantial probability that the defendant committed such crime,
284 that the factual circumstances of the crime indicate a disregard
285 for the safety of the community, and that there are no
286 conditions of release reasonably sufficient to protect the
287 community from the risk of physical harm to persons;

288 6. The defendant was on probation, parole, or other release
289 pending completion of sentence or on pretrial release for a
290 dangerous crime at the time the current offense was committed;

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291 7. The defendant has violated one or more conditions of
292 pretrial release or bond for the offense currently before the
293 court and the violation, in the discretion of the court,
294 supports a finding that no conditions of release can reasonably
295 protect the community from risk of physical harm to persons or
296 assure the presence of the accused at trial; or

297 8.a. The defendant has ever been sentenced pursuant to s.
298 775.082(9) or s. 775.084 as a prison releasee reoffender,
299 habitual violent felony offender, three-time violent felony
300 offender, or violent career criminal, or the state attorney
301 files a notice seeking that the defendant be sentenced pursuant
302 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
303 habitual violent felony offender, three-time violent felony
304 offender, or violent career criminal;

305 b. There is a substantial probability that the defendant
306 committed the offense; and

307 c. There are no conditions of release that can reasonably
308 protect the community from risk of physical harm or ensure the
309 presence of the accused at trial.

310 (d) If a defendant is arrested for a dangerous crime that
311 is a capital felony, a life felony, or a felony of the first
312 degree, and the court determines there is probable cause to
313 believe the defendant committed the offense, the state attorney,
314 or the court on its own motion, shall motion for pretrial
315 detention. If the court finds a substantial probability that the
316 defendant committed the offense and, based on the defendant's
317 past and present patterns of behavior, consideration of the
318 criteria in s. 903.046, and any other relevant facts, that no
319 conditions of release or bail will reasonably protect the

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320 community from risk of physical harm, ensure the presence of the
321 defendant at trial, or assure the integrity of the judicial
322 process, the court must order pretrial detention.

323 (e)~~(d)~~ When a person charged with a crime for which
324 pretrial detention could be ordered is arrested, the arresting
325 agency shall promptly notify the state attorney of the arrest
326 and shall provide the state attorney with such information as
327 the arresting agency has obtained relative to:

- 328 1. The nature and circumstances of the offense charged;
329 2. The nature of any physical evidence seized and the
330 contents of any statements obtained from the defendant or any
331 witness;
332 3. The defendant's family ties, residence, employment,
333 financial condition, and mental condition; and
334 4. The defendant's past conduct and present conduct,
335 including any record of convictions, previous flight to avoid
336 prosecution, or failure to appear at court proceedings.

337 (f)~~(e)~~ When a person charged with a crime for which
338 pretrial detention could be ordered is arrested, the arresting
339 agency may detain such defendant, prior to his or her first
340 appearance hearing or prior to the filing by the state attorney
341 of a motion seeking pretrial detention, for a period not to
342 exceed 24 hours.

343 (g)1.~~(f)~~ If a motion for pretrial detention is required
344 under paragraph (d), the pretrial detention hearing must shall
345 be held within 5 days after the defendant's first appearance
346 hearing or, if there is no first appearance hearing, within 5
347 days after the defendant's arraignment of the filing by the
348 state attorney of a complaint to seek pretrial detention.

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349 2. If a state attorney files a motion for pretrial
350 detention under paragraph (c), the pretrial detention hearing
351 must be held within 5 days after the filing of such motion.

352 3. The defendant may request a continuance of a pretrial
353 detention hearing. No continuance shall be for longer than 5
354 days unless there are extenuating circumstances. ~~The defendant~~
355 ~~may be detained pending the hearing.~~ The state attorney shall be
356 entitled to one continuance for good cause.

357 4. The defendant may be detained pending the completion of
358 the pretrial detention hearing. If a defendant is released on
359 bail pending a pretrial detention hearing under paragraph (d),
360 the court must inform the defendant that if he or she uses a
361 surety bond to meet the monetary component of pretrial release
362 and the motion for pretrial detention is subsequently granted,
363 the defendant will not be entitled to the return of the premium
364 on such surety bond.

365 (h)~~(g)~~ The state attorney has the burden of showing the
366 need for pretrial detention.

367 (i)~~(h)~~ The defendant is entitled to be represented by
368 counsel, to present witnesses and evidence, and to cross-examine
369 witnesses. The rules concerning admissibility of evidence in
370 criminal trials do not apply to the presentation and
371 consideration of evidence at the detention hearing ~~The court may~~
372 ~~admit relevant evidence without complying with the rules of~~
373 ~~evidence,~~ but evidence secured in violation of the United States
374 Constitution or the Constitution of the State of Florida shall
375 not be admissible. No testimony by the defendant shall be
376 admissible to prove guilt at any other judicial proceeding, but
377 such testimony may be admitted in an action for perjury, based

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378 upon the defendant's statements made at the pretrial detention
379 hearing, or for impeachment.

380 (j) A party may motion for a pretrial detention order to be
381 reconsidered at any time before a defendant's trial if the judge
382 finds that information exists that was not known to the party
383 moving for reconsideration at the time of the pretrial detention
384 hearing and that such information has a material bearing on
385 determining whether there are conditions of release or bail that
386 will reasonably assure the appearance of the defendant as
387 required and the safety of any other person and the community
388 from harm.

389 (k)~~(i)~~ The pretrial detention order of the court shall be
390 based solely upon evidence produced at the hearing and shall
391 contain findings of fact and conclusions of law to support it.
392 The order shall be made either in writing or orally on the
393 record. The court shall render its findings within 24 hours of
394 the pretrial detention hearing.

395 (l)~~(j)~~ A defendant convicted at trial following the
396 issuance of a pretrial detention order shall have credited to
397 his or her sentence, if imprisonment is imposed, the time the
398 defendant was held under the order, pursuant to s. 921.161.

399 (m)~~(k)~~ The defendant shall be entitled to dissolution of
400 the pretrial detention order whenever the court finds that a
401 subsequent event has eliminated the basis for detention.

402 ~~(l) The Legislature finds that a person who manufactures~~
403 ~~any substances in violation of chapter 893 poses a threat of~~
404 ~~harm to the community and that the factual circumstances of such~~
405 ~~a crime indicate a disregard for the safety of the community.~~
406 ~~The court shall order pretrial detention if the court finds that~~

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407 ~~there is a substantial probability that a defendant charged with~~
408 ~~manufacturing any substances in violation of chapter 893~~
409 ~~committed such a crime and if the court finds that there are no~~
410 ~~conditions of release reasonably sufficient to protect the~~
411 ~~community from the risk of physical harm to persons.~~

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