

By the Committee on Criminal Justice; and Senator Burgess

591-03132-23

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1 A bill to be entitled
2 An act relating to electronic monitoring of persons
3 charged with or convicted of offenses involving
4 schools or students; amending s. 907.041, F.S.;
5 defining the term "school"; requiring a court to
6 consider electronic monitoring and location
7 restrictions as conditions of pretrial release for
8 persons charged with certain offenses against schools
9 or students; creating s. 948.301, F.S.; defining the
10 term "school"; requiring a court to consider
11 electronic monitoring and location restrictions as
12 conditions of probation or community control for
13 persons charged with certain offenses against schools
14 or students; amending s. 790.065, F.S.; conforming a
15 cross-reference; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Present subsection (4) of section 907.041,
20 Florida Statutes, is redesignated as subsection (5), a new
21 subsection (4) is added to that section, and paragraph (a) of
22 subsection (3) of that section is amended, to read:

23 907.041 Pretrial detention and release.—

24 (3) RELEASE ON NONMONETARY CONDITIONS.—

25 (a) It is the intent of the Legislature to create a
26 presumption in favor of release on nonmonetary conditions for
27 any person who is granted pretrial release unless such person is
28 charged with a dangerous crime as defined in subsection (5) ~~(4)~~.
29 Such person shall be released on monetary conditions if it is

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30 determined that such monetary conditions are necessary to assure
31 the presence of the person at trial or at other proceedings, to
32 protect the community from risk of physical harm to persons, to
33 assure the presence of the accused at trial, or to assure the
34 integrity of the judicial process.

35 (4) SPECIAL CONDITIONS FOR CERTAIN OFFENSES INVOLVING
36 SCHOOLS OR STUDENTS.—

37 (a) As used in this subsection, the term "school" means the
38 grounds or facility of any early learning, prekindergarten,
39 kindergarten, elementary school, middle school, junior high
40 school, secondary school, career center, or postsecondary
41 school, whether public or private.

42 (b) When a person is charged with a crime under s. 790.115,
43 s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s.
44 790.165, s. 790.166, s. 810.095, or s. 836.10, alleged to have
45 been committed at or against a school or against a student while
46 he or she is at school, the court must consider whether
47 conditions of electronic monitoring and a prohibition from being
48 within 1,000 feet of any school are appropriate to protect the
49 community from risk of physical harm to persons.

50 Section 2. Section 948.301, Florida Statutes, is created to
51 read:

52 948.301 Electronic monitoring as a condition of probation
53 or community control for certain offenders.—

54 (1) As used in this section, the term "school" means the
55 grounds or facility of any early learning, prekindergarten,
56 kindergarten, elementary school, middle school, junior high
57 school, secondary school, career center, or postsecondary
58 school, whether public or private.

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59 (2) Effective for any probationer or community controllee
60 whose crime was committed on or after October 1, 2023, and who
61 is placed under supervision for a violation of s. 790.115, s.
62 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s.
63 790.165, s. 790.166, s. 810.095, or s. 836.10, committed at or
64 against a school or against a student while he or she is at
65 school, the court must consider whether conditions of electronic
66 monitoring and a prohibition from being within 1,000 feet of any
67 school are appropriate for the offender.

68 Section 3. Paragraph (c) of subsection (2) of section
69 790.065, Florida Statutes, is amended to read:

70 790.065 Sale and delivery of firearms.—

71 (2) Upon receipt of a request for a criminal history record
72 check, the Department of Law Enforcement shall, during the
73 licensee's call or by return call, forthwith:

74 (c)1. Review any records available to it to determine
75 whether the potential buyer or transferee has been indicted or
76 has had an information filed against her or him for an offense
77 that is a felony under either state or federal law, or, as
78 mandated by federal law, has had an injunction for protection
79 against domestic violence entered against the potential buyer or
80 transferee under s. 741.30, has had an injunction for protection
81 against repeat violence entered against the potential buyer or
82 transferee under s. 784.046, or has been arrested for a
83 dangerous crime as specified in s. 907.041(5)(a) ~~s.~~

84 ~~907.041(4)(a)~~ or for any of the following enumerated offenses:

- 85 a. Criminal anarchy under ss. 876.01 and 876.02.
86 b. Extortion under s. 836.05.
87 c. Explosives violations under s. 552.22(1) and (2).

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- 88 d. Controlled substances violations under chapter 893.
89 e. Resisting an officer with violence under s. 843.01.
90 f. Weapons and firearms violations under this chapter.
91 g. Treason under s. 876.32.
92 h. Assisting self-murder under s. 782.08.
93 i. Sabotage under s. 876.38.
94 j. Stalking or aggravated stalking under s. 784.048.

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96 If the review indicates any such indictment, information, or
97 arrest, the department shall provide to the licensee a
98 conditional nonapproval number.

99 2. Within 24 working hours, the department shall determine
100 the disposition of the indictment, information, or arrest and
101 inform the licensee as to whether the potential buyer is
102 prohibited from receiving or possessing a firearm. For purposes
103 of this paragraph, "working hours" means the hours from 8 a.m.
104 to 5 p.m. Monday through Friday, excluding legal holidays.

105 3. The office of the clerk of court, at no charge to the
106 department, shall respond to any department request for data on
107 the disposition of the indictment, information, or arrest as
108 soon as possible, but in no event later than 8 working hours.

109 4. The department shall determine as quickly as possible
110 within the allotted time period whether the potential buyer is
111 prohibited from receiving or possessing a firearm.

112 5. If the potential buyer is not so prohibited, or if the
113 department cannot determine the disposition information within
114 the allotted time period, the department shall provide the
115 licensee with a conditional approval number.

116 6. If the buyer is so prohibited, the conditional

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117 nonapproval number shall become a nonapproval number.

118 7. The department shall continue its attempts to obtain the
119 disposition information and may retain a record of all approval
120 numbers granted without sufficient disposition information. If
121 the department later obtains disposition information which
122 indicates:

123 a. That the potential buyer is not prohibited from owning a
124 firearm, it shall treat the record of the transaction in
125 accordance with this section; or

126 b. That the potential buyer is prohibited from owning a
127 firearm, it shall immediately revoke the conditional approval
128 number and notify local law enforcement.

129 8. During the time that disposition of the indictment,
130 information, or arrest is pending and until the department is
131 notified by the potential buyer that there has been a final
132 disposition of the indictment, information, or arrest, the
133 conditional nonapproval number shall remain in effect.

134 Section 4. This act shall take effect October 1, 2023.