

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 1099](#)

**TITLE:** Arrest and Detention of Individuals with Significant Medical Conditions

**SPONSOR(S):** Canady

**COMPANION BILL:** [CS/SB 1450](#) (Burgess)

**LINKED BILLS:** None

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 108 Y's 0 N's

**GOVERNOR'S ACTION:** Pending

### SUMMARY

#### Effect of the Bill:

The bill specifies that a law enforcement officer may use his or her discretion based on the totality of the circumstances when determining whether to make an immediate arrest of a person who has a significant medical condition, including an arrest for an offense committed against an elderly person or a disabled adult. The bill specifies that a law enforcement officer may consider all lawful methods to make an arrest of such a person, including seeking an arrest warrant, but does not preclude the officer from making an immediate physical arrest of such a person.

#### Fiscal or Economic Impact:

None.

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## ANALYSIS

### EFFECT OF THE BILL:

The bill specifies that a law enforcement officer may use his or her discretion based on the totality of the circumstances in determining whether to make an [immediate arrest](#) of a person with a significant medical condition, including an arrest for an offense committed against an elderly person or disabled adult. The bill defines "person with a significant medical condition" to mean a person who is a patient or resident of:

- A hospital<sup>1</sup> licensed under ch. 395, F.S.;
- A nursing home facility<sup>2</sup> licensed under part II of ch. 400, F.S.; or
- An assisted living facility<sup>3</sup> licensed under part I of ch. 429, F.S. (Section [1](#))

<sup>1</sup> "Hospital" means any establishment that:

- Offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and
- Regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent, except that a critical access hospital, as defined in [s. 408.07, F.S.](#), shall not be required to make available treatment facilities for surgery, obstetrical care, or similar services as long as it maintains its critical access hospital designation and shall be required to make such facilities available only if it ceases to be designated as a critical access hospital.

However, the provisions of ch. 395, F.S., do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992. [S. 395.002\(12\), F.S.](#)

<sup>2</sup> "Nursing home facility" means any facility which provides nursing services under part I, ch. 464, F.S., and which is licensed under part II, ch. 400, F.S. [S. 400.021\(12\), F.S.](#)

<sup>3</sup> "Assisted living facility" means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, regardless of whether operated for profit, which through its ownership or management provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. [S. 429.02\(5\), F.S.](#)

**STORAGE NAME:** h1099z

**DATE:** 4/24/2025

The bill specifies that, in making the determination of whether to arrest such a person, a law enforcement officer may consider whether the person to be arrested is a current or continued threat to public safety or himself or herself or a flight risk, and may consider all available methods of making an arrest, including seeking an [arrest warrant](#). The bill provides that nothing prohibits a law enforcement officer from making an immediate physical arrest of a person without a warrant or by any other lawful method. (Section [1](#))

Subject to the Governor’s veto powers, the effective date of this bill is July 1, 2025. (Section [2](#))

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Arrest

A law enforcement officer<sup>4</sup> is authorized, but not required, to arrest a person who commits a criminal offense. A law enforcement officer may generally use his or her discretion in determining whether to make such an arrest. If a law enforcement determines that an arrest should be made, he or she may either make such an arrest after first obtaining an arrest warrant or, in specified circumstances, he or she may make an immediate arrest without a warrant.

#### Arrest Warrant

To obtain an arrest warrant, a law enforcement officer must seek approval from a judge. A judge is authorized to issue a warrant authorizing a person’s arrest for committing any crime if he or she finds probable cause that the person committed a crime within his or her jurisdiction.<sup>5</sup> Once issued, the arrest warrant is issued to all sheriffs in the state, and must be executed by the sheriff in the county in which an arrest is to be made, unless the arrest was made in fresh pursuit. In such a case, the warrant may be executed by any sheriff who is advised of the existence of the warrant.<sup>6</sup> When a judge signs an arrest warrant, he or she also sets a bond amount for the defendant. As such, if a defendant is arrested under the warrant, he or she may be released from jail after paying the bond amount set by the judge who signed the arrest warrant.

#### Immediate Arrest

In Florida, a law enforcement officer may arrest a person without a warrant under certain statutorily enumerated circumstances, including when:

- An officer reasonably believes a person committed a felony;
- There is probable cause to believe a person has committed certain enumerated misdemeanor offenses for which a warrantless arrest has been explicitly authorized by statute, such as a battery, criminal mischief or graffiti, an act of domestic violence, an injunction violation, or sexual cyberharassment; or
- A person commits a misdemeanor in an officer’s presence and the arrest is made immediately or in fresh pursuit after the officer observes the offense.<sup>7</sup>

#### Bail and Pretrial Detention

After a person has been arrested, unless he or she is released on a bond set on an arrest warrant or under a bond set by the bond schedule established by the Florida Supreme Court, he or she must appear before a judge within 24 hours of arrest, which is known as a “first appearance.”<sup>8</sup> At a first appearance, a judge advises a defendant of the charges for which he or she was arrested, determines whether there is probable cause that a defendant committed such an offense, and advises a defendant of specified rights.<sup>9</sup> If a judge determines that probable cause exists, the judge then determines whether a defendant is entitled to pretrial release. A judge may grant pretrial release either by setting a specified bail amount or releasing the defendant on his or her own recognizance.<sup>10</sup>

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<sup>4</sup> See [s. 943.10\(1\), F.S.](#)

<sup>5</sup> [S. 901.02, F.S.](#)

<sup>6</sup> [S. 901.04, F.S.](#)

<sup>7</sup> [S. 901.15, F.S.](#)

<sup>8</sup> Fla. R. Crim. P. 3.130.

<sup>9</sup> *Id.*

<sup>10</sup> Fla. R. Crim. P. 3.131.

### *Offenses for which a Person May not be Released Prior to his or her First Appearance Hearing*

If a person is arrested for committing specified offenses against an elderly person or a disabled adult, he is or may be required to remain in jail prior to his or her first appearance hearing. Under [s. 903.011, F.S.](#), a defendant may not be released prior to his or her first appearance hearing if he or she:

- Was on pretrial release, probation, or community control in this state or any other state at the time of arrest for a felony;
- Was designated as a sexual offender or sexual predator in this state or any other state at the time of arrest;
- Was arrested for violating a protective injunction;
- Was, at the time of arrest, on release from supervision by the Department of Corrections under conditional release, control release, conditional medical release, or an addiction recovery supervision program;
- Has, at any time before the current arrest, been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;
- Has been arrested three or more times in the six months immediately preceding his or her current arrest; or
- Was arrested for one or more of the following crimes:
  - A capital felony, life felony, first degree felony, or second degree felony;
  - A homicide under ch. 782, F.S.; or any attempt, solicitation, or conspiracy to commit a homicide;
  - Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; domestic violence, as defined in [s. 741.28, F.S.](#); stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer or other staff of a detention center or commitment facility, or a staff member of a commitment facility or health services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with violence;
  - Kidnapping, false imprisonment, human trafficking, or human smuggling;
  - Possession of a firearm or ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking;
  - Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;
  - Abuse, neglect, or exploitation of an elderly person or disabled adult;
  - Child abuse or aggravated child abuse;
  - Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or a burglary or theft during a riot;
  - Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;
  - Any offense committed for the purpose of benefitting, promoting, or furthering the interests of a criminal gang;
  - Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;
  - Racketeering; or
  - Failure to appear at required court proceedings while on bail.

### *Pretrial Detention*

Similar to the requirement for a person to remain in jail prior to first appearance, some offenses committed against an elderly person or disabled adult are classified as a “dangerous crime” and may require a person to post a bond in order to be released from jail. Section [907.041, F.S.](#), creates a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with a “dangerous crime.”<sup>11</sup> A person may not be released on nonmonetary conditions to supervised pretrial release, unless the pretrial release service certifies to the court it has investigated or otherwise verified:

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<sup>11</sup> A “dangerous crime” includes: arson; aggravated assault; aggravated battery; illegal use of explosives; child abuse or aggravated child abuse; abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult; aircraft piracy; kidnapping; homicide; manslaughter, including DUI manslaughter and BUI manslaughter; sexual battery; robbery; carjacking; lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years; sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority; burglary of a dwelling; stalking and aggravated stalking; an act of domestic violence as defined in [s. 741.28, F.S.](#); home invasion robbery; an act of terrorism as defined in [s. 775.30, F.S.](#); manufacturing any substances in violation of ch. 893, F.S.; attempting or conspiring to commit any such crime; human trafficking; trafficking

- The circumstances of the accused's family, employment, financial resources, character, mental condition, and length of residence in the community.
- The accused's record of convictions, of appearances at court proceedings, of flight to avoid prosecution, or of failure to appear at court proceedings.
- Other facts necessary to assist the court in its determination of the accused's indigency status and whether he or she should be released on supervised pretrial release.<sup>12</sup>

#### *Discretionary Motion for Pretrial Detention*

Upon a motion by the state attorney, the court may order pretrial detention if it finds a substantial probability, based on a defendant's past and present patterns of behavior, consideration of the criteria used for determining bail, and any other relevant facts, that any of the following circumstances exist:<sup>13</sup>

- The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;
- The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no conditions of release will reasonably prevent the obstruction of the judicial process;
- The defendant is charged with trafficking in controlled substances under [s. 893.135, F.S.](#), there is a substantial probability that the defendant has committed the offense, and no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;
- The defendant is charged with DUI manslaughter, there is a substantial probability that the defendant committed the crime, and the defendant poses a threat of harm to the community;
- The defendant poses the threat of harm to the community;<sup>14</sup>
- The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;
- The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or
- The defendant:
  - Has previously been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney files a notice seeking that the defendant be sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;
  - There is a substantial probability that the defendant committed the offense; and
  - There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.<sup>15</sup>

#### *Mandatory Motion for Pretrial Detention*

Section [907.041\(5\)\(d\), F.S.](#), requires the state attorney or the court, on its own motion, to motion for pretrial detention if a defendant is arrested for a dangerous crime that is a capital felony,<sup>16</sup> a life felony,<sup>17</sup> or a first degree felony and the court determines there is probable cause to believe that the defendant committed the offense.<sup>18</sup> A judge *must* order pretrial detention if he or she finds a substantial probability that the defendant committed such

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in dangerous fentanyl or fentanyl analogues; extortion; or written threats to kill. A person charged with such a crime must be released on monetary conditions if the court determines that such conditions are necessary to assure the presence of the person at trial or other proceedings, to protect the community from risk of physical harm to persons, or to assure the integrity of the judicial process. [S. 907.041\(5\)\(a\), F.S.](#)

<sup>12</sup> [S. 907.041\(3\)\(b\), F.S.](#)

<sup>13</sup> [S. 907.041, F.S.](#)

<sup>14</sup> A court may conclude a defendant poses the threat of harm to the community if the defendant is charged with a dangerous crime, there is a substantial probability that the defendant committed such crime, the factual circumstances of the crime indicate a disregard for the safety of the community, and there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons. [S. 907.041\(5\)\(c\)5., F.S.](#)

<sup>15</sup> [S. 907.041\(5\)\(c\), F.S.](#)

<sup>16</sup> A capital felony is punishable by death or mandatory life imprisonment. [S. 775.082, F.S.](#)

<sup>17</sup> A life felony is punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment and a \$15,000 fine. [Ss. 775.082, 775.083, or 775.084, F.S.](#)

<sup>18</sup> [S. 907.041\(5\)\(d\), F.S.](#)

an offense and, based on the defendant's past and present patterns of behavior, consideration of the criteria in [S. 903.046, F.S.](#), used for determining bail, and any other relevant facts, the court finds that no conditions of release or bail will reasonably protect the community from risk of physical harm, ensure the presence of the defendant at trial, or assure the integrity of the judicial process.<sup>19</sup>

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<sup>19</sup> *Id.*