

# FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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**BILL #:** [HB 243](#)

**TITLE:** Withholding Funds from the Return of Cash Bonds

**SPONSOR(S):** Andrade

**COMPANION BILL:** None

**LINKED BILLS:** None

**RELATED BILLS:** None

## Committee References

[Criminal Justice](#)

15 Y, 3 N

[Justice Budget](#)

[Judiciary](#)

## SUMMARY

### **Effect of the Bill:**

The bill requires the clerk of the court (Clerk) to use a cash bond to pay fines, fees, and court costs that are imposed at the conclusion of a criminal case only in circumstances where the cash bond was posted by the defendant or his or her spouse. As such, the bill removes the existing requirement for the Clerk to use the proceeds of a cash bond posted by any other third party to pay such fines, fees, and court costs. The bill does not amend any provisions relating to surety bonds posted by bail bond agents, who will continue to receive the return of the full amount of a bond posted with the court upon the conclusion of a defendant's criminal case.

### **Fiscal or Economic Impact:**

The bill may have an indeterminate negative fiscal impact on state and local entities that receive funding from the fines, fees, and costs imposed as part of the sentence in a criminal case. The bill removes the requirement for the Clerk to apply a cash bond posted by a third party, other than a defendant's spouse, to pay such fines, fees, and court costs, which may result in a decrease in revenue. However, the defendant remains obligated to pay any fines, fees, and court costs and the Clerk retains the right to collect any outstanding balances owed by a defendant.

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## ANALYSIS

### **EFFECT OF THE BILL:**

The bill requires the clerk of the court (Clerk) to withhold funds from the return of a [cash bond](#) to pay fines, fees, and court costs imposed at the conclusion of a criminal case only when the bond was posted by a criminal defendant or his or her spouse. Under the bill, if a defendant's cash bond is posted by a third party such as a non-spouse relative or friend, the Clerk is not required to withhold funds from the cash bond at the conclusion of a defendant's criminal case to pay specified fees and costs associated with the defendant's criminal sentence. Instead, the obligation to pay such fees and costs will fall to the defendant. A bail bond agent will continue to receive the return of the full amount of a bond posted with the court upon the conclusion of a defendant's criminal case, consistent with current law. (Section [1](#)).

The bill also revises the required notice that must be provided to a person who posts a cash bond to specify that the Clerk is authorized to withhold funds posted by the defendant or his or her spouse to pay specified fines, fees, and costs. (Section [1](#)).

The effective date of the bill is July 1, 2025. (Section [2](#)).

**STORAGE NAME:** h0243a.CRM

**DATE:** 2/19/2025

## FISCAL OR ECONOMIC IMPACT:

### STATE GOVERNMENT:

The bill removes the requirement for the Clerk to use the funds from cash bonds posted by a person other than the defendant or his or her spouse to pay fines, fees, and court costs imposed as part of the sentence in a criminal case. As such, to the extent that the state receives funds from such fines, fees, and court costs, the bill may have an indeterminate negative fiscal impact on state government revenue. However, under the bill, the defendant is still obligated to pay such fines, fees, and costs, and the Clerk retains the right to collect any outstanding balances owed by the defendant.

### LOCAL GOVERNMENT:

The bill removes the requirement for the Clerk to use the funds from cash bonds posted by a person other than the defendant or his or her spouse to pay fines, fees, and court costs imposed as part of the sentence in a criminal case. As such, to the extent that local governments receive funds from such fines, fees, and court costs, the bill may have an indeterminate negative fiscal impact on local government revenue. However, under the bill, the defendant is still obligated to pay such fines, fees, and costs, and the Clerk retains the right to collect any outstanding balances owed by the defendant.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Pretrial Release

Article I, section 14, of the Florida Constitution provides, with some exceptions, that every person charged with a crime or violation of a municipal or county ordinance is entitled to pretrial release on reasonable grounds. A judge is required to presume that nonmonetary conditions<sup>1</sup> are sufficient for any person to be granted pretrial release who is not charged with a dangerous crime.<sup>2</sup> Although a court has the authority to impose any number of pretrial release conditions, it must impose conditions of release that require the defendant to refrain from criminal activity and to refrain from contact with a victim, if applicable.<sup>3</sup> If a defendant violates pretrial release conditions, he or she may be arrested and held to answer before the court having jurisdiction to try the defendant.<sup>4</sup>

#### Bail

Bail is a common monetary condition of pretrial release that requires a defendant, or a person acting on behalf of the defendant, to pay a set sum of money to the court to be released from jail while awaiting further court proceedings.<sup>5</sup> If a defendant released on bail fails to appear before the court for any proceeding where his or her presence is required, the bail money is forfeited and a warrant is issued for the defendant's arrest.

In determining whether to release a defendant on bail and setting a bail amount, a judge must consider:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.

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<sup>1</sup> Nonmonetary conditions include any condition that does not require the payment of a financial guarantee, such as releasing the arrestee on his or her recognizance, placement in a pretrial release program, or placing restrictions on the arrestee's travel, association, or place of abode. See Fla. R. Crim. P. 3.131.

<sup>2</sup> [S. 907.041\(3\), F.S.](#) "Dangerous crimes" include: arson; aggravated assault; aggravated battery; illegal use of explosives; child abuse or aggravated child abuse; abuse or aggravated abuse of an elderly person or disabled adult; aircraft piracy; kidnapping; homicide; manslaughter, including DUI 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; act of domestic violence as defined in [s. 741.28, F.S.](#); home invasion robbery; 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 in a controlled substance described in [s. 893.135\(1\)\(c\)4, F.S.](#); extortion in violation of written threats to kill in violation of [s. 836.10, F.S.](#) [S. 907.041\(5\)\(a\), F.S.](#)

<sup>3</sup> [S. 903.047, F.S.](#)

<sup>4</sup> [Ss. 903.0471](#) and [907.041, F.S.](#)

<sup>5</sup> [S. 903.011, F.S.](#)

- The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.
- The nature and probability of danger which the defendant's release poses to the community.
- The source of funds used to post bail or procure an appearance bond.
- Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.
- The street value of any drug or controlled substance connected to or involved in the criminal charge.
- The nature and probability of intimidation and danger to victims.
- Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release.
- Any other facts that the court considers relevant.
- Whether the crime charged is a violation of ch. 874, F.S., relating to criminal gangs or subject to reclassification under [s. 843.22, F.S.](#), for committing the offense of traveling across county lines with the intent to commit a burglary.
- Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor criminal traffic offense under ch. 316, F.S., is required to register as a sexual offender under [s. 943.0435, F.S.](#), or a sexual predator under [s. 775.21, F.S.](#)<sup>6</sup>

### **Cash Bond**

A defendant, or a person acting on the defendant's behalf such as a spouse, family member, or friend, may post the entire bail amount, commonly referred to as a cash bond.<sup>7</sup> Section [903.286\(1\), F.S.](#), requires the clerk of the court, after the final disposition of a defendant's court proceeding, to withhold from the return of a cash bond posted on behalf of a criminal defendant by any person other than a bail bond agent sufficient funds to pay any:

- Costs of prosecution;<sup>8</sup>
- Costs of representation by the public defender;<sup>9</sup>
- Court fees;
- Court costs; and
- Criminal penalties.<sup>10</sup>

If, after payment of such fines, fees, and costs, there are funds remaining from the cash bond, the balance of the cash bond is returned to the defendant or other person that posted the cash bond. If the cash bond is insufficient to pay the amount of the fines, fees, and costs, the balance due is charged to the defendant.

Section [903.286\(2\), F.S.](#), requires all cash bond forms to prominently display a notice that the cash bond is subject to forfeiture if a defendant fails to appear for court, and that the clerk of court, after the final disposition of a defendant's case, is authorized to withhold sufficient funds from the cash bond to pay specified fines, fees, and court costs on behalf of the defendant

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<sup>6</sup> [S. 903.046\(2\), F.S.](#)

<sup>7</sup> In the alternative, a defendant may elect to use a criminal surety bail bond executed by a bail bond agent. Generally, to use the services of a bail bond agent, an incarcerated person must pay a nonrefundable fee to the bail bond agent equal to 10 percent of the bond amount set by the court. This contract obligates the bail bond agent to ensure a defendant appears at all required court appearances. [S. 903.105, F.S.](#) See also Florida Dept. of Financial Services, *Bail Bonds Overview* <https://myfloridacfo.com/division/consumers/understanding-insurance/bail-bonds-overview> (last visited Feb. 19, 2025).

<sup>8</sup> Costs of prosecution are generally set at \$50 for a misdemeanor or criminal traffic offense and \$100 for a felony offense. The court may award a higher amount upon a showing of sufficient proof that higher costs were incurred by the prosecution. Proceeds are deposited into the State Attorneys Revenue Trust Fund. [S. 938.27\(8\), F.S.](#)

<sup>9</sup> Costs of representation by the public defender include a \$50 initial application fee and a \$50 fee for legal representation for a misdemeanor or criminal traffic offense and \$100 for legal representation for a felony offense. The court may award a higher amount upon a showing of sufficient proof that higher fees or costs were incurred by the public defender. Proceeds are deposited into the Indigent Criminal Defense Trust Fund. [Ss. 27.52](#) and [938.29, F.S.](#)

<sup>10</sup> [S. 903.286, F.S.](#) The amount of court fees, court costs, and criminal penalties vary depending on the jurisdiction and the nature of the defendant's criminal charge. The fees, costs, and fines are used to fund the operations of the court system, as well as various other programs related to criminal justice. See ch. 938, F.S.

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## BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Criminal Justice Subcommittee</a>	15 Y, 3 N	2/19/2025	Hall	Padgett
<a href="#">Justice Budget Subcommittee</a>				
<a href="#">Judiciary Committee</a>				