

By Senator Ingoglia

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1 A bill to be entitled
2 An act relating to combatting illegal immigration;
3 amending s. 907.041, F.S.; requiring the presumption
4 that no conditions of release will secure the
5 appearance at trial of an unauthorized alien;
6 requiring the state attorney or the court to move for
7 pretrial detention if the court makes certain
8 determinations; authorizing defendants to rebut the
9 presumption; providing for severability; providing an
10 effective date.

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

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14 Section 1. Present paragraphs (f) through (n) of subsection
15 (5) of section 907.041, Florida Statutes, are redesignated as
16 paragraphs (g) through (o), respectively, and a new paragraph
17 (f) is added to that subsection, to read:

18 907.041 Pretrial detention and release.—

19 (5) PRETRIAL DETENTION.—

20 (f) It shall be presumed that no conditions of release will
21 secure the appearance at trial of an unauthorized alien as
22 defined in s. 908.111. If a court determines that there is
23 probable cause to believe that the defendant committed the
24 offense and the court further determines by a preponderance of
25 the evidence that the defendant is an unauthorized alien as
26 defined in s. 908.111, the state attorney, or the court on its
27 own motion, must move for pretrial detention. The defendant may
28 rebut the presumption by demonstrating, by a preponderance of
29 the evidence, that adequate conditions of release will secure

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30 the appearance of the defendant at trial.

31 Section 2. If any provision of this act or its application
32 to any person or circumstance is held invalid, the invalidity
33 does not affect other provisions or applications of this act
34 which can be given effect without the invalid provisions or
35 application, and to this end the provisions of this act are
36 severable.

37 Section 3. This act shall take effect upon becoming a law.