

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

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BILL #: [CS/HB 397](#)

TITLE: Violations of Pretrial Release Conditions for Violent Crimes

SPONSOR(S): Daley

COMPANION BILL: [SB 760](#) (McClain)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Criminal Justice](#)

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SUMMARY

Effect of the Bill:

CS/HB 397 creates a new criminal offense for willfully violating an order of no contact imposed by a court as a condition of pretrial release after a person was arrested for committing specified violent offenses, a violation of which is punishable as a first degree misdemeanor. A second or subsequent violation is punishable as a third degree felony.

The bill also authorizes a law enforcement officer to make a warrantless arrest of a person if the officer has probable cause to believe that the person committed a violation of the new crime created by the bill for willfully violating an order of no contact and requires such person to be held in custody until his or her first appearance hearing.

Fiscal or Economic Impact:

The bill may have a positive indeterminate jail and prison bed impact by creating new misdemeanor and felony offenses, which may result in increased jail and prison admissions.

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ANALYSIS

EFFECT OF THE BILL:

Violation of Pretrial Release

The bill creates a new criminal offense for willfully violating a condition of pretrial release described in [s. 903.047\(1\)\(b\), F.S.](#), relating to an [order of no contact](#) with a victim or other specified person, imposed by the court after such person was arrested for committing any of the following offenses:

- Murder, as defined in [s. 782.04, F.S.](#);
- Manslaughter, as defined in [s. 782.07, F.S.](#);
- Assault, as defined in [s. 784.011, F.S.](#);
- Aggravated assault, as defined in [s. 784.021, F.S.](#);
- Battery, as defined in [s. 784.03, F.S.](#);
- Aggravated battery, as defined in [s. 784.045, F.S.](#);
- Stalking, as defined in [s. 784.048\(2\), F.S.](#);
- Aggravated stalking, as defined in [s. 784.048\(3\), \(4\), \(5\), or \(7\), F.S.](#);
- Kidnapping, as defined in [s. 787.01, F.S.](#);
- False imprisonment, as defined in [s. 787.02, F.S.](#);
- Sexual battery, as defined in [s. 794.011, F.S.](#);
- Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age, as described in [s. 800.04, F.S.](#);
- Robbery, as defined in [s. 812.13, F.S.](#);
- Written or electronic threats to kill or do bodily injury, as described in [s. 836.10, F.S.](#); or

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- Any other felony which involves the use or threat of physical force or violence against any individual.

A violation is punishable as a first degree misdemeanor.¹ A second or subsequent violation is punishable as a third degree felony.² Thus, a person who willfully violates an order of no contact after being arrested for specified violent offenses may, in addition to having his or her pretrial release revoked by a court, be charged with a separate criminal offense for committing such a violation. (Section [2](#))

Warrantless Arrest

The bill authorizes a law enforcement officer to arrest a person without a warrant if the officer has probable cause to believe that such person has committed a violation of the new criminal offense created by the bill for willfully violating certain orders of no contact. (Section [3](#))

Bail Determination – Violation of Order of No Contact

Under the bill, a person who is arrested for willfully violating certain orders of no contact must be held in custody until his or her [first appearance](#) hearing. At the first appearance hearing, the court must review the alleged violation and determine whether to order pretrial detention or grant pretrial release. In making such a determination, the court must prioritize the safety of the victim and the public and, in addition to the [criteria for determining bail](#) in [s. 903.046\(2\), F.S.](#), must also consider:

- The nature and severity of the person’s underlying offense for which conditions of pretrial release were originally imposed.
- The person’s history of complying with court orders.
- Any evidence of the person’s intent to intimidate, harass, or harm any person. (Section [2](#))

The bill specifies that a law enforcement officer may not be held liable in any civil action for an arrest of a person based on probable cause to believe that he or she violated a specified condition of pretrial release. (Section [2](#))

The bill is named the “Victim Safety in Pretrial Release Act.” (Section [1](#))

The effective date of the bill is October 1, 2026. (Section [4](#))

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have a positive indeterminate prison bed impact by creating a new felony offense, which may result in increased prison admissions.

LOCAL GOVERNMENT:

The bill may have a positive indeterminate jail bed impact by creating a new misdemeanor offense and requiring a person who is arrested for committing such offense to be held in custody until first appearance, which may result in increased jail admissions and result in longer terms of pretrial detention. However, since a person who violates a condition of pretrial release can currently have his or her release revoked and be recommitted to jail, any impact is likely to be insignificant.

¹ A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. [Ss.775.082](#) or [775.083, F.S.](#)

² A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. [Ss.775.082, 775.083, or 775.084, F.S.](#)

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Pretrial Release

Section [903.047, F.S.](#), requires a defendant, as a condition of pretrial release on a surety bond, recognizance bond, or other form of bond, to refrain from criminal activity of any kind and to comply with all other conditions of pretrial release imposed by the court. Examples of such conditions include requiring the defendant to maintain employment, observe a curfew, refrain from possessing firearms, or refrain from using alcohol or controlled substances.³

Order of No Contact

In addition to other conditions of pretrial release, the court may issue an order of no contact, which requires the defendant to refrain from any contact of any type with the victim, except through pretrial discovery proceedings.⁴ An order of no contact prohibits a defendant from committing any of the following acts:

- Communicating orally or in any written form, either in person, telephonically, electronically, or in any other manner, either directly or indirectly through a third person, with the victim or any other person specified in the no contact order.
- Having physical or violent contact with the victim or other specified person or his or her property.
- Being within 500 feet of the victim's or other specified person's residence, even if the defendant and the victim or other specified person share the residence.
- Being within 500 feet of the victim's or other specified person's vehicle, place of employment, or a specified place frequented regularly by such person.⁵

Violation of Pretrial Release

A court may, on its own motion, revoke a defendant's pretrial release and order pretrial detention if the court finds probable cause to believe that a defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.⁶ A violation of pretrial release is generally not a separate criminal offense, however a person who violates a condition of pretrial release when his or her original arrest was for committing domestic violence under [s. 741.28, F.S.](#), or dating violence under [s. 784.046, F.S.](#), commits a first degree misdemeanor and he or she is required to be held in custody until first appearance.⁷

Arrest

A law enforcement officer is authorized to arrest a person if the officer has probable cause to believe that such person committed a criminal offense. If a law enforcement officer determines that an arrest should be made, he or she may either make an arrest after first obtaining a warrant or, in specified circumstances, 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.⁸ 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.⁹

³ [S. 903.047\(1\)\(c\), F.S.](#)

⁴ [S. 903.047\(1\)\(b\), F.S.](#)

⁵ *Id.*

⁶ [S. 903.0471, F.S.](#)

⁷ [Ss. 741.29\(7\) and 784.046\(15\), F.S.](#)

⁸ [S. 901.02, F.S.](#)

⁹ [S. 901.04, F.S.](#)

Warrantless Arrest

In Florida, a law enforcement officer may also 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, *a violation of a condition of pretrial release when a person's original arrest was for committing domestic violence or dating 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.¹⁰

Bail

After a person has been arrested, he or she must appear before a judge within 24 hours of arrest, which is known as a "[first appearance](#)."¹¹ 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.¹² 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.¹³

Criteria for Determining Bail

The purpose of a bail determination in a criminal proceeding is to ensure the appearance of a defendant in subsequent proceedings and to protect the community against unreasonable danger from the defendant.¹⁴ In making a bail determination, a court may 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.
- 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, particularly whether the proffered funds, real property, property, or any proposed collateral or bond premium may be linked to or derived from the crime alleged to have been committed or from any other criminal or illicit activities.
- 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.,¹⁵ or alleged to be subject to enhanced punishment under ch. 874, F.S., or reclassification under [s. 843.22, F.S.](#),¹⁶ in which case a defendant is required to be detained until first appearance.

¹⁰ [S. 901.15, F.S.](#)

¹¹ [Fla. R. Crim. P. 3.130.](#)

¹² *Id.*

¹³ [Fla. R. Crim. P. 3.131.](#)

¹⁴ [S. 903.046\(1\), F.S.](#)

¹⁵ Chapter 874, F.S., provides specified crimes and enhanced penalties for gang-related offenses.

¹⁶ [S. 843.22, F.S.](#), enhances a defendant's sentence if he or she travels across county lines with the intent to commit a burglary.

- Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under ch. 316, F.S.,¹⁷ is required to register as a sexual offender under [s. 943.0435, F.S.](#), or a sexual predator under [s. 775.21, F.S.](#), in which case a defendant is required to be detained until first appearance.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Criminal Justice Subcommittee	14 Y, 2 N, As CS	1/14/2026	Hall	Padgett
THE CHANGES ADOPTED BY THE COMMITTEE:		<ul style="list-style-type: none"> Narrowed the conditions of pretrial release for which a violation is a crime under the bill to include violations of conditions of pretrial release related to orders of no contact, rather than all conditions of pretrial release. Removed a provision that created a third degree felony if a person willfully violates a condition of pretrial release by committing a new act of violence or threat of violence. 		

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.

¹⁷ Chapter 316, F.S., provides criminal traffic offenses.