

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 760

INTRODUCER: Senator McClain

SUBJECT: Violations of Pretrial Release Conditions for Violent Crimes

DATE: January 30, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Parker	Stokes	CJ	<u>Pre-meeting</u>
2.		ACJ	
3.		FP	

I. Summary:

SB 760 creates s. 903.0472, F.S., relating to violations of pretrial release conditions for violent crimes. The bill provides that it is a first degree misdemeanor for a person who willfully violates a condition of pretrial release and the original arrest was for a specified crime.

A second or subsequent violation which is against the victim of the original offense, or which constitutes a new act of violence or threat of violence commits a third degree felony.

The bill provides that a person who is arrested for this offense must be held in custody until his or her first appearance hearing, at which time the court must review the alleged violation and determine whether to order pretrial detention or to grant pretrial release with appropriate conditions. The court must prioritize the safety of the victim and the public and must consider:

- The nature and severity of the original offense.
- The person's history of compliance with court orders.
- Any evidence of intent to intimidate, harass, or harm any person.

The bill amends s. 901.15, F.S., to authorize a law enforcement officer to arrest a person without a warrant when there is probable cause to believe the person has committed the new crime created in the bill described above.

The bill may have a positive indeterminate jail and prison bed impact by creating new misdemeanor and felony offense, which may result in increased jail and prison admissions. *See Section V. Fiscal Impact Policy.*

The bill takes effect on October 1, 2026.

II. Present Situation:

Arrest

Generally, a law enforcement officer may only arrest a person without a warrant when the person has committed a felony, or a misdemeanor or violation of a municipal or county ordinance in the presence of the officer. An arrest for the commission of a misdemeanor or the violation of a municipal or county ordinance must be made immediately or in fresh pursuit.¹

A law enforcement officer may arrest a person without a warrant when a felony has been committed, and he or she reasonably believes that the person committed such felony.² Generally, a police officer may make a warrantless misdemeanor arrest only if it is committed in the presence of the officer. However, there are a number of statutory exceptions that permits a warrantless misdemeanor arrest when the officer has probable cause to believe that the defendant has committed specified offenses.³

The concept of probable cause is grounded upon the standard of objective reasonableness.⁴ In *Ornelas v. United States*, 517 U.S. 690, 696-97 (1996), the court opined that “the principal component of a determination of reasonable suspicion or probable cause will be the events which occurred leading up to the stop or search, and then the decision whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to reasonable suspicion or to probable cause.”⁵

Pretrial detention and release

In Florida there is 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; or
- Such person is an unauthorized alien charged with a forcible felony.

Section 907.041, F.S., provides that it is the policy of this state that persons charged with committing serious criminal offenses, who pose a threat to public safety or the integrity of the judicial process, fail to appear at trial, or pose a substantial flight risk due to unauthorized status should be detained upon arrest. However, persons meeting specified criteria may be released under certain conditions until proceedings are concluded and adjudication has been determined. This policy aims to protect the community by detaining dangerous individuals while reducing the cost of incarcerating those who pose no threat. The Legislature's primary intent is the protection of the community.

¹ Section 901.15(1), F.S.

² Section 901.15(2), F.S.

³ Section 901.15(7), F.S.

⁴ *Hawxhurst v. State*, 159 S.3d 1012, 1014 (Fla. 3rd DCA 2015).

⁵ *Ornelas v. United States*, 517 U.S. 690, 696-97, 116 S.Ct. 1657, 134 L.Ed.2d 911(1996).

A person charged with a dangerous crime⁶ must be released on monetary conditions if it is determined that such monetary conditions are necessary to assure the presence of the person at trial or at other proceedings, to protect the community from risk of physical harm to person, to assure the presence of the accused a trial, or to assure the integrity of the judicial process.⁷

No person shall be released on nonmonetary conditions under the supervision of a pretrial release service, unless the service certifies to the court that it has investigated or otherwise verified:

- The circumstances of the accused's family, employment, financial resources, character, mental condition, immigration status, 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; and
- Other facts necessary to assist the court in its determination of the indigency of the accused and whether she or he should be released under the supervision of the service.⁸

Conditions of Pretrial Release

Section 903.047, F.S., requires a defendant, as a condition of pretrial release on a surety bond, recognized 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.

If the court issues an order of no contact, the defendant must refrain from any contact of any type with the victim, except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure. An order of no contact is effective immediately and enforceable for the duration of the pretrial release or until it is modified by the court. The defendant shall be informed in writing of the order of no contact, specifying the applicable prohibited acts, before the defendant is released from custody on pretrial release.

Unless otherwise specified by the court, the term "no contact" includes the following prohibited 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 named in the order. If the victim and the defendant have children in common, at the request of the defendant, the court may designate an appropriate third person to contact the victim for the sole purpose of facilitating the defendant's contact with the children. However, an attorney for the defendant is not prohibited, from communicating with any person protected by the no contact order for lawful purposes.
- Having physical or violent contact with the victim or other named person or his or her property.

⁶ A "dangerous crime" means any of the following: 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; Act of domestic violence; Home invasion robbery; Act of terrorism; Manufacturing any substances in violation of ch. 893, F.S.; Attempting or conspiring to commit any such crime; Human trafficking; Trafficking; Extortion; Written threats to kill.

⁷ Section 907.041(3)(a), F.S.

⁸ Section 907.041(3)(b)1.-3., F.S.

- Being within 500 feet of the victim's or other named person's residence, even if the defendant and the victim or other named person share the residence.
- Being within 500 feet of the victim's or other named person's vehicle, place of employment, or a specified place frequented regularly by such person.

Other conditions that the court may impose as a condition of pretrial release include, but are not limited to:

- Maintaining employment, or seek employment.
- Maintain or commence an educational program.
- Report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency.
- Comply with a specified curfew.
- Refrain from drug or alcohol use.
- Refrain from possessing a firearm, destructive device, or other dangerous weapon.⁹

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.¹⁰

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 or dating violence, commits a first degree misdemeanor and he or she is required to be held in custody until first appearance.¹¹

III. Effect of Proposed Changes:

The creates s. 903.0472, F.S., relating to violations of pretrial release conditions for violent crimes. The bill provides that it is a first degree misdemeanor for a person who willfully violates a specified condition of pretrial release and the original arrest was for one of the following offenses:

- A forcible felony;
- Murder;
- Manslaughter;
- Assault;
- Aggravated assault;
- Battery;
- Aggravated battery;
- Aggravated stalking;
- Stalking;
- Aggravated stalking;
- Kidnapping;

⁹ Section 903.047(1)(c), F.S.

¹⁰ Section 903.0471, F.S.

¹¹ Sections 741.29(7) and 784.046(15), F.S.

- False imprisonment;
- Sexual battery;
- Lewd or lascivious offenses committed on persons less than 16;
- Robbery;
- Written or electronic threats to kill or do bodily injury;
- Any criminal offense resulting in physical injury or death.

A second or subsequent violation which is against the victim of the original offense, or which constitutes a new act of violence or threat of violence commits a third degree felony.

The bill provides that a person who is arrested for this offense must be held in custody until his or her first appearance hearing, at which time the court shall review the alleged violation and determine whether to order pretrial detention or to grant pretrial release with appropriate conditions. The court must prioritize the safety of the victim and the public and must consider:

- The nature and severity of the original offense.
- The person's history of compliance with court orders.
- Any evidence of intent to intimidate, harass, or harm any person.

The bill amends s.901.15, F.S., to authorize a law enforcement officer to arrest a person without a warrant when there is probable cause to believe the person has violated the new crime created in this bill.

The bill takes effect on October 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector 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 may be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 901.15 and 903.0472.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
