

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 Appropriations Committee on Criminal and Civil Justice

BILL: CS/SB 928

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Mandatory Remand to Custody upon Conviction of Dangerous Crimes

DATE: February 16, 2026 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 928 creates s. 903.0472, F.S., to require a court to remand a person found guilty of a dangerous crime to custody immediately. Such person must remain in custody pending sentencing or further proceedings without the possibility of release on bond.

Additionally, a court may not grant postconviction bond or other release for a person who has been found guilty of, or who has entered a plea of guilty or nolo contendere to, a dangerous crime.

This provision applies regardless of whether the person intends to appeal or has filed a notice of appeal, however it does not apply if the finding of guilt that formed the basis of the remand has been:

- Vacated;
- Reversed on appeal;
- Set aside by judgment of acquittal; or
- Otherwise nullified.

The bill amends s. 907.041, F.S., to revise the definition of “dangerous crimes” for purposes of pretrial detention to include computer pornography and child exploitation.

The bill does not have a fiscal impact on state revenues or expenditures but may have a positive jail bed impact to local detention facilities. See Section V., Fiscal Impact Statement.

The bill takes effect on July 1, 2026.

II. Present Situation:

Post Conviction Relief

A person in custody may seek relief if they believe their judgment of conviction or sentence was imposed in violation of the U.S. Constitution or the laws of Florida. Either the defendant or the state may seek review in the next higher state court of a trial court's ruling on a collateral relief motion, and in non-capital cases there is no right to appointed counsel for such proceedings.¹

The procedural framework for post-conviction relief is governed largely by the Florida Rules of Criminal Procedure which permits motions to vacate, set aside, or correct a sentence on constitutional or legal grounds and generally must be filed within two years after the judgment and sentence become final.² This combination of statute and rules forms the core mechanism by which convicted persons in Florida can pursue collateral challenges to their convictions and sentences after direct appeal.

Bail on appeal – Supersedeas bond

In Florida, there is no general statutory right to bail or bond simply because a person has filed a post-conviction relief motion (e.g., a Rule 3.850 motion or similar collateral challenge); post-conviction motions themselves do not automatically entitle a convicted person to release on bond while the motion or appeal is pending.³

No person may be admitted to bail upon appeal from a conviction of a felony unless the defendant establishes that the appeal is taken in good faith, on grounds fairly debatable, and not frivolous. In no case will bail be granted if such person has previously been convicted of a felony, the commission of which occurred prior to the commission of the subsequent felony, and such person's civil rights have not been restored or if other felony charges are pending against the person and probable cause has been found that the person has committed the felony or felonies at the time the request for bail is made.⁴

In no case may an original appearance bond be continued for the appeal. To reflect the increased risk and probability of longer time considerations, there shall be a new undertaking of a bond for the appeal.⁵

If a person admitted to bail on appeal commits and is convicted of a separate felony while free on appeal, the bail on appeal must be revoked and the defendant committed.⁶

¹ Section 924.066, F.S.

² Fla. R. Crim. P. 3.850

³ Fla. R. Crim. P. 3.850

⁴ Section 903.132(1), F.S.

⁵ Section 903.132(3), F.S.

⁶ Section 903.131, F.S.

A trial or appellate court has the discretion to release a defendant who has been adjudicated guilty, for any non-capital offense, pending review of the conviction. A defendant may only be granted bail on appeal from a felony conviction if the defendant establishes the appeal is taken in good faith, on grounds fairly debatable, and not frivolous. A defendant is not eligible for bail if the defendant has:

- Previously been convicted of a felony, the commission of which occurred prior to the commission of the subsequent felony, and the person's civil rights have not been restored.
- Other pending felony charges and probable cause has been found that the person committed the felony or felonies at the time the request for bail was made.⁷

Pretrial Release

Bail and Surety Bond

The purpose of a bail determination in criminal proceedings is to ensure the appearance of a defendant at subsequent proceedings and to protect the community against unreasonable danger from the defendant.⁸ For the defendant to be released from jail, a court may require bail by a defendant to provide security, such as cash or a bond to ensure that he or she will return for trial and any other required court appearances.⁹

As an alternative to posting the entire bail amount, a defendant may provide a criminal surety bail bond¹⁰ executed by a bail bond agent. A cash bond is paid directly to the court for the total amount of the bond, in cash. If the arrestee does not appear after posting a cash bond, the money will be forfeited. After the final disposition of the case, bond money will be refunded, minus any unpaid court fees, costs, and criminal penalties.¹¹

Bail determination – Pretrial Release

When determining whether to release a defendant on bail or other conditions and what that bail or those conditions may be, the court shall consider:¹²

- 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, immigration status, 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

⁷ Fla. R. Crim. P. 3.691; See also *Younghans v. State*, 90 So. 2d 308 (Fla. 1956) (“All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident or the presumption great.”).

⁸ Section 903.046(1), F.S.

⁹ *Universal Bail Bonds v. State*, 929 So.2d 697, 699 (Fla. 3d DCA 2006).

¹⁰ Sections 903.011 and 903.105, F.S.

¹¹ Office of Program Policy Analysis and Government Accountability, County Pretrial Release Programs: Calendar Year 2021, Report No. 22-09 at 2 (December 2022) available at <https://oppaga.fl.gov/Documents/Reports/22-09.pdf> (last visited February 13, 2026).

¹² Section 903.046, F.S.

criminal or illicit activities. The burden of establishing the noninvolvement in or nonderivative from criminal or other illicit activity of such proffered funds, real property, property, or any proposed collateral or bond premium falls upon the defendant or other person proffering them to obtain the defendant's release.

- 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.
- Whether the crime charged is a violation of ch. 874, F.S.,¹³ or alleged to be subject to enhanced punishment under ch. 874, F.S., or reclassification under s. 843.22, F.S.¹⁴
- Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under ch. 316, F.S., is required to register as a sexual offender or a sexual predator.¹⁵
- Any other facts that the court considers relevant.¹⁶

The Legislature has created 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. A "dangerous crime" means any of the following:¹⁷

- 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.
- 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.

¹³ Chapter 874, F.S., refers to gang-related offenses and criminal gang activity.

¹⁴ Section 903.046(2)(l), F.S., If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement or reclassification, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

¹⁵ Section 903.046(2)(m), F.S. Such offender is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

¹⁶ Section 903.046(2)(a)-(m), F.S.

¹⁷ Section 907.041, F.S.

- Burglary of a dwelling.
- Stalking and aggravated stalking.
- Acts of domestic violence.
- Home invasion robbery.
- Act of terrorism.
- Manufacturing any substances.
- Attempting or conspiring to commit any such crime.
- Human trafficking.
- Trafficking in controlled substances.
- Extortion.
- Written threats to kill.

Computer Pornography

A person commits the offense of computer pornography, a third degree felony,¹⁸ who:

- Knowingly compiles, enters into, or transmits by use of computer;¹⁹
- Makes, prints, publishes, or reproduces by other computerized means;²⁰
- Knowingly causes or allows to be entered into or transmitted by use of computer;²¹ or
- Buys, sells, receives, exchanges, or disseminates

any notice, statement, or advertisement of any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with a minor, or the visual depiction of such conduct.²²

Any person commits a third degree felony if he or she knowingly uses a computer online service, internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed to be a child, to commit any specified illegal act, or otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child;²³ or
- Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act of sexual battery, lewdness or abuse of children, or to otherwise engage in any sexual conduct.²⁴

A person who:

¹⁸ A third degree felony is generally punishable by a term of imprisonment of 5 years and a \$5,000 fine as provided in ss. 775.082, 775.083 and 775.084, F.S.

¹⁹ Section 847.0135(2)(a), F.S.

²⁰ Section 847.0135(2)(b), F.S.

²¹ Section 847.0135(2)(c), F.S.

²² Section 847.0135(2)(d), F.S.

²³ Section 847.0135(3)(a), F.S.

²⁴ Section 847.0135(3)(b), F.S.

- Intentionally masturbates;²⁵
- Intentionally exposes the genitals in a lewd or lascivious manner;²⁶ or
- Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity

live over a computer online service, internet service, or local bulletin board service and who knows, should know, or has reason to believe that the transmission is viewed on a computer or television monitor by a victim who is less than 16 years of age, commits lewd or lascivious exhibition.²⁷

An offender 18 years of age or older who commits a lewd or lascivious exhibition using a computer commits a second degree felony.^{28, 29}

An offender less than 18 years of age who commits a lewd or lascivious exhibition using a computer commits a third degree felony.³⁰

III. Effect of Proposed Changes:

The bill names the Act “Missy’s Law.”

The bill creates s. 903.0472, F.S., to provide that a court must remand a person found guilty of a dangerous crime to custody. Such person must remain in custody pending sentencing or further proceedings without the possibility of release on bond.

A court may not grant postconviction bond or other release for a person who has been found guilty of, or who has entered a plea of guilty or nolo contendere to, a dangerous crime.

This provision applies regardless of whether the person intends to appeal or has filed a notice of appeal; however, it does not apply if the finding of guilt that formed the basis of the remand has been:

- Vacated;
- Reversed on appeal;
- Set aside by judgment of acquittal; or
- Otherwise nullified.

The bill amends s. 907.041, F.S., to revise the definition of “dangerous crimes” for purposes of pretrial detention, adding “any violation related to computer pornography or child exploitation” to the definition of enumerated offenses that constitute a dangerous crime.

The bill takes effect on July 1, 2026.

²⁵ Section 847.0135(5)(a)1., F.S.

²⁶ Section 847.0135(5)(a)2., F.S.

²⁷ Section 847.0135(5)(a)3., F.S.

²⁸Section 847.0135(5)(b), F.S.

²⁹ A second degree felony is generally punishable by a term of imprisonment of not exceeding 15 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

³⁰ Section 847.0135(5)(c), F.S.

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 Art. 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:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill would not have an impact on the prison population. However, the bill denies bond or release for convicted felons prior to sentencing which lengthens their time served in jail thereby increasing jail bed demand within local detention facilities.³¹

VI. Technical Deficiencies:

None.

³¹ Office of Economic Development and Demographic Research, *CS/SB 928 - Mandatory Remand to Custody upon Conviction of Dangerous Crimes*, (on file with the Senate Appropriations Committee on Criminal and Civil Justice).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 903.0472 of the Florida Statutes.

The bill substantially amends section 907.041 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on January 20, 2026:

The committee substitute:

- Revises the definition of “dangerous crimes” for purposes of pretrial detention to include any violation related to computer pornography or child exploitation.

- B. **Amendments:**

None.