

**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.)

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

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BILL: SB 928

INTRODUCER: Senator Martin

SUBJECT: Mandatory Remand to Custody upon Conviction of Dangerous Crimes

DATE: January 16, 2026

REVISED: \_\_\_\_\_

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

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**I. Summary:**

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 may have a positive indeterminate fiscal impact. 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.<sup>1</sup>

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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup>

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.<sup>5</sup>

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.<sup>6</sup>

A trial or appellate court is permitted to exercise discretion to release a defendant after conviction and pending review of the conviction or sentence including appeal for non-capital offenses for which bail is not prohibited, and the court may require written findings and set conditions of release.<sup>7</sup>

### **Pretrial Release**

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<sup>1</sup> Section 924.066, F.S.

<sup>2</sup> Fla. R. Crim. P. 3.850

<sup>3</sup> Fla. R. Crim. P. 3.850

<sup>4</sup> Section 903.132, F.S.

<sup>5</sup> Section 903.132(3), F.S.

<sup>6</sup> Section 903.131, F.S.

<sup>7</sup> 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.”).

### ***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.<sup>8</sup> 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.<sup>9</sup>

As an alternative to posting the entire bail amount, a defendant may provide a criminal surety bail bond<sup>10</sup> 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.<sup>11</sup>

### ***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:<sup>12</sup>

- 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. 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.

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<sup>8</sup> Section 903.046(1), F.S.

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

<sup>10</sup> Sections 903.011 and 903.105, F.S.

<sup>11</sup> 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 January 8, 2026).

<sup>12</sup> Section 903.046, F.S.

- Whether the crime charged is a violation of ch. 874, F.S.,<sup>13</sup> or alleged to be subject to enhanced punishment under ch. 874, F.S., or reclassification under s. 843.22, F.S.<sup>14</sup>
- 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.<sup>15</sup>
- Any other facts that the court considers relevant.<sup>16</sup>

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:<sup>17</sup>

- 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;
- 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; and
- Human trafficking.

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<sup>13</sup> Chapter 874 refers to gang-related offenses and criminal gang activity.

<sup>14</sup> Section 903.046(2)(1), 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.

<sup>15</sup> 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.

<sup>16</sup> Section 903.046(2)(a)-(m), F.S.

<sup>17</sup> Section 907.041, F.S.

### III. Effect of Proposed Changes:

The bill names the Act “Missy’s Law.”

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;
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- Otherwise nullified.

The bill takes effect on July 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:**

The Criminal Justice Impact Conference, which provides the final official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The bill requires mandatory remand for anyone convicted of a specified dangerous offense. The bill may have a positive indeterminate bed impact (unquantifiable increase bed impact) on the local correctional institutions.

**VI. Technical Deficiencies:**

The bill does not include a barred prosecution date for offenses occurring on or before the effective date.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 903.0472 of the Florida Statutes.

**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.