

Committee on Criminal Justice

CS/CS/HB 1627 — Pretrial Release and Detention

by Judiciary Committee; Criminal Justice Subcommittee; and Rep. Garrison and others
(CS/SB 1534 by Fiscal Policy Committee and Senators Martin and Powell)

The bill (Chapter 2023-27, L.O.F.) amends s. 903.011, F.S., to:

- Specify that only a judge may set, reduce, or otherwise alter a defendant’s bail.
- Require the Florida Supreme Court (FSC) to adopt a uniform statewide bond schedule by January 1, 2024.
- Permit the chief judge of a judicial circuit to petition the FSC for approval of a local bond schedule that sets a lower bond amount than that required by the uniform statewide bond schedule.
- Provide that the chief judge of a judicial circuit may establish a local bond schedule that increases the monetary bond applicable to an offense that is included in the uniform bond schedule.
- Provide circumstances in which a person may not be released before a first appearance hearing.

The bill amends s. 903.047, F.S., to provide that a court must consider the criteria in s. 903.046(2), F.S., when determining whether to impose nonmonetary conditions in addition to or in lieu of monetary bond, and provides a non-exclusive list of nonmonetary conditions that may be imposed.

The bill amends s. 903.0471, F.S., to authorize the court to revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant violated any condition of pretrial release in a material respect.

The bill amends s. 907.041, F.S., to:

- Revise the term “dangerous crime” to include DUI manslaughter and BUI manslaughter and trafficking in fentanyl, a specified fentanyl-related substance, a fentanyl derivative, or an analog or mixture of any of these substances, extortion, and written threats to kill.
- Provide that a person arrested for a dangerous crime may not be granted nonmonetary pretrial release at first appearance if the court has determined there is probable cause to believe the person has committed the offense.
- Provide that if a defendant is arrested for a dangerous crime that is a capital felony, a life felony, or a felony of the first degree, and the court determines there is probable cause to believe the defendant committed the offense, the state attorney, or the court on its own motion shall motion for pretrial detention.
- Provide that if the court finds a substantial probability that the defendant committed the offense and, based on the defendant’s past and present patterns of behavior, consideration of the criteria in s. 903.046, F.S., and any other relevant facts, that no conditions of release or bail will reasonably protect the community from risk of physical harm, ensure the presence of the defendant at trial, or assure the integrity of the judicial process, the court must order pretrial detention.

- Provide that when a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain the defendant prior to his or her first appearance.
- Provide that if a motion for pretrial detention is required, the pretrial detention hearing must be held within 5 days after the defendant's first appearance hearing or, if there is no first appearance hearing, within 5 days after the defendant's arraignment.
- Require that if a defendant is released on bail pending a pretrial detention hearing and the defendant uses a surety bond to meet the monetary component, the court must inform the defendant that he or she will not be entitled to a return of the premium on such surety bond.
- Provide that the rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of evidence at the detention hearing.
- Provide that a party may motion for a pretrial detention order to be reconsidered at any time before a defendant's trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing.

These provisions were approved by the Governor and take effect January 1, 2024.

Vote: Senate 36-3; House 83-19