

1 A bill to be entitled
2 An act relating to pretrial release and detention;
3 amending s. 903.011, F.S.; providing for setting,
4 reduction, and alteration of bail; requiring the
5 Supreme Court to create and periodically update a
6 statewide uniform bail bond schedule for certain
7 offenses; providing for the chief judge of a judicial
8 circuit to establish a lower bail bond schedule in
9 certain cases; requiring Supreme Court approval for
10 local deviations from the statewide uniform bail bond
11 schedule; providing that arrested persons in certain
12 categories may not be released until a first
13 appearance and that bond for such persons be
14 individually determined based on specified factors;
15 amending s. 903.047, F.S.; authorizing a court to
16 consider nonmonetary conditions in addition to or in
17 lieu of a monetary amount subject to specified
18 limitations; listing possible nonmonetary conditions;
19 amending s. 903.0471, F.S.; providing that a court may
20 revoke pretrial release and order pretrial detention
21 if a defendant materially violates any release
22 condition; amending s. 907.041, F.S.; revising the
23 definition of the term "dangerous crime"; providing
24 that a person arrested for a dangerous crime may not
25 be granted nonmonetary pretrial release at a first

26 appearance hearing; providing for a detention hearing
 27 for persons charged with dangerous crimes; authorizing
 28 a state attorney to move for detention of persons not
 29 charged with dangerous crimes in certain
 30 circumstances; requiring a court to order pretrial
 31 detention in certain circumstances; providing
 32 requirements for detention hearings; revising
 33 requirements for a pretrial detention order; providing
 34 that a party may move for reconsideration of a
 35 pretrial detention order any time before trial in
 36 certain circumstances; removing a requirement for
 37 pretrial detention for defendants charged with
 38 illegally manufacturing controlled substances in
 39 certain cases; providing an effective date.

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41 Be It Enacted by the Legislature of the State of Florida:

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43 Section 1. Subsections (4), (5), and (6) are added to
 44 section 903.011, Florida Statutes, to read:

45 903.011 Pretrial release ~~"Bail" and "bond" defined;~~
 46 general terms; statewide uniform bond schedule.-

47 (4) Except as authorized in subsection (5), only a judge
 48 may set, reduce, or otherwise alter a defendant's bail. Upon
 49 motion by a defendant, or on the court's own motion, a court may
 50 reconsider the monetary component of a defendant's bail if he or

51 she is unable to post a monetary bond.

52 (5)(a) Beginning January 1, 2024, and annually thereafter,
53 the Supreme Court must adopt a uniform statewide bond schedule
54 for criminal offenses not described in subsection (6) for which
55 a person may be released on bail before and in lieu of his or
56 her first appearance hearing or bail determination. The Supreme
57 Court must make the revised uniform statewide bond schedule
58 available to each judicial circuit.

59 (b) Except as provided in paragraph (c), the chief judge
60 of a judicial circuit may not establish a local bond schedule
61 that sets a lower bond amount than that required by the uniform
62 statewide bond schedule for the purpose of setting a defendant's
63 bail before a first appearance hearing or bail determination.

64 (c) The chief judge of a judicial circuit may petition the
65 Supreme Court for approval of a local bond schedule that sets a
66 lower bond amount than that required by the uniform statewide
67 bond schedule. If the Supreme Court reviews and approves the
68 local bond schedule, such schedule may be used for the purpose
69 of setting a defendant's bail before a first appearance hearing
70 or bail determination pending the adoption of a new or revised
71 uniform statewide bond schedule pursuant to paragraph (a).

72 (d) The chief judge of a judicial circuit may establish a
73 local bond schedule that increases the monetary bond applicable
74 to an offense that is included in the uniform statewide bond
75 schedule adopted by the Supreme Court. Such a deviation from the

76 uniform statewide bond schedule does not require approval by the
77 Supreme Court.

78 (e) In adopting the uniform statewide bond schedule or
79 reviewing a petition for a local bond schedule that deviates
80 from the uniform statewide bond schedule, the Florida Supreme
81 Court shall evaluate the amount of monetary bond necessary to
82 protect the community from risk of physical harm, to assure the
83 presence of the accused at trial, and to protect the integrity
84 of the judicial process.

85 (f) The uniform statewide bond schedule shall not bind a
86 judge in an individual case who is conducting a first appearance
87 hearing or bail determination.

88 (6) A person may not be released before his or her first
89 appearance hearing or bail determination and a judge must
90 determine the appropriate bail, if any, based on an
91 individualized consideration of the criteria in s. 903.046(2),
92 if the person meets any of the following criteria:

93 (a) The person was, at the time of arrest for any felony,
94 on pretrial release, probation, or community control in this
95 state or any other state;

96 (b) The person was, at the time of arrest, designated as a
97 sexual offender or sexual predator in this state or any other
98 state;

99 (c) The person was arrested for violating a protective
100 injunction;

HB 1627

2023

101 (d) The person was, at the time of arrest, on release from
102 supervision under s. 947.1405, s. 947.146, s. 947.149, or s.
103 944.4731;

104 (e) The person has, at any time before the current arrest,
105 been sentenced pursuant to s. 775.082(9) or s. 775.084 as a
106 prison releasee reoffender, habitual violent felony offender,
107 three-time violent felony offender, or violent career criminal;

108 (f) The person has been arrested three or more times in
109 the 6 months immediately preceding his or her arrest for the
110 current offense; or

111 (g) The person's current offense of arrest is for one or
112 more of the following crimes:

113 1. A capital felony, life felony, first degree felony, or
114 second degree felony;

115 2. A homicide under chapter 782; or any attempt,
116 solicitation, or conspiracy to commit a homicide;

117 3. Assault in furtherance of a riot or an aggravated riot;
118 felony battery; domestic battery by strangulation; domestic
119 violence, as defined in s. 741.28; stalking; mob intimidation;
120 assault or battery on a law enforcement officer; assault or
121 battery on juvenile probation officer, or other staff of a
122 detention center or commitment facility, or a staff member of a
123 commitment facility, or health services personnel; assault or
124 battery on a person 65 years of age or older; robbery; burglary;
125 carjacking; or resisting an officer with violence;

126 4. Kidnapping, false imprisonment, human trafficking, or
 127 human smuggling;

128 5. Possession of a firearm or ammunition by a felon,
 129 violent career criminal, or person subject to an injunction
 130 against committing acts of domestic violence, stalking, or
 131 cyberstalking;

132 6. Sexual battery; indecent, lewd, or lascivious touching;
 133 exposure of sexual organs; incest; luring or enticing a child;
 134 or child pornography;

135 7. Abuse, neglect, or exploitation of an elderly person or
 136 disabled adult;

137 8. Child abuse or aggravated child abuse;

138 9. Arson; riot, aggravated riot, inciting a riot, or
 139 aggravated inciting a riot; or a burglary or theft during a
 140 riot;

141 10. Escape; tampering or retaliating against a witness,
 142 victim, or informant; destruction of evidence; or tampering with
 143 a jury;

144 11. Any offense committed for the purpose of benefitting,
 145 promoting, or furthering the interests of a criminal gang;

146 12. Trafficking in a controlled substance, including
 147 conspiracy to engage in trafficking in a controlled substance;

148 13. Racketeering; or

149 14. Failure to appear at required court proceedings while
 150 on bail.

151 Section 2. Paragraph (c) of subsection (1) of section
 152 903.047, Florida Statutes, is amended to read:

153 903.047 Conditions of pretrial release.—

154 (1) As a condition of pretrial release, whether such
 155 release is by surety bail bond or recognizance bond or in some
 156 other form, the defendant must:

157 (c) Comply with all conditions of pretrial release imposed
 158 by the court. A court must consider s. 903.046(2) when
 159 determining whether to impose nonmonetary conditions in addition
 160 to or in lieu of monetary bond. Such nonmonetary conditions may
 161 include, but are not limited to, requiring a defendant to:

162 1. Maintain employment, or, if unemployed, actively seek
 163 employment.

164 2. Maintain or commence an educational program.

165 3. Abide by specified restrictions on personal
 166 associations, place of residence, or travel.

167 4. Report on a regular basis to a designated law
 168 enforcement agency, pretrial services agency, or other agency.

169 5. Comply with a specified curfew.

170 6. Refrain from possessing a firearm, destructive device,
 171 or other dangerous weapon.

172 7. Refrain from excessive use of alcohol, or any use of a
 173 narcotic drug or other controlled substance without a
 174 prescription from a licensed medical practitioner.

175 8. Undergo available medical, psychological, psychiatric,

HB 1627

2023

176 mental health, or substance abuse evaluation and follow all
177 recommendations, including treatment for drug or alcohol
178 dependency, and remain in a specified institution, if required
179 for that purpose.

180 9. Return to custody for specified hours following release
181 for employment, school, or other limited purposes.

182 10. Any other condition that is reasonably necessary to
183 assure the appearance of the defendant at subsequent proceedings
184 and to protect the community against unreasonable danger of
185 harm.

186 Section 3. Section 903.0471, Florida Statutes, is amended
187 to read:

188 903.0471 Violation of condition of pretrial release.—
189 Notwithstanding s. 907.041, a court may, on its own motion,
190 revoke pretrial release and order pretrial detention if the
191 court finds probable cause to believe that the defendant
192 committed a new crime while on pretrial release or violated any
193 other condition of pretrial release in a material respect.

194 Section 4. Subsection (4) of section 907.041, Florida
195 Statutes, is amended to read:

196 907.041 Pretrial detention and release.—

197 (4) PRETRIAL DETENTION.—

198 (a) As used in this subsection, "dangerous crime" means
199 any of the following:

200 1. Arson;

- 201 2. Aggravated assault;
- 202 3. Aggravated battery;
- 203 4. Illegal use of explosives;
- 204 5. Child abuse or aggravated child abuse;
- 205 6. Abuse of an elderly person or disabled adult, or
- 206 aggravated abuse of an elderly person or disabled adult;
- 207 7. Aircraft piracy;
- 208 8. Kidnapping;
- 209 9. Homicide;
- 210 10. Manslaughter, including DUI manslaughter and BUI
- 211 manslaughter;
- 212 11. Sexual battery;
- 213 12. Robbery;
- 214 13. Carjacking;
- 215 14. Lewd, lascivious, or indecent assault or act upon or
- 216 in presence of a child under the age of 16 years;
- 217 15. Sexual activity with a child, who is 12 years of age
- 218 or older but less than 18 years of age, by or at solicitation of
- 219 person in familial or custodial authority;
- 220 16. Burglary of a dwelling;
- 221 17. Stalking and aggravated stalking;
- 222 18. Act of domestic violence as defined in s. 741.28;
- 223 19. Home invasion robbery;
- 224 20. Act of terrorism as defined in s. 775.30;
- 225 21. Manufacturing any substances in violation of chapter

226 893;
 227 22. Attempting or conspiring to commit any such crime; ~~and~~
 228 23. Human trafficking; and
 229 24. Trafficking in any controlled substance described in
 230 s. 893.135(1)(c)4.

231 (b) A ~~No~~ person arrested for ~~charged with~~ a dangerous
 232 crime may not ~~shall~~ be granted nonmonetary pretrial release at a
 233 first appearance hearing if the court has determined there is
 234 probable cause to believe the person has committed the offense;
 235 ~~however, the court shall retain the discretion to release an~~
 236 ~~accused on electronic monitoring or on recognizance bond if the~~
 237 ~~findings on the record of facts and circumstances warrant such a~~
 238 ~~release.~~

239 (c) The court may order pretrial detention if it finds a
 240 substantial probability, based on a defendant's past and present
 241 patterns of behavior, the criteria in s. 903.046, and any other
 242 relevant facts, that any of the following circumstances exist:

243 1. The defendant has previously violated conditions of
 244 release and that no further conditions of release are reasonably
 245 likely to assure the defendant's appearance at subsequent
 246 proceedings;

247 2. The defendant, with the intent to obstruct the judicial
 248 process, has threatened, intimidated, or injured any victim,
 249 potential witness, juror, or judicial officer, or has attempted
 250 or conspired to do so, and that no condition of release will

251 reasonably prevent the obstruction of the judicial process;

252 3. The defendant is charged with trafficking in controlled
253 substances as defined by s. 893.135, that there is a substantial
254 probability that the defendant has committed the offense, and
255 that no conditions of release will reasonably assure the
256 defendant's appearance at subsequent criminal proceedings;

257 4. The defendant is charged with DUI manslaughter, as
258 defined by s. 316.193, and that there is a substantial
259 probability that the defendant committed the crime and that the
260 defendant poses a threat of harm to the community; conditions
261 that would support a finding by the court pursuant to this
262 subparagraph that the defendant poses a threat of harm to the
263 community include, but are not limited to, any of the following:

264 a. The defendant has previously been convicted of any
265 crime under s. 316.193, or of any crime in any other state or
266 territory of the United States that is substantially similar to
267 any crime under s. 316.193;

268 b. The defendant was driving with a suspended driver
269 license when the charged crime was committed; or

270 c. The defendant has previously been found guilty of, or
271 has had adjudication of guilt withheld for, driving while the
272 defendant's driver license was suspended or revoked in violation
273 of s. 322.34;

274 5. The defendant poses the threat of harm to the
275 community. The court may so conclude, if it finds that the

276 | defendant is presently charged with a dangerous crime, that
277 | there is a substantial probability that the defendant committed
278 | such crime, that the factual circumstances of the crime indicate
279 | a disregard for the safety of the community, and that there are
280 | no conditions of release reasonably sufficient to protect the
281 | community from the risk of physical harm to persons;

282 | 6. The defendant was on probation, parole, or other
283 | release pending completion of sentence or on pretrial release
284 | for a dangerous crime at the time the current offense was
285 | committed;

286 | 7. The defendant has violated one or more conditions of
287 | pretrial release or bond for the offense currently before the
288 | court and the violation, in the discretion of the court,
289 | supports a finding that no conditions of release can reasonably
290 | protect the community from risk of physical harm to persons or
291 | assure the presence of the accused at trial; or

292 | 8.a. The defendant has ever been sentenced pursuant to s.
293 | 775.082(9) or s. 775.084 as a prison releasee reoffender,
294 | habitual violent felony offender, three-time violent felony
295 | offender, or violent career criminal, or the state attorney
296 | files a notice seeking that the defendant be sentenced pursuant
297 | to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
298 | habitual violent felony offender, three-time violent felony
299 | offender, or violent career criminal;

300 | b. There is a substantial probability that the defendant

301 committed the offense; and

302 c. There are no conditions of release that can reasonably
303 protect the community from risk of physical harm or ensure the
304 presence of the accused at trial.

305 (d) If a defendant is arrested for a dangerous crime that
306 is a capital felony, a life felony, or a felony of the first
307 degree, and the court determines there is probable cause to
308 believe the defendant committed the offense, the state attorney,
309 or the court on its own motion, shall motion for pretrial
310 detention. It the court finds a substantial probability that the
311 defendant committed the offense and, based on the defendant's
312 past and present patterns of behavior, consideration of the
313 criteria in s. 903.046, and any other relevant facts, that no
314 conditions of release or bail will reasonably protect the
315 community from risk of physical harm, ensure the presence of the
316 defendant at trial, or assure the integrity of the judicial
317 process, the court must order pretrial detention.

318 (e)-(d) When a person charged with a crime for which
319 pretrial detention could be ordered is arrested, the arresting
320 agency shall promptly notify the state attorney of the arrest
321 and shall provide the state attorney with such information as
322 the arresting agency has obtained relative to:

- 323 1. The nature and circumstances of the offense charged;
324 2. The nature of any physical evidence seized and the
325 contents of any statements obtained from the defendant or any

326 witness;

327 3. The defendant's family ties, residence, employment,
328 financial condition, and mental condition; and

329 4. The defendant's past conduct and present conduct,
330 including any record of convictions, previous flight to avoid
331 prosecution, or failure to appear at court proceedings.

332 (f)~~(e)~~ When a person charged with a crime for which
333 pretrial detention could be ordered is arrested, the arresting
334 agency may detain such defendant, prior to his or her first
335 appearance hearing or prior to the filing by the state attorney
336 of a motion seeking pretrial detention, for a period not to
337 exceed 24 hours.

338 (g)~~(f)~~ The pretrial detention hearing shall be held within
339 5 days after the defendant's first appearance hearing,
340 arraignment, or ~~of~~ the filing by the state attorney of a motion
341 complaint to seek pretrial detention, whichever is applicable.
342 The defendant may request a continuance. No continuance shall be
343 for longer than 5 days unless there are extenuating
344 circumstances. The defendant may be detained pending the
345 completion of the hearing. The state attorney shall be entitled
346 to one continuance for good cause.

347 (h)~~(g)~~ The state attorney has the burden of showing the
348 need for pretrial detention.

349 (i)~~(h)~~ The defendant is entitled to be represented by
350 counsel, to present witnesses and evidence, and to cross-examine

351 witnesses. The rules concerning admissibility of evidence in
 352 criminal trials do not apply to the presentation and
 353 consideration of evidence at the detention hearing ~~The court may~~
 354 ~~admit relevant evidence without complying with the rules of~~
 355 ~~evidence,~~ but evidence secured in violation of the United States
 356 Constitution or the Constitution of the State of Florida shall
 357 not be admissible. No testimony by the defendant shall be
 358 admissible to prove guilt at any other judicial proceeding, but
 359 such testimony may be admitted in an action for perjury, based
 360 upon the defendant's statements made at the pretrial detention
 361 hearing, or for impeachment.

362 (j) A party may motion for a pretrial detention order to
 363 be reconsidered at any time before a defendant's trial if the
 364 judge finds that information exists that was not known to the
 365 party moving for reconsideration at the time of the pretrial
 366 detention hearing and that such information has a material
 367 bearing on determining whether there are conditions of release
 368 or bail that will reasonably assure the appearance of the
 369 defendant as required and the safety of any other person and the
 370 community from harm.

371 (k)-(i) The pretrial detention order of the court shall be
 372 based solely upon evidence produced at the hearing and shall
 373 contain findings of fact and conclusions of law to support it.
 374 The order shall be made either in writing or orally on the
 375 record. The court shall render its findings within 24 hours of

HB 1627

2023

376 the pretrial detention hearing.

377 (l)~~(j)~~ A defendant convicted at trial following the
378 issuance of a pretrial detention order shall have credited to
379 his or her sentence, if imprisonment is imposed, the time the
380 defendant was held under the order, pursuant to s. 921.161.

381 (m)~~(k)~~ The defendant shall be entitled to dissolution of
382 the pretrial detention order whenever the court finds that a
383 subsequent event has eliminated the basis for detention.

384 ~~(l) The Legislature finds that a person who manufactures~~
385 ~~any substances in violation of chapter 893 poses a threat of~~
386 ~~harm to the community and that the factual circumstances of such~~
387 ~~a crime indicate a disregard for the safety of the community.~~
388 ~~The court shall order pretrial detention if the court finds that~~
389 ~~there is a substantial probability that a defendant charged with~~
390 ~~manufacturing any substances in violation of chapter 893~~
391 ~~committed such a crime and if the court finds that there are no~~
392 ~~conditions of release reasonably sufficient to protect the~~
393 ~~community from the risk of physical harm to persons.~~

394 Section 5. This act shall take effect January 1, 2024.