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1
 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

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26 appearance hearing; specifying that upon motion by the
 27 state attorney, a court may order pretrial detention
 28 in certain circumstances; providing for a detention
 29 hearing for persons charged with dangerous crimes;
 30 authorizing a state attorney or a court to move for
 31 detention of persons charged with dangerous crimes in
 32 certain circumstances; requiring a court to order
 33 pretrial detention in certain circumstances; providing
 34 requirements for detention hearings; revising
 35 requirements for a pretrial detention order; requiring
 36 a court to provide specified information to certain
 37 defendants; providing that a party may move for
 38 reconsideration of a pretrial detention order any time
 39 before trial in certain circumstances; removing a
 40 requirement for pretrial detention for defendants
 41 charged with illegally manufacturing controlled
 42 substances in certain cases; providing an effective
 43 date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Subsections (4), (5), and (6) are added to
 48 section 903.011, Florida Statutes, to read:

49 903.011 Pretrial release ~~"Bail" and "bond"~~ defined;
 50 general terms; statewide uniform bond schedule.-

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51 (4) Except as authorized in subsection (5), only a judge
52 may set, reduce, or otherwise alter a defendant's bail. Upon
53 motion by a defendant, or on the court's own motion, a court may
54 reconsider the monetary component of a defendant's bail if he or
55 she is unable to post a monetary bond.

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

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

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

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76 (d) The chief judge of a judicial circuit may establish a
 77 local bond schedule that increases the monetary bond applicable
 78 to an offense that is included in the uniform statewide bond
 79 schedule adopted by the Supreme Court. Such a deviation from the
 80 uniform statewide bond schedule does not require approval by the
 81 Supreme Court.

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

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

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

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

100 (b) The person was, at the time of arrest, designated as a

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101 sexual offender or sexual predator in this state or any other
 102 state;

103 (c) The person was arrested for violating a protective
 104 injunction;

105 (d) The person was, at the time of arrest, on release from
 106 supervision under s. 947.1405, s. 947.146, s. 947.149, or s.
 107 944.4731;

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

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

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

117 1. A capital felony, life felony, felony of the first
 118 degree, or felony of the second degree;

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

121 3. Assault in furtherance of a riot or an aggravated riot;
 122 felony battery; domestic battery by strangulation; domestic
 123 violence, as defined in s. 741.28; stalking; mob intimidation;
 124 assault or battery on a law enforcement officer; assault or
 125 battery on juvenile probation officer, or other staff of a

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126 detention center or commitment facility, or a staff member of a
 127 commitment facility, or health services personnel; assault or
 128 battery on a person 65 years of age or older; robbery; burglary;
 129 carjacking; or resisting an officer with violence;
 130 4. Kidnapping, false imprisonment, human trafficking, or
 131 human smuggling;
 132 5. Possession of a firearm or ammunition by a felon,
 133 violent career criminal, or person subject to an injunction
 134 against committing acts of domestic violence, stalking, or
 135 cyberstalking;
 136 6. Sexual battery; indecent, lewd, or lascivious touching;
 137 exposure of sexual organs; incest; luring or enticing a child;
 138 or child pornography;
 139 7. Abuse, neglect, or exploitation of an elderly person or
 140 disabled adult;
 141 8. Child abuse or aggravated child abuse;
 142 9. Arson; riot, aggravated riot, inciting a riot, or
 143 aggravated inciting a riot; or a burglary or theft during a
 144 riot;
 145 10. Escape; tampering or retaliating against a witness,
 146 victim, or informant; destruction of evidence; or tampering with
 147 a jury;
 148 11. Any offense committed for the purpose of benefitting,
 149 promoting, or furthering the interests of a criminal gang;
 150 12. Trafficking in a controlled substance, including

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151 conspiracy to engage in trafficking in a controlled substance;
 152 13. Racketeering; or
 153 14. Failure to appear at required court proceedings while
 154 on bail.

155 Section 2. Paragraph (c) of subsection (1) of section
 156 903.047, Florida Statutes, is amended to read:

157 903.047 Conditions of pretrial release.—

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

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

166 1. Maintain employment, or, if unemployed, actively seek
 167 employment.

168 2. Maintain or commence an educational program.

169 3. Abide by specified restrictions on personal
 170 associations, place of residence, or travel.

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

173 5. Comply with a specified curfew.

174 6. Refrain from possessing a firearm, destructive device,
 175 or other dangerous weapon.

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176 7. Refrain from excessive use of alcohol, or any use of a
 177 narcotic drug or other controlled substance without a
 178 prescription from a licensed medical practitioner.

179 8. Undergo available medical, psychological, psychiatric,
 180 mental health, or substance abuse evaluation and follow all
 181 recommendations, including treatment for drug or alcohol
 182 dependency, and remain in a specified institution, if required
 183 for that purpose.

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

186 10. Any other condition that is reasonably necessary to
 187 assure the appearance of the defendant at subsequent proceedings
 188 and to protect the community against unreasonable danger of
 189 harm.

190 Section 3. Section 903.0471, Florida Statutes, is amended
 191 to read:

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

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

200 907.041 Pretrial detention and release.—

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- 201 (4) PRETRIAL DETENTION.—
- 202 (a) As used in this subsection, "dangerous crime" means
- 203 any of the following:
- 204 1. Arson;
 - 205 2. Aggravated assault;
 - 206 3. Aggravated battery;
 - 207 4. Illegal use of explosives;
 - 208 5. Child abuse or aggravated child abuse;
 - 209 6. Abuse of an elderly person or disabled adult, or
 - 210 aggravated abuse of an elderly person or disabled adult;
 - 211 7. Aircraft piracy;
 - 212 8. Kidnapping;
 - 213 9. Homicide;
 - 214 10. Manslaughter, including DUI manslaughter and BUI
 - 215 manslaughter;
 - 216 11. Sexual battery;
 - 217 12. Robbery;
 - 218 13. Carjacking;
 - 219 14. Lewd, lascivious, or indecent assault or act upon or
 - 220 in presence of a child under the age of 16 years;
 - 221 15. Sexual activity with a child, who is 12 years of age
 - 222 or older but less than 18 years of age, by or at solicitation of
 - 223 person in familial or custodial authority;
 - 224 16. Burglary of a dwelling;
 - 225 17. Stalking and aggravated stalking;

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- 226 18. Act of domestic violence as defined in s. 741.28;
 227 19. Home invasion robbery;
 228 20. Act of terrorism as defined in s. 775.30;
 229 21. Manufacturing any substances in violation of chapter
 230 893;
 231 22. Attempting or conspiring to commit any such crime; ~~and~~
 232 23. Human trafficking;
 233 24. Trafficking in any controlled substance described in
 234 s. 893.135(1)(c)4.;
 235 25. Extortion in violation of s. 836.05; and
 236 26. Written threats to kill in violation of s. 836.10.
 237 (b) A ~~No~~ person arrested for ~~charged with~~ a dangerous
 238 crime may not ~~shall~~ be granted nonmonetary pretrial release at a
 239 first appearance hearing if the court has determined there is
 240 probable cause to believe the person has committed the offense;
 241 ~~however, the court shall retain the discretion to release an~~
 242 ~~accused on electronic monitoring or on recognizance bond if the~~
 243 ~~findings on the record of facts and circumstances warrant such a~~
 244 ~~release.~~
 245 (c) Upon motion by the state attorney, the court may order
 246 pretrial detention if it finds a substantial probability, based
 247 on a defendant's past and present patterns of behavior, the
 248 criteria in s. 903.046, and any other relevant facts, that any
 249 of the following circumstances exist:
 250 1. The defendant has previously violated conditions of

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251 release and that no further conditions of release are reasonably
 252 likely to assure the defendant's appearance at subsequent
 253 proceedings;

254 2. The defendant, with the intent to obstruct the judicial
 255 process, has threatened, intimidated, or injured any victim,
 256 potential witness, juror, or judicial officer, or has attempted
 257 or conspired to do so, and that no condition of release will
 258 reasonably prevent the obstruction of the judicial process;

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

264 4. The defendant is charged with DUI manslaughter, as
 265 defined by s. 316.193, and that there is a substantial
 266 probability that the defendant committed the crime and that the
 267 defendant poses a threat of harm to the community; conditions
 268 that would support a finding by the court pursuant to this
 269 subparagraph that the defendant poses a threat of harm to the
 270 community include, but are not limited to, any of the following:

271 a. The defendant has previously been convicted of any
 272 crime under s. 316.193, or of any crime in any other state or
 273 territory of the United States that is substantially similar to
 274 any crime under s. 316.193;

275 b. The defendant was driving with a suspended driver

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276 | license when the charged crime was committed; or
 277 | c. The defendant has previously been found guilty of, or
 278 | has had adjudication of guilt withheld for, driving while the
 279 | defendant's driver license was suspended or revoked in violation
 280 | of s. 322.34;
 281 | 5. The defendant poses the threat of harm to the
 282 | community. The court may so conclude, if it finds that the
 283 | defendant is presently charged with a dangerous crime, that
 284 | there is a substantial probability that the defendant committed
 285 | such crime, that the factual circumstances of the crime indicate
 286 | a disregard for the safety of the community, and that there are
 287 | no conditions of release reasonably sufficient to protect the
 288 | community from the risk of physical harm to persons;
 289 | 6. The defendant was on probation, parole, or other
 290 | release pending completion of sentence or on pretrial release
 291 | for a dangerous crime at the time the current offense was
 292 | committed;
 293 | 7. The defendant has violated one or more conditions of
 294 | pretrial release or bond for the offense currently before the
 295 | court and the violation, in the discretion of the court,
 296 | supports a finding that no conditions of release can reasonably
 297 | protect the community from risk of physical harm to persons or
 298 | assure the presence of the accused at trial; or
 299 | 8.a. The defendant has ever been sentenced pursuant to s.
 300 | 775.082 (9) or s. 775.084 as a prison releasee reoffender,

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301 habitual violent felony offender, three-time violent felony
 302 offender, or violent career criminal, or the state attorney
 303 files a notice seeking that the defendant be sentenced pursuant
 304 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
 305 habitual violent felony offender, three-time violent felony
 306 offender, or violent career criminal;

307 b. There is a substantial probability that the defendant
 308 committed the offense; and

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

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

325 (e)-(d) When a person charged with a crime for which

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326 pretrial detention could be ordered is arrested, the arresting
 327 agency shall promptly notify the state attorney of the arrest
 328 and shall provide the state attorney with such information as
 329 the arresting agency has obtained relative to:

330 1. The nature and circumstances of the offense charged;

331 2. The nature of any physical evidence seized and the
 332 contents of any statements obtained from the defendant or any
 333 witness;

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

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

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

345 (g)1.~~(f)~~ If a motion for pretrial detention is required
 346 under paragraph (d), the pretrial detention hearing must ~~shall~~
 347 be held within 5 days after the defendant's first appearance
 348 hearing or, if there is no first appearance hearing, within 5
 349 days after the defendant's arraignment ~~of the filing by the~~
 350 ~~state attorney of a complaint to seek pretrial detention.~~

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351 2. If a state attorney files a motion for pretrial
 352 detention under paragraph (c), the pretrial detention hearing
 353 must be held within 5 days after the filing of such motion.

354 3. The defendant may request a continuance of a pretrial
 355 detention hearing. No continuance shall be for longer than 5
 356 days unless there are extenuating circumstances. ~~The defendant~~
 357 ~~may be detained pending the hearing.~~ The state attorney shall be
 358 entitled to one continuance for good cause.

359 4. The defendant may be detained pending the completion of
 360 the pretrial detention hearing. If a defendant is released on
 361 bail pending a pretrial detention hearing under paragraph (d),
 362 the court must inform the defendant that if he or she uses a
 363 surety bond to meet the monetary component of pretrial release
 364 and the motion for pretrial detention is subsequently granted,
 365 the defendant will not be entitled to the return of the premium
 366 on such surety bond.

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

369 ~~(i)(h)~~ The defendant is entitled to be represented by
 370 counsel, to present witnesses and evidence, and to cross-examine
 371 witnesses. The rules concerning admissibility of evidence in
 372 criminal trials do not apply to the presentation and
 373 consideration of evidence at the detention hearing ~~The court may~~
 374 ~~admit relevant evidence without complying with the rules of~~
 375 ~~evidence,~~ but evidence secured in violation of the United States

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376 Constitution or the Constitution of the State of Florida shall
 377 not be admissible. No testimony by the defendant shall be
 378 admissible to prove guilt at any other judicial proceeding, but
 379 such testimony may be admitted in an action for perjury, based
 380 upon the defendant's statements made at the pretrial detention
 381 hearing, or for impeachment.

382 (j) A party may motion for a pretrial detention order to
 383 be reconsidered at any time before a defendant's trial if the
 384 judge finds that information exists that was not known to the
 385 party moving for reconsideration at the time of the pretrial
 386 detention hearing and that such information has a material
 387 bearing on determining whether there are conditions of release
 388 or bail that will reasonably assure the appearance of the
 389 defendant as required and the safety of any other person and the
 390 community from harm.

391 (k)~~(i)~~ The pretrial detention order of the court shall be
 392 based solely upon evidence produced at the hearing and shall
 393 contain findings of fact and conclusions of law to support it.
 394 The order shall be made either in writing or orally on the
 395 record. The court shall render its findings within 24 hours of
 396 the pretrial detention hearing.

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

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

404 ~~(l) The Legislature finds that a person who manufactures~~
405 ~~any substances in violation of chapter 893 poses a threat of~~
406 ~~harm to the community and that the factual circumstances of such~~
407 ~~a crime indicate a disregard for the safety of the community.~~
408 ~~The court shall order pretrial detention if the court finds that~~
409 ~~there is a substantial probability that a defendant charged with~~
410 ~~manufacturing any substances in violation of chapter 893~~
411 ~~committed such a crime and if the court finds that there are no~~
412 ~~conditions of release reasonably sufficient to protect the~~
413 ~~community from the risk of physical harm to persons.~~

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