

**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 Appropriations Committee on Criminal and Civil Justice

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BILL: CS/SB 1450

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Arrest and Detention of Individuals with Significant Medical Conditions

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Pre-meeting</b>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1450 creates s. 901.1501, F.S., to provide that a law enforcement officer may use his or her discretion based on the totality of the circumstances in determining whether to make an immediate arrest of a person with a significant medical condition, including an arrest for an offense committed against an elderly person or disabled adult.

The bill defines a “person with a significant medical condition” as a person who is a patient or resident of a hospital, nursing home facility or an assisted living facility.

The bill specifies that a law enforcement officer may consider all lawful methods to make an arrest of such a person, including seeking an arrest warrant, but does not preclude the officer from making an immediate physical arrest of such a person.

This bill may have an indeterminate prison bed impact (unquantifiable increase or decrease on prison beds) on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect on July 1, 2025.

## II. Present Situation:

Senior aggression and violence encountered in the long-term care service industry occurs when residents assault staff or each other.<sup>1</sup> Residents of a hospital,<sup>2</sup> nursing home facility<sup>3</sup> or an assisted living facility<sup>4</sup> may suffer from dementia or other cognitive impairments that can result in residential aggression and mistreatment of others in the facility.

### Arrests

A law enforcement officer<sup>5</sup> is authorized to arrest a person who commits a criminal offense. A law enforcement officer may make such an arrest after first obtaining an arrest warrant or, in specified circumstances, he or she may make an immediate arrest without a warrant.

A law enforcement officer must request approval from a judge to obtain an arrest warrant. A judge is authorized to issue a warrant authorizing a person's arrest for committing any crime if he or she finds probable cause that the person committed a crime within his or her jurisdiction.<sup>6</sup> When a judge signs an arrest warrant, he or she also sets a bond amount for a defendant, which allows a defendant to be released from jail upon payment if a defendant is arrested under the warrant.<sup>7</sup>

An officer making an arrest by a warrant shall inform the person to be arrested of the cause of arrest and that a warrant has been issued, except when the person flees or forcibly resists before the officer has an opportunity to inform the person, or when giving the information will imperil the arrest. The warrant does not need to be in the officer's possession at the time of arrest, but available on request as soon as practicable.<sup>8</sup>

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<sup>1</sup> International Association for Healthcare Security and Safety Foundation, *Violence and Security in Skilled Nursing/Assisted Care Facilities*, available at <https://iahssf.org/assets/IAHSS-Foundation-Violence-and-Security-in-Skilled-Nursing-and-Assisted-Care-Facilities-181203.pdf> (last visited April 9, 2025).

<sup>2</sup> Hospital" means any establishment that offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent, except that a critical access hospital, as defined in s. 408.07, F.S., shall not be required to make available treatment facilities for surgery, obstetrical care, or similar services as long as it maintains its critical access hospital designation and shall be required to make such facilities available only if it ceases to be designated as a critical access hospital. However, the provisions of ch. 395, F.S., do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992. Section 395.002(12), F.S.

<sup>3</sup> "Nursing home facility" means any facility which provides nursing services under part I, ch. 464, F.S., and which is licensed under part II, ch. 400, F.S. Section. 400.021(12), F.S

<sup>4</sup> "Assisted living facility" means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, regardless of whether operated for profit, which through its ownership or management provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. Section 429.02(5), F.S.

<sup>5</sup> Section 943.10(1), F.S.

<sup>6</sup> Section 901.02, F.S.

<sup>8</sup> Section 901.16, F.S.

<sup>8</sup> Section 901.16, F.S.

A law enforcement officer may arrest a person without a warrant under certain statutorily enumerated circumstances, including when:

- The person has committed a felony or misdemeanor or violated a municipal or county ordinance in the presence of the officer. An arrest for the commission of a misdemeanor or the violation of a municipal or county ordinance shall be made immediately or in fresh pursuit.
- A felony has been committed and he or she reasonably believes that the person committed it.
- He or she reasonably believes that a felony has been or is being committed and that the person to be arrested has committed or is committing it.
- There is probable cause to believe a person has committed certain enumerated misdemeanor offenses for which a warrantless arrest has been explicitly authorized by statute, such as a battery, criminal mischief or graffiti, an act of domestic violence, an injunction violation, or sexual cyberharassment.<sup>9</sup>

### **Bail and Pretrial Detention**

Except when previously released in a lawful manner, every arrested person must appear before a judge within 24 hours of arrest for a “first appearance.”<sup>10</sup> During first appearance, a judge advises a defendant of the charges for which he or she was arrested, and advises a defendant of specified rights.<sup>11</sup> If a judge determines that probable cause exists, the judge then determines whether a defendant is entitled to pretrial release. A judge may grant pretrial release either by setting a specified bail amount or releasing the defendant on his or her own recognizance.<sup>12</sup>

### ***Pretrial Detention***

Some offenses committed against an elderly person or disabled adult are classified as a “dangerous crime” and may require a person to post a bond in order to be released from jail. Section 907.041, F.S., creates 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.”<sup>13</sup> A person may not be released on nonmonetary conditions to supervised pretrial release, unless the pretrial release service certifies to the court it has investigated or otherwise verified:

- The circumstances of the accused’s family, employment, financial resources, character, mental condition, and length of residence in the community.
- The accused’s record of convictions, of appearances at court proceedings, of flight to avoid prosecution, or of failure to appear at court proceedings.
- Other facts necessary to assist the court in determining the accused indigency status and whether he or she should be released on supervised pretrial release.<sup>14</sup>

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<sup>9</sup> Section 901.15, F.S.

<sup>10</sup> Fl. R. Crim. P. 3.130

<sup>11</sup> *Id.*

<sup>12</sup> Fl. R. Crim. P. 3.131

<sup>13</sup> Section 907.041(5)(a), F.S.

<sup>14</sup> Section 907.041(3)(b), F.S.

***No Pretrial Detention***

There are offenses for which a person may not be released prior to his or her first appearance hearing. Under s. 903.011(6), F.S., a defendant may not be released prior to his or her first appearance hearing if he or she:

- Was on pretrial release, probation, or community control in this state or any other state at the time of arrest for a felony;
- Was designated as a sexual offender or sexual predator in this state or any other state at the time of arrest;
- Was arrested for violating a protective injunction;
- Was, at the time of arrest, on release from supervision by the Department of Corrections under conditional release, control release, conditional medical release, or an addiction recovery supervision program;
- Has, at any time before the current arrest, been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;
- Has been arrested three or more times in the six months immediately preceding his or her current arrest; or
- Was arrested for one or more of the following crimes:
  - A capital felony, life felony, first degree felony, or second degree felony;
  - A homicide under ch. 782, F.S.; or any attempt, solicitation, or conspiracy to commit a homicide;
  - Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; domestic violence, as defined in s. 741.28, F.S.; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer or other staff of a detention center or commitment facility, or a staff member of a commitment facility or health services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with violence;
  - Kidnapping, false imprisonment, human trafficking, or human smuggling;
  - Possession of a firearm or ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking;
  - Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;
  - Abuse, neglect, or exploitation of an elderly person or disabled adult;
  - Child abuse or aggravated child abuse;
  - Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or a burglary or theft during a riot;
  - Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;
  - Any offense committed for the purpose of benefitting, promoting, or furthering the interests of a criminal gang;
  - Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;
  - Racketeering; or
  - Failure to appear at required court proceedings while on bail.

**III. Effect of Proposed Changes:**

The bill creates s. 901.1501, F.S., to provide that a law enforcement officer may use his or her discretion based on the totality of the circumstances in determining whether to make an immediate arrest of a person with a significant medical condition, including an arrest for an offense committed against an elderly person or disabled adult.

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**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 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 may have a positive indeterminate prison bed impact on the Department of Corrections. However, the EDR noted that there is no data available on the number of offenders who would be impacted by this new language. Furthermore, it is not known how police officers would use their discretion in these situations.<sup>15</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 901.1501

**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 April 1, 2025:**

The amendment defines “person with a significant medical condition,” and adds “nursing home facility” to the list of facilities in which such person may reside. The amendment specifies that officers may use discretion when an offense is against an elderly persons or disabled adults and committed by a person with a significant medical condition.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>15</sup> Office of Economic and Demographic Research, *SB 1450 Arrest and Detention of Individuals with Significant Medical Conditions*, (on file with the Senate Committee on Criminal Justice)