

CHAPTER 2023-225

Committee Substitute for House Bill No. 329

An act relating to electronic monitoring of persons charged with or convicted of offenses involving schools or students; amending s. 907.041, F.S.; providing a definition; requiring a court to consider electronic monitoring and location restrictions as conditions of pretrial release for persons charged with certain offenses against schools or students; creating s. 948.301, F.S.; providing a definition; requiring a court to consider electronic monitoring and location restrictions as conditions of probation or community control for persons charged with certain offenses against schools or students; amending s. 790.065, F.S.; correcting a cross-reference; providing an effective date.

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

Section 1. Subsection (4) of section 907.041, Florida Statutes, is renumbered as subsection (5), paragraph (a) of subsection (3) of that section is amended, and a new subsection (4) is added to that section, to read:

907.041 Pretrial detention and release.—

(3) **RELEASE ON NONMONETARY CONDITIONS.—**

(a) It is the intent of the Legislature to create 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 as defined in subsection (5) (4). Such person shall be released on monetary conditions if it is determined that such monetary conditions are necessary to assure the presence of the person at trial or at other proceedings, to protect the community from risk of physical harm to persons, to assure the presence of the accused at trial, or to assure the integrity of the judicial process.

(4) SPECIAL CONDITIONS FOR CERTAIN OFFENSES INVOLVING SCHOOLS OR STUDENTS.—

(a) As used in this subsection, the term “school” means the grounds or facility of any early learning, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.

(b) When a person is charged with a crime under s. 790.115, s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s. 790.165, s. 790.166, s. 810.095, or s. 836.10, alleged to have been committed at or against a school or against a student while he or she is at school, the court must consider whether conditions of electronic monitoring and a prohibition from being within 1,000 feet of any school are appropriate to protect the community from risk of physical harm to persons.

Section 2. Section 948.301, Florida Statutes, is created to read:

948.301 Electronic monitoring as a condition of probation or community control for certain offenders.—

(1) As used in this section, the term “school” means the grounds or facility of any early learning, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.

(2) Effective for any probationer or community controllee whose crime was committed on or after October 1, 2023, and who is placed under supervision for a violation of s. 790.115, s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s. 790.165, s. 790.166, s. 810.095, or s. 836.10, committed at or against a school or against a student while he or she is at school, the court must consider whether conditions of electronic monitoring and a prohibition from being within 1,000 feet of any school are appropriate for the offender.

Section 3. Paragraph (c) of subsection (2) of section 790.065, Florida Statutes, is amended to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee’s call or by return call, forthwith:

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(5)(a) ~~s. 907.041(4)(a)~~ or for any of the following enumerated offenses:

- a. Criminal anarchy under ss. 876.01 and 876.02.
- b. Extortion under s. 836.05.
- c. Explosives violations under s. 552.22(1) and (2).
- d. Controlled substances violations under chapter 893.
- e. Resisting an officer with violence under s. 843.01.
- f. Weapons and firearms violations under this chapter.
- g. Treason under s. 876.32.

- h. Assisting self-murder under s. 782.08.
- i. Sabotage under s. 876.38.
- j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, “working hours” means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

- a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or
- b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.

8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

Section 4. This act shall take effect October 1, 2023.

Approved by the Governor June 12, 2023.

Filed in Office Secretary of State June 12, 2023.