

CHAPTER 2023-27

Committee Substitute for Committee Substitute for House Bill No. 1627

An act relating to pretrial release and detention; amending s. 903.011, F.S.; providing for setting, reduction, and alteration of bail; requiring the Supreme Court to create and periodically update a statewide uniform bail bond schedule for certain offenses; providing for the chief judge of a judicial circuit to establish a lower bail bond schedule in certain cases; requiring Supreme Court approval for local deviations from the statewide uniform bail bond schedule; providing that arrested persons in certain categories may not be released until a first appearance and that bond for such persons be individually determined based on specified factors; amending s. 903.047, F.S.; authorizing a court to consider nonmonetary conditions in addition to or in lieu of a monetary amount subject to specified limitations; listing possible nonmonetary conditions; amending s. 903.0471, F.S.; providing that a court may revoke pretrial release and order pretrial detention if a defendant materially violates any release condition; amending s. 907.041, F.S.; revising the definition of the term “dangerous crime”; providing that a person arrested for a dangerous crime may not be granted nonmonetary pretrial release at a first appearance hearing; specifying that upon motion by the state attorney, a court may order pretrial detention in certain circumstances; providing for a detention hearing for persons charged with dangerous crimes; authorizing a state attorney or a court to move for detention of persons charged with dangerous crimes in certain circumstances; requiring a court to order pretrial detention in certain circumstances; providing requirements for detention hearings; revising requirements for a pretrial detention order; requiring a court to provide specified information to certain defendants; providing that a party may move for reconsideration of a pretrial detention order any time before trial in certain circumstances; removing a requirement for pretrial detention for defendants charged with illegally manufacturing controlled substances in certain cases; providing an effective date.

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

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

903.011 Pretrial release ~~“Bail” and “bond”~~ defined; general terms; statewide uniform bond schedule.—

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

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

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

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

(d) 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 statewide bond schedule adopted by the Supreme Court. Such a deviation from the uniform statewide bond schedule does not require approval by the Supreme Court.

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

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

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

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

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

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

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

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

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

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

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

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

3. Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; domestic violence, as defined in s. 741.28; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on 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;

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

5. 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;

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

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

8. Child abuse or aggravated child abuse;

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

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

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

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

13. Racketeering; or

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

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

903.047 Conditions of pretrial release.—

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

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

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

2. Maintain or commence an educational program.

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

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

5. Comply with a specified curfew.

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

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

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

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

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

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

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

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

907.041 Pretrial detention and release.—

(4) PRETRIAL DETENTION.—

(a) As used in this subsection, “dangerous crime” means any of the following:

1. Arson;
2. Aggravated assault;
3. Aggravated battery;
4. Illegal use of explosives;
5. Child abuse or aggravated child abuse;
6. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
7. Aircraft piracy;
8. Kidnapping;
9. Homicide;
10. Manslaughter, including DUI manslaughter and BUI manslaughter;
11. Sexual battery;
12. Robbery;
13. Carjacking;
14. Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;
16. Burglary of a dwelling;

17. Stalking and aggravated stalking;
18. Act of domestic violence as defined in s. 741.28;
19. Home invasion robbery;
20. Act of terrorism as defined in s. 775.30;
21. Manufacturing any substances in violation of chapter 893;
22. Attempting or conspiring to commit any such crime; and
23. Human trafficking;
24. Trafficking in any controlled substance described in s. 893.135(1)(c)
4.;
25. Extortion in violation of s. 836.05; and
26. Written threats to kill in violation of s. 836.10.

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

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

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

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

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

4. The defendant is charged with DUI manslaughter, as defined by s. 316.193, and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions that would support a finding by the court pursuant to

this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:

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

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

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

5. The defendant poses the threat of harm to the community. The court may so conclude, if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons;

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

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

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

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

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

(d) 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. 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, 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.

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

1. The nature and circumstances of the offense charged;
2. The nature of any physical evidence seized and the contents of any statements obtained from the defendant or any witness;
3. The defendant's family ties, residence, employment, financial condition, and mental condition; and
4. The defendant's past conduct and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.

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

(g)1.(f) If a motion for pretrial detention is required under paragraph (d), the pretrial detention hearing must shall 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 of the filing by the state attorney of a complaint to seek pretrial detention.

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

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

4. The defendant may be detained pending the completion of the pretrial detention hearing. If a defendant is released on bail pending a pretrial detention hearing under paragraph (d), the court must inform the defendant that if he or she uses a surety bond to meet the monetary component of pretrial release and the motion for pretrial detention is subsequently

granted, the defendant will not be entitled to the return of the premium on such surety bond.

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

~~(i)~~(h) The defendant is entitled to be represented by counsel, to present witnesses and evidence, and to cross-examine witnesses. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of evidence at the detention hearing The court may admit relevant evidence without complying with the rules of evidence, but evidence secured in violation of the United States Constitution or the Constitution of the State of Florida shall not be admissible. No testimony by the defendant shall be admissible to prove guilt at any other judicial proceeding, but such testimony may be admitted in an action for perjury, based upon the defendant's statements made at the pretrial detention hearing, or for impeachment.

(j) 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 and that such information has a material bearing on determining whether there are conditions of release or bail that will reasonably assure the appearance of the defendant as required and the safety of any other person and the community from harm.

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

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

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

~~(1) The Legislature finds that a person who manufactures any substances in violation of chapter 893 poses a threat of harm to the community and that the factual circumstances of such a crime indicate a disregard for the safety of the community. The court shall order pretrial detention if the court finds that there is a substantial probability that a defendant charged with manufacturing any substances in violation of chapter 893 committed such a crime and if the court finds that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons.~~

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

Approved by the Governor May 1, 2023.

Filed in Office Secretary of State May 1, 2023.