

Committee Substitute for
Committee Substitute for Senate Bill No. 2676

An act relating to pretrial release programs; creating s. 907.043, F.S.; creating the “Citizens’ Right-to-Know Act”; defining the terms “non-secured release,” “pretrial release program,” “register,” and “secured release”; requiring each pretrial release program to prepare a register displaying information relevant to the defendants released through such a program; requiring that a copy of the register be located at the office of the clerk of the circuit court in the county where the program is located and readily accessible to the public; specifying the contents of the register; requiring each pretrial release program to submit an annual report to the Office of the State Courts Administrator and to the clerk of the circuit court by a specified date; specifying the content of the annual report; amending s. 903.011, F.S.; providing requirements for the form of bail or bond required for release from detention; amending s. 903.286, F.S.; requiring that all cash bond forms prominently display a notice explaining that cash funds are subject to forfeiture and withholding by the clerk of the court for the payment of court fees, court costs, and criminal penalties on behalf of the criminal defendant regardless of who posted the funds; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study to evaluate the effectiveness and cost-efficiency of pretrial release programs in this state; describing the scope of the study; requiring OPPAGA to submit a report of the study to the President of the Senate and the Speaker of the House of Representatives by a specified date; providing an effective date.

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

Section 1. Section 907.043, Florida Statutes, is created to read:

907.043 Pretrial release; citizens’ right to know.—

(1) This section may be cited as the “Citizens’ Right-to-Know Act.”

(2) As used in this section, the term:

(a) “Nonsecured release” means the release of a defendant from pretrial custody when no secured surety or cash bond is required as a condition of the release.

(b) “Pretrial release program” means an entity, public or private, that conducts investigations of pretrial detainees, makes pretrial release recommendations to a court, and electronically monitors and supervises pretrial defendants. However, the term “pretrial release program” shall not apply to the Department of Corrections.

(c) “Register” means a public record prepared by a pretrial release program which furnishes specified data and is readily available to the public at the office of the clerk of the circuit court.

(d) “Secured release” means the release of a defendant from pretrial custody with a financial guarantee, such as cash or a surety bond, required as a condition of the release.

(3)(a) Each pretrial release program must prepare a register displaying information that is relevant to the defendants released through such a program. A copy of the register must be located at the office of the clerk of the circuit court in the county where the program is located and must be readily accessible to the public.

(b) The register must be updated weekly and display accurate data regarding the following information:

1. The name, location, and funding source of the pretrial release program.

2. The number of defendants assessed and interviewed for pretrial release.

3. The number of indigent defendants assessed and interviewed for pretrial release.

4. The names and number of defendants accepted into the pretrial release program.

5. The names and number of indigent defendants accepted into the pretrial release program.

6. The charges filed against and the case numbers of defendants accepted into the pretrial release program.

7. The nature of any prior criminal conviction of a defendant accepted into the pretrial release program.

8. The court appearances required of defendants accepted into the pretrial release program.

9. The date of each defendant’s failure to appear for a scheduled court appearance.

10. The number of warrants, if any, which have been issued for a defendant’s arrest for failing to appear at a scheduled court appearance.

11. The number and type of program noncompliance infractions committed by a defendant in the pretrial release program and whether the pretrial release program recommended that the court revoke the defendant’s release.

(4)(a) No later than March 31 of every year, each pretrial release program must submit an annual report for the previous calendar year to the governing body and to the clerk of the circuit court in the county where the pretrial release program is located. The annual report must be readily accessible to the public.

(b) The annual report must contain, but need not be limited to:

1. The name, location, and funding sources of the pretrial release program, including the amount of public funds, if any, received by the pretrial release program.

2. The operating and capital budget of each pretrial release program receiving public funds.

3.a. The percentage of the pretrial release program's total budget representing receipt of public funds.

b. The percentage of the total budget which is allocated to assisting defendants obtain release through a nonpublicly funded program.

c. The amount of fees paid by defendants to the pretrial release program.

4. The number of persons employed by the pretrial release program.

5. The number of defendants assessed and interviewed for pretrial release.

6. The number of defendants recommended for pretrial release.

7. The number of defendants for whom the pretrial release program recommended against nonsecured release.

8. The number of defendants granted nonsecured release after the pretrial release program recommended nonsecured release.

9. The number of defendants assessed and interviewed for pretrial release who were declared indigent by the court.

10. The name and case number of each person granted nonsecured release who:

a. Failed to attend a scheduled court appearance.

b. Was issued a warrant for failing to appear.

c. Was arrested for any offense while on release through the pretrial release program.

11. Any additional information deemed necessary by the governing body to assess the performance and cost-efficiency of the pretrial release program.

Section 2. Section 903.011, Florida Statutes, is amended to read:

903.011 "Bail" and "bond" defined; general terms.—

(1) As used in this chapter, the terms "bail" and "bond" include any and all forms of pretrial release.

(2) Any monetary or cash component of any form of pretrial release may be met by a surety bond.

(3) Differing monetary amounts may not be set for cash, surety, or other forms of pretrial release.

Section 3. Section 903.286, Florida Statutes, is amended to read:

903.286 Return of cash bond; requirement to withhold unpaid fines, fees, ~~and court costs; cash bond forms.~~—

(1) ~~Notwithstanding the provisions of s. 903.31(2), the clerk of the court shall withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent licensed pursuant to chapter 648 sufficient funds to pay any unpaid court fees, court costs, and criminal penalties. If in the event that sufficient funds are not available to pay all unpaid court fees, court costs, and criminal penalties, the clerk of the court shall immediately obtain payment from the defendant or enroll the defendant in a payment plan pursuant to s. 28.246.~~

(2) All cash bond forms used in conjunction with the requirements of s. 903.09 must prominently display a notice explaining that all funds are subject to forfeiture and withholding by the clerk of the court for the payment of court fees, court costs, and criminal penalties on behalf of the criminal defendant regardless of who posted the funds.

Section 4. The Office of Program Policy Analysis and Government Accountability shall conduct an annual study to evaluate the effectiveness and cost-efficiency of pretrial release programs in this state. The study's scope shall include, but need not be limited to, gathering information pertaining to the funding sources of each pretrial release program, the nature of criminal convictions of defendants accepted into the programs, the number of failed court appearances by defendants accepted into each program, and the number of warrants issued subsequently by defendants in each program, as well as the program's compliance with the provisions of this section. OP-PAGA shall submit a report to the President of the Senate and the Speaker of the House of Representatives by January 1 of each year.

Section 5. This act shall take effect July 1, 2008.

Approved by the Governor June 23, 2008.

Filed in Office Secretary of State June 23, 2008.