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LEGISLATIVE ACTION

Senate

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House

The Committee on Fiscal Policy (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



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11 motion by a defendant, or on the court's own motion, a court may
12 reconsider the monetary component of a defendant's bail if he or
13 she is unable to post a monetary bond.

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

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

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

34 (d) The chief judge of a judicial circuit may establish a
35 local bond schedule that increases the monetary bond applicable
36 to an offense that is included in the uniform statewide bond
37 schedule adopted by the Supreme Court. Such a deviation from the
38 uniform statewide bond schedule does not require approval by the
39 Supreme Court.



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

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

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

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

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

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

63 (d) The person was, at the time of arrest, on release from
64 supervision under s. 947.1405, s. 947.146, s. 947.149, or s.
65 944.4731;

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



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69 three-time violent felony offender, or violent career criminal;
70 (f) The person has been arrested three or more times in the
71 12 months immediately preceding his or her arrest for the
72 current offense; or
73 (g) The person's current offense of arrest is for one or
74 more of the following crimes:
75 1. A capital felony, life felony, felony of the first
76 degree, or felony of the second degree;
77 2. A homicide under chapter 782; or any attempt,
78 solicitation, or conspiracy to commit a homicide;
79 3. Assault in furtherance of a riot or an aggravated riot;
80 felony battery; domestic battery by strangulation; domestic
81 violence, as defined in s. 741.28; stalking; mob intimidation;
82 assault or battery on a law enforcement officer; assault or
83 battery on juvenile probation officer, or other staff of a
84 detention center or commitment facility, or a staff member of a
85 commitment facility, or health services personnel; assault or
86 battery on a person 65 years of age or older; robbery; burglary;
87 carjacking; or resisting an officer with violence;
88 4. Kidnapping, false imprisonment, human trafficking, or
89 human smuggling;
90 5. Possession of a firearm or ammunition by a felon,
91 violent career criminal, or person subject to an injunction
92 against committing acts of domestic violence, stalking, or
93 cyberstalking;
94 6. Sexual battery; indecent, lewd, or lascivious touching;
95 exposure of sexual organs; incest; luring or enticing a child;
96 or child pornography;
97 7. Abuse, neglect, or exploitation of an elderly person or



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98 disabled adult;

99 8. Child abuse or aggravated child abuse;

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

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

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

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

110 13. Racketeering; or

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

113 Section 2. Paragraph (c) of subsection (1) of section
114 903.047, Florida Statutes, is amended to read:

115 903.047 Conditions of pretrial release.—

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

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

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

126 2. Maintain or commence an educational program.



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- 127 3. Abide by specified restrictions on personal
128 associations, place of residence, or travel.
- 129 4. Report on a regular basis to a designated law
130 enforcement agency, pretrial services agency, or other agency.
- 131 5. Comply with a specified curfew.
- 132 6. Refrain from possessing a firearm, destructive device,
133 or other dangerous weapon.
- 134 7. Refrain from excessive use of alcohol, or any use of a
135 narcotic drug or other controlled substance without a
136 prescription from a licensed medical practitioner.
- 137 8. Undergo available medical, psychological, psychiatric,
138 mental health, or substance abuse evaluation and follow all
139 recommendations, including treatment for drug or alcohol
140 dependency, and remain in a specified institution, if required
141 for that purpose.
- 142 9. Return to custody for specified hours following release
143 for employment, school, or other limited purposes.
- 144 10. Any other condition that is reasonably necessary to
145 assure the appearance of the defendant at subsequent proceedings
146 and to protect the community against unreasonable danger of
147 harm.

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

150 903.0471 Violation of condition of pretrial release.—
151 Notwithstanding s. 907.041, a court may, on its own motion,
152 revoke pretrial release and order pretrial detention if the
153 court finds probable cause to believe that the defendant
154 committed a new crime while on pretrial release or violated any
155 other condition of pretrial release in a material respect.



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156 Section 4. Subsection (4) of section 907.041, Florida
157 Statutes, is amended to read:
158 907.041 Pretrial detention and release.—
159 (4) PRETRIAL DETENTION.—
160 (a) As used in this subsection, "dangerous crime" means any
161 of the following:
162 1. Arson;
163 2. Aggravated assault;
164 3. Aggravated battery;
165 4. Illegal use of explosives;
166 5. Child abuse or aggravated child abuse;
167 6. Abuse of an elderly person or disabled adult, or
168 aggravated abuse of an elderly person or disabled adult;
169 7. Aircraft piracy;
170 8. Kidnapping;
171 9. Homicide;
172 10. Manslaughter, including DUI manslaughter and BUI
173 manslaughter;
174 11. Sexual battery;
175 12. Robbery;
176 13. Carjacking;
177 14. Lewd, lascivious, or indecent assault or act upon or in
178 presence of a child under the age of 16 years;
179 15. Sexual activity with a child, who is 12 years of age or
180 older but less than 18 years of age, by or at solicitation of
181 person in familial or custodial authority;
182 16. Burglary of a dwelling;
183 17. Stalking and aggravated stalking;
184 18. Act of domestic violence as defined in s. 741.28;



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- 185 19. Home invasion robbery;
- 186 20. Act of terrorism as defined in s. 775.30;
- 187 21. Manufacturing any substances in violation of chapter
- 188 893;
- 189 22. Attempting or conspiring to commit any such crime; ~~and~~
- 190 23. Human trafficking;
- 191 24. Trafficking in any controlled substance described in s.
- 192 893.135(1)(c)4.;

- 193 25. Extortion in violation of s. 836.05; and
- 194 26. Written threats to kill in violation of s. 836.10.

195 (b) A ~~No~~ person arrested for ~~charged with~~ a dangerous crime

196 may not ~~shall~~ be granted nonmonetary pretrial release at a first

197 appearance hearing if the court has determined there is probable

198 cause to believe the person has committed the offense; ~~however,~~

199 the court shall retain the discretion to release an accused on

200 electronic monitoring or on recognizance bond if the findings on

201 the record of facts and circumstances warrant such a release.

202 (c) Upon motion by the state attorney, the court may order

203 pretrial detention if it finds a substantial probability, based

204 on a defendant's past and present patterns of behavior, the

205 criteria in s. 903.046, and any other relevant facts, that any

206 of the following circumstances exist:

207 1. The defendant has previously violated conditions of

208 release and that no further conditions of release are reasonably

209 likely to assure the defendant's appearance at subsequent

210 proceedings;

211 2. The defendant, with the intent to obstruct the judicial

212 process, has threatened, intimidated, or injured any victim,

213 potential witness, juror, or judicial officer, or has attempted



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214 or conspired to do so, and that no condition of release will
215 reasonably prevent the obstruction of the judicial process;

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

221 4. The defendant is charged with DUI manslaughter, as
222 defined by s. 316.193, and that there is a substantial
223 probability that the defendant committed the crime and that the
224 defendant poses a threat of harm to the community; conditions
225 that would support a finding by the court pursuant to this
226 subparagraph that the defendant poses a threat of harm to the
227 community include, but are not limited to, any of the following:

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

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

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

238 5. The defendant poses the threat of harm to the community.
239 The court may so conclude, if it finds that the defendant is
240 presently charged with a dangerous crime, that there is a
241 substantial probability that the defendant committed such crime,
242 that the factual circumstances of the crime indicate a disregard



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243 for the safety of the community, and that there are no
244 conditions of release reasonably sufficient to protect the
245 community from the risk of physical harm to persons;

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

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

255 8.a. The defendant has ever been sentenced pursuant to s.
256 775.082(9) or s. 775.084 as a prison releasee reoffender,
257 habitual violent felony offender, three-time violent felony
258 offender, or violent career criminal, or the state attorney
259 files a notice seeking that the defendant be sentenced pursuant
260 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
261 habitual violent felony offender, three-time violent felony
262 offender, or violent career criminal;

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

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

268 (d) If a defendant is arrested for a dangerous crime that
269 is a capital felony, a life felony, or a felony of the first
270 degree, and the court determines there is probable cause to
271 believe the defendant committed the offense, the state attorney,



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272 or the court on its own motion, shall motion for pretrial
273 detention. If the court finds a substantial probability that the
274 defendant committed the offense and, based on the defendant's
275 past and present patterns of behavior, consideration of the
276 criteria in s. 903.046, and any other relevant facts, that no
277 conditions of release or bail will reasonably protect the
278 community from risk of physical harm, ensure the presence of the
279 defendant at trial, or assure the integrity of the judicial
280 process, the court must order pretrial detention.

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

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

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



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301 (g)1.~~(f)~~ If a motion for pretrial detention is required
302 under paragraph (d), the pretrial detention hearing must ~~shall~~
303 be held within 5 days after the defendant's first appearance
304 hearing or, if there is no first appearance hearing, within 5
305 days after the defendant's arraignment ~~of the filing by the~~
306 state attorney of a complaint to seek pretrial detention.

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

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

315 4. The defendant may be detained pending the completion of
316 the pretrial detention hearing. If a defendant is released on
317 bail pending a pretrial detention hearing under paragraph (d),
318 the court must inform the defendant that if he or she uses a
319 surety bond to meet the monetary component of pretrial release
320 and the motion for pretrial detention is subsequently granted,
321 the defendant will not be entitled to the return of the premium
322 on such surety bond.

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

325 (i)~~(h)~~ The defendant is entitled to be represented by
326 counsel, to present witnesses and evidence, and to cross-examine
327 witnesses. The rules concerning admissibility of evidence in
328 criminal trials do not apply to the presentation and
329 consideration of evidence at the detention hearing ~~The court may~~



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330 ~~admit relevant evidence without complying with the rules of~~
331 ~~evidence,~~ but evidence secured in violation of the United States
332 Constitution or the Constitution of the State of Florida shall
333 not be admissible. No testimony by the defendant shall be
334 admissible to prove guilt at any other judicial proceeding, but
335 such testimony may be admitted in an action for perjury, based
336 upon the defendant's statements made at the pretrial detention
337 hearing, or for impeachment.

338 (j) A party may motion for a pretrial detention order to be
339 reconsidered at any time before a defendant's trial if the judge
340 finds that information exists that was not known to the party
341 moving for reconsideration at the time of the pretrial detention
342 hearing and that such information has a material bearing on
343 determining whether there are conditions of release or bail that
344 will reasonably assure the appearance of the defendant as
345 required and the safety of any other person and the community
346 from harm.

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

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

357 (m)~~(k)~~ The defendant shall be entitled to dissolution of
358 the pretrial detention order whenever the court finds that a



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359 subsequent event has eliminated the basis for detention.

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

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371 ===== T I T L E A M E N D M E N T =====

372 And the title is amended as follows:

373 Delete everything before the enacting clause
374 and insert:

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A bill to be entitled

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An act relating to pretrial release and detention;

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amending s. 903.011, F.S.; providing for setting,

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reduction, and alteration of bail; requiring the

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Supreme Court to create and periodically update a

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statewide uniform bail bond schedule for certain

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offenses; providing for the chief judge of a judicial

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circuit to establish a lower bail bond schedule in

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certain cases; requiring Supreme Court approval for

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local deviations from the statewide uniform bail bond

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schedule; providing that arrested persons in certain

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categories may not be released until a first

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appearance and that bond for such persons be



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388 individually determined based on specified factors;
389 amending s. 903.047, F.S.; authorizing a court to
390 consider nonmonetary conditions in addition to or in
391 lieu of a monetary amount subject to specified
392 limitations; listing possible nonmonetary conditions;
393 amending s. 903.0471, F.S.; providing that a court may
394 revoke pretrial release and order pretrial detention
395 if a defendant materially violates any release
396 condition; amending s. 907.041, F.S.; revising the
397 definition of the term "dangerous crime"; providing
398 that a person arrested for a dangerous crime may not
399 be granted nonmonetary pretrial release at a first
400 appearance hearing; specifying that upon motion by the
401 state attorney, a court may order pretrial detention
402 in certain circumstances; providing for a detention
403 hearing for persons charged with dangerous crimes;
404 authorizing a state attorney or a court to move for
405 detention of persons charged with dangerous crimes in
406 certain circumstances; requiring a court to order
407 pretrial detention in certain circumstances; providing
408 requirements for detention hearings; revising
409 requirements for a pretrial detention order; requiring
410 a court to provide specified information to certain
411 defendants; providing that a party may move for
412 reconsideration of a pretrial detention order any time
413 before trial in certain circumstances; removing a
414 requirement for pretrial detention for defendants
415 charged with illegally manufacturing controlled
416 substances in certain cases; providing an effective



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date.