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LEGISLATIVE ACTION

Senate

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House

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

1           **Senate Substitute for Amendment (118746) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

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

8           903.011 Pretrial release ~~"Bail" and "bond" defined~~; general  
9 terms; statewide uniform bond schedule.—

10           (4) Except as authorized in subsection (5), only a judge



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

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

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

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

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



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40 Supreme Court.

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

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

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

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

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

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

64 (d) The person was, at the time of arrest, on release from  
65 supervision under s. 947.1405, s. 947.146, s. 947.149, or s.  
66 944.4731;

67 (e) The person has, at any time before the current arrest,  
68 been sentenced pursuant to s. 775.082(9) or s. 775.084 as a



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



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

100           8. Child abuse or aggravated child abuse;

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

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

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

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

111           13. Racketeering; or

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

114           Section 2. Paragraph (c) of subsection (1) of section  
115 903.047, Florida Statutes, is amended to read:

116           903.047 Conditions of pretrial release.—

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

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

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



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127 2. Maintain or commence an educational program.

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

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

132 5. Comply with a specified curfew.

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

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

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

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

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

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

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



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



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- 185 18. Act of domestic violence as defined in s. 741.28;  
186 19. Home invasion robbery;  
187 20. Act of terrorism as defined in s. 775.30;  
188 21. Manufacturing any substances in violation of chapter  
189 893;  
190 22. Attempting or conspiring to commit any such crime; ~~and~~  
191 23. Human trafficking;  
192 24. Trafficking in any controlled substance described in s.  
193 893.135(1)(c)4.;  
194 25. Extortion in violation of s. 836.05; and  
195 26. Written threats to kill in violation of s. 836.10.

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

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

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

212 2. The defendant, with the intent to obstruct the judicial  
213 process, has threatened, intimidated, or injured any victim,





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214 potential witness, juror, or judicial officer, or has attempted  
215 or conspired to do so, and that no condition of release will  
216 reasonably prevent the obstruction of the judicial process;

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

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

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

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

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

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



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243 that the factual circumstances of the crime indicate a disregard  
244 for the safety of the community, and that there are no  
245 conditions of release reasonably sufficient to protect the  
246 community from the risk of physical harm to persons;

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

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

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

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

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

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



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

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

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

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



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301 exceed 24 hours.

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

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

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

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

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

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



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

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

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

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

358 (m) ~~(k)~~ The defendant shall be entitled to dissolution of



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359 the pretrial detention order whenever the court finds that a  
360 subsequent event has eliminated the basis for detention.

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

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

372

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

374 And the title is amended as follows:

375 Delete everything before the enacting clause  
376 and insert:

377 A bill to be entitled  
378 An act relating to pretrial release and detention;  
379 amending s. 903.011, F.S.; providing for setting,  
380 reduction, and alteration of bail; requiring the  
381 Supreme Court to create and periodically update a  
382 statewide uniform bail bond schedule for certain  
383 offenses; providing for the chief judge of a judicial  
384 circuit to establish a lower bail bond schedule in  
385 certain cases; requiring Supreme Court approval for  
386 local deviations from the statewide uniform bail bond  
387 schedule; providing that arrested persons in certain



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



417 charged with illegally manufacturing controlled  
418 substances in certain cases; providing an effective  
419 date.