

By Senator Smith

29-00556-10

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1 A bill to be entitled
2 An act relating to pretrial detention and release;
3 amending s. 907.041, F.S.; requiring all pretrial
4 release programs established by ordinance of a county
5 commission or by administrative order of a court to
6 facilitate the release of defendants from pretrial
7 custody to conform to the policies and restrictions
8 established in the act; requiring that the defendant
9 meet certain specified criteria in order to be
10 eligible for pretrial release; requiring that the
11 pretrial release program certify in writing that the
12 defendant satisfies each requirement for eligibility;
13 requiring the court to determine whether a defendant
14 is eligible to participate in the pretrial release
15 program after reviewing certain reports; requiring
16 that the pretrial release program notify each
17 defendant of the time and place of each required court
18 appearance; providing for a pretrial release program
19 to supervise a released defendant only upon a finding
20 by the court that supervision is necessary;
21 prohibiting the assessment of any fee or charge
22 against a released defendant other than those
23 authorized by law; providing an effective date.

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

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27 Section 1. Subsection (5) is added to section 907.041,
28 Florida Statutes, to read:
29 907.041 Pretrial detention and release.—

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30 (5) (a) PRETRIAL RELEASE PROGRAMS.—A pretrial release
31 program established by ordinance of the county commission or by
32 administrative order of the court enacted or established to
33 facilitate the release of defendants from pretrial custody is
34 subject to the policies and restrictions established in this
35 subsection.

36 (b) A defendant is eligible to participate in a pretrial
37 release program only if the defendant:

38 1. Is charged with a misdemeanor or a nonviolent felony;

39 2. Has no history of failing to appear at any court
40 proceeding;

41 3. Is not, at the time of the arrest, subject to or on
42 probation for another charge and is not facing charges for
43 another crime anywhere in this state;

44 4. Has no prior convictions involving violence. For
45 purposes of this subparagraph with respect to any prior
46 conviction, if adjudication was withheld by the sentencing
47 court, the withheld adjudication is deemed a conviction;

48 5. Satisfies any other limitation upon eligibility for
49 release which is in addition to those in this subsection,
50 whether established by the board of county commissioners or the
51 court; and

52 6. Is indigent as defined in Rule 3.111, Florida Rules of
53 Criminal Procedure.

54 (c) The pretrial release program must certify in writing to
55 the court that the defendant satisfies each requirement of
56 eligibility which is set forth in paragraph (b) before a
57 determination is made concerning the defendant's eligibility for
58 placement in the pretrial release program.

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59 (d) If a defendant seeks to post a surety bond pursuant to
60 a bond schedule established by the administrative order, he or
61 she must do so without any interaction with, or restriction by,
62 the pretrial release program.

63 (e) The court shall determine whether the defendant is
64 eligible to participate in the pretrial release program after
65 the pretrial release program evaluates the defendant's
66 eligibility and reports its findings to the court.

67 (f) The pretrial release program shall notify every
68 defendant released under this subsection of the times and places
69 at which he or she is required to appear before the court.

70 (g) A defendant who is released pursuant to a pretrial
71 release program may be supervised only upon a finding by the
72 court that supervision is necessary, and in such case, the
73 defendant must be supervised by a correctional probation officer
74 as defined in s. 943.10.

75 (h) A defendant who is released pursuant to a pretrial
76 release program may not be assessed any fee or charge other than
77 those authorized by law.

78 Section 2. This act shall take effect July 1, 2010.