



ENROLLED
HB 7035, Engrossed 1

2013 Legislature

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2 An act relating to pretrial detention; amending s.
3 903.046, F.S.; requiring a court considering whether
4 to release a defendant on bail to determine whether
5 the defendant is subject to registration as a sexual
6 offender or sexual predator and, if so, to hold the
7 defendant without bail until the first appearance on
8 the case; providing an exception; amending s. 907.041,
9 F.S.; providing additional factors a court may
10 consider when ordering pretrial detention; providing
11 an effective date.

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

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16 Section 1. Paragraph (m) is added to subsection (2) of
17 section 903.046, Florida Statutes, to read:

18 903.046 Purpose of and criteria for bail determination.—

19 (2) When determining whether to release a defendant on
20 bail or other conditions, and what that bail or those conditions
21 may be, the court shall consider:

22 (m) Whether the defendant, other than a defendant whose
23 only criminal charge is a misdemeanor offense under chapter 316,
24 is required to register as a sexual offender under s. 943.0435
25 or a sexual predator under s. 775.21; and, if so, he or she is
26 not eligible for release on bail or surety bond until the first
27 appearance on the case in order to ensure the full participation
28 of the prosecutor and the protection of the public.



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30 Section 2. Paragraph (c) of subsection (4) of section
31 907.041, Florida Statutes, is amended to read:
32 907.041 Pretrial detention and release.—
33 (4) PRETRIAL DETENTION.—
34 (c) The court may order pretrial detention if it finds a
35 substantial probability, based on a defendant's past and present
36 patterns of behavior, the criteria in s. 903.046, and any other
37 relevant facts, that any of the following circumstances exists:
38 1. The defendant has previously violated conditions of
39 release and that no further conditions of release are reasonably
40 likely to assure the defendant's appearance at subsequent
41 proceedings;
42 2. The defendant, with the intent to obstruct the judicial
43 process, has threatened, intimidated, or injured any victim,
44 potential witness, juror, or judicial officer, or has attempted
45 or conspired to do so, and that no condition of release will
46 reasonably prevent the obstruction of the judicial process;
47 3. The defendant is charged with trafficking in controlled
48 substances as defined by s. 893.135, that there is a substantial
49 probability that the defendant has committed the offense, and
50 that no conditions of release will reasonably assure the
51 defendant's appearance at subsequent criminal proceedings; ~~or~~
52 4. The defendant is charged with DUI manslaughter, as
53 defined by s. 316.193, and that there is a substantial
54 probability that the defendant committed the crime and that the
55 defendant poses a threat of harm to the community; conditions
56 that would support a finding by the court pursuant to this



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

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

63 | b. The defendant was driving with a suspended driver's
64 | license when the charged crime was committed; or

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

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

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

81 | 7. The defendant has violated one or more conditions of
82 | pretrial release or bond for the offense currently before the
83 | court and the violation, in the discretion of the court,
84 | supports a finding that no conditions of release can reasonably



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85 protect the community from risk of physical harm to persons or
86 assure the presence of the accused at trial; or

87 8.a. The defendant has ever been sentenced pursuant to s.
88 775.082(9) or s. 775.084 as a prison releasee reoffender,
89 habitual violent felony offender, three-time violent felony
90 offender, or violent career criminal, or the state attorney
91 files a notice seeking that the defendant be sentenced pursuant
92 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
93 habitual violent felony offender, three-time violent felony
94 offender, or violent career criminal;

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

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

100 Section 3. This act shall take effect July 1, 2013.