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## SB 782 by Sen. Thrasher & HB 445 by Rep. Dorworth

**Issue:** Pretrial release is an alternative to incarceration that allows arrested individuals to be released from jail while they wait disposition of their case. It is a constitutional right for most people arrested for a crime. This bill will have a negative impact on public safety and it will increase the length of stay pretrial defendants are in custody, thereby increasing the overall jail cost.

This bill establishes strict eligibility requirements for entry into a pretrial release program, such as a defendant having no history of ever failing to appear, being on probation, or not having any prior convictions for a violent crime.

Article 1, Section 14 of the Florida Constitution reads: "Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained."

This bill favors release on monetary conditions and even prohibits a pretrial program from speaking with a defendant who wants to post bond. Florida Statute 907.041 states that it is the intent of the Legislature to create a presumption in favor of release on nonmonetary conditions. The court is already given the authority to detain individuals who are a risk to public safety or are a flight risk.

This legislation would greatly increase overcrowding in county jails and state prisons by restricting the people who are eligible for diversion programs like mental health courts and drug courts. Pretrial Agencies are able to provide supervision mechanisms, such as electronic monitoring, house arrest monitors, GPS monitors, drug and alcohol testing, and curfew restrictions, but bond agents do not.

After a review from the pretrial programs in Florida, we can estimate that anywhere from 40-75% of persons in a pretrial release program would not be eligible for the program. The estimated fiscal impact is more than \$55,000,000 to local governments. Counties and Sheriffs would need to build more jails to accommodate the need for additional beds, costing tax payers hundreds of millions of dollars. This estimate does not include the expense of building new jail beds.

Not only would Sheriffs be responsible for more pretrial detainees, but the courts, including State Attorneys and Public Defenders, would experience an increase in caseloads.

**80**  
YEARS  
1929-2009