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CS/HB 329

2023 Legislature

1
 2 An act relating to electronic monitoring of persons
 3 charged with or convicted of offenses involving
 4 schools or students; amending s. 907.041, F.S.;
 5 providing a definition; requiring a court to consider
 6 electronic monitoring and location restrictions as
 7 conditions of pretrial release for persons charged
 8 with certain offenses against schools or students;
 9 creating s. 948.301, F.S.; providing a definition;
 10 requiring a court to consider electronic monitoring
 11 and location restrictions as conditions of probation
 12 or community control for persons charged with certain
 13 offenses against schools or students; amending s.
 14 790.065, F.S.; correcting a cross-reference; providing
 15 an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Subsection (4) of section 907.041, Florida
 20 Statutes, is renumbered as subsection (5), paragraph (a) of
 21 subsection (3) of that section is amended, and a new subsection
 22 (4) is added to that section, to read:

23 907.041 Pretrial detention and release.—

24 (3) RELEASE ON NONMONETARY CONDITIONS.—

25 (a) It is the intent of the Legislature to create a

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26 | presumption in favor of release on nonmonetary conditions for
 27 | any person who is granted pretrial release unless such person is
 28 | charged with a dangerous crime as defined in subsection (5) ~~(4)~~.
 29 | Such person shall be released on monetary conditions if it is
 30 | determined that such monetary conditions are necessary to assure
 31 | the presence of the person at trial or at other proceedings, to
 32 | protect the community from risk of physical harm to persons, to
 33 | assure the presence of the accused at trial, or to assure the
 34 | integrity of the judicial process.

35 | (4) SPECIAL CONDITIONS FOR CERTAIN OFFENSES INVOLVING
 36 | SCHOOLS OR STUDENTS.-

37 | (a) As used in this subsection, the term "school" means
 38 | the grounds or facility of any early learning, prekindergarten,
 39 | kindergarten, elementary school, middle school, junior high
 40 | school, secondary school, career center, or postsecondary
 41 | school, whether public or private.

42 | (b) When a person is charged with a crime under s.
 43 | 790.115, s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s.
 44 | 790.164, s. 790.165, s. 790.166, s. 810.095, or s. 836.10,
 45 | alleged to have been committed at or against a school or against
 46 | a student while he or she is at school, the court must consider
 47 | whether conditions of electronic monitoring and a prohibition
 48 | from being within 1,000 feet of any school are appropriate to
 49 | protect the community from risk of physical harm to persons.

50 | Section 2. Section 948.301, Florida Statutes, is created

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51 | to read:

52 | 948.301 Electronic monitoring as a condition of probation
 53 | or community control for certain offenders.-

54 | (1) As used in this section, the term "school" means the
 55 | grounds or facility of any early learning, prekindergarten,
 56 | kindergarten, elementary school, middle school, junior high
 57 | school, secondary school, career center, or postsecondary
 58 | school, whether public or private.

59 | (2) Effective for any probationer or community controllee
 60 | whose crime was committed on or after October 1, 2023, and who
 61 | is placed under supervision for a violation of s. 790.115, s.
 62 | 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s.
 63 | 790.165, s. 790.166, s. 810.095, or s. 836.10, committed at or
 64 | against a school or against a student while he or she is at
 65 | school, the court must consider whether conditions of electronic
 66 | monitoring and a prohibition from being within 1,000 feet of any
 67 | school are appropriate for the offender.

68 | Section 3. Paragraph (c) of subsection (2) of section
 69 | 790.065, Florida Statutes, is amended to read:

70 | 790.065 Sale and delivery of firearms.-

71 | (2) Upon receipt of a request for a criminal history
 72 | record check, the Department of Law Enforcement shall, during
 73 | the licensee's call or by return call, forthwith:

74 | (c)1. Review any records available to it to determine
 75 | whether the potential buyer or transferee has been indicted or

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76 | has had an information filed against her or him for an offense
 77 | that is a felony under either state or federal law, or, as
 78 | mandated by federal law, has had an injunction for protection
 79 | against domestic violence entered against the potential buyer or
 80 | transferee under s. 741.30, has had an injunction for protection
 81 | against repeat violence entered against the potential buyer or
 82 | transferee under s. 784.046, or has been arrested for a
 83 | dangerous crime as specified in s. 907.041(5)(a) ~~s.~~

84 | ~~907.041(4)(a)~~ or for any of the following enumerated offenses:

- 85 | a. Criminal anarchy under ss. 876.01 and 876.02.
- 86 | b. Extortion under s. 836.05.
- 87 | c. Explosives violations under s. 552.22(1) and (2).
- 88 | d. Controlled substances violations under chapter 893.
- 89 | e. Resisting an officer with violence under s. 843.01.
- 90 | f. Weapons and firearms violations under this chapter.
- 91 | g. Treason under s. 876.32.
- 92 | h. Assisting self-murder under s. 782.08.
- 93 | i. Sabotage under s. 876.38.
- 94 | j. Stalking or aggravated stalking under s. 784.048.

95 |
 96 | If the review indicates any such indictment, information, or
 97 | arrest, the department shall provide to the licensee a
 98 | conditional nonapproval number.

99 | 2. Within 24 working hours, the department shall determine
 100 | the disposition of the indictment, information, or arrest and

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101 | inform the licensee as to whether the potential buyer is
 102 | prohibited from receiving or possessing a firearm. For purposes
 103 | of this paragraph, "working hours" means the hours from 8 a.m.
 104 | to 5 p.m. Monday through Friday, excluding legal holidays.

105 | 3. The office of the clerk of court, at no charge to the
 106 | department, shall respond to any department request for data on
 107 | the disposition of the indictment, information, or arrest as
 108 | soon as possible, but in no event later than 8 working hours.

109 | 4. The department shall determine as quickly as possible
 110 | within the allotted time period whether the potential buyer is
 111 | prohibited from receiving or possessing a firearm.

112 | 5. If the potential buyer is not so prohibited, or if the
 113 | department cannot determine the disposition information within
 114 | the allotted time period, the department shall provide the
 115 | licensee with a conditional approval number.

116 | 6. If the buyer is so prohibited, the conditional
 117 | nonapproval number shall become a nonapproval number.

118 | 7. The department shall continue its attempts to obtain
 119 | the disposition information and may retain a record of all
 120 | approval numbers granted without sufficient disposition
 121 | information. If the department later obtains disposition
 122 | information which indicates:

123 | a. That the potential buyer is not prohibited from owning
 124 | a firearm, it shall treat the record of the transaction in
 125 | accordance with this section; or

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126 b. That the potential buyer is prohibited from owning a
127 firearm, it shall immediately revoke the conditional approval
128 number and notify local law enforcement.

129 8. During the time that disposition of the indictment,
130 information, or arrest is pending and until the department is
131 notified by the potential buyer that there has been a final
132 disposition of the indictment, information, or arrest, the
133 conditional nonapproval number shall remain in effect.

134 Section 4. This act shall take effect October 1, 2023.