

Charging Deadline and Mandatory Release Act

A bill to be entitled

An act relating to detention without charge; creating s. 901.245, Florida Statutes; providing a short title; providing legislative findings; providing definitions; requiring a judicial probable cause determination within 48 hours after a warrantless arrest; prohibiting detention beyond 7 days without a formal charge or lawful commitment order, subject to a limited extension; requiring mandatory release upon expiration of the applicable period; providing construction; providing for severability; providing an effective date.

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

Section 1. Section 901.245, Florida Statutes, is created to read:

901.245 Detention without charge; time limits; mandatory release.—

(1) SHORT TITLE.—This section may be cited as the “Charging Deadline and Mandatory Release Act.”

(2) LEGISLATIVE FINDINGS.—The Legislature finds that holding a person in custody without prompt judicial oversight or a formal charge is inconsistent with the due process and liberty protections of Article I, sections 2, 9, and 13 of the Florida Constitution, and that a clear, enforceable statewide deadline is necessary to prevent prolonged detention without charge.

(3) DEFINITIONS.—As used in this section, the term:

- (a) “Custodial agency” means a law enforcement agency, correctional agency, or other agency of this state or a political subdivision of this state that has physical custody of a person.
- (b) “Detention facility” means a jail, prison, juvenile detention facility, civil commitment facility, or other facility used to hold a person in custody, including a facility operated by a private entity under contract with this state or a political subdivision of this state. The term does not include a facility operated exclusively by and under the exclusive custodial authority of the United States or an agency thereof.
- (c) “Formal charge” means an information, indictment, or notice to appear filed consistent with the applicable Florida Rules of Criminal Procedure; a petition for civil commitment supported by the sworn statement or evaluation required by the applicable statute; or, for a person held at a detention facility in connection with a civil immigration matter, a charging document issued by the appropriate authority or a lawful order authorizing continued detention entered by a court or other tribunal of competent jurisdiction.

(4) PROBABLE CAUSE DETERMINATION.—A person arrested without a warrant and held in custody shall receive a judicial determination of probable cause within 48 hours after the arrest.

(5) CHARGING DEADLINE.—

- (a) Except as provided in paragraph (b), a person may not be held in the custody of a custodial agency or detention facility for more than 7 days after the initial detention without a formal charge having been filed or a lawful commitment order having been entered.
- (b) A court of competent jurisdiction may, on motion and after a hearing at which the detained person or their counsel has the right to be heard, grant a single extension of up to 7 additional days upon a finding of good cause, limited to an active and demonstrable ongoing investigation, a state of emergency declared under chapter 252 that has materially disrupted operations, or the unavailability of an essential witness or piece of evidence despite due diligence. The combined period of detention without a formal charge may not exceed 14 days.

(6) MANDATORY RELEASE.—Upon expiration of the applicable period under subsection (5) without a formal charge or lawful commitment order, the custodial agency or detention facility shall immediately release the person. Release under this subsection does not bar the later filing of charges within any otherwise-applicable statute of limitations and does not protect the person from a lawfully issued arrest warrant obtained thereafter.

(7) CONSTRUCTION.—This section does not apply to a person held exclusively in the custody of the United States or an agency thereof, at a facility operated exclusively by and under the exclusive custodial authority of the United States, to the extent application would be preempted by federal law. This section does not limit any other right or remedy available under the Florida Constitution, the United States Constitution, or other law.

Section 2. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications that can be given effect without the invalid provision, and the provisions of this act are declared severable.

Section 3. This act shall take effect July 1, 2027.