

Expedited Habeas Corpus for Unlawful Detention Act

A bill to be entitled

An act relating to habeas corpus; creating s. 79.055, Florida Statutes; providing a short title; providing legislative findings; providing definitions; authorizing a person detained without a formal charge or lawful order to petition for a writ of habeas corpus; requiring an expedited hearing and decision; placing the burden of proof on the custodial agency or detention facility; providing for severability; providing an effective date.

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

Section 1. Section 79.055, Florida Statutes, is created to read:

79.055 Expedited habeas corpus for detention without charge.—

(1) SHORT TITLE.—This section may be cited as the “Expedited Habeas Corpus for Unlawful Detention Act.”

(2) LEGISLATIVE FINDINGS.—The Legislature finds that a person held in custody without a formal charge or lawful order needs a fast, meaningful judicial remedy, and that the ordinary pace of habeas litigation is not adequate to protect a person from prolonged unlawful detention.

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

- (a) “Custodial agency” and “detention facility” have the same meaning as provided in s. 901.245, if in effect, or, if not, mean, respectively, a law enforcement or correctional agency of this state or a political subdivision with physical custody of a person, and a jail, prison, civil commitment facility, or other facility holding a person in custody, including one operated under contract with this state, but excluding a facility operated exclusively by and under the exclusive custodial authority of the United States.
- (b) “Detention without charge” means custody of a person by a custodial agency or detention facility without a formal charge, indictment, information, civil commitment petition, or other lawful charging or commitment instrument having been filed or entered, beyond any time period specified by law, or, if none is specified, beyond a reasonable time under the circumstances.

(4) PETITION.—A person held in detention without charge, or someone acting on that person’s behalf, may petition the circuit court for a writ of habeas corpus at any time.

(5) EXPEDITED HEARING AND DECISION.—The court shall hold a hearing on a petition filed under this section within 24 hours after filing, excluding weekends and legal holidays, and shall issue a decision within 48 hours after the hearing concludes.

(6) BURDEN OF PROOF.—At a hearing under this section, the burden is on the custodial agency or detention facility to establish, by clear and convincing evidence, that the detention is lawful.

(7) RELIEF.—If the court finds the detention unlawful, the court shall order the immediate release of the petitioner.

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.