

Proposed pretrial release law may come with cost, crowded jail

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State legislation that would all but eliminate judicial discretion during the pretrial release process would once again cause overcrowding at the Brevard County jail and cost taxpayers about \$1 million, critics say.

Two years ago, an administrative order signed by the chief judge of the 18th Judicial Circuit gave judges the power to release people accused of third-degree felonies -- the least serious -- without posting bond. The change was implemented in response to a report on crowding at the Brevard County jail that included a spate of suicides and suicide attempts.

House Bill 1379 and Senate Bill 1398, which could be scheduled for a vote at any time, contain language that would only allow pretrial release to those deemed indigent by the court and who have no "FTAs" -- or failures to appear on their record.

Brevard County Sheriff Jack Parker warned that if the legislation is passed, he would be forced to open an unoccupied tent at the jail in Sharpes and have to hire additional staff.

"I join all of my fellow sheriffs in opposing SB 1398," Parker wrote in an e-mail to state Sen. President Mike Haridopolos, R-Merritt Island. "If it passes, it will have a negative financial impact on Brevard's citizens. As I prepare my sheriff's office budget for FY2011-12, this bill, if passed, will most likely cause me to request additional jail funding to open and staff our last tent at a cost of more than \$600,000 additional tax dollars to Brevard County citizens."

But state Rep. John Tobia, R-Melbourne -- a co-sponsor of the House legislation -- said the bill is not radical since only 19 of Florida's 67 counties presently have pretrial release.

"I am strongly opposed to the pretrial release programs going on in the state," he said. "I'm against government stepping in and taking the place of private industry. If you truly are poor, then you would have access."

Brevard Circuit Judge Preston Silvernail, chief judge of the 18th circuit, said he could not support something that does not treat all defendants the same.

"I don't think it is fundamentally fair that a bill sets up different treatment of people based on economics," he said. "They should have the same criteria applied to them."

Tobia said that independent analyses have not predicted increase in jail populations.

Four tents were constructed a few years ago to deal with the Brevard jail's overcrowding issues. Only three have been in use.

According to an analysis done by Parker of defendants granted pretrial release in 2010, only 1,609 of the 3,049 inmates would have been eligible for release under the proposed legislation.

Using the average number of days incarcerated -- 17 -- multiplied by the cost of housing an inmate -- \$64 per day, the county would have spent an additional \$1.6 million last year.

Third-degree felonies eligible for pretrial release include first-offense driving under the influence, unarmed burglary, killing an alligator out of season, first-offense drug charges and serving alcohol to someone under the legal drinking age.

"PTR is a very important tool for judges at the time of initial appearance," said Isa Kennedy, jail population management coordinator. "Our judges are very capable as to what should be done with PTR. We haven't had issues with it, and (the bills) are going to limit what judges can do. It's quite possible this could cost Brevard a lot of money."

But bail bondsmen say the legislation will have little effect on the jail's population.

"You don't need PTR, because the judge has the power to let anyone go anyway," bail bondsman Michael Alexander said. "You don't need PTR to let people out. The jail is not overcrowded now. No taxpayer has to pay a bail bondsman to get someone out of jail."

Added bail bondsman Randy Ecker: "In Clearwater, they have a 72-hour hold on PTR. They have to try and get out on their own. It should only be for people who are indigent."

My grandmother's taxes should not go toward getting someone out who can afford to pay for themselves."

Parker has been busy contacting Brevard legislators and urging them to vote against the measure.

"If the legislators side with the bail bond agents on this one, Brevard County taxpayers may have to pay a million dollars or more in additional jail expenses next year," he said. "This is a bad time to create a new law that will place more of a tax burden on our citizens."

Reached in Tallahassee, state Sen. Thad Altman, R-Viera, said He has corresponded with Parker about the issue.

"Sheriff Parker is not only our sheriff, but he also ran the jail for many years and he knows the operations there," Altman said. "PTR serves an important function and the sheriff is right. We have to listen to those who know what they are talking about."

Alexander said the sheriff's position didn't make sense.

"The sheriff wants to arrest people and then just let them go?" he said.

The House version narrowly made it through the Judiciary Committee by a vote of 10-8, with one of the dissenters being state Rep. Tom Goodson, R-Rockledge.

"We were pleased to see that," Kennedy said. "That's encouraging."

The Senate version almost died during committee until it popped up again as an amendment in another bill where it passed through a committee 5-2.

"I realize some bondsman may be happy if the legislation sneaks through, but it will be overshadowed by the citizens who are upset as a result of having to pay higher taxes for more jail space as a result of the legislation," Parker said.