

Pretrial Detention in Criminal Cases: Things You Need to Know

When it comes to pretrial detention in Criminal Cases, there are many rules and regulations in play. Today we're going to cover a couple of those things to give you a better understanding of Florida criminal law.

Pretrial Detention in Criminal Cases: Things You Need to Know

What is Pretrial Detention?

Pretrial detention refers to the holding of a defendant in custody while their trial is pending. To be granted pretrial detention, it must be proven that there is enough factual evidence and probable cause to justify such detention. When granted, pretrial detention, defendants are usually held in pretrial detention centers. Interestingly, research has shown that defendants held in pretrial detention are more likely to be found guilty of crimes and are more likely to suffer violence and abuse.

When is Pretrial Detention Justified?

Pretrial detention should only be granted when there is sufficient evidence to prove that the defendant is a threat to society, if they have been charged with particularly serious offenses, or if their arrest meets other specific circumstances. Examples of situations where pretrial detention may be granted in Florida include:

- When there is a chance that the defendant will flee and not return for their trial
- When there is a significant chance that the defendant will commit another crime if they are released while their trial is pending
- When the defendant is arrested for a crime while already on conditional release
- When the defendant is arrested for capital offenses or offenses punishable by life

- When the defendant has threatened, intimidated or injured a victim, witness, juror or judicial officer
- When the defendant is arrested for trafficking controlled substances
- When the defendant is arrested for driving under the influence manslaughter and has a prior conviction for driving under the influence manslaughter, was driving with a suspended license, or was prior convicted for driving with a suspended license.
- When the defendant is arrested for manufacturing a controlled substance

Motion Filed at the First Appearance

Someone who is arrested for an offense for which detention may be ordered under section 907.041, Florida Statutes, shall be taken before a judicial officer for their first appearance within 24 hours of their arrest. At this first appearance, the state can file a motion to seek pretrial detention that is signed by the state attorney or an assistant, with the judicial officer. This motion must outline the grounds for detention and supporting facts. If this motion is not filed but the state intends to file, the judicial officer may grant no more than three days for the motion to be filed.

Motion Filed After the First Appearance

When a motion for pretrial detention is filed after the first appearance, it can be filed at any time before the trial. The motion for detention must be made in a court with trial jurisdiction and must have enough factual proof to support the motion and a determination of probable cause.

In the case of dire circumstances, the court will issue an arrest warrant if the individual has been released from custody.

If dire circumstances do not exist, then the order of pretrial detention may only be entered after a hearing in the court of trial jurisdiction. This hearing must be held within 5 days of filing the motion or within 5 days of the date of the person being taken into custody pursuant to a motion for pretrial detention, whichever is later. The court must render their decision within 24 hours of the pretrial detention hearing and the decision of the court will then be recorded. If the court finds that there is no evidence for detention, the motion for pretrial detention must then be dissolved.

If pretrial detention is ordered by the court, the defendant in question has the right to appeal

that decision in appellate court. If the motion for review is taken to the supreme court or the district court of appeal, notice and a copy of the motion should be served on the attorney general and the state attorney; if the review is taken to the circuit court, service should be served on the state attorney.

Interested in Learning More About Pretrial Detention in Criminal Cases?

If you are interested in learning more about pretrial detention in criminal cases, take a look at the pretrial detention section of our website. Need a recommendation for a criminal lawyer in the St. Pete, Florida area? Pick up the phone and give attorney Matt Weidner a call at 727-954-8752.