

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1647

By: Humphrey

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8 COMMITTEE SUBSTITUTE

9 An Act relating to criminal procedure; amending 22
10 O.S. 2011, Section 1105.3, as last amended by Section
11 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp. 2020,
12 Section 1105.3), which relates to the Pretrial
13 Release Act; updating language; making entities that
14 provide pretrial services subject to the Pretrial
15 Release Act; requiring notification to victims of
16 pretrial release proceedings; allowing victims to
17 appear and be heard at pretrial release proceedings;
18 modifying minimum criteria requirements for pretrial
19 services programs; directing pretrial programs to
20 prepare certain monthly reports; making monthly
21 reports a public record; requiring the addition of
22 certain information on monthly reports; and providing
23 an effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1105.3, as
21 last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp.
22 2020, Section 1105.3), is amended to read as follows:

23 Section 1105.3 A. Any county, pursuant to the provisions of
24 ~~this act~~ the Pretrial Release Act, may establish and fund a pretrial

1 program to be utilized by the district court in that jurisdiction.

2 Any entity offering pretrial services in a county within this state
3 shall also be subject to the provisions of the Pretrial Release Act.

4 B. When a pretrial release program is ~~established pursuant to~~
5 operating in this act state and private bail has not been furnished,
6 the judge may order a person to be evaluated through the pretrial
7 program. After conducting an evaluation of the person applying for
8 pretrial release, the pretrial program shall make a recommendation
9 to the court. The recommendation shall indicate any special
10 supervisory conditions for pretrial release. The judge shall
11 consider the recommendations and may grant or deny pretrial release.
12 The presiding judge of the judicial district may issue a standing
13 order outlining criteria for cases that may automatically be
14 evaluated for pretrial release by a pretrial program operating in
15 the jurisdiction. The standing order may include amounts for bail
16 and types of bonds deemed appropriate for certain offenses. As
17 provided in Section 34 of Article II of the Oklahoma Constitution,
18 the victim shall be notified and allowed to appear and be heard at
19 any proceeding concerning the release of the person from custody.

20 C. Except as otherwise authorized by the provisions of this
21 subsection, persons accused of or detained for any of the following
22 offenses or conditions shall not be eligible for pretrial release by
23 any pretrial program:

- 1 1. Aggravated driving under the influence of an intoxicating
2 substance;
- 3 2. Any felony driving under the influence of an intoxicating
4 substance;
- 5 3. Any offense prohibited by the Trafficking In Illegal Drugs
6 Act;
- 7 4. Any person having a violent felony conviction within the
8 past ten (10) years;
- 9 5. Appeal bond;
- 10 6. Arson in the first degree, including attempts to commit
11 arson in the first degree;
- 12 7. Assault and battery on a police officer;
- 13 8. Bail jumping;
- 14 9. Bribery of a public official;
- 15 10. Burglary in the first or second degree;
- 16 11. Civil contempt proceedings;
- 17 12. Distribution of a controlled dangerous substance, including
18 the sale or possession of a controlled dangerous substance with
19 intent to distribute or conspiracy to distribute;
- 20 13. Domestic abuse, domestic assault or domestic assault and
21 battery with a dangerous weapon, or domestic assault and battery
22 with a deadly weapon;
- 23 14. Driving under the influence of intoxicating substance where
24 property damage or personal injury occurs;

- 1 15. Felony discharging a firearm from a vehicle;
- 2 16. Felony sex offenses;
- 3 17. Fugitive bond or a governor's fugitive warrant;
- 4 18. Immigration charges;
- 5 19. Kidnapping;
- 6 20. Juvenile or youthful offender detention;
- 7 21. Manslaughter;
- 8 22. Manufacture of a controlled dangerous substance;
- 9 23. Murder in the first degree, including attempts or
10 conspiracy to commit murder in the first degree;
- 11 24. Murder in the second degree, including attempts or
12 conspiracy to commit murder in the second degree;
- 13 25. Negligent homicide;
- 14 26. Out-of-county holds;
- 15 27. Persons currently on pretrial release who are arrested on a
16 new felony offense;
- 17 28. Possession, manufacture, use, sale or delivery of an
18 explosive device;
- 19 29. Possession of a controlled dangerous substance on Schedule
20 I or II of the Controlled Dangerous Substances Act;
- 21 30. Possession of a firearm or other offensive weapon during
22 the commission of a felony;
- 23 31. Possession of a stolen vehicle;
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- 1 32. Rape in the first degree, including attempts to commit rape
2 in the first degree;
- 3 33. Rape in the second degree, including attempts to commit
4 rape in the second degree;
- 5 34. Robbery by force or fear;
- 6 35. Robbery with a firearm or dangerous weapon, including
7 attempts to commit robbery with a firearm or dangerous weapon;
- 8 36. Sexual assault or violent offenses against children;
- 9 37. Shooting with intent to kill;
- 10 38. Stalking or violation of a Victim Protection Order;
- 11 39. Two or more prior felony convictions; or
- 12 40. Unauthorized use of a motor vehicle.

13 D. A person not eligible for pretrial release pursuant to the
14 provisions of subsection C of this section may be released upon
15 order of a district judge, associate district judge or special judge
16 under conditions prescribed by the judge, which may include an order
17 to require the defendant, as a condition of pretrial release, to use
18 or participate in any monitoring or testing including, but not
19 limited to, a Global Positioning System (GPS) monitoring device and
20 urinalysis testing. The court may further order the defendant to
21 pay costs and expenses related to any supervision, monitoring or
22 testing.

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1 E. Every pretrial services program operating ~~pursuant to the~~
2 ~~provisions of~~ in this act state shall meet the following minimum
3 criteria:

4 1. The program shall establish a procedure for screening and
5 evaluating persons who are detained or have been arrested for the
6 alleged commission of a crime. The program shall obtain ~~criminal~~
7 ~~history records on detained persons through the National Crime~~
8 ~~Information Center (NCIC)~~ background information from the defendant
9 including all previous arrests, convictions and orders of
10 protection. The program shall use court records available through
11 the Oklahoma State Courts Network, Department of Corrections,
12 Oklahoma State Bureau of Investigations and any other information
13 provider as ordered by the court. The information obtained from the
14 screening and evaluation process must be submitted in a written
15 report without unnecessary delay to the judge who is assigned to
16 hear pretrial release applications when the person is eligible for
17 pretrial release;

18 2. The program shall provide reliable information to the judge
19 relating to the person applying for pretrial release so a reasonable
20 decision can be made concerning the amount and type of bail
21 appropriate for pretrial release. The information provided shall be
22 based upon facts relating to the person's risk of danger to the
23 community and the risk of failure to appear for court; and
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1 3. The program shall make all reasonable attempts to provide
2 the court with information appropriate to each person considered for
3 pretrial release.

4 F. A pretrial program ~~established pursuant to~~ operating in this
5 ~~act~~ state may provide different methods and levels of community-
6 based supervision to meet any court-ordered conditions of release.
7 The program may use existing supervision methods for persons who are
8 released prior to trial. Pretrial programs which employ peace
9 officers certified by the Council on Law Enforcement Education and
10 Training (CLEET) are authorized to enforce court-ordered conditions
11 of release.

12 G. Each pretrial program ~~established pursuant to~~ operating in
13 ~~this act shall provide a quarterly report to the presiding judge of~~
14 ~~the judicial district of the jurisdiction in which it operates. A~~
15 ~~copy of the report~~ state shall prepare a monthly report to be filed
16 of record with the court clerk as a public record in and of the
17 jurisdiction of each pretrial release obtained. Each report shall
18 include, but is not limited to, the following information:

- 19 1. The total number of persons screened, evaluated or otherwise
20 considered for pretrial release;
- 21 2. The total number and nature of recommendations made;
- 22 3. The number of persons admitted to pretrial release that
23 failed to appear; ~~and~~

1 4. The name, case number and criminal charge of each person the
2 program obtained a pretrial release for;

3 5. The name and case number of each person the program obtained
4 a pretrial release for that failed to appear in court or failed to
5 comply with the conditions of pretrial release;

6 6. The name and case number of each person the program obtained
7 a commitment from a judge or any return to custody by the program
8 and the reason for the return to custody;

9 7. The amount each person was charged for participating in the
10 pretrial program; and

11 8. Any other information deemed appropriate by the reporting
12 judicial district or that the program desires to report.

13 H. Every pretrial release program ~~established pursuant to~~
14 operating in this section state shall utilize the services of local
15 providers; provided, however, any program in continuous existence
16 since July 1, 1999, shall be exempt from the provisions of this
17 subsection.

18 SECTION 2. This act shall become effective November 1, 2021.

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20 58-1-7830 GRS 02/25/21

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