

1 ENGROSSED HOUSE
2 BILL NO. 1647

By: Humphrey of the House

3 and

4 Bullard of the Senate

5
6
7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 1105.3, as last amended by Section
9 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp. 2020,
10 Section 1105.3), which relates to the Pretrial
11 Release Act; updating language; making entities that
12 provide pretrial services subject to the Pretrial
13 Release Act; requiring notification to victims of
14 pretrial release proceedings; allowing victims to
15 appear and be heard at pretrial release proceedings;
16 modifying minimum criteria requirements for pretrial
17 services programs; directing pretrial programs to
18 prepare certain monthly reports; making monthly
19 reports a public record; requiring the addition of
20 certain information on monthly reports; and providing
21 an effective date.

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

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

25 Section 1105.3 A. Any county, pursuant to the provisions of
26 ~~this act~~ the Pretrial Release Act, may establish and fund a pretrial
27 program to be utilized by the district court in that jurisdiction.
28 Any entity offering pretrial services in a county within this state
29 shall also be subject to the provisions of the Pretrial Release Act.

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

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

21 1. Aggravated driving under the influence of an intoxicating
22 substance;

23 2. Any felony driving under the influence of an intoxicating
24 substance;

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

- 1 19. Kidnapping;
- 2 20. Juvenile or youthful offender detention;
- 3 21. Manslaughter;
- 4 22. Manufacture of a controlled dangerous substance;
- 5 23. Murder in the first degree, including attempts or
6 conspiracy to commit murder in the first degree;
- 7 24. Murder in the second degree, including attempts or
8 conspiracy to commit murder in the second degree;
- 9 25. Negligent homicide;
- 10 26. Out-of-county holds;
- 11 27. Persons currently on pretrial release who are arrested on a
12 new felony offense;
- 13 28. Possession, manufacture, use, sale or delivery of an
14 explosive device;
- 15 29. Possession of a controlled dangerous substance on Schedule
16 I or II of the Controlled Dangerous Substances Act;
- 17 30. Possession of a firearm or other offensive weapon during
18 the commission of a felony;
- 19 31. Possession of a stolen vehicle;
- 20 32. Rape in the first degree, including attempts to commit rape
21 in the first degree;
- 22 33. Rape in the second degree, including attempts to commit
23 rape in the second degree;
- 24 34. Robbery by force or fear;

- 1 35. Robbery with a firearm or dangerous weapon, including
- 2 attempts to commit robbery with a firearm or dangerous weapon;
- 3 36. Sexual assault or violent offenses against children;
- 4 37. Shooting with intent to kill;
- 5 38. Stalking or violation of a Victim Protection Order;
- 6 39. Two or more prior felony convictions; or
- 7 40. Unauthorized use of a motor vehicle.

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

18 E. Every pretrial services program operating ~~pursuant to the~~
19 ~~provisions of~~ in this act state shall meet the following minimum
20 criteria:

- 21 1. The program shall establish a procedure for screening and
- 22 evaluating persons who are detained or have been arrested for the
- 23 alleged commission of a crime. The program shall obtain ~~criminal~~
- 24 ~~history records on detained persons through the National Crime~~

1 ~~Information Center (NCIC)~~ background information from the defendant
2 including all previous arrests, convictions and orders of
3 protection. The program shall use court records available through
4 the Oklahoma State Courts Network, Department of Corrections,
5 Oklahoma State Bureau of Investigation and any other information
6 provider as ordered by the court. The information obtained from the
7 screening and evaluation process must be submitted in a written
8 report without unnecessary delay to the judge who is assigned to
9 hear pretrial release applications when the person is eligible for
10 pretrial release;

11 2. The program shall provide reliable information to the judge
12 relating to the person applying for pretrial release so a reasonable
13 decision can be made concerning the amount and type of bail
14 appropriate for pretrial release. The information provided shall be
15 based upon facts relating to the person's risk of danger to the
16 community and the risk of failure to appear for court; and

17 3. The program shall make all reasonable attempts to provide
18 the court with information appropriate to each person considered for
19 pretrial release.

20 F. A pretrial program ~~established pursuant to~~ operating in this
21 ~~act~~ state may provide different methods and levels of community-
22 based supervision to meet any court-ordered conditions of release.
23 The program may use existing supervision methods for persons who are
24 released prior to trial. Pretrial programs which employ peace

1 officers certified by the Council on Law Enforcement Education and
2 Training (CLEET) are authorized to enforce court-ordered conditions
3 of release.

4 G. Each pretrial program ~~established pursuant to~~ operating in
5 ~~this act shall provide a quarterly report to the presiding judge of~~
6 ~~the judicial district of the jurisdiction in which it operates. A~~
7 ~~copy of the report~~ state shall prepare a monthly report to be filed
8 of record with the court clerk as a public record in and of the
9 jurisdiction of each pretrial release obtained. Each report shall
10 include, but is not limited to, the following information:

11 1. The total number of persons screened, evaluated or otherwise
12 considered for pretrial release;

13 2. The total number and nature of recommendations made;

14 3. The number of persons admitted to pretrial release that
15 failed to appear; ~~and~~

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

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

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

24

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

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

5 H. Every pretrial release program ~~established pursuant to~~
6 operating in this section state shall utilize the services of local
7 providers; provided, however, any program in continuous existence
8 since July 1, 1999, shall be exempt from the provisions of this
9 subsection.

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

11 Passed the House of Representatives the 9th day of March, 2021.

12

13

Presiding Officer of the House
of Representatives

14

15

Passed the Senate the ___ day of _____, 2021.

16

17

18

Presiding Officer of the Senate

19

20

21

22

23

24