

1 **SENATE FLOOR VERSION**

2 March 30, 2021

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1647

6 By: Humphrey of the House

7 and

8 Bullard of the Senate

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; modifying minimum criteria requirements  
16 for pretrial services programs; directing pretrial  
17 programs to prepare certain monthly reports; making  
18 monthly reports a public record; requiring the  
19 addition of certain information on monthly reports;  
20 and providing an effective date.

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

22 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1105.3, as  
23 last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp.  
24 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.

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

18            1. Aggravated driving under the influence of an intoxicating  
19 substance;

20            2. Any felony driving under the influence of an intoxicating  
21 substance;

22            3. Any offense prohibited by the Trafficking In Illegal Drugs  
23 Act;

24

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

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

1 36. Sexual assault or violent offenses against children;

2 37. Shooting with intent to kill;

3 38. Stalking or violation of a Victim Protection Order;

4 39. Two or more prior felony convictions; or

5 40. Unauthorized use of a motor vehicle.

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

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

19 1. The program shall establish a procedure for screening and  
20 evaluating persons who are detained or have been arrested for the  
21 alleged commission of a crime. The program shall obtain ~~criminal~~  
22 ~~history records on detained persons through the National Crime~~  
23 ~~Information Center (NCIC)~~ background information from the defendant  
24 including all previous arrests, convictions and orders of

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

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

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

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

1 Training (CLEET) are authorized to enforce court-ordered conditions  
2 of release.

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

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

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

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

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

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

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

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

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

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

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

9        COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
10        March 30, 2021 - DO PASS AS AMENDED

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