

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 HOUSE BILL 2019

 By: Albright

5
6
7 AS INTRODUCED

8 An Act relating to criminal procedure; directing
9 courts to determine certain status of accused persons
10 when considering pretrial release; authorizing courts
11 to permit pretrial release of certain persons on
12 personal recognizance; permitting courts to impose
13 pretrial release conditions; directing courts to
14 determine financial capabilities and caregiver
15 responsibilities of accused persons who violate
16 pretrial release conditions; making provisions
17 retroactive; authorizing request for modification of
18 bail; defining terms; directing courts to determine
19 certain status of convicted persons prior to
20 sentencing; authorizing courts to impose individually
21 assessed sentences; permitting courts to impose
22 certain conditions; directing courts to determine
23 financial capabilities and caregiver responsibilities
24 of convicted persons who violate conditions of
 sentence; permitting courts to evaluate and modify
 sentencing conditions; making provisions retroactive;
 authorizing requests for sentence modification;
 defining terms; providing for codification; and
 providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1105.4 of Title 22, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Upon making a pretrial release determination, the court
2 shall inquire about the pregnancy or primary caregiver status of the
3 accused person. If the court determines that the accused person is
4 pregnant or is the primary caregiver and the person does not impose
5 a substantial risk of physical harm to the community, the court
6 shall permit pretrial release on his or her own personal
7 recognizance.

8 B. The court may impose conditions of pretrial release that are
9 the least restrictive and appropriate to caregiver-dependent unity
10 and support.

11 C. The court shall determine the ability of an accused person
12 to contribute financially toward the receipt of services in
13 compliance with any imposed conditions. Inability to pay for
14 conditions set by the court shall not constitute a willful violation
15 of the imposed conditions.

16 D. The court shall consider caregiver responsibilities when
17 determining whether or not an accused person has violated any
18 imposed conditions.

19 E. The provisions of this section shall be retroactive. A
20 pregnant person or primary caregiver currently in pretrial custody
21 may request modification of bail by motion to the court. The court
22 shall thereupon modify bail in accordance with the provisions of
23 this section.

24 F. As used in this section:

1 1. "Accused person" means an individual who has not been
2 convicted of the accusations or charges against him or her; and

3 2. "Primary caregiver" means:

4 a. an individual who has consistently assumed
5 responsibility for the housing, health and safety of a
6 child, adult with disabilities, older person and other
7 dependents prior to his or her incarceration or
8 expresses a willingness to assume responsibility for
9 the housing, health and safety of the dependent, or

10 b. a woman who has given birth to a child after or while
11 awaiting pretrial release and expresses a willingness
12 to assume responsibility for the housing, health and
13 safety of her child.

14 A parent who has arranged for the temporary care of a child in the
15 home of a relative or other responsible adult shall not, for that
16 reason, be excluded from this definition.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 991a-22 of Title 22, unless
19 there is created a duplication in numbering, reads as follows:

20 A. Prior to sentencing a person convicted of an offense, the
21 sentencing court shall determine if the convicted person is pregnant
22 or the primary caregiver. If the court determines that the
23 convicted person is pregnant or the primary caregiver and the
24 offense does not pose a substantial risk of physical harm to the

1 community, the court shall impose an individually assessed sentence,
2 without imprisonment.

3 B. In imposing the individually assessed sentence, the court
4 may require the person to meet certain conditions that are the least
5 restrictive and substantially related to the offense including, but
6 not limited to:

- 7 1. Drug and alcohol treatment;
- 8 2. Domestic violence education and prevention;
- 9 3. Physical and sexual abuse counseling;
- 10 4. Anger management;
- 11 5. Vocational and educational services;
- 12 6. Job training and placement;
- 13 7. Affordable and safe housing assistance;
- 14 8. Financial literacy;
- 15 9. Parenting classes;
- 16 10. Family and individual counseling; and
- 17 11. Family case management services.

18 C. The court shall determine the ability of a convicted person
19 to contribute financially toward the receipt of services in
20 compliance with the conditions listed in subsection B of this
21 section. Inability to pay for conditions set by the court shall not
22 constitute a willful violation of said conditions.

23 D. The court may require the appearance of the person in court
24 during the sentence of the convicted person to evaluate the progress

1 of the person in meeting any of the conditions provided in
2 subsection B of this section. Upon appearance, the court may:

- 3 1. Modify the conditions of the sentence;
- 4 2. Decrease the duration of the sentence; and
- 5 3. Sanction the person for a willful violation of the sentence.

6 E. The court shall consider caregiver responsibilities when
7 determining whether or not a convicted person has violated any
8 imposed conditions.

9 F. The provisions of this section shall be retroactive. A
10 pregnant person or primary caregiver currently sentenced to a period
11 of incarceration may request modification of the sentence by motion
12 to the court. The court shall thereupon modify the sentence in
13 accordance with the provisions of this section.

14 G. As used in this section:

15 1. "Convicted person" means an individual who has been found
16 guilty of an offense; and

17 2. "Primary caregiver" means:

18 a. an individual who has consistently assumed
19 responsibility for the housing, health and safety of a
20 child, adult with disabilities, older person and other
21 dependents prior to his or her incarceration or
22 expresses a willingness to assume responsibility for
23 the housing, health and safety of the dependent, or
24

1 b. a woman who has given birth to a child while awaiting
2 sentencing and expresses a willingness to assume
3 responsibility for the housing, health and safety of
4 her child.

5 A parent who has arranged for the temporary care of the child in the
6 home of a relative or other responsible adult shall not, for that
7 reason, be excluded from this definition.

8 SECTION 3. This act shall become effective November 1, 2019.

9
10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2019 - DO
11 PASS.