

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 HOUSE BILL 2403

By: Biggs of the House

5 and

6 Smalley of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to criminal procedure; amending 22
11 O.S. 2011, Sections 1105.2 and 1105.3, as amended by
12 Section 1, Chapter 77, O.S.L. 2013 (22 O.S. Supp.
2015, Section 1105.3), which relate to the Pretrial
13 Release Act; eliminating county population
14 requirement; updating language; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1105.2, is
18 amended to read as follows:

19 Section 1105.2 A. ~~The provisions of this act shall apply only~~
20 ~~to counties having a population of four hundred thousand (400,000)~~
21 ~~or more persons.~~

22 ~~B.~~ Following an arrest for a misdemeanor or felony offense and
23 before formal charges have been filed or an indictment made, the

1 arrested person may have bail set by the court as provided in this
2 act; provided there are no provisions of law to the contrary.

3 ~~E.~~ B. When formal charges or an indictment has been filed, bail
4 shall be set according to law and the pretrial bond, if any, may be
5 reaffirmed unless additional security is required. Every judicial
6 district may, upon the order of the presiding judge for the
7 district, establish a pretrial bail schedule for felony or
8 misdemeanor offenses, except for traffic offenses included in
9 subsections B, C and D of Section 1115.3 of Title 22 of the Oklahoma
10 Statutes and those offenses specifically excluded herein. The bail
11 schedule established pursuant to the authority of this act shall
12 exclude any offense for which bail is not allowed by law. The bail
13 schedule authorized by this act shall be set in accordance with
14 guidelines relating to bail and shall be published and reviewed by
15 March 1 of each year by the courts and district attorney of the
16 judicial district.

17 ~~D.~~ C. The pretrial bail shall be set in a numerical dollar
18 amount. If the person fails to appear in court as required the
19 judge shall:

20 1. Rescind the bond and proceed to enter a judgment against the
21 defendant for the dollar amount of the pretrial bail if no private
22 bail was given at the time of release; provided, however, the court
23 clerk shall follow the procedures as set forth in Section 1301 et
24 seq. of Title 59 of the Oklahoma Statutes in collecting the

1 forfeiture amount against the person who fails to appear in court;
2 or

3 2. Rescind and forfeit the private bail if cash, property or
4 surety bail was furnished at the time of release as set forth in
5 Section 1301 et seq. of Title 59 of the Oklahoma Statutes.

6 ~~E.~~ D. When a pretrial program ~~authorized by subsection A of~~
7 ~~this section~~ exists in the judicial district where the person is
8 being held, the judge may utilize the services of the pretrial
9 release program when ordering pretrial release, except when private
10 bail has been furnished.

11 ~~F.~~ E. Upon an order for pretrial release or release on bond,
12 the person shall be released from custody without undue delay.

13 ~~G.~~ F. The court may require the person to be placed on an
14 electronic monitoring device as a condition of pretrial release.

15 ~~H.~~ G. In instances where an electronic monitoring device has
16 been ordered, the court may impose payment of a supervision fee.
17 Payment of the fee, in whole or according to a court-ordered
18 installment schedule, shall be a condition of pretrial release. The
19 court clerk shall collect the supervision fees.

20 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1105.3, as
21 amended by Section 1, Chapter 77, O.S.L. 2013 (22 O.S. Supp. 2015,
22 Section 1105.3), is amended to read as follows:
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1 Section 1105.3 A. Any ~~eligible~~ county pursuant to the
2 provisions of this act may establish and fund a pretrial program to
3 be utilized by the district court in that jurisdiction.

4 B. When a pretrial release program is established pursuant to
5 this act and private bail has not been furnished, the judge may
6 order a person to be evaluated through the pretrial program. After
7 conducting an evaluation of the person applying for pretrial
8 release, the pretrial program shall make a recommendation to the
9 court. The recommendation shall indicate any special supervisory
10 conditions for pretrial release. The judge shall consider the
11 recommendations and may grant or deny pretrial release. The
12 presiding judge of the judicial district may issue a standing order
13 outlining criteria for cases that may automatically be evaluated for
14 pretrial release by a pretrial program operating in the
15 jurisdiction. The standing order may include amounts for bail and
16 types of bonds deemed appropriate for certain offenses.

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 or associate district judge under
11 conditions prescribed by the judge, which may include an order to
12 require the defendant, as a condition of pretrial release, to use or
13 participate in any monitoring or testing including, but not limited
14 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 this act shall meet the following minimum criteria:

20 1. The program shall establish a procedure for screening and
21 evaluating persons who are detained or have been arrested for the
22 alleged commission of a crime. The program shall obtain criminal
23 history records on detained persons through the National Crime
24 Information Center (NCIC). The information obtained from the

1 screening and evaluation process must be submitted in a written
2 report without unnecessary delay to the judge who is assigned to
3 hear pretrial release applications when the person is eligible for
4 pretrial release;

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

11 3. The program shall make all reasonable attempts to provide
12 the court with information appropriate to each person considered for
13 pretrial release.

14 F. A pretrial program established pursuant to this act may
15 provide different methods and levels of community-based supervision
16 to meet any court-ordered conditions of release. The program may
17 use existing supervision methods for persons who are released prior
18 to trial. Pretrial programs which employ peace officers certified
19 by the Council on Law Enforcement Education and Training (CLEET) are
20 authorized to enforce court-ordered conditions of release.

21 G. Each pretrial program established pursuant to this act shall
22 provide a quarterly report to the presiding judge of the judicial
23 district of the jurisdiction in which it operates. A copy of the
24 report shall be filed of record with the court clerk of the

1 jurisdiction. Each report shall include, but is not limited to, the
2 following information:

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

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

6 3. The number of persons admitted to pretrial release that
7 failed to appear; and

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

10 H. Every pretrial release program established pursuant to this
11 section shall utilize the services of local providers; provided,
12 however, any program in continuous existence since July 1, 1999,
13 shall be exempt from the provisions of this subsection.

14 SECTION 3. This act shall become effective November 1, 2016.

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16 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
17 dated 02/03/2016 - DO PASS, As Coauthored.

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