

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 344

BY: SMITH

AS INTRODUCED

AN ACT RELATING TO PRISONS AND REFORMATORIES;

CRIMINAL PROCEDURE AND PROFESSIONS AND OCCUPATIONS;
CREATING THE PRETRIAL RELEASE PROGRAM; PROVIDING
FOR RELEASE OF CERTAIN ARRESTED PERSONS ON PERSONAL
RECOGNIZANCE; REQUIRING DISTRICT COURTS AND COUNTY
JAILS TO ESTABLISH RULES AND PROCEDURES FOR
PRETRIAL RELEASE; DIRECTING COUNTY JAIL TO ASSIGN
STAFF FOR ASSISTANCE; REQUIRING COOPERATION BETWEEN
COUNTY JAILS AND DISTRICT COURTS TO IMPLEMENT
PRETRIAL RELEASE PROGRAM; PROVIDING FOR FORMS;
LIMITING ELIGIBILITY FOR PRETRIAL RELEASE PROGRAM;
REQUIRING WRITTEN PROMISE TO APPEAR AND OTHER
DOCUMENTS; SETTING CRITERIA FOR DETERMINING
ELIGIBILITY FOR PROGRAM; PRESCRIBING DUTIES OF
ARRESTING OFFICER OR EMPLOYEE; REQUIRING NOTICE OF
COURT APPEARANCE; STATING PENALTY FOR FAILURE TO
APPEAR; REQUIRING DEFENDANT TO APPEAR WHEN COURT
DATE RESCHEDULED; AMENDING 22 O.S. 1981, SECTIONS
1101 AND 1104, WHICH RELATE TO BAILABLE OFFENSES
AND QUALIFICATIONS, AND 59 O.S. 1981, SECTIONS 1334
AND 1335, WHICH RELATE TO BAIL ON PERSONAL
RECOGNIZANCE AND PENALTY; MODIFYING LANGUAGE;
PROVIDING FOR CODIFICATION; PROVIDING FOR
RECODIFICATION; PROVIDING AN EFFECTIVE DATE; AND
DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 43.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established a Pretrial Release Program within the county jails. The Release Program shall be for certain arrested persons to be released upon their personal recognizance under the conditions of the program as provided in this section and Section 2 of this act. Any person violating the conditions of pretrial release or failing to appear in court when the presence is lawfully required shall be punished, upon conviction, as provided in Section 6 of this act.

B. The district courts and the county jails shall establish rules and procedures whereby arrested persons eligible for the Pretrial Release Program may be released upon their own personal recognizance, as provided in this section and Section 2 of this act.

C. Each county jail shall assign sufficient qualified staff to properly verify information given by the arrested person and maintain accurate records of all arrested persons released under the Pretrial Release Program.

D. The county jails shall cooperate with the district courts within their jurisdiction to implement the Pretrial Release Program. The district courts shall create any forms to be used by the county jails in considering an arrested person eligible for release under the Pretrial Release Program. Each district court judicial district shall maintain uniformity in the design of forms to be used within that district.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1104C of Title 22, unless there is created a duplication in numbering, reads as follows:

A. In addition to other provisions for bail, any person who is a resident of this state, who is arrested by a law enforcement officer for a misdemeanor or felony violation of a state law may be released by the county jail upon personal recognizance under the Pretrial Release Program, pursuant to this section and Section 2 of this act, provided:

1. The violation does not constitute any of the following:

- a. any violent misdemeanor or felony act, or
- b. any violation of the Uniform Controlled Dangerous Substances Act, or
- c. any sex offense or lewd or indecent act, or
- d. driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substance, or both alcohol and an intoxicating substance, or
- e. an arrest based upon an outstanding warrant, or
- f. eluding or attempting to elude a law enforcement officer, or
- g. a second or subsequent felony arrest after former conviction of any felony offense, or
- h. a traffic violation coupled with any offense stated in subparagraph a through g of this paragraph;

2. The arrested person has been issued a valid driver's license which is in his possession, and has a verifiable resident address within the county;

3. The arresting officer is satisfied as to the identity of the arrested person;

4. The arrested person signs the following:

- a. a written promise upon oath to appear in court,
- b. a written listing of any rules or conditions required as a condition for pretrial release, and

- c. necessary documents, forms or other papers for consideration for the Pretrial Release Program,

5. The arrested person has a minimum of six points from verified information given by the arrested person in the following categories:

a. Prior record:

- (1) no convictions, (2 points),
- (2) one misdemeanor conviction other than traffic offenses, (1 point),
- (3) two misdemeanor convictions other than traffic offenses, (0 points),
- (4) three or more misdemeanor convictions, (-1 point).

b. Family ties:

- (1) lives with the family and has weekly contact with other family members, (3 points),
- (2) lives with family or has weekly contact with family, (2 points),
- (3) lives with nonfamily person, (1 point)

c. Employment:

- (1) present job one (1) year or more, (3 points)
- (2) present job four (4) months or present job and prior job total six (6) months, (2 points),
- (3) current job or receiving unemployment compensation or welfare or supported by family or savings, (1 point),

d. Residence:

- (1) present residence one (1) year or more, (3 points)
- (2) present residence six (6) months or present residence and prior residence total one (1) year, (2 points),

(3) present residence four (4) months or present residence and prior residence total six (6) months, (1 point).

B. If the arrested person is eligible for release on personal recognizance as provided in subsection A of this section then the arresting officer or a designated employee, shall:

1. Designate the criminal offense violated;

2. Record information from the arrested person's driver license on a Pretrial Release form including the name, address, date of birth, personal description, driver's license number, and expiration date;

3. Record any motor vehicle owned or operated by the arrested person, including make, model, and tag information;

4. Record employment history;

5. Record prior criminal history;

6. Record the date, time and location of the arrest and the name of arresting officers;

7. Record current resident address, phone number and a list by name and relationship of each person in the household;

8. Record the initial appearance court date and time on a "Notice To Appear In Court" form to be given to the arrested person; and

9. Require the arrested person to sign a written promise to appear and other documents received as provided for in paragraph 4 of subsection A of this section.

C. The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear and the conditions of this act. The "Notice To Appear In Court" form shall contain a written notice to the arrested person that release upon personal recognizance under the provisions of the Pretrial Release Program, and based upon a signed promise to appear in court, is conditional and that failure to timely appear for the court date

shall result in the filing of a new criminal charge, as provided by Section 6 of this act.

D. If the court date is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such court appearance, in the same manner and with the same consequences as if the continued or rescheduled court date was entered on the original "Notice To Appear In Court" form by the arresting officer and signed by the defendant. It shall remain the duty of the defendant to appear for all court dates unless the criminal charge is satisfied, as provided for by law or by agreement with the prosecuting attorney and the court.

SECTION 3. AMENDATORY 22 O.S. 1981, Section 1101, is amended to read as follows:

Section 1101. Bail, by sufficient sureties, shall be admitted upon all arrests in criminal cases where the offense is not punishable by death and in such cases it may be taken by any of the persons or courts authorized by law to arrest or imprison offenders, or by the clerk of the district court or his deputy, or by the judge of such courts.

SECTION 4. AMENDATORY 22 O.S. 1981, Section 1104, is amended to read as follows:

Section 1104. A. The qualifications of bail are the same as those in civil cases, except for personal recognizance bail, and the sureties must in all cases justify by affidavits taken before the magistrate, court or judge, or before the clerk of the district or superior court or his deputy, that they each possess those qualifications.

B. The qualifications of bail by personal recognizance shall be as provided in Sections 2, 5 and 6 of this act, and the person must in all cases under the Pretrial Release Program, justify by affidavit sworn upon oath that he will appear in court as ordered,

and comply with all rules and conditions of the Pretrial Release Program.

SECTION 5. AMENDATORY 59 O.S. 1981, Section 1334, is amended to read as follows:

Section 1334. ~~(A)~~ Any person arrested or in custody before a court or magistrate of the State of Oklahoma subject to discretion of the court, may be admitted to bail on his personal recognizance subject to such conditions as the court or magistrate may reasonably prescribe or as required by law to assure his appearance when required. Any person admitted to bail as herein provided shall be fully appraised by the court or magistrate or law enforcement officer of the penalties provided for failure to comply with the terms of his recognizance and, upon a failure of compliance, a warrant for the arrest of such person shall be issued forthwith.

SECTION 6. AMENDATORY 59 O.S. 1981, Section 1335, is amended to read as follows:

Section 1335. Whoever, having been admitted to bail for appearance before any district court in the State of Oklahoma, ~~(1)~~ incurs:

1. Incurs a forfeiture of the bail and willfully fails to surrender himself within thirty (30) days following the date of such forfeiture, or

2. ~~(2) willfully~~ Willfully fails to comply with the terms of his personal recognizance, shall be fined not more than Five Thousand Dollars (\$5,000.00) or imprisoned in the State Penitentiary for a term of not more than two (2) years, or both such fine and imprisonment.

SECTION 7. RECODIFICATION 59 O.S. 1981, Section 1334, as last amended by Section 5 of this act and 1335, as last amended by Section 6 of this act, shall be recodified as Sections 1104A and 1104B of Title 22 of the Oklahoma Statutes.

SECTION 8. Sections 1 and 2 of this act shall be effective September 1, 1991.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-037

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