

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 2163

By: Leftwich

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending
8 Section 3, Chapter 125, O.S.L. 2002 (22 O.S. Supp.
9 2007, Section 1105.3), which relates to pretrial
10 release programs; authorizing use of GPS monitoring
as condition of pretrial release; directing defendant
pay certain costs and expenses; and providing an
effective date.

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

14 SECTION 1. AMENDATORY Section 3, Chapter 125, O.S.L.
15 2002 (22 O.S. Supp. 2007, Section 1105.3), is amended to read as
16 follows:

17 Section 1105.3 A. Any eligible county pursuant to the
18 provisions of this act may establish and fund a pretrial program to
19 be utilized by the district court in that jurisdiction.

20 B. When a pretrial release program is established pursuant to
21 this act and private bail has not been furnished, the judge may
22 order a person to be evaluated through the pretrial program. After
23 conducting an evaluation of the person applying for pretrial
24 release, the pretrial program shall make a recommendation to the

1 court. The recommendation shall indicate any special supervisory
2 conditions for pretrial release. The judge shall consider the
3 recommendations and may grant or deny pretrial release. The
4 presiding judge of the judicial district may issue a standing order
5 outlining criteria for cases that may automatically be evaluated for
6 pretrial release by a pretrial program operating in the
7 jurisdiction. The standing order may include amounts for bail and
8 types of bonds deemed appropriate for certain offenses. In addition
9 to any other special supervisory conditions recommended by the
10 pretrial program, the court may order the defendant to use a Global
11 Position Monitoring System (GPS) device as a condition of pretrial
12 release. The costs and expenses for court-ordered GPS monitoring
13 shall be paid by the defendant as a condition of pretrial release.

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;

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- 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 or domestic assault and battery;
- 15 14. Driving under the influence of intoxicating substance where
- 16 property damage or personal injury occurs;
- 17 15. Felony discharging a firearm from a vehicle;
- 18 16. Felony sex offenses;
- 19 17. Fugitive bond or a governor's fugitive warrant;
- 20 18. Immigration charges;
- 21 19. Kidnapping;
- 22 20. Juvenile or youthful offender detention;
- 23 21. Manslaughter;
- 24 22. Manufacture of a controlled dangerous substance;

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

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

2 39. Two or more prior felony convictions; or

3 40. Unauthorized use of a motor vehicle.

4 D. A person not eligible for pretrial release pursuant to the
5 provisions of subsection C of this section may be released upon
6 order of a district judge or associate district judge under
7 conditions prescribed by the judge.

8 E. Every pretrial services program operating pursuant to the
9 provisions of this act shall meet the following minimum criteria:

10 1. The program shall establish a procedure for screening and
11 evaluating persons who are detained or have been arrested for the
12 alleged commission of a crime. The program shall obtain criminal
13 history records on detained persons through the National Crime
14 Information Center (NCIC). The information obtained from the
15 screening and evaluation process must be submitted in a written
16 report without unnecessary delay to the judge who is assigned to
17 hear pretrial release applications when the person is eligible for
18 pretrial release;

19 2. The program shall provide reliable information to the judge
20 relating to the person applying for pretrial release so a reasonable
21 decision can be made concerning the amount and type of bail
22 appropriate for pretrial release. The information provided shall be
23 based upon facts relating to the person's risk of danger to the
24 community and the risk of failure to appear for court; and

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

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

11 G. Each pretrial program established pursuant to this act shall
12 provide a quarterly report to the presiding judge of the judicial
13 district of the jurisdiction in which it operates. A copy of the
14 report shall be filed of record with the court clerk of the
15 jurisdiction. Each report shall include, but is not limited to, the
16 following information:

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

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

20 3. The number of persons admitted to pretrial release that
21 failed to appear; and

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

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

5 SECTION 2. This act shall become effective November 1, 2008.

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