

SB 781

1 THE STATE SENATE
2 Monday, February 23, 2009

3 Senate Bill No. 781
4 As Amended

5 SENATE BILL NO. 781 - By: Schulz of the Senate and Ortega of the
6 House.

7 [criminal procedure - bail - coordinator - effective date]

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

9 SECTION 1. AMENDATORY 22 O.S. 2001, Section 1105, as
10 last amended by Section 1, Chapter 128, O.S.L. 2005 (22 O.S. Supp.
11 2008, Section 1105), is amended to read as follows:

12 Section 1105. A. Except as otherwise provided by this section,
13 upon the allowance of bail and the execution of the requisite
14 recognizance, bond, or undertaking to the state, the magistrate,
15 judge, or court, shall, if the defendant is in custody, make and
16 sign an order for discharge. The court, in its discretion, may
17 prescribe by court rule the conditions under which the court clerk
18 or deputy court clerk, or the sheriff or deputy sheriff, may prepare
19 and execute an order of release on behalf of the court.

20 B. No police officer or sheriff may release a person arrested
21 for a violation of an ex parte or final protective order as provided
22 in Sections 60.2 and 60.3 of this title, or arrested for an act
23 constituting domestic abuse as specified in Section 644 of Title 21
24 of the Oklahoma Statutes, or arrested for any act constituting

1 domestic abuse, stalking or harassment as defined by Section 60.1 of
2 this title without the violator appearing before a magistrate, judge
3 or court. The magistrate, judge or court shall determine bond and
4 other conditions of release as necessary for the protection of the
5 alleged victim.

6 C. No police officer or sheriff may release a person arrested
7 for any violation of subsection G of Section 2-401 of Title 63 of
8 the Oklahoma Statutes, without the violator appearing before a
9 magistrate, judge, or court. In determining bond and other
10 conditions of release, the magistrate, judge, or court shall
11 consider any evidence that the person is in any manner dependent
12 upon a controlled dangerous substance or has a pattern of regular,
13 illegal use of any controlled dangerous substance. A rebuttable
14 presumption that no conditions of release on bond would assure the
15 safety of the community or any person therein shall arise if the
16 state shows by clear and convincing evidence:

17 1. The person was arrested for a violation of subsection G of
18 Section 2-401 of Title 63 of the Oklahoma Statutes, relating to
19 manufacturing or attempting to manufacture a controlled dangerous
20 substance, or possessing any of the substances listed in subsection
21 G of Section 2-401 of Title 63 of the Oklahoma Statutes with the
22 intent to manufacture a controlled dangerous substance; and

1 2. The person is in any manner dependent upon a controlled
2 dangerous substance or has a pattern of regular illegal use of a
3 controlled dangerous substance, and the violation referred to in
4 paragraph 1 of this subsection was committed or attempted in order
5 to maintain or facilitate the dependence or pattern of illegal use
6 in any manner.

7 D. Subject to the availability of funds, a court may employ
8 bond condition coordinators to monitor a defendant's compliance with
9 bond conditions and to report any violations of such conditions to
10 the court.

11 SECTION 2. This act shall become effective November 1, 2009.

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-18-09 - DO
13 PASS, As Amended and Coauthored.