STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2278 By: Grau

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 1105.3, which relates to the Pretrial Release Act; updating language; modifying pretrial release conditions to include various monitoring and testing methods; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1105.3, is amended to read as follows:

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

B. When a pretrial release program is established pursuant to this act and private bail has not been furnished, the judge may order a person to be evaluated through the pretrial program. After conducting an evaluation of the person applying for pretrial release, the pretrial program shall make a recommendation to the court. The recommendation shall indicate any special supervisory

conditions for pretrial release. The judge shall consider the recommendations and may grant or deny pretrial release. The presiding judge of the judicial district may issue a standing order outlining criteria for cases that may automatically be evaluated for pretrial release by a pretrial program operating in the jurisdiction. The standing order may include amounts for bail and types of bonds deemed appropriate for certain offenses.

C. Except as otherwise authorized by the provisions of this subsection, persons accused of or detained for any of the following offenses or conditions shall not be eligible for pretrial release by any pretrial program:

1. Aggravated driving under the influence of an intoxicating substance;

2. Any felony driving under the influence of an intoxicating substance;

3. Any offense prohibited by the Trafficking In Illegal Drugs Act;

4. Any person having a violent felony conviction within the past ten (10) years;

5. Appeal bond;

6. Arson in the first degree, including attempts to commit arson in the first degree;

7. Assault and battery on a police officer;

8. Bail jumping;

9. Bribery of a public official;

10. Burglary in the first or second degree;

11. Civil contempt proceedings;

12. Distribution of a controlled dangerous substance, including the sale or possession of a controlled dangerous substance with intent to distribute or conspiracy to distribute;

13. Domestic abuse, domestic assault or domestic assault and battery with a dangerous weapon, or domestic assault and battery with a deadly weapon;

14. Driving under the influence of intoxicating substance where property damage or personal injury occurs;

15. Felony discharging a firearm from a vehicle;

16. Felony sex offenses;

17. Fugitive bond or a governor’s fugitive warrant;

18. Immigration charges;

19. Kidnapping;

20. Juvenile or youthful offender detention;

21. Manslaughter;

22. Manufacture of a controlled dangerous substance;

23. Murder in the first degree, including attempts or conspiracy to commit murder in the first degree;

24. Murder in the second degree, including attempts or conspiracy to commit murder in the second degree;

25. Negligent homicide;

26. Out-of-county holds;

27. Persons currently on pretrial release who are arrested on a new felony offense;

28. Possession, manufacture, use, sale or delivery of an explosive device;

29. Possession of a controlled dangerous substance on Schedule I or II of the Controlled Dangerous Substances Act;

30. Possession of a firearm or other offensive weapon during the commission of a felony;

31. Possession of a stolen vehicle;

32. Rape in the first degree, including attempts to commit rape in the first degree;

33. Rape in the second degree, including attempts to commit rape in the second degree;

34. Robbery by force or fear;

35. Robbery with a firearm or dangerous weapon, including attempts to commit robbery with a firearm or dangerous weapon;

36. Sexual assault or violent offenses against children;

37. Shooting with intent to kill;

38. Stalking or violation of a Victim Protection Order;

39. Two or more prior felony convictions; or

40. Unauthorized use of a motor vehicle.

D. A person not eligible for pretrial release pursuant to the provisions of subsection C of this section may be released upon

order of a judge of the district ~~judge or associate district judge~~ court under conditions prescribed by the judge~~,~~ which may include an order to require the defendant, as a condition of pretrial release, to use ~~an active, real-time, twenty-four-hour~~ or participate in any monitoring or testing including, but not limited to, a Global Positioning System (GPS) monitoring device ~~as a condition of pretrial release~~ and urinalysis testing. The court may further order the defendant to pay costs and expenses related to ~~the GPS device and monitoring~~ any supervision, monitoring or testing.

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

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

2. The program shall provide reliable information to the judge relating to the person applying for pretrial release so a reasonable decision can be made concerning the amount and type of bail appropriate for pretrial release. The information provided shall be

based upon facts relating to the person's risk of danger to the community and the risk of failure to appear for court; and

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

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

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

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

2. The total number and nature of recommendations made;

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

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

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

SECTION 2. This act shall become effective November 1, 2012.

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