ENGROSSED HOUSE
BILL NO. 2403

By: Biggs and Billy of the House

and

Smalley of the Senate

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

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

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

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

~~B.~~ Following an arrest for a misdemeanor or felony offense and before formal charges have been filed or an indictment made, the arrested person may have bail set by the court as provided in this act; provided there are no provisions of law to the contrary.

~~C.~~ B. When formal charges or an indictment has been filed, bail shall be set according to law and the pretrial bond, if any, may be

reaffirmed unless additional security is required. Every judicial district may, upon the order of the presiding judge for the district, establish a pretrial bail schedule for felony or misdemeanor offenses, except for traffic offenses included in subsections B, C and D of Section 1115.3 of Title 22 of the Oklahoma Statutes and those offenses specifically excluded herein. The bail schedule established pursuant to the authority of this act shall exclude any offense for which bail is not allowed by law. The bail schedule authorized by this act shall be set in accordance with guidelines relating to bail and shall be published and reviewed by March 1 of each year by the courts and district attorney of the judicial district.

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

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

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

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

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

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

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

SECTION 2. AMENDATORY 22 O.S. 2011, Section 1105.3, as amended by Section 1, Chapter 77, O.S.L. 2013 (22 O.S. Supp. 2015, 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 district judge or associate district judge under conditions prescribed by the judge, which may include an order to require the defendant, as a condition of pretrial release, to use or participate in any monitoring or testing including, but not limited to, a Global Positioning System (GPS) monitoring device and urinalysis testing. The court may further order the defendant to pay costs and expenses related to 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 3. This act shall become effective November 1, 2016.

Passed the House of Representatives the 10th day of February, 2016.

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Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2016.

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Presiding Officer of the Senate