

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3694 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Kevin Calvey

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 3694

By: Calvey

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 176 and 185, which relates to arrests and appearances before magistrates for felony and misdemeanor offenses; authorizing magistrates to release defendants arrested for misdemeanor and felony offenses under certain conditions; defining term; amending 22 O.S. 2011, Section 454, which relates to bench warrants; prohibiting the issuance of certain bench warrants; authorizing judgments to be entered against defendants under certain circumstances; prohibiting the issuance of bench or arrest warrants if alternative methods for collecting fines exist; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 176, is amended to read as follows:

Section 176. A. If the offense charged in the warrant be a felony, the officer making the arrest must take the defendant before the magistrate who issued the warrants or some other magistrate in the county or the image of the defendant may be broadcast by closed circuit television to the magistrate. A closed circuit television

1 system may not be used under this section and Section 177 of this
2 title unless the system provides for a two-way communication of
3 image and sound between the arrested person and the magistrate.

4 B. The magistrate shall allow bail on the own recognizance of
5 the defendant or upon condition of the defendant contacting the
6 office of the prosecutor periodically pending further court
7 appearance, except when the offense is a violent crime or where the
8 magistrate believes by clear and convincing evidence that there is a
9 substantial risk that the defendant will flee the jurisdiction of
10 the court.

11 C. For purposes of this section, "violent crime" means
12 any of the following felony offenses and any attempts to
13 commit, conspiracy to commit or solicitation to commit the
14 following crimes:

15 1. Assault, battery, or assault and battery with a
16 dangerous or deadly weapon, as provided for in Sections 644
17 and 645 of Title 21 of the Oklahoma Statutes;

18 2. Shooting with intent to kill, assault, battery, or
19 assault and battery with a deadly weapon or by other means
20 likely to produce death or great bodily harm, as provided for
21 in Section 652 of Title 21 of the Oklahoma Statutes;

22 3. Aggravated assault and battery on a police officer,
23 sheriff, highway patrolman, or any other officer of the law,
24

1 as provided for in Section 650 of Title 21 of the Oklahoma
2 Statutes;

3 4. Poisoning with intent to kill, as provided for in
4 Section 651 of Title 21 of the Oklahoma Statutes;

5 5. Assault with intent to commit a felony, as provided
6 for in Section 681 of Title 21 of the Oklahoma Statutes;

7 6. Assaults while masked or disguised, as provided for
8 in Section 1303 of Title 21 of the Oklahoma Statutes;

9 7. Murder in the first degree, as provided for in
10 Section 701.1 of Title 21 of the Oklahoma Statutes;

11 8. Murder in the second degree, as provided for in
12 Section 701.8 of Title 21 of the Oklahoma Statutes;

13 9. Manslaughter in the first degree, as provided for in
14 Section 711 of Title 21 of the Oklahoma Statutes;

15 10. Manslaughter in the second degree, as provided for
16 in Section 716 of Title 21 of the Oklahoma Statutes;

17 11. Kidnapping, as provided for in Section 741 of Title
18 21 of the Oklahoma Statutes;

19 12. Burglary in the first degree, as provided for in
20 Section 1431 of Title 21 of the Oklahoma Statutes;

21 13. Burglary with explosives, as provided for in Section
22 1441 of Title 21 of the Oklahoma Statutes;

23 14. Kidnapping for extortion, as provided for in Section
24 745 of Title 21 of the Oklahoma Statutes;

1 15. Maiming, as provided for in Section 751 of Title 21
2 of the Oklahoma Statutes;

3 16. Robbery, as provided for in Section 791 of Title 21
4 of the Oklahoma Statutes;

5 17. Robbery in the first degree, as provided for in
6 Section 797 of Title 21 of the Oklahoma Statutes;

7 18. Robbery in the second degree, as provided for in
8 Section 797 of Title 21 of the Oklahoma Statutes;

9 19. Robbery by two or more persons, as provided for in
10 Section 800 of Title 21 of the Oklahoma Statutes;

11 20. Robbery with a dangerous weapon or imitation
12 firearm, as provided for in Section 801 of Title 21 of the
13 Oklahoma Statutes;

14 21. Child abuse, as provided for in Section 843.5 of
15 Title 21 of the Oklahoma Statutes;

16 22. Wiring any equipment, vehicle or structure with
17 explosives, as provided for in Section 849 of Title 21 of the
18 Oklahoma Statutes;

19 23. Forcible sodomy, as provided for in Section 888 of
20 Title 21 of the Oklahoma Statutes;

21 24. Rape in the first degree, as provided for in Section
22 1114 of Title 21 of the Oklahoma Statutes;

23 25. Rape in the second degree, as provided for in
24 Section 1114 of Title 21 of the Oklahoma Statutes;

1 26. Rape by instrumentation, as provided for in Section
2 1111.1 of Title 21 of the Oklahoma Statutes;

3 27. Lewd or indecent proposition or lewd or indecent act
4 with a child, as provided for in Section 1123 of Title 21 of
5 the Oklahoma Statutes;

6 28. Use of a firearm or offensive weapon to commit or
7 attempt to commit a felony, as provided for in Section 1287
8 of Title 21 of the Oklahoma Statutes;

9 29. Pointing firearms, as provided for in Section 1279
10 of Title 21 of the Oklahoma Statutes;

11 30. Rioting, as provided for in Section 1311 of Title 21
12 of the Oklahoma Statutes;

13 31. Incitement to riot, as provided for in Section
14 1320.2 of Title 21 of the Oklahoma Statutes;

15 32. Arson in the first degree, as provided for in
16 Section 1401 of Title 21 of the Oklahoma Statutes;

17 33. Injuring or burning public buildings, as provided
18 for in Section 349 of Title 21 of the Oklahoma Statutes;

19 34. Sabotage, as provided for in Section 1262 of Title
20 21 of the Oklahoma Statutes;

21 35. Criminal syndicalism, as provided for in Section
22 1261 of Title 21 of the Oklahoma Statutes;

23 36. Extortion, as provided for in Section 1481 of Title
24 21 of the Oklahoma Statutes;

1 37. Obtaining a signature by extortion, as provided for
2 in Section 1485 of Title 21 of the Oklahoma Statutes;

3 38. Seizure of a bus, discharging a firearm or hurling a
4 missile at any bus, as provided for in Section 1903 of Title
5 21 of the Oklahoma Statutes;

6 39. Mistreatment of a vulnerable adult, as provided for
7 in Section 843.1 of Title 21 of the Oklahoma Statutes;

8 40. Using a vehicle to facilitate the discharge of a
9 weapon, as provided by Section 652 of Title 21 of the
10 Oklahoma Statutes;

11 41. Bombing offenses, as provided for in Section 1767.1
12 of Title 21 of the Oklahoma Statutes;

13 42. Child pornography or aggravated child pornography,
14 as provided for in Sections 1021.2, 1021.3, 1024.1 or
15 1040.12a of Title 21 of the Oklahoma Statutes;

16 43. Child prostitution, as provided for in Section 1030
17 of Title 21 of the Oklahoma Statutes;

18 44. Abuse of a vulnerable adult as defined in Section
19 10-103 of Title 43A of the Oklahoma Statutes who is a
20 resident of a nursing facility;

21 45. Aggravated trafficking, as provided for in
22 subsection C of Section 2-415 of Title 63 of the Oklahoma
23 Statutes;

1 46. Aggravated assault and battery upon any person
2 defending another person from assault and battery;

3 47. Human trafficking, as provided for in Section 748 of
4 Title 21 of the Oklahoma Statutes; or

5 48. Terrorism crimes as provided in Sections 1268
6 through 1268.8 of Title 21 of the Oklahoma Statutes.

7 SECTION 2. AMENDATORY 22 O.S. 2011, Section 185,
8 is amended to read as follows:

9 Section 185. A. If the offense charged in the warrant
10 issued, pursuant to the second preceding section is a
11 misdemeanor, the officer must upon being required by the
12 defendant, take ~~him~~ the defendant before a magistrate of the
13 county in which the warrant was issued, who must admit the
14 defendant to bail, and immediately transmit the warrant,
15 complaint, depositions, if any, and undertaking, to the clerk
16 of the court in which the defendant is required to appear.
17 The magistrate shall allow bail on the own recognizance of
18 the defendant or upon condition of the defendant contacting
19 the office of the prosecutor periodically pending further
20 court appearance, except when the offense is a violent crime
21 or where the magistrate believes by clear and convincing
22 evidence that there is a substantial risk that the defendant
23 will flee the jurisdiction of the court.

1 B. For purposes of this section, "violent crime" means
2 any of the following felony offenses and any attempts to
3 commit, conspiracy to commit or solicitation to commit the
4 following crimes:

5 1. Assault, battery, or assault and battery with a
6 dangerous or deadly weapon, as provided for in Sections 644
7 and 645 of Title 21 of the Oklahoma Statutes;

8 2. Shooting with intent to kill, assault, battery, or
9 assault and battery with a deadly weapon or by other means
10 likely to produce death or great bodily harm, as provided for
11 in Section 652 of Title 21 of the Oklahoma Statutes;

12 3. Aggravated assault and battery on a police officer,
13 sheriff, highway patrolman, or any other officer of the law,
14 as provided for in Section 650 of Title 21 of the Oklahoma
15 Statutes;

16 4. Poisoning with intent to kill, as provided for in
17 Section 651 of Title 21 of the Oklahoma Statutes;

18 5. Assault with intent to commit a felony, as provided
19 for in Section 681 of Title 21 of the Oklahoma Statutes;

20 6. Assaults while masked or disguised, as provided for
21 in Section 1303 of Title 21 of the Oklahoma Statutes;

22 7. Murder in the first degree, as provided for in
23 Section 701.1 of Title 21 of the Oklahoma Statutes;
24

1 8. Murder in the second degree, as provided for in
2 Section 701.8 of Title 21 of the Oklahoma Statutes;

3 9. Manslaughter in the first degree, as provided for in
4 Section 711 of Title 21 of the Oklahoma Statutes;

5 10. Manslaughter in the second degree, as provided for
6 in Section 716 of Title 21 of the Oklahoma Statutes;

7 11. Kidnapping, as provided for in Section 741 of Title
8 21 of the Oklahoma Statutes;

9 12. Burglary in the first degree, as provided for in
10 Section 1431 of Title 21 of the Oklahoma Statutes;

11 13. Burglary with explosives, as provided for in Section
12 1441 of Title 21 of the Oklahoma Statutes;

13 14. Kidnapping for extortion, as provided for in Section
14 745 of Title 21 of the Oklahoma Statutes;

15 15. Maiming, as provided for in Section 751 of Title 21
16 of the Oklahoma Statutes;

17 16. Robbery, as provided for in Section 791 of Title 21
18 of the Oklahoma Statutes;

19 17. Robbery in the first degree, as provided for in
20 Section 797 of Title 21 of the Oklahoma Statutes;

21 18. Robbery in the second degree, as provided for in
22 Section 797 of Title 21 of the Oklahoma Statutes;

23 19. Robbery by two or more persons, as provided for in
24 Section 800 of Title 21 of the Oklahoma Statutes;

1 20. Robbery with a dangerous weapon or imitation
2 firearm, as provided for in Section 801 of Title 21 of the
3 Oklahoma Statutes;

4 21. Child abuse, as provided for in Section 843.5 of
5 Title 21 of the Oklahoma Statutes;

6 22. Wiring any equipment, vehicle or structure with
7 explosives, as provided for in Section 849 of Title 21 of the
8 Oklahoma Statutes;

9 23. Forcible sodomy, as provided for in Section 888 of
10 Title 21 of the Oklahoma Statutes;

11 24. Rape in the first degree, as provided for in Section
12 1114 of Title 21 of the Oklahoma Statutes;

13 25. Rape in the second degree, as provided for in
14 Section 1114 of Title 21 of the Oklahoma Statutes;

15 26. Rape by instrumentation, as provided for in Section
16 1111.1 of Title 21 of the Oklahoma Statutes;

17 27. Lewd or indecent proposition or lewd or indecent act
18 with a child, as provided for in Section 1123 of Title 21 of
19 the Oklahoma Statutes;

20 28. Use of a firearm or offensive weapon to commit or
21 attempt to commit a felony, as provided for in Section 1287
22 of Title 21 of the Oklahoma Statutes;

23 29. Pointing firearms, as provided for in Section 1279
24 of Title 21 of the Oklahoma Statutes;

1 30. Rioting, as provided for in Section 1311 of Title 21
2 of the Oklahoma Statutes;

3 31. Incitement to riot, as provided for in Section
4 1320.2 of Title 21 of the Oklahoma Statutes;

5 32. Arson in the first degree, as provided for in
6 Section 1401 of Title 21 of the Oklahoma Statutes;

7 33. Injuring or burning public buildings, as provided
8 for in Section 349 of Title 21 of the Oklahoma Statutes;

9 34. Sabotage, as provided for in Section 1262 of Title
10 21 of the Oklahoma Statutes;

11 35. Criminal syndicalism, as provided for in Section
12 1261 of Title 21 of the Oklahoma Statutes;

13 36. Extortion, as provided for in Section 1481 of Title
14 21 of the Oklahoma Statutes;

15 37. Obtaining a signature by extortion, as provided for
16 in Section 1485 of Title 21 of the Oklahoma Statutes;

17 38. Seizure of a bus, discharging a firearm or hurling a
18 missile at any bus, as provided for in Section 1903 of Title
19 21 of the Oklahoma Statutes;

20 39. Mistreatment of a vulnerable adult, as provided for
21 in Section 843.1 of Title 21 of the Oklahoma Statutes;

22 40. Using a vehicle to facilitate the discharge of a
23 weapon, as provided by Section 652 of Title 21 of the
24 Oklahoma Statutes;

1 41. Bombing offenses, as provided for in Section 1767.1
2 of Title 21 of the Oklahoma Statutes;

3 42. Child pornography or aggravated child pornography,
4 as provided for in Sections 1021.2, 1021.3, 1024.1 or
5 1040.12a of Title 21 of the Oklahoma Statutes;

6 43. Child prostitution, as provided for in Section 1030
7 of Title 21 of the Oklahoma Statutes;

8 44. Abuse of a vulnerable adult as defined in Section
9 10-103 of Title 43A of the Oklahoma Statutes who is a
10 resident of a nursing facility;

11 45. Aggravated trafficking, as provided for in
12 subsection C of Section 2-415 of Title 63 of the Oklahoma
13 Statutes;

14 46. Aggravated assault and battery upon any person
15 defending another person from assault and battery;

16 47. Human trafficking, as provided for in Section 748 of
17 Title 21 of the Oklahoma Statutes; or

18 48. Terrorism crimes as provided in Sections 1268
19 through 1268.8 of Title 21 of the Oklahoma Statutes.

20 SECTION 3. AMENDATORY 22 O.S. 2011, Section 454, is
21 amended to read as follows:

22 Section 454. A. If the defendant has been discharged on bail,
23 or have deposited money instead thereof, and does not appear to be
24 arraigned, when his or her personal attendance is necessary, the

1 court in addition to the forfeiture of the undertaking of bail or of
2 the money deposited, may direct the clerk to issue a bench warrant
3 for ~~his~~ the arrest of the defendant.

4 B. No bench warrant may be issued for failure to appear in
5 court in a misdemeanor case in which the defendant has not signed a
6 citation or certified mail receipt indicating the defendant has been
7 personally made aware of the charge and the court date.

8 C. If the defendant has signed a citation or certified mail
9 receipt indicating the defendant has been personally made aware of
10 the charge and the court date, upon the failure of the defendant to
11 appear in such case, judgment may be entered against the defendant.
12 No bench warrant or arrest warrant shall be issued if another means
13 of collecting the fine allowable for the charge exists including,
14 but not limited to, an Oklahoma municipal utility account, title to
15 real estate, mineral interests, or a motor vehicle in Oklahoma, an
16 account in a financial institution in Oklahoma, or a record of
17 current employment in Oklahoma, where such account or record is
18 readily ascertainable in a simple online search.

19 SECTION 4. This act shall become effective November 1, 2018.
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