

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 SENATE BILL NO. 363

By: Holt and Sharp of the
Senate

and

O'Donnell of the House

11 COMMITTEE SUBSTITUTE

12 An Act relating to the Pretrial Release Act; amending
13 22 O.S. 2011, Section 1105.3, as last amended by
14 Section 2, Chapter 59, O.S.L. 2016 (22 O.S. Supp.
15 2017, Section 1105.3), which relates to pretrial
16 release programs; authorizing special judges to
17 determine eligibility for certain release; and
18 declaring an emergency.

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

19 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1105.3, as
20 last amended by Section 2, Chapter 59, O.S.L. 2016 (22 O.S. Supp.
21 2017, Section 1105.3), is amended to read as follows:

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

1 B. When a pretrial release program is established pursuant to
2 this act and private bail has not been furnished, the judge may
3 order a person to be evaluated through the pretrial program. After
4 conducting an evaluation of the person applying for pretrial
5 release, the pretrial program shall make a recommendation to the
6 court. The recommendation shall indicate any special supervisory
7 conditions for pretrial release. The judge shall consider the
8 recommendations and may grant or deny pretrial release. The
9 presiding judge of the judicial district may issue a standing order
10 outlining criteria for cases that may automatically be evaluated for
11 pretrial release by a pretrial program operating in the
12 jurisdiction. The standing order may include amounts for bail and
13 types of bonds deemed appropriate for certain offenses.

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;

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

1 21. Manslaughter;

2 22. Manufacture of a controlled dangerous substance;

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

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

7 25. Negligent homicide;

8 26. Out-of-county holds;

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

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

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

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

17 31. Possession of a stolen vehicle;

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

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

22 34. Robbery by force or fear;

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

1 36. Sexual assault or violent offenses against children;

2 37. Shooting with intent to kill;

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

4 39. Two or more prior felony convictions; or

5 40. Unauthorized use of a motor vehicle.

6 D. A person not eligible for pretrial release pursuant to the
7 provisions of subsection C of this section may be released upon
8 order of a district judge ~~or~~, associate district judge or special
9 judge under conditions prescribed by the judge, which may include an
10 order to require the defendant, as a condition of pretrial release,
11 to use or participate in any monitoring or testing including, but
12 not limited to, a Global Positioning System (GPS) monitoring device
13 and urinalysis testing. The court may further order the defendant
14 to pay costs and expenses related to any supervision, monitoring or
15 testing.

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

18 1. The program shall establish a procedure for screening and
19 evaluating persons who are detained or have been arrested for the
20 alleged commission of a crime. The program shall obtain criminal
21 history records on detained persons through the National Crime
22 Information Center (NCIC). The information obtained from the
23 screening and evaluation process must be submitted in a written
24 report without unnecessary delay to the judge who is assigned to

1 hear pretrial release applications when the person is eligible for
2 pretrial release;

3 2. The program shall provide reliable information to the judge
4 relating to the person applying for pretrial release so a reasonable
5 decision can be made concerning the amount and type of bail
6 appropriate for pretrial release. The information provided shall be
7 based upon facts relating to the person's risk of danger to the
8 community and the risk of failure to appear for court; and

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

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

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

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

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

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

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

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

12 SECTION 2. It being immediately necessary for the preservation
13 of the public peace, health or safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/07/2018 - DO
18 PASS, As Amended.