

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1037 \_\_\_\_\_  
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**

Adopted: \_\_\_\_\_

Amendment submitted by: Collin Walke

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1037

By: Walke

7 PROPOSED COMMITTEE SUBSTITUTE

8  
9 An Act relating to criminal procedure; amending 22  
10 O.S. 2011, Sections 1101 and 1105, which relate to  
11 bailable offenses; modifying list of exceptions that  
12 prohibits certain persons from receiving bail;  
13 clarifying conditions considered by the court prior  
14 to determining bond or release; providing statutory  
15 references; providing guidelines for setting bail;  
16 directing court to make individualized determinations  
17 when denying bail; deleting evidentiary requirements  
18 considered by the court when determining bond or  
19 release of persons arrested for certain drug crimes;  
20 amending 22 O.S. 2011, Sections 1105.2, as amended by  
21 Section 1, Chapter 59, O.S.L. 2016, 1105.3, as last  
22 amended by Section 1, Chapter 2, O.S.L. 2018, 1106,  
23 1108.1, 1109 and 1110 (22 O.S. Supp. 2018, Sections  
24 1105.2 and 1105.3), which relate to the Pretrial  
Release Act; establishing pretrial procedures for  
arrested persons; providing time limitation for  
initial appearances; providing for hearing procedures  
and continuances; allowing arrested person to testify  
and present witnesses at hearings; directing courts  
to release persons arrested for certain crimes on his  
or her own recognizance; providing exceptions;  
directing courts to set appropriate conditions for  
persons released on personal recognizance bonds;  
allowing sheriffs or operators of jails or detention  
facilities to use pretrial bail schedules; requiring  
posting of bail schedules in public jail areas;  
directing courts to order the least restrictive  
pretrial release conditions; clarifying and providing  
statutory reference for certain offense; providing  
statutory references; clarifying deposit for bail

1 procedure; providing statutory reference for own  
2 recognizance indenture contract requirements;  
3 deleting certain circumstance that requires better  
4 security for bail; extending time limitation for  
5 persons to surrender after forfeiture; providing  
6 separate bail jumping penalty for persons charged  
7 with certain crimes; amending 59 O.S. 2011, Sections  
8 1334 and 1335, which relate to bail on personal  
9 recognizance and penalties for forfeiture; modifying  
10 guidelines for admitting persons to bail on personal  
11 recognizance; providing statutory reference;  
12 providing gender-neutral language; providing separate  
13 bail jumping penalty for persons charged with certain  
14 crimes; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1101, is  
amended to read as follows:

Section 1101. A. Except as otherwise provided by law, bail, by  
sufficient sureties, shall be admitted upon all arrests in criminal  
cases where the offense is not punishable by death and in such cases  
it may be taken by any of the persons or courts authorized by law to  
arrest, ~~to~~ or imprison offenders or to perform pretrial services, or  
by the clerk of the district court or his or her deputy, or by the  
judge of such courts.

B. In criminal cases where the defendant is currently an  
escaped prisoner from the Department of Corrections, the defendant  
must be processed back into the Department of Corrections prior to  
bail being set on new criminal charges.

1 C. All persons shall be bailable by sufficient sureties, except  
2 that bail may be denied for:

3 1. Capital offenses when the proof of guilt is evident, or the  
4 presumption thereof is great. Such proof or presumption must be  
5 supported by clear and convincing evidence;

6 2. ~~Violent offenses~~ crime as defined in Section 571 of Title 57  
7 of the Oklahoma Statutes;

8 3. Offenses where the maximum sentence may be life imprisonment  
9 or life imprisonment without parole;

10 4. Felony offenses where the person charged with the offense  
11 has been convicted of two or more felony offenses arising out of  
12 different transactions; and

13 5. Controlled dangerous substances offenses where the maximum  
14 sentence may be at least ten (10) ~~years~~ years of imprisonment.

15 On all offenses specified in paragraphs 2 through 5 of this  
16 subsection, the proof of guilt must be evident, or the presumption  
17 must be great, demonstrated by clear and convincing evidence, and it  
18 must be on the grounds that no condition of release would assure the  
19 return of the defendant to court or the safety of the community or  
20 any person.

21 ~~D. There shall be a rebuttable presumption that no condition of~~  
22 ~~release would assure the safety of the community if the state shows~~  
23 ~~by clear and convincing evidence that the person was arrested for a~~  
24 ~~violation of Section 741 of Title 21 of the Oklahoma Statutes~~ Bail

1 shall not be set in an amount higher than what the court determines  
2 is necessary to ensure the return of the person to court, and it  
3 shall not be set in an amount that results in the pretrial detention  
4 of the person. The court shall consider the ability of the person  
5 to pay when setting bail and shall set money bail only upon a  
6 finding that the person has the present ability to pay the amount  
7 required for release.

8 E. In any case in which the court denies bail, the court shall  
9 make an individualized determination supported by clear and  
10 convincing evidence on the record, supported by written findings of  
11 fact, that proof of guilt is evident or the presumption is great and  
12 that no condition of release would assure the return of the person  
13 to court or the safety of the community or any person.

14 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1105, is  
15 amended to read as follows:

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

24

1 B. No police officer or sheriff may release a person arrested  
2 for a violation of an ex parte or final protective order as provided  
3 in Sections 60.2 and 60.3 of this title, or arrested for an act  
4 constituting domestic abuse as specified in Section 644 of Title 21  
5 of the Oklahoma Statutes, or arrested for any act constituting  
6 domestic abuse, stalking or harassment as defined by Section 60.1 of  
7 this title, or arrested for an act constituting domestic assault and  
8 battery or domestic assault and battery with a deadly weapon  
9 pursuant to Section 644 of Title 21 of the Oklahoma Statutes,  
10 without the violator appearing before a magistrate, judge or court.  
11 To the extent that any of the following information is available to  
12 the court, the magistrate, judge or court shall consider, in  
13 addition to any other circumstances, before determining bond and  
14 other conditions of release as necessary for the protection of the  
15 alleged victim, the following:

- 16 1. Whether the person has a history of domestic violence or a  
17 history of other violent acts;
- 18 2. The mental health of the person;
- 19 3. Whether the person has a history of violating ~~the~~ protective  
20 ~~orders of~~ issued by any court ~~or governmental entity~~;
- 21 4. Whether the person ~~is potentially~~ poses a threat to ~~any~~  
22 ~~other~~ a specific person;
- 23 5. ~~Whether the person has a history of abusing alcohol or any~~  
24 ~~controlled substance~~;

1       ~~6.~~ Whether the person has ~~access to deadly weapons or~~ a history  
2 of using deadly weapons;

3       ~~7.~~ 6. The severity of the alleged violence that is the basis of  
4 the alleged offense including, but not limited to:

5           a. the duration of the alleged violent incident,

6           b. whether the alleged violent incident involved serious  
7 physical injury,

8           c. whether the alleged violent incident involved sexual  
9 assault,

10          d. whether the alleged violent incident involved  
11 strangulation,

12          e. whether the alleged violent incident involved abuse  
13 during the pregnancy of the alleged victim,

14          f. whether the alleged violent incident involved the  
15 abuse of pets, or

16          g. whether the alleged violent incident involved forcible  
17 entry to gain access to the alleged victim;

18       ~~8.~~ 7. Whether a separation of the person from the alleged  
19 victim or a termination of the relationship between the person and  
20 the alleged victim has recently occurred or is pending;

21       ~~9.~~ 8. Whether the person has exhibited obsessive or controlling  
22 behaviors toward the alleged victim including, but not limited to,  
23 stalking, surveillance, or isolation of the alleged victim;

24

1       ~~10.~~ 9. Whether the person has expressed suicidal or homicidal  
2 ideations; and

3       ~~11.~~ 10. Any information contained in the complaint and any  
4 police reports, affidavits, or other documents accompanying the  
5 complaint.

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 pursuant to Section 1105.2 of this  
10 title. In determining bond and other conditions of release, the  
11 magistrate, judge, or court shall consider any evidence that the  
12 person is in any manner dependent upon a controlled dangerous  
13 substance or has a pattern of regular, illegal use of any controlled  
14 dangerous substance and may consider the recommendation of a  
15 pretrial service provider pursuant to Section 1105.3 of this title.  
16 ~~A rebuttable presumption that no conditions of release on bond would~~  
17 ~~assure the safety of the community or any person therein shall arise~~  
18 ~~if the state shows by clear and convincing evidence:~~

19       ~~1. The person was arrested for a violation of subsection G of~~  
20 ~~Section 2-401 of Title 63 of the Oklahoma Statutes, relating to~~  
21 ~~manufacturing or attempting to manufacture a controlled dangerous~~  
22 ~~substance, or possessing any of the substances listed in subsection~~  
23 ~~G of Section 2-401 of Title 63 of the Oklahoma Statutes with the~~  
24 ~~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       SECTION 3.       AMENDATORY       22 O.S. 2011, Section 1105.2, as  
8 amended by Section 1, Chapter 59, O.S.L. 2016 (22 O.S. Supp. 2018,  
9 Section 1105.2), is amended to read as follows:

10       Section 1105.2 A. Following an arrest for a misdemeanor or  
11 felony offense ~~and before formal charges have been filed or an~~  
12 ~~indictment made,~~ the arrested person may have bail set by the court  
13 as provided in ~~this act;~~ Section 1105.1 et seq. of this title,  
14 provided there are no provisions of law to the contrary.

15       B. ~~When formal charges or an indictment has been filed, bail~~  
16 ~~shall be set according to law and the pretrial bond, if any, may be~~  
17 ~~reaffirmed unless additional security is required~~ If not otherwise  
18 released, the arrested person shall be taken without unnecessary  
19 delay before the most accessible magistrate in that county for an  
20 initial appearance and formal charges shall be filed. In no case  
21 shall the delay from arrest to initial appearance be more than  
22 forty-eight (48) hours, inclusive of weekends and holidays.

23       C. A hearing shall be held immediately upon the initial  
24 appearance of the arrested person before the magistrate unless the

1 person or the attorney for the state seeks a continuance. Except  
2 for good cause, a continuance on motion of the person may not exceed  
3 five (5) business days, and a continuance on motion of the attorney  
4 for the state may not exceed three (3) business days. At the  
5 hearing, the person shall have the right to be represented by  
6 counsel and, if financially unable to obtain adequate  
7 representation, to have counsel appointed.

8 D. The person shall be afforded an opportunity to testify, to  
9 present witnesses, to cross-examine witnesses who appear at the  
10 hearing and to present information by proffer or otherwise. The  
11 rules concerning admissibility of evidence in criminal trials shall  
12 not apply in such hearing.

13 E. In cases where the most serious offense with which the  
14 arrested person is charged is not a violent crime, as defined in  
15 Section 571 of Title 57 of the Oklahoma Statutes, domestic assault  
16 and battery as provided in Sections 644, 645 and 647 of Title 21 of  
17 the Oklahoma Statutes, violation of a protective order as provided  
18 in Section 60.6 of this title, stalking as provided in Section 1173  
19 of Title 21 of the Oklahoma Statutes, or felony offenses involving  
20 escape or attempt to escape from lawful arrest or confinement as  
21 defined in Sections 434, 436, 443 or 444 of Title 21 of the Oklahoma  
22 Statutes, the court shall release the person pending trial on his or  
23 her own recognizance unless the court finds on the record or in  
24 writing one or more of the following:

1        1. The person's own recognizance will not reasonably assure the  
2 return of the person to court. In making a finding pursuant to this  
3 paragraph, the court may consider any prior record of failing to  
4 appear as required in the court in the last two (2) years, or any  
5 other pending criminal cases of the arrested person;

6        2. The person will obstruct or attempt to obstruct justice, or  
7 threaten, injure or intimidate or attempt to threaten, injure or  
8 intimidate a prospective witness or juror; or

9        3. The person will engage in conduct that threatens the safety  
10 of himself or herself or of another person.

11        F. The hearing may be reopened after an initial determination  
12 by the court at any time before trial if the court finds that  
13 information exists that:

14        1. Was not known to the person at the time of the hearing; and

15        2. Has a material bearing on whether there are conditions of  
16 release that will reasonably assure the appearance of the person as  
17 required and the safety of any other person and the community.

18        G. In cases where a person is not released on his or her own  
19 recognizance pursuant to subsection E of this section, the court  
20 shall set appropriate conditions on the personal recognizance bond  
21 or shall set reasonable bail. In all cases, the court shall set the  
22 least restrictive conditions necessary to reasonably assure the  
23 appearance of the person.

1        H. Every judicial district may, upon the order of the presiding  
2 judge for the district, establish a pretrial bail schedule for use  
3 by the sheriff or other operator of a jail or detention facility to  
4 set bail prior to the initial appearance of the person before the  
5 court for felony or misdemeanor offenses, ~~except for traffic.~~ Any  
6 such pretrial bail schedule shall not apply to traffic offenses  
7 included in subsections B, C and D of Section 1115.3 of ~~Title 22 of~~  
8 ~~the Oklahoma Statutes~~ this title and those offenses specifically  
9 excluded herein. The bail schedule established pursuant to the  
10 authority of this act shall exclude any offense for which bail is  
11 not allowed by law. The bail schedule authorized by this act shall  
12 be set in accordance with guidelines relating to bail ~~and shall be,~~  
13 published and reviewed by March 1 of each year by the courts and  
14 district attorney of the judicial district and displayed in the  
15 public area of the jail or detention facility.

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

19        1. Rescind the bond and proceed to enter a judgment against the  
20 defendant for the dollar amount of the pretrial bail if no private  
21 bail was given at the time of release; provided, however, the court  
22 clerk shall follow the procedures as set forth in Section 1301 et  
23 seq. of Title 59 of the Oklahoma Statutes in collecting the  
24

1 forfeiture amount against the person who fails to appear in court;  
2 or

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

6 ~~D.~~ J. When a pretrial program exists in the judicial district  
7 where the person is being held, the judge may utilize the services  
8 of the pretrial release program when ordering pretrial release,  
9 except when private bail has been furnished.

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

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

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

19 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1105.3, as  
20 last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp.  
21 2018, Section 1105.3), is amended to read as follows:

22 Section 1105.3 A. Any county pursuant to the provisions of  
23 ~~this act~~ Section 1105 et seq. of this title may establish and fund a  
24

1 pretrial program to be utilized by the district court in that  
2 jurisdiction.

3 B. When a pretrial release program is established pursuant to  
4 ~~this act~~ Section 1105 et seq. of this title and private bail has not  
5 been furnished, the judge may order a person to be evaluated through  
6 the pretrial program. After ~~conducting~~ an evaluation of the person  
7 applying for pretrial release, the pretrial program shall make a  
8 recommendation to the court. The recommendation shall indicate any  
9 special supervisory conditions for pretrial release. The judge  
10 shall consider the recommendations and ~~may grant or deny pretrial~~  
11 ~~release~~ shall order the least restrictive conditions that will  
12 reasonably assure the return of the person to court. The presiding  
13 judge of the judicial district may issue a standing order outlining  
14 criteria for cases that may automatically be evaluated for pretrial  
15 release by a pretrial program operating in the jurisdiction. The  
16 standing order may include amounts for bail and types of bonds  
17 deemed appropriate for certain offenses.

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

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

24

- 1        2. Any felony driving under the influence of an intoxicating  
2 substance;
- 3        3. Any offense prohibited by the Trafficking In Illegal Drugs  
4 Act;
- 5        4. Any person having a violent felony conviction within the  
6 past ten (10) years;
- 7        5. Appeal bond;
- 8        6. Arson in the first degree, including attempts to commit  
9 arson in the first degree;
- 10       7. Assault and battery on a police officer;
- 11       8. ~~Bail~~ Felony bail jumping pursuant to Section 1110 of this  
12 title;
- 13       9. Bribery of a public official;
- 14       10. Burglary in the first or second degree;
- 15       11. Civil contempt proceedings;
- 16       12. Distribution of a controlled dangerous substance, including  
17 the sale or possession of a controlled dangerous substance with  
18 intent to distribute or conspiracy to distribute;
- 19       13. Domestic abuse, domestic assault or domestic assault and  
20 battery with a dangerous weapon, or domestic assault and battery  
21 with a deadly weapon;
- 22       14. Driving under the influence of intoxicating substance where  
23 property damage or personal injury occurs;
- 24       15. Felony discharging a firearm from a vehicle;

- 1 16. Felony sex offenses;
- 2 17. Fugitive bond or a governor's fugitive warrant;
- 3 18. Immigration charges;
- 4 19. Kidnapping;
- 5 20. Juvenile or youthful offender detention;
- 6 21. Manslaughter;
- 7 22. Manufacture of a controlled dangerous substance;
- 8 23. Murder in the first degree, including attempts or  
9 conspiracy to commit murder in the first degree;
- 10 24. Murder in the second degree, including attempts or  
11 conspiracy to commit murder in the second degree;
- 12 25. Negligent homicide;
- 13 26. Out-of-county holds;
- 14 27. Persons currently on pretrial release who are arrested on a  
15 new felony offense;
- 16 28. Possession, manufacture, use, sale or delivery of an  
17 explosive device;
- 18 29. Possession of a controlled dangerous substance on Schedule  
19 I or II of the Controlled Dangerous Substances Act;
- 20 30. Possession of a firearm or other offensive weapon during  
21 the commission of a felony;
- 22 31. Possession of a stolen vehicle;
- 23 32. Rape in the first degree, including attempts to commit rape  
24 in the first degree;



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

3 34. Robbery by force or fear;

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

6 36. Sexual assault or violent offenses against children;

7 37. Shooting with intent to kill;

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

9 39. Two or more prior felony convictions; or

10 40. Unauthorized use of a motor vehicle.

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

21 E. Every pretrial services program operating pursuant to the  
22 provisions of ~~this act~~ Section 1105.1 et seq. of this title shall  
23 meet the following minimum criteria:  
24

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

10           2. The program shall provide reliable information to the judge  
11 relating to the person applying for pretrial release so a reasonable  
12 decision can be made concerning the amount and type of bail  
13 appropriate for pretrial release. The information provided shall be  
14 based upon facts relating to the person's risk of danger to the  
15 community and the risk of failure to appear for court; and

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

19           F. A pretrial program established pursuant to ~~this act~~ Section  
20 1105.1 et seq. of this title may provide different methods and  
21 levels of community-based supervision to meet any court-ordered  
22 conditions of release. The program may use existing supervision  
23 methods for persons who are released prior to trial. Pretrial  
24 programs which employ peace officers certified by the Council on Law

1 Enforcement Education and Training (CLEET) are authorized to enforce  
2 court-ordered conditions of release.

3 G. Each pretrial program established pursuant to ~~this act~~  
4 Section 1105.1 et seq. of this title shall provide a quarterly  
5 report to the presiding judge of the judicial district of the  
6 jurisdiction in which it operates. A copy of the report shall be  
7 filed of record with the court clerk of the jurisdiction. Each  
8 report shall include, but is not limited to, the following  
9 information:

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

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

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

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

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

21 SECTION 5. AMENDATORY 22 O.S. 2011, Section 1106, is  
22 amended to read as follows:

23 Section 1106. A deposit of the sum of money mentioned in ~~the~~  
24 any order admitting to bail with financial conditions is equivalent

1 to bail and upon such deposit the defendant must be discharged from  
2 custody.

3 SECTION 6. AMENDATORY 22 O.S. 2011, Section 1108.1, is  
4 amended to read as follows:

5 Section 1108.1 A. Own recognizance bonds ~~set in a penal amount~~  
6 ordered by the court pursuant to subsection E of Section 1105.2 of  
7 this title shall be posted by executing an own recognizance  
8 indenture contract which shall be executed and maintained by the  
9 district court clerk. The indenture shall constitute an inchoate  
10 obligation to pay in the event forfeiture proceedings are commenced  
11 and result in a final order of forfeiture by the authorizing and  
12 issuing judge of the district court.

13 B. Setting aside of forfeitures shall be governed by the same  
14 rules and procedures applicable to cash, property or surety bonds,  
15 provided that if the forfeiture is set aside, the district court  
16 shall exempt from forfeiture set aside all reasonable costs of  
17 recovery to return the defendant to custody, and an administrative  
18 fee to be retained by the court fund in a sum not to exceed ten  
19 percent (10%) of the total penal bond amount plus all costs incurred  
20 in processing the forfeiture proceeding to include costs of notices,  
21 warrants, service and execution.

22 C. The final judgment of forfeiture shall constitute a judgment  
23 enforceable through all procedures available for the collection of a  
24 civil judgment, provided that the judgment shall be considered a

1 debt in the nature of defalcation as defined by the United States  
2 Bankruptcy Code, and shall not be subject to other forms of debtor  
3 relief. The judgment shall be subject to collection as costs in the  
4 underlying action regardless of final disposition or determination  
5 of guilt.

6 D. The district attorney or the Administrator of the District  
7 Court Cost Collection Division as determined by administration order  
8 in each judicial district shall initiate the forfeiture action and  
9 collection of forfeitures and shall receive one-third (1/3) of all  
10 sums collected from the ten percent (10%) premium, not to include  
11 costs as defined in subsection B of this section, to offset the  
12 costs of administering the program.

13 E. This section does not apply to traffic or wildlife cases.

14 SECTION 7. AMENDATORY 22 O.S. 2011, Section 1109, is  
15 amended to read as follows:

16 Section 1109. When proof is made to any court, judge or other  
17 magistrate having authority to commit on criminal charges, that a  
18 person previously admitted to bail on any such charge is about to  
19 abscond, ~~or that his bail is insufficient,~~ or has removed from the  
20 state, the judge or magistrate shall require such person to give  
21 better security, or for default thereof cause him or her to be  
22 committed to prison~~;~~, and an order for his or her arrest may be  
23 endorsed on the former commitment, or a new warrant therefor may be  
24 issued by such judge or magistrate, setting forth the cause thereof.

1 SECTION 8. AMENDATORY 22 O.S. 2011, Section 1110, is  
2 amended to read as follows:

3 Section 1110. Whoever, having been admitted to bail or released  
4 on recognizance, bond, or undertaking for appearance before any  
5 magistrate or court of ~~the State of Oklahoma~~ this state, incurs a  
6 forfeiture of the bail or violates such undertaking or recognizance  
7 and willfully fails to surrender himself or herself within ~~five (5)~~  
8 thirty (30) days following the date of such forfeiture shall, ~~if be~~  
9 subject to the following penalties:

10 1. If the bail was given or the undertaking or recognizance  
11 extended in connection with a charge of ~~felony~~ a violent crime, as  
12 defined in Section 571 of Title 57 of the Oklahoma Statutes, or  
13 pending appeal or certiorari after conviction of any such offense,  
14 be guilty of a felony and shall be fined not more than One Thousand  
15 Dollars (\$1,000.00) or imprisoned in the custody of the Department  
16 of Corrections for not more than one (1) year, or both; or

17 2. If the bail was given or the undertaking or recognizance  
18 extended in connection with a charge of a crime other than a violent  
19 crime as defined in Section 571 of Title 57 of the Oklahoma Statutes  
20 or pending appeal or certiorari after conviction of any such  
21 offense, be guilty of a misdemeanor and shall be fined not more than  
22 Five Hundred Dollars (500.00) or imprisoned in the custody of the  
23 county jail for not more than six (6) months, or both.

24

1 Nothing in this section shall be construed to interfere with or  
2 prevent the exercise by any court of its power to punish for  
3 contempt.

4 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1334, is  
5 amended to read as follows:

6 Section 1334. A. Any person in custody before a court or  
7 magistrate of ~~the State of Oklahoma~~ this state subject to discretion  
8 of the court may be admitted to bail on his or her personal  
9 recognizance ~~subject to such conditions as the court or magistrate~~  
10 ~~may reasonably prescribe to assure his appearance when required in~~  
11 accordance with the requirements of Sections 1101 through 1115.5 of  
12 this title.

13 B. When a person is admitted to bail on his or her personal  
14 recognizance, the court or magistrate may determine an amount of  
15 money, property, or securities which shall be paid or forfeited as a  
16 penalty by the defendant for failure to comply with the terms of his  
17 or her admission to bail on personal recognizance. This penalty  
18 shall be in addition to the penalties provided for in Section 1335  
19 of this title.

20 C. Any person admitted to bail as herein provided shall be  
21 fully appraised by the court or magistrate of the penalties provided  
22 for failure to comply with the terms of his or her recognizance and,  
23 upon a failure of compliance, a warrant for the arrest of such  
24 person shall be issued forthwith.

1 SECTION 10. AMENDATORY 59 O.S. 2011, Section 1335, is  
2 amended to read as follows:

3 Section 1335. Whoever, having been admitted to bail for  
4 appearance before any district court in ~~the State of Oklahoma~~ this  
5 state, ~~(1)~~ incurs a forfeiture of the bail and willfully fails to  
6 surrender himself or herself within thirty (30) days following the  
7 date of such forfeiture, or ~~(2)~~ willfully fails to comply with the  
8 terms of his or her personal recognizance, shall be subject to the  
9 following penalties:

10 1. If the underlying offense for which the defendant was  
11 admitted to bail was a violent crime as defined in Section 571 of  
12 Title 57 of the Oklahoma Statutes, the defendant shall, upon  
13 conviction, be guilty of a felony and shall be fined not more than  
14 Five Thousand Dollars (\$5,000.00) or imprisoned not more than ~~two~~  
15 ~~(2) years~~ one (1) year, or both; or

16 2. If the underlying offense for which the defendant was  
17 admitted to bail was a crime other than a violent crime as defined  
18 in Section 571 of Title 57 of the Oklahoma Statutes, the defendant  
19 shall, upon conviction, be guilty of a misdemeanor and shall be  
20 fined not more than Five Hundred Dollars (\$500.00), or imprisoned in  
21 the county jail for not more than six (6) months, or both.

22 SECTION 11. This act shall become effective November 1, 2019.

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