

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1380

By: David

AS INTRODUCED

An Act relating to pretrial release; amending 22 O.S. 2011, Sections 1105.3, as last amended by Section 1, Chapter 2, O.S.L. 2018 and 1108.1 (22 O.S. Supp. 2019, Section 1105.3), which relate to pretrial release programs and own recognizance bonds; prohibiting eligibility for certain pretrial release programs for certain offenses; providing exception to eligibility for own recognizance bonds; updating statutory references; 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, as last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp. 2019, Section 1105.3), is amended to read as follows:

Section 1105.3. A. Any county pursuant to the provisions of ~~this act~~ Section 1105.1 et seq. of this title 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~~ Section 1105.1 et seq. of this title and private bail has not been furnished, the judge may order a person to be evaluated

1 through the pretrial program. After conducting an evaluation of the
2 person applying for pretrial release, the pretrial program shall
3 make a recommendation to the court. The recommendation shall
4 indicate any special supervisory conditions for pretrial release.
5 The judge shall consider the recommendations and may grant or deny
6 pretrial release. The presiding judge of the judicial district may
7 issue a standing order outlining criteria for cases that may
8 automatically be evaluated for pretrial release by a pretrial
9 program operating in the jurisdiction. The standing order may
10 include amounts for bail and types of bonds deemed appropriate for
11 certain offenses.

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

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

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

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

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

24 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;

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

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

5 25. Negligent homicide;

6 26. Out-of-county holds;

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

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

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

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

15 31. Possession of a stolen vehicle;

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

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

20 34. Robbery by force or fear;

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

23 36. Sexual assault or violent offenses against children;

24 37. Shooting with intent to kill;

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

2 39. Two or more prior felony convictions; or

3 40. Unauthorized use of a motor vehicle.

4 D. A Other than a person accused of or detained for an offense
5 listed in paragraph 13 or 38 of subsection C of this section, a
6 person not eligible for pretrial release pursuant to the provisions
7 of subsection C of this section may be released upon order of a
8 district judge, associate district judge or special judge under
9 conditions prescribed by the judge, which may include an order to
10 require the defendant, as a condition of pretrial release, to use or
11 participate in any monitoring or testing including, but not limited
12 to, a Global Positioning System (GPS) monitoring device and
13 urinalysis testing. The court may further order the defendant to
14 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~~ Section 1105.1 et seq. of this title shall
18 meet the following minimum criteria:

19 1. The program shall establish a procedure for screening and
20 evaluating persons who are detained or have been arrested for the
21 alleged commission of a crime. The program shall obtain criminal
22 history records on detained persons through the National Crime
23 Information Center (NCIC). The information obtained from the
24 screening and evaluation process must be submitted in a written

1 report without unnecessary delay to the judge who is assigned to
2 hear pretrial release applications when the person is eligible for
3 pretrial release;

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

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

13 F. A pretrial program established pursuant to ~~this act~~ Section
14 1105.1 et seq. of this title may provide different methods and
15 levels of community-based supervision to meet any court-ordered
16 conditions of release. The program may use existing supervision
17 methods for persons who are released prior to trial. Pretrial
18 programs which employ peace officers certified by the Council on Law
19 Enforcement Education and Training (CLEET) are authorized to enforce
20 court-ordered conditions of release.

21 G. Each pretrial program established pursuant to ~~this act~~
22 Section 1105.1 et seq. of this title shall provide a quarterly
23 report to the presiding judge of the judicial district of the
24 jurisdiction in which it operates. A copy of the report shall be

1 filed of record with the court clerk of the jurisdiction. Each
2 report shall include, but is not limited to, the following
3 information:

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

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

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

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

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

15 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1108.1, is
16 amended to read as follows:

17 Section 1108.1. A. Own recognizance bonds set in a penal
18 amount shall be posted by executing an own recognizance indenture
19 contract which shall be executed and maintained by the district
20 court clerk. The indenture shall constitute an inchoate obligation
21 to pay in the event forfeiture proceedings are commenced and result
22 in a final order of forfeiture by the authorizing and issuing judge
23 of the district court.

1 B. Setting aside of forfeitures shall be governed by the same
2 rules and procedures applicable to cash, property or surety bonds,
3 provided that if the forfeiture is set aside, the district court
4 shall exempt from forfeiture set aside all reasonable costs of
5 recovery to return the defendant to custody, and an administrative
6 fee to be retained by the court fund in a sum not to exceed ten
7 percent (10%) of the total penal bond amount plus all costs incurred
8 in processing the forfeiture proceeding to include costs of notices,
9 warrants, service and execution.

10 C. The final judgment of forfeiture shall constitute a judgment
11 enforceable through all procedures available for the collection of a
12 civil judgment, provided that the judgment shall be considered a
13 debt in the nature of defalcation as defined by the United States
14 Bankruptcy Code, and shall not be subject to other forms of debtor
15 relief. The judgment shall be subject to collection as costs in the
16 underlying action regardless of final disposition or determination
17 of guilt.

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

E. This section does not apply to traffic or wildlife cases, or to cases described in paragraph 13 or 38 of subsection C of Section 1105.3 of this title.

SECTION 3. This act shall become effective November 1, 2020.

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