

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 1545

By: Leewright

COMMITTEE SUBSTITUTE

An Act relating to bail; amending 22 O.S. 2021, Section 1101, which relates to bailable offenses; providing primary consideration for court making certain determination; establishing burden of proof to overcome certain presumption; requiring court to consider certain factors; requiring Administrative Office of the Courts to develop and maintain a public safety report system; establishing requirements for public safety report system; providing for access to certain system; construing provisions; prohibiting inclusion of certain information in certain system; requiring judicial officer to utilize certain system in preparation of certain report; establishing requirements for certain report; requiring court clerk to make certain report to Administrative Office of the Courts; requiring publication of certain information on court website; requiring submission of certain report by Administrative Office of the Courts; requiring annual report by pretrial services programs; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 1101, is amended to read as follows:

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

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

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

14 1. Capital offenses when the proof of guilt is evident, or the
15 presumption thereof is great;

16 2. Violent offenses;

17 3. Offenses where the maximum sentence may be life imprisonment
18 or life imprisonment without parole;

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

22 5. Controlled dangerous substances offenses where the maximum
23 sentence may be at least ten (10) years' imprisonment.
24

1 On all offenses specified in paragraphs 2 through 5 of this
2 subsection, the proof of guilt must be evident, or the presumption
3 must be great, and it must be on the grounds that no condition of
4 release would assure the safety of the community or any person.

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

9 E. When setting bail and conditions of release, the primary
10 consideration of the court shall be the safety of the public and a
11 presumption against a personal recognizance release or release on an
12 unsecured bond may only be overcome by clear and convincing evidence
13 that the person is not a flight risk or danger to the public. In
14 making such determination, the court shall consider whether:

15 1. The person has been convicted of a sexual offense, violent
16 offense, or other felony within the past five (5) years;

17 2. The person is currently on release on another pending
18 charge;

19 3. The person is currently on probation or parole;

20 4. The person has been charged with possession of a firearm
21 when disqualified to do so based on a prior felony conviction;

22 5. The person has failed to appear as required in the current
23 matter; and

1 6. The person has failed to appear as required any time in the
2 previous three (3) years.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1116.1 of Title 22, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Administrative Office of the Courts shall develop and
7 maintain a public safety report system that is available for use for
8 purposes of Section 3 of this act. The public safety report system
9 shall:

10 1. Provide the defendant's name and date of birth or, if
11 impracticable, other identifying information, the cause number of
12 the case, if available, and the offense for which the defendant was
13 arrested;

14 2. Provide information on the eligibility of the defendant for
15 a personal recognizance bond;

16 3. Provide information regarding the applicability of any
17 required or discretionary bond conditions;

18 4. Provide, in summary form, the criminal history of the
19 defendant including information regarding any:

- 20 a. previous misdemeanor or felony convictions,
- 21 b. pending charges,
- 22 c. previous sentences imposing a term of confinement,
- 23
- 24

1 d. previous convictions or pending charges for violent
2 offenses or offenses involving violence directed
3 against a peace officer, and

4 e. previous failures of the defendant to appear in court
5 following release on bail; and

6 5. Be designed to collect and maintain information designed to
7 report to the Legislature and the public on the bail system.

8 C. The Administrative Office of the Courts shall provide access
9 to the public safety report system to the appropriate officials in
10 each county and each municipality at no cost. This subsection shall
11 not be construed to require the Administrative Office of the Courts
12 to provide an official or magistrate with any equipment or support
13 related to accessing or using the public safety report system.

14 D. The public safety report system shall not:

15 1. Be the only item relied on by a judge or magistrate in
16 making a bail decision;

17 2. Include a score, rating, or assessment of the defendant's
18 risk or make any recommendation regarding the appropriate bail for
19 the defendant; or

20 3. Include any information other than the information required
21 by Subsection B of this section.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1161.2 of Title 22, unless there
24 is created a duplication in numbering, reads as follows:

1 A. A judicial officer at initial appearance to consider the
2 release on bail of a defendant charged with an offense punishable as
3 a felony offense shall consider the public safety report system
4 developed under Section 2 of this act and shall utilize the system
5 to prepare a public safety report with respect to the defendant.
6 Such public safety report shall be provided to the judicial officer
7 setting bail and conditions of release as soon as practicable but no
8 later than forty-eight (48) hours after the defendant's arrest. The
9 judicial officer shall consider such report when making a
10 determination on bail and conditions of release.

11 B. In his or her discretion, a judicial officer may order,
12 prepare, or consider a public safety report as required in
13 subsection A of this section in setting bail and conditions of
14 release for a defendant charged with a misdemeanor.

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1161.3 of Title 22, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The clerk of a court setting bail in criminal cases shall
19 report to the Administrative Office of the Courts:

20 1. The number of defendants for whom bail was set after arrest
21 including:

- 22 a. the number for each category of offense,
- 23 b. the number of personal recognizance bonds, and
- 24 c. the number of surety or cash bonds;

1 2. The number of defendants released on bail, personal
2 recognizance, pretrial services, or cash bond who subsequently
3 failed to appear;

4 3. The number of defendants released on bail, personal
5 recognizance, pretrial services, or cash bond who subsequently
6 violated a condition of release; and

7 4. The number of defendants who committed an offense while
8 released on bail, community supervision, or any other type of
9 pretrial services.

10 B. The Administrative Office of the Courts shall post the
11 information provided as required by subsection A of this section on
12 the court website without disclosing any personal information of any
13 defendant, judge, or magistrate.

14 C. No later than October 1 of each year, with the previous
15 eight quarters of data to be reported on October 1, 2022, the
16 Administrative Office of the Courts shall submit a report containing
17 the data collected pursuant to this section during the preceding
18 fiscal year to the Governor, the President Pro Tempore of the
19 Senate, and the Speaker of the House of Representatives.

20 D. Beginning October 1, 2022, with the previous eight quarters
21 of data to be reported on October 1, 2022, each pretrial services
22 program shall provide an annual report to the Administrative Office
23 of the Courts no later than October 1 of each year. Such report
24 shall include but not be limited to:

1 1. The total number of pretrial assessments performed by the
2 program and submitted to the court;

3 2. The total number of closed cases by the program in which the
4 person was released from custody and supervised by the program;

5 3. The total number of closed cases in which the person was
6 released from custody, was supervised by the program, and appeared
7 for all scheduled court appearances on the case while under
8 supervision;

9 4. The total number of closed cases in which the person was
10 released from custody, was supervised by the program, and was not
11 charged with a new criminal offense that was alleged to have
12 occurred while under supervision and that carried the possibility of
13 a sentence to jail or imprisonment;

14 5. The total number of closed cases in which the person was
15 released from custody and was supervised by the program, and the
16 person's bond was not revoked by the court due to a violation of any
17 other terms and conditions of supervision;

18 6. For all new crimes committed by defendants supervised by the
19 program, a complete listing of all of the new crime or crimes
20 alleged to have been committed by defendants, without identifying
21 information, while on supervision by the program; and

22 7. Any additional information the Administrative Office of the
23 Courts may request.
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1 E. For the reports required pursuant to subsection D of this
2 section, the pretrial services program shall include information
3 detailing the number of persons released on a commercial surety bond
4 in addition to pretrial supervision, the number of persons released
5 on a cash, private surety, or property bond in addition to pretrial
6 supervision, and the number of persons released on any form of a
7 personal recognizance bond in addition to pretrial supervision.

8 SECTION 5. This act shall become effective July 1, 2022.

9 SECTION 6. It being immediately necessary for the preservation
10 of the public peace, health or safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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