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March 1, 2022

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL NO. 1545

By: Leewright and Bullard

[ bail - bailable offenses - court making certain  
determination - burden of proof to overcome certain  
presumption - public safety report system -  
information on court website - codification -  
effective date -

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:

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 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;

5 2. Violent offenses;

6 3. Offenses where the maximum sentence may be life imprisonment  
7 or life imprisonment without parole;

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

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

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

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

21 E. When setting bail and conditions of release, the primary  
22 consideration of the court shall be the safety of the public and a  
23 presumption against a personal recognizance release or release on an  
24 unsecured bond may only be overcome by clear and convincing evidence

1 that the person is not a flight risk or danger to the public. In  
2 making such determination, the court shall consider whether:

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

5 2. The person is currently on release on another pending  
6 charge;

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

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

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

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

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

17 A. The Administrative Office of the Courts shall develop and  
18 maintain a public safety report system that is available for use for  
19 purposes of Section 3 of this act. The public safety report system  
20 shall:

21 1. Provide the defendant's name and date of birth or, if  
22 impracticable, other identifying information, the cause number of  
23 the case, if available, and the offense for which the defendant was  
24 arrested;

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

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

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

7            a. previous misdemeanor or felony convictions,

8            b. pending charges,

9            c. previous sentences imposing a term of confinement,

10           d. previous convictions or pending charges for violent  
11 offenses or offenses involving violence directed  
12 against a peace officer, and

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

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

17        C. The Administrative Office of the Courts shall provide access  
18 to the public safety report system to the appropriate officials in  
19 each county and each municipality at no cost. This subsection shall  
20 not be construed to require the Administrative Office of the Courts  
21 to provide an official or magistrate with any equipment or support  
22 related to accessing or using the public safety report system.

23        D. The public safety report system shall not:  
24

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

3        2. Include a score, rating, or assessment of the defendant's  
4 risk or make any recommendation regarding the appropriate bail for  
5 the defendant; or

6        3. Include any information other than the information required  
7 by subsection B of this section.

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

11        A. A judicial officer at initial appearance to consider the  
12 release on bail of a defendant charged with an offense punishable as  
13 a felony offense shall consider the public safety report system  
14 developed under Section 2 of this act and shall utilize the system  
15 to prepare a public safety report with respect to the defendant.  
16 Such public safety report shall be provided to the judicial officer  
17 setting bail and conditions of release as soon as practicable but no  
18 later than forty-eight (48) hours after the defendant's arrest. The  
19 judicial officer shall consider such report when making a  
20 determination on bail and conditions of release.

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

SECTION 4. NEW LAW

A new section of law to be codified in the Oklahoma Statutes as Section 1161.3 of Title 22, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9        7. Any additional information the Administrative Office of the  
10 Courts may request.

11        E. For the reports required pursuant to subsection D of this  
12 section, the pretrial services program shall include information  
13 detailing the number of persons released on a commercial surety bond  
14 in addition to pretrial supervision, the number of persons released  
15 on a cash, private surety, or property bond in addition to pretrial  
16 supervision, and the number of persons released on any form of a  
17 personal recognizance bond in addition to pretrial supervision.

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
24 March 1, 2022 - DO PASS AS AMENDED