

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

SENATE BILL 1381

By: Rader

AS INTRODUCED

An Act relating to criminal pretrial procedures; creating the Pretrial Procedures Modernization Act of 2026; providing short title; amending 22 O.S. 2021, Sections 181 and 251, which relate to defendants taken before magistrate; requiring defendants to be taken before magistrate within specified time period; requiring individualized pretrial release hearing; requiring court to make certain finding; requiring court to consider certain factors when making finding; establishing duties of magistrate in certain hearing; establishing guidelines for attorney representation; authorizing examination and challenge of certain evidence; allowing presentation of evidence; requiring recording of certain findings; authorizing imposition of certain conditions of release; requiring written findings of fact for certain orders; amending 22 O.S. 2021, Section 1105.2, which relates to the Pretrial Release Act; authorizing bail prior to initial appearance; authorizing establishment of pre-appearance bail schedule; requiring public display of certain bail schedule; establishing requirements for determination of certain bail amounts; conforming language; making language gender neutral; updating statutory references; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Pretrial Procedures Modernization Act of 2026".

SECTION 2. AMENDATORY 22 O.S. 2021, Section 181, is amended to read as follows:

Section 181. ~~The~~ In all cases, a defendant must, in all cases, who has been arrested with or without a warrant for a criminal offense shall be taken before the a magistrate for a pretrial release hearing without unnecessary delay, but in no case later than forty-eight (48) hours after being taken into custody, except on weekends or holidays, in which case no later than seventy-two (72) hours.

SECTION 3. AMENDATORY 22 O.S. 2021, Section 251, is amended to read as follows:

Section 251. A. When the defendant is brought before a magistrate upon an arrest, either with or without a warrant for an initial appearance, on a charge of having committed a public offense, the magistrate ~~must~~ shall immediately inform ~~him~~ the defendant of the charge against him, or her and ~~of his right to the aid of counsel in every stage of the proceedings, and also of his right to waive an examination before any further proceedings are had~~ conduct an individualized pretrial release hearing to determine the conditions under which the defendant will be held or released

1 pending trial. Rules of evidence shall not apply at the pretrial  
2 release hearing.

3 B. At the pretrial hearing, in assessing whether the defendant  
4 can be safely released, the court shall make a finding of the  
5 likelihood of the defendant's nonappearance in court as directed,  
6 and whether the defendant will create a threat of physical harm to  
7 one or more members of the community. In making its finding, the  
8 court shall consider the following factors:

- 9 1. Seriousness of the offense;
- 10 2. Threat to self or others or other safety risk;
- 11 3. Apparent likelihood of conviction;
- 12 4. Mental health history or physical disability;
- 13 5. County of residence, length of time of residency, and other  
14 ties to the community;
- 15 6. Whether currently on probation or out on bond, or has cases  
16 pending;
- 17 7. Record of prior willful failure to appear;
- 18 8. Criminal and bail history and likelihood of reoffending;
- 19 9. Employment status;
- 20 10. Financial resources available to post bond;
- 21 11. Recipient of disability benefits or other public benefits;
- 22 12. Ineligibility for a personal recognizance bond because of  
23 the charged offense; and

1       13. Any other factors, including factors provided in Section  
2 1105 of this title, that indicate a defendant's risk of failure to  
3 appear or danger to one or more persons.

4       C. At the pretrial hearing, the court shall:

5       1. Inform the defendant orally and in writing of the time and  
6 place of his or her next court date;

7       2. Order the defendant, if released, to appear at all court  
8 hearings as directed and not to commit a criminal offense while  
9 released;

10       3. Advise the defendant that if he or she fails to appear as  
11 directed or commits a criminal offense while released, a warrant may  
12 be issued for his or her arrest for violating the release conditions  
13 and that he or she could be subjected to greater restrictions or  
14 ordered to stay in jail pending trial; and

15       4. Advise the defendant that he or she can register for text  
16 reminders to be sent forty-eight (48) hours before each scheduled  
17 court appearance on the text messaging service provided by the  
18 Supreme Court of Oklahoma and provide written registration  
19 instructions to the defendant.

20       D. 1. The defendant shall be advised that he or she has the  
21 right to be represented by an attorney of his or her own choosing or  
22 an appointed attorney at no expense if he or she is financially  
23 unable to obtain counsel. The court shall appoint counsel unless  
24 the defendant has retained counsel or has been advised of and

1 knowingly waived appointment of counsel. The court may accept the  
2 representations of the defendant given under oath and waive the  
3 application required by Section 1355A of this title for the purpose  
4 of appointing the Oklahoma Indigent Defense System for  
5 representation of the defendant at the pretrial release hearing  
6 only. The defendant shall have the opportunity to consult with his  
7 or her attorney prior to and during the pretrial release hearing.

8 2. The defendant shall be advised of the factors that will be  
9 used to determine whether he or she will be held or released pending  
10 trial and shall have the opportunity to examine and challenge any  
11 evidence presented to or considered by the court in connection with  
12 the release determination and to cross-examine any witnesses. The  
13 defendant shall be allowed to present evidence and witness  
14 testimony, and to make arguments.

15 3. Each of the findings required in this section shall be  
16 contained in a record, which may consist of a court minute or a  
17 recording which identifies the evidence on which the court relied to  
18 make each of its findings.

19 E. If the court finds that the defendant cannot be safely  
20 released, the court may impose conditions of release in addition to  
21 its order to appear in court as directed and not to commit a  
22 criminal offense while released. Provided, the court shall impose a  
23 condition or a set of conditions that is the least restrictive  
24 necessary to reasonably prevent the risk of nonappearance of the

1 defendant and any threat of physical harm to one or more members of  
2 the public.

3 F. For orders denying bail, the court shall include written  
4 findings of fact and a statement of the reasons for the detention,  
5 supporting the conclusion with clear and convincing evidence that no  
6 conditions of release can reasonably assure the safety of the public  
7 or any person, and that proof of guilt is evident or the presumption  
8 great. For the purposes of this subsection, any secured or  
9 partially secured bond condition shall be deemed an order denying  
10 bail unless the court finds the defendant has the present ability to  
11 pay the secured portion of the bond.

12 SECTION 4. AMENDATORY 22 O.S. 2021, Section 1105.2, is  
13 amended to read as follows:

14 Section 1105.2. A. Following an arrest for a misdemeanor or  
15 felony offense and before formal charges have been filed or an  
16 indictment made, or before an initial appearance before a  
17 magistrate, the arrested person may have a pre-appearance bail set  
18 by the court as provided in ~~this act;~~ the Pretrial Release Act,  
19 provided there are no provisions of law to the contrary.

20 B. When the defendant appears before a magistrate for a  
21 pretrial release hearing or when formal charges or an indictment has  
22 been filed, bail conditions of release shall be ~~set according to law~~  
23 ~~and the pretrial bond, if any, may be reaffirmed unless additional~~  
24 ~~security is required~~ determined as provided in Section 251 of this

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

18 C. When a defendant is assigned bail under a bail schedule, the  
19 amount shall be determined by reference to the charge of arrest  
20 associated with the highest bail amount. Scheduled bail amounts  
21 shall not be aggregated. Bail amounts prescribed by a bail schedule  
22 shall not be considered presumptively reasonable when a court  
23 subsequently determines the defendant's release conditions.

1        D. The ~~pretrial~~ pre-appearance bail shall be set in a numerical  
2 dollar amount. If the person fails to appear in court as required  
3 the judge shall:

4        1. Rescind the bond and proceed to enter a judgment against the  
5 defendant for the dollar amount of the pretrial bail if no private  
6 bail was given at the time of release; provided, however, the court  
7 clerk shall follow the procedures as set forth in Section 1301 et  
8 seq. of Title 59 of the Oklahoma Statutes in collecting the  
9 forfeiture amount against the person who fails to appear in court;  
10 or

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

14        ~~D.~~ E. When a pretrial program exists in the judicial district  
15 where the person is being held, the judge may utilize the services  
16 of the pretrial release program when ordering pretrial release,  
17 except when private bail has been furnished.

18        ~~E.~~ F. Upon an order for pretrial release or release on bond,  
19 the person shall be released from custody without undue delay.

20        ~~F.~~ G. The court may require the person to be placed on an  
21 electronic monitoring device as a condition of pretrial release.

22        ~~G.~~ H. In instances where an electronic monitoring device has  
23 been ordered, the court may impose payment of a supervision fee.  
24 Payment of the fee, in whole or according to a court-ordered



1 installment schedule, shall be a condition of pretrial release. The  
2 court clerk shall collect the supervision fees.

3 SECTION 5. This act shall become effective November 1, 2026.  
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