

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SENATE BILL 1702

By: Gollihare

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2021, Sections 1105.2 and 1105.3, which relate
9 to the Pretrial Release Act; authorizing use of
10 certain treatment programs for pretrial release;
11 authorizing order for electronic monitoring under
12 certain circumstances; stating function of certain
13 programs; authorizing release of certain person to
14 certain program; requiring certain notice;
15 authorizing dismissal of certain charges; and
16 providing an effective date.

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

18 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1105.2, is
19 amended to read as follows:

20 Section 1105.2. A. Following an arrest for a misdemeanor or
21 felony offense and before formal charges have been filed or an
22 indictment made, the arrested person may have bail set by the court
23 as provided in this act; provided there are no provisions of law to
24 the contrary.

25 B. When formal charges or an indictment has been filed, bail
26 shall be set according to law and the pretrial bond, if any, may be
27 reaffirmed unless additional security is required. Every judicial

1 district may, upon the order of the presiding judge for the
2 district, establish a pretrial bail schedule for felony or
3 misdemeanor offenses, except for traffic offenses included in
4 subsections B, C and D of Section 1115.3 of Title 22 of the Oklahoma
5 Statutes and those offenses specifically excluded herein. The bail
6 schedule established pursuant to the authority of this act shall
7 exclude any offense for which bail is not allowed by law. The bail
8 schedule authorized by this act shall be set in accordance with
9 guidelines relating to bail and shall be published and reviewed by
10 March 1 of each year by the courts and district attorney of the
11 judicial district.

12 C. The pretrial bail shall be set in a numerical dollar amount.
13 If the person fails to appear in court as required the judge shall:

14 1. Rescind the bond and proceed to enter a judgment against the
15 defendant for the dollar amount of the pretrial bail if no private
16 bail was given at the time of release; provided, however, the court
17 clerk shall follow the procedures as set forth in Section 1301 et
18 seq. of Title 59 of the Oklahoma Statutes in collecting the
19 forfeiture amount against the person who fails to appear in court;
20 or

21 2. Rescind and forfeit the private bail if cash, property or
22 surety bail was furnished at the time of release as set forth in
23 Section 1301 et seq. of Title 59 of the Oklahoma Statutes.
24

1 D. ~~When a pretrial program exists in the judicial district~~
2 ~~where the person is being held, the~~ The judge may utilize the
3 services of the pretrial release program or an assisted outpatient
4 treatment program as defined in Section 1-103 of Title 43A of the
5 Oklahoma Statutes when ordering pretrial release, if such programs
6 exist in the judicial district where the person is being held,
7 except when private bail has been furnished.

8 E. Upon an order for pretrial release or release on bond, the
9 person shall be released from custody without undue delay.

10 F. ~~The~~ If a pretrial release program or an assisted outpatient
11 treatment program is unavailable in the judicial district where the
12 person is being held but the person would be better served by being
13 released into the community pending trial, the court ~~may~~ shall
14 require the person to be placed on an electronic monitoring device
15 as a condition of pretrial release that constitutes the least
16 restrictive means of release. In a judicial district where such
17 programs are available, the court may require the person to be
18 placed on an electronic monitoring device as a condition of release
19 or upon the recommendation of such program.

20 G. In instances where an electronic monitoring device has been
21 ordered, the court may impose payment of a supervision fee. Payment
22 of the fee, in whole or according to a court-ordered installment
23 schedule, shall be a condition of pretrial release. The court clerk
24 shall collect the supervision fees.

1 SECTION 2. AMENDATORY 22 O.S. 2021, Section 1105.3, is

2 amended to read as follows:

3 Section 1105.3. A. Any county pursuant to the provisions of
4 the Pretrial Release Act may establish and fund a pretrial program
5 to be utilized by the district court in that jurisdiction.

6 B. When a pretrial release program is established pursuant to
7 the Pretrial Release Act and private bail has not been furnished,
8 the judge may order a person to be evaluated through the pretrial
9 program. Such program shall serve as an alternative to bail for
10 persons not released on their own recognizance but who do not serve
11 a public safety risk. After conducting an evaluation of the person
12 applying for pretrial release, the pretrial program shall make a
13 recommendation to the court. The recommendation shall indicate any
14 special supervisory conditions for pretrial release including but
15 not limited to electronic monitoring. The judge shall consider the
16 recommendations and may grant or deny pretrial release. The
17 presiding judge of the judicial district may issue a standing order
18 outlining criteria for cases that may automatically be evaluated for
19 pretrial release by a pretrial program operating in the
20 jurisdiction. The standing order may include amounts for bail and
21 types of bonds deemed appropriate for certain offenses.

22 C. Except as otherwise authorized by the provisions of this
23 subsection, persons accused of or detained for any of the following
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1 offenses or conditions shall not be eligible for pretrial release by
2 any pretrial program:

3 1. Aggravated driving under the influence of an intoxicating
4 substance;

5 2. Any felony driving under the influence of an intoxicating
6 substance;

7 3. Any offense prohibited by the Trafficking In Illegal Drugs
8 Act;

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

11 5. Appeal bond;

12 6. Arson in the first degree, including attempts to commit
13 arson in the first degree;

14 7. Assault and battery on a police officer;

15 8. Bail jumping;

16 9. Bribery of a public official;

17 10. Burglary in the first or second degree;

18 11. Civil contempt proceedings;

19 12. Distribution of a controlled dangerous substance, including
20 the sale or possession of a controlled dangerous substance with
21 intent to distribute or conspiracy to distribute;

22 13. Domestic abuse, domestic assault or domestic assault and
23 battery with a dangerous weapon, or domestic assault and battery
24 with a deadly weapon;

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

1 31. Possession of a stolen vehicle;

2 32. Rape in the first degree, including attempts to commit rape
3 in the first degree;

4 33. Rape in the second degree, including attempts to commit
5 rape in the second degree;

6 34. Robbery by force or fear;

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

9 36. Sexual assault or violent offenses against children;

10 37. Shooting with intent to kill;

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

12 39. Two or more prior felony convictions; or

13 40. Unauthorized use of a motor vehicle.

14 D. 1. Other than a person accused of or detained for an
15 offense provided for in paragraph 13 or paragraph 38 of subsection C
16 of this section, a person not eligible for pretrial release pursuant
17 to the provisions of subsection C of this section may be released
18 upon order of a district judge, associate district judge or special
19 judge under conditions prescribed by the judge, which may include
20 release to an assisted outpatient treatment program as defined in
21 Section 1-103 of Title 43A of the Oklahoma Statutes, and an order to
22 require the defendant, as a condition of pretrial release, to use or
23 participate in any monitoring or testing including, but not limited
24 to, a Global Positioning System (GPS) monitoring device and

1 urinalysis testing. The court may further order the defendant to
2 pay costs and expenses related to any supervision, monitoring or
3 testing.

4 2. A court may release a person requiring treatment as defined
5 in Section 1-103 of Title 43A of the Oklahoma Statutes to an
6 assisted outpatient treatment program for a period of time as
7 recommended by the treatment provider. Once treatment is complete,
8 the provider shall notify the court and the district attorney of the
9 person's release from treatment. If the person successfully
10 completes the treatment program, the district attorney may dismiss
11 the case.

12 E. Every pretrial services program operating pursuant to the
13 provisions of the Pretrial Release Act shall meet the following
14 minimum criteria:

15 1. The program shall establish a procedure for screening and
16 evaluating persons who are detained or have been arrested for the
17 alleged commission of a crime. The program shall obtain criminal
18 history records on detained persons through the National Crime
19 Information Center (NCIC). The information obtained from the
20 screening and evaluation process must be submitted in a written
21 report without unnecessary delay to the judge who is assigned to
22 hear pretrial release applications when the person is eligible for
23 pretrial release;

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

7 3. The program shall make all reasonable attempts to provide
8 the court with information appropriate to each person considered for
9 pretrial release.

10 F. A pretrial program established pursuant to the Pretrial
11 Release Act may provide different methods and levels of community-
12 based supervision to meet any court-ordered conditions of release.
13 The program may use existing supervision methods for persons who are
14 released prior to trial. Pretrial programs which employ peace
15 officers certified by the Council on Law Enforcement Education and
16 Training (CLEET) are authorized to enforce court-ordered conditions
17 of release.

18 G. Each pretrial program established pursuant to the Pretrial
19 Release Act shall provide a quarterly report to the presiding judge
20 of the judicial district of the jurisdiction in which it operates.
21 A copy of the report shall be filed of record with the court clerk
22 of the jurisdiction. Each report shall include, but is not limited
23 to, the following information:

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

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

4 3. The number of persons admitted to pretrial release that
5 failed to appear; and

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

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

12 SECTION 3. This act shall become effective November 1, 2024.

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