

BILL SUMMARY

1st Session of the 57th Legislature

Bill No.:	SB 252
Version:	CCRA
Request Number:	2286
Author:	Rep. Kannady
Date:	5/20/2019
Impact: Total Maximum Estimated Cost: FY-20:	
	\$11.3 million FY-21: \$14 million
	Indigent Defense: FY-20: \$5.3 million FY-21:
	~\$8 million
	District Attorneys: FY-20 & 21: \$4-\$6 million
	Probable cost for local governments

Research Analysis

The Conference Committee Substitute to SB 252 modifies conditions for the release of arrested persons. The measure clarifies that a “violent offense” shall refer to offenses defined in the Oklahoma Prison Overcrowding Emergency Powers Act. For persons who are not eligible for bail, the evidence of guilt must be demonstrated by clear and convincing evidence that no condition of release would assure the person’s return to court. In setting bail, the court must make an individualized determination of what is appropriate for the person. Bail shall not be set in an amount higher than what the court determines is necessary to ensure the person's return to court. In setting bail, the court must consider eleven specific factors. If bail is denied, the court must make an individualized determination supported by clear and convincing evidence on the record, supported by written findings of fact, that proof of guilt is evident or the presumption is great, and that no condition of release would assure the person's return to court or the safety of the community or any person. The measure allows the court to consider recommendations of a pretrial service provider when determining bond and other conditions of release.

The measure requires an arrested person shall be taken without unnecessary delay before the most accessible magistrate in that county for a bond hearing within 48 hours, exclusive of weekends and holidays. Any continuance initiated by the person is limited to no more than five days. A continuance requested by the state is limited to three days. If the person is not accused of a violent offense or escape, the person is to be released on the person’s own recognizance unless the court makes a specific finding on the record. The court is to set appropriate conditions and reasonable bail for those persons not released on the person’s own recognizance. The measure allows for the use of a pretrial release program and the judge is to consider recommendations and must order the least restrictive conditions that will reasonable assure the person’s return to court. The measure allows persons accused of possession of a controlled dangerous substance to be considered for pretrial release.

The measure provides a penalty for failure to surrender after having been admitted to bail or released on recognizance. The measure provides that if the bail was given or undertaking or recognizance extended in connection with a charge of a crime other than a felony or pending appeal or certiorari after conviction of any such offense, be guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned not more than six months, or both.

Prepared By: Brad Wolgamott

Fiscal Analysis

SB 252, which deals with bail hearings, is determined to have a fiscal impact for the Oklahoma Indigent Defense System (OIDS) and the district attorneys. The estimated impacts on both agencies are below:

According to the Oklahoma Indigent Defense System:

Non-Capital Trial County Contracts:	\$6,056,512 x 0.75 =	\$4,542,384
Non-Capital Trial Conflict Contracts:	\$574,400 x 0.75 =	430,800
Non-Capital Trial Satellite Offices:	\$3,825,841 x 0.75 =	<u>2,869,381</u>
Total Funding Increase (one year):		\$7,842,565

With SB 252's effective date of November 1, 2019, the above amount, representing a full year of funding, can be reduced by 1/3rd (although that reduced amount will need to be reinstated for fiscal year 2021) as follows:

$$\$7,842,565 \times .66666 = \$5,228,324$$

Therefore, the agency will require a funding increase (in addition to the agency's pending funding request of \$2mm) of \$5,228,324 to specifically meet Senate Bill 252's mandates to provide services through the end of fiscal year 2020.

According to the District Attorneys Council: "With 18 Districts reporting (9- including Tulsa county- left to report). Additional 29 ADS and 23 staff is the fiscal impact to DAs for SB 252. That total is \$3.9 million additional dollars. The overall estimated impact (based off of all districts) is \$6 million."

The measure most likely will require increased resources from county sheriffs. The total impact on local government is dependent upon the amount of persons arrested.

Prepared By: Kristina King

Other Considerations

None.