

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 14, 2019

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 252

By: Thompson of the Senate and Kannady, et al of the House

Title: Conditions of release of arrested persons; modifying requirements related to bail and personal recognizance. Effective date.

_____ together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:



Thompson

Brooks

Daniels

Floyd



Jech



Shaw



Bice

Matthews



Coleman

HOUSE CONFEREES:

Conference Committee on Judiciary

Senate Action _____ Date _____ House Action _____ Date _____



1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 252

6 By: Thompson of the Senate

7 and

8 Kannady, Blancett,
9 Dunnington and Munson of
10 the House

11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to conditions of release of arrested
13 persons; amending 22 O.S. 2011, Sections 1101, 1105,
14 1105.2, as amended by Section 1, Chapter 59, O.S.L.
15 2016, 1105.3, as last amended by Section 1, Chapter
16 2, O.S.L. 2018, 1106, 1108.1, 1109 and 1110 (22 O.S.
17 Supp. 2018, Sections 1105.2 and 1105.3), which relate
18 to bail and the Pretrial Release Act; modifying
19 exceptions for eligibility for bail; modifying
20 requirements for determination of denial of release;
21 modifying information required to be considered by
22 court before determining conditions of release;
23 authorizing court to consider recommendations of
24 pretrial service provider; deleting rebuttable
presumption related to persons arrested for certain
offenses; requiring bond hearing within certain time
period; authorizing continuance under certain
circumstances; authorizing appointment of counsel
under certain circumstances; authorizing presentation
of certain evidence in certain proceeding; requiring
persons charged with certain offenses to be released
on personal recognizance; providing exceptions;
authorizing reopening of certain hearing; requiring
least restrictive conditions on release; modifying
certain eligibility exceptions; requiring discharge
of certain defendants; modifying penalties for
failure to appear after release; conforming language;
updating statutory references; making language gender

1 neutral; amending 59 O.S. 2011, Sections 1334 and
2 1335, which relate to personal recognizance;
3 conforming language; making language gender neutral;
4 and providing an effective date.

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

6 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1101, is
7 amended to read as follows:

8 Section 1101. A. Except as otherwise provided by law, bail, by
9 sufficient sureties, shall be admitted upon all arrests in criminal
10 cases where the offense is not punishable by death and in such cases
11 it may be taken by any of the persons or courts authorized by law to
12 arrest, to imprison offenders or to perform pretrial services, or by
13 the clerk of the district court or his or her deputy, or by the
14 judge of such courts.

15 B. In criminal cases where the defendant is currently an
16 escaped prisoner from the Department of Corrections, the defendant
17 must be processed back into the Department of Corrections prior to
18 bail being set on new criminal charges.

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

21 1. Capital offenses when the proof of guilt is evident, or the
22 presumption thereof is great. Such proof or presumption must be
23 supported by clear and convincing evidence;
24

1 2. Violent offenses as defined in Section 571 of Title 57 of
2 the Oklahoma Statutes;

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

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

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

10 On all offenses specified in paragraphs 2 through 5 of this
11 subsection, the proof of guilt must be evident, or the presumption
12 must be great, demonstrated by clear and convincing evidence, and it
13 must be on the grounds that no condition of release would assure the
14 person's return to court or the safety of the community or any
15 person, demonstrated by clear and convincing evidence.

16 ~~D. There shall be a rebuttable presumption that no condition of~~
17 ~~release would assure the safety of the community if the state shows~~
18 ~~by clear and convincing evidence that the person was arrested for a~~
19 ~~violation of Section 741 of Title 21 of the Oklahoma Statutes In~~
20 ~~setting the amount of bail, the court shall make an individualized~~
21 ~~determination of what is appropriate for the person. Bail shall not~~
22 ~~be set in an amount higher than what the court determines is~~
23 ~~reasonably necessary to ensure the person's return to court. In~~
24 ~~setting the amount of bail, the court shall make an individualized~~

1 determination of what is appropriate for the accused person and
2 shall consider specific factors including, but not limited to, the
3 following:

4 1. The seriousness of the crime charged against the defendant;

5 2. The apparent likelihood of conviction;

6 3. The extent of the punishment prescribed by the Legislature;

7 4. The defendant's criminal record, if any, and previous record
8 on bail, if any;

9 5. The defendant's reputation and mental condition;

10 6. The length of the person's residence in the community;

11 7. The person's family ties and relationship;

12 8. The person's employment status, record of employment and
13 financial condition;

14 9. The identity of responsible members of the community who
15 would vouch for the defendant's reliability;

16 10. The person's financial ability to pay; and

17 11. Any other factors the court deems relevant to the setting
18 of bail.

19 E. In any case in which the court denies bail, the court shall
20 make an individualized determination supported by clear and
21 convincing evidence on the record, supported by written findings of
22 fact, that proof of guilt is evident or the presumption is great,
23 and that no condition of release would assure the person's return to
24 court or the safety of the community or any person.

1 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1105, is
2 amended to read as follows:

3 Section 1105. A. Except as otherwise provided by this section,
4 upon the allowance of bail and the execution of the requisite
5 recognizance, bond, or undertaking to the state, the magistrate,
6 judge, or court, shall, if the defendant is in custody, make and
7 sign an order for discharge. The court, in its discretion, may
8 prescribe by court rule the conditions under which the court clerk
9 or deputy court clerk, or the sheriff or deputy sheriff, may prepare
10 and execute an order of release on behalf of the court.

11 B. No police officer or sheriff may release a person arrested
12 for a violation of an ex parte or final protective order as provided
13 in Sections 60.2 and 60.3 of this title, or arrested for an act
14 constituting domestic abuse as specified in Section 644 of Title 21
15 of the Oklahoma Statutes, or arrested for any act constituting
16 domestic abuse, stalking or harassment as defined by Section 60.1 of
17 this title, or arrested for an act constituting domestic assault and
18 battery or domestic assault and battery with a deadly weapon
19 pursuant to Section 644 of Title 21 of the Oklahoma Statutes,
20 without the violator appearing before a magistrate, judge or court.
21 To the extent that any of the following information is available to
22 the court, the magistrate, judge or court shall consider, in
23 addition to any other circumstances, before determining bond and
24

1 other conditions of release as necessary for the protection of the
2 alleged victim, the following:

3 1. Whether the person has a history of domestic violence or a
4 history of other violent acts;

5 2. The mental health of the person;

6 3. Whether the person has a history of violating the orders of
7 any court ~~or governmental entity~~;

8 4. Whether the person ~~is potentially a~~ poses a threat to ~~any~~
9 ~~other~~ a specific person;

10 5. Whether the person ~~has a history of~~ is presently abusing
11 alcohol ~~or any controlled substance~~;

12 ~~6.~~ Whether the person has access to deadly weapons or a history
13 of using deadly weapons;

14 ~~7.~~ 6. The severity of the alleged violence that is the basis of
15 the alleged offense including, but not limited to:

16 a. the duration of the alleged violent incident,

17 b. whether the alleged violent incident involved serious
18 physical injury,

19 c. whether the alleged violent incident involved sexual
20 assault,

21 d. whether the alleged violent incident involved
22 strangulation,

23 e. whether the alleged violent incident involved abuse
24 during the pregnancy of the alleged victim,

1 f. whether the alleged violent incident involved the
2 abuse of pets, or

3 g. whether the alleged violent incident involved forcible
4 entry to gain access to the alleged victim;

5 ~~8.~~ 7. Whether a separation of the person from the alleged
6 victim or a termination of the relationship between the person and
7 the alleged victim has recently occurred or is pending;

8 ~~9.~~ 8. Whether the person has exhibited obsessive or controlling
9 behaviors toward the alleged victim including, but not limited to,
10 stalking, surveillance, or isolation of the alleged victim;

11 ~~10.~~ 9. Whether the person has expressed suicidal or homicidal
12 ideations; and

13 ~~11.~~ 10. Any information contained in the complaint and any
14 police reports, affidavits, or other documents accompanying the
15 complaint.

16 C. No police officer or sheriff may release a person arrested
17 for any violation of subsection G of Section 2-401 of Title 63 of
18 the Oklahoma Statutes, without the violator appearing before a
19 magistrate, judge, or court pursuant to Section 1105.2 of this
20 title. In determining bond and other conditions of release, the
21 magistrate, judge, or court shall consider any evidence that the
22 person is in any manner dependent upon a controlled dangerous
23 substance or has a pattern of regular, illegal use of any controlled
24 dangerous substance. ~~A rebuttable presumption that no conditions of~~

1 ~~release on bond would assure the safety of the community or any~~
2 ~~person therein shall arise if the state shows by clear and~~
3 ~~convincing evidence:~~

4 1. ~~The person was arrested for a violation of subsection C of~~
5 ~~Section 2-401 of Title 63 of the Oklahoma Statutes, relating to~~
6 ~~manufacturing or attempting to manufacture a controlled dangerous~~
7 ~~substance, or possessing any of the substances listed in subsection~~
8 ~~C of Section 2-401 of Title 63 of the Oklahoma Statutes with the~~
9 ~~intent to manufacture a controlled dangerous substance; and~~

10 2. ~~The person is in any manner dependent upon a controlled~~
11 ~~dangerous substance or has a pattern of regular illegal use of a~~
12 ~~controlled dangerous substance, and the violation referred to in~~
13 ~~paragraph 1 of this subsection was committed or attempted in order~~
14 ~~to maintain or facilitate the dependence or pattern of illegal use~~
15 ~~in any manner, and may consider the recommendations of a pretrial~~
16 ~~service provider pursuant to Section 1105.3 of this title.~~

17 SECTION 3. AMENDATORY 22 O.S. 2011, Section 1105.2, as
18 amended by Section 1, Chapter 59, O.S.L. 2016 (22 O.S. Supp. 2018,
19 Section 1105.2), is 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~~ Section 1105.1 et seq. of this title;
24 provided there are no provisions of law to the contrary.

1 B. ~~When formal charges or an indictment has been filed, bail~~
2 ~~shall be set according to law and the pretrial bond, if any, may be~~
3 ~~reaffirmed unless additional security is required~~ If not otherwise
4 released, the arrested person shall be taken without unnecessary
5 delay before the most accessible magistrate in that county for a
6 bond hearing. In no case shall the delay from arrest to bond
7 hearing be more than forty-eight (48) hours, exclusive of weekends
8 and holidays.

9 C. Except for good cause, a continuance of the bond hearing on
10 motion of the person may not exceed five (5) business days, and a
11 continuance on motion of the attorney for the state may not exceed
12 three (3) business days. At the hearing, the person shall have the
13 right to be represented by counsel and, if financially unable to
14 obtain adequate representation, to have counsel appointed for the
15 limited purpose of the hearing. In counties served by the Oklahoma
16 Indigent Defense System, attorneys employed by or contracted with
17 the Oklahoma Indigent Defense System may be appointed for the
18 limited purpose of a bond hearing without the application required
19 by Section 1355A of this title upon representation by the defendant
20 that the defendant cannot afford an attorney for the bond hearing.
21 If the court finds that the presence of counsel at the hearing is
22 impractical it may be conducted via telephone conference or video
23 call.

1 D. In cases where the most serious offense with which the
2 arrested person is charged is not a violent felony as defined in
3 Section 571 of Title 57 of the Oklahoma Statutes, domestic assault
4 and battery as defined in Sections 644, 645 and 647 of Title 21 of
5 the Oklahoma Statutes, violation of a protective order as defined in
6 Section 60.6 of this title, stalking as defined in Section 1173 of
7 Title 21 of the Oklahoma Statutes, or felony offenses involving
8 escape or attempt to escape from lawful arrest or confinement as
9 defined in Sections 434, 436, 443 or 444 of Title 21 of the Oklahoma
10 Statutes, the court shall release the person pending trial on the
11 person's own recognizance unless the court finds in writing or on
12 the record one or more of the following:

13 1. The person's own recognizance will not reasonably assure the
14 person's return to court. In making a finding pursuant to this
15 paragraph, the court may consider any prior record of failing to
16 appear as required in the court in the last two (2) years or in the
17 present case, or any other pending criminal case of the arrested
18 person;

19 2. The person will obstruct or attempt to obstruct justice, or
20 threaten, injure or intimidate or attempt to threaten, injure or
21 intimidate a prospective witness or juror; and

22 3. The person will engage in conduct that threatens the safety
23 of himself or herself or another person.

1 E. The hearing may be reopened after an initial determination
2 by the court at any time before trial if the court finds that
3 information exists that:

4 1. Was not known to the person at the time of the hearing; and

5 2. Has a material bearing on whether there are conditions of
6 release that will reasonably assure the appearance of the person as
7 required and the safety of any other person and the community.

8 F. In cases where a person is not released on his or her own
9 recognizance pursuant to subsection E of this section, the court
10 shall set appropriate conditions or shall set reasonable bail. In
11 all cases, the court shall set the least restrictive conditions
12 necessary to reasonably assure the appearance of the person.

13 G. Every judicial district may, upon the order of the presiding
14 judge for the district, establish a pretrial bail schedule for use
15 by the sheriff or other operator of the detention facility to set
16 bail prior to the initial appearance of the person before a court
17 for felony or misdemeanor offenses, ~~except for traffic.~~ Any such
18 pretrial bail schedule shall not apply to traffic offenses included
19 in subsections B, C and D of Section 1115.3 of ~~Title 22 of the~~
20 ~~Oklahoma Statutes~~ this title and those offenses specifically
21 excluded herein. The bail schedule established pursuant to the
22 authority of ~~this act~~ Section 1105.1 et seq. of this title shall
23 exclude any offense for which bail is not allowed by law. The bail
24 schedule authorized by ~~this act~~ Section 1105.1 et seq. of this title

1 shall be set in accordance with guidelines relating to bail ~~and~~
2 ~~shall be,~~ published and reviewed by March 1 of each year by the
3 courts and district attorney of the judicial district, and displayed
4 in the public area of the jail.

5 ~~C.~~ H. The pretrial bail shall be set in a numerical dollar
6 amount. If the person fails to appear in court as required the
7 judge shall:

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

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

18 ~~D.~~ I. When a pretrial program exists in the judicial district
19 where the person is being held, the judge may utilize the services
20 of the pretrial release program when ordering pretrial release,
21 except when private bail has been furnished.

22 ~~E.~~ J. Upon an order for pretrial release or release on bond,
23 the person shall be released from custody without undue delay.

24

1 ~~F.~~ K. The court may require the person to be placed on an
2 electronic monitoring device as a condition of pretrial release.

3 ~~G.~~ L. In instances where an electronic monitoring device has
4 been ordered, the court may impose payment of a supervision fee.
5 Payment of the fee, in whole or according to a court-ordered
6 installment schedule, shall be a condition of pretrial release. The
7 court clerk shall collect the supervision fees.

8 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1105.3, as
9 last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp.
10 2018, Section 1105.3), is amended to read as follows:

11 Section 1105.3. A. Any county pursuant to the provisions of
12 ~~this act~~ Section 1105 et seq. of this title may establish and fund a
13 pretrial program to be utilized by the district court in that
14 jurisdiction.

15 B. When a pretrial release program is established pursuant to
16 ~~this act~~ Section 1105.1 et seq. of this title and private bail has
17 not been furnished, the judge may order a person to be evaluated
18 through the pretrial program. After conducting an evaluation of the
19 person applying for pretrial release, the pretrial program shall
20 make a recommendation to the court. The recommendation shall
21 indicate any special supervisory conditions for pretrial release.
22 The judge shall consider the recommendations and ~~may grant or deny~~
23 ~~pretrial release~~ shall order the least restrictive conditions that
24 will reasonably assure the person's return to court. The presiding

1 judge of the judicial district may issue a standing order outlining
2 criteria for cases that may automatically be evaluated for pretrial
3 release by a pretrial program operating in the jurisdiction. The
4 standing order may include amounts for bail and types of bonds
5 deemed appropriate for certain offenses.

6 C. Except as otherwise authorized by the provisions of this
7 subsection, persons accused of or detained for any of the following
8 offenses or conditions shall not be eligible for pretrial release by
9 any pretrial program:

10 1. Aggravated driving under the influence of an intoxicating
11 substance;

12 2. Any felony driving under the influence of an intoxicating
13 substance;

14 3. Any offense prohibited by the Trafficking In Illegal Drugs
15 Act;

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

18 5. Appeal bond;

19 6. Arson in the first degree, including attempts to commit
20 arson in the first degree;

21 7. Assault and battery on a police officer;

22 8. Bail jumping;

23 9. Bribery of a public official;

24 10. Burglary in the first or second degree;

- 1 11. Civil contempt proceedings;
- 2 12. Distribution of a controlled dangerous substance, including
- 3 the sale or possession of a controlled dangerous substance with
- 4 intent to distribute or conspiracy to distribute;
- 5 13. Domestic abuse, domestic assault or domestic assault and
- 6 battery with a dangerous weapon, or domestic assault and battery
- 7 with a deadly weapon;
- 8 14. Driving under the influence of intoxicating substance where
- 9 property damage or personal injury occurs;
- 10 15. Felony discharging a firearm from a vehicle;
- 11 16. Felony sex offenses;
- 12 17. Fugitive bond or a governor's fugitive warrant;
- 13 18. Immigration charges;
- 14 19. Kidnapping;
- 15 20. Juvenile or youthful offender detention;
- 16 21. Manslaughter;
- 17 22. Manufacture of a controlled dangerous substance;
- 18 23. Murder in the first degree, including attempts or
- 19 conspiracy to commit murder in the first degree;
- 20 24. Murder in the second degree, including attempts or
- 21 conspiracy to commit murder in the second degree;
- 22 25. Negligent homicide;
- 23 26. Out-of-county holds;
- 24

1 27. Persons currently on pretrial release who are arrested on a
2 new felony offense;

3 28. Possession, manufacture, use, sale or delivery of an
4 explosive device;

5 ~~29. Possession of a controlled dangerous substance on Schedule~~
6 ~~I or II of the Controlled Dangerous Substances Act;~~

7 ~~30.~~ Possession of a firearm or other offensive weapon during
8 the commission of a felony;

9 ~~31.~~ 30. Possession of a stolen vehicle;

10 ~~32.~~ 31. Rape in the first degree, including attempts to commit
11 rape in the first degree;

12 ~~33.~~ 32. Rape in the second degree, including attempts to commit
13 rape in the second degree;

14 ~~34.~~ 33. Robbery by force or fear;

15 ~~35.~~ 34. Robbery with a firearm or dangerous weapon, including
16 attempts to commit robbery with a firearm or dangerous weapon;

17 ~~36.~~ 35. Sexual assault or violent offenses against children;

18 ~~37.~~ 36. Shooting with intent to kill;

19 ~~38.~~ 37. Stalking or violation of a Victim Protection Order;

20 ~~39.~~ 38. Two or more prior felony convictions; or

21 ~~40.~~ 39. Unauthorized use of a motor vehicle.

22 D. A person not eligible for pretrial release pursuant to the
23 provisions of subsection C of this section may be released upon
24 order of a district judge, associate district judge or special judge

1 under conditions prescribed by the judge, which may include an order
2 to require the defendant, as a condition of pretrial release, to use
3 or participate in any monitoring or testing including, but not
4 limited to, a Global Positioning System (GPS) monitoring device and
5 urinalysis testing. The court may further order the defendant to
6 pay costs and expenses related to any supervision, monitoring or
7 testing.

8 E. Every pretrial services program operating pursuant to the
9 provisions of ~~this act~~ Section 1105.1 et seq. of this title shall
10 meet the following minimum criteria:

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

20 2. The program shall provide reliable information to the judge
21 relating to the person applying for pretrial release so a reasonable
22 decision can be made concerning the amount and type of bail
23 appropriate for pretrial release. The information provided shall be
24

1 based upon facts relating to the person's risk of danger to the
2 community and the risk of failure to appear for court; and

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

6 F. A pretrial program established pursuant to ~~this act~~ Section
7 1105.1 et seq. of this title may provide different methods and
8 levels of community-based supervision to meet any court-ordered
9 conditions of release. The program may use existing supervision
10 methods for persons who are released prior to trial. Pretrial
11 programs which employ peace officers certified by the Council on Law
12 Enforcement Education and Training (CLEET) are authorized to enforce
13 court-ordered conditions of release.

14 G. Each pretrial program established pursuant to ~~this act~~
15 Section 1105.1 et seq. of this title shall provide a quarterly
16 report to the presiding judge of the judicial district of the
17 jurisdiction in which it operates. A copy of the report shall be
18 filed of record with the court clerk of the jurisdiction. Each
19 report shall include, but is not limited to, the following
20 information:

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

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

24

1 3. The number of persons admitted to pretrial release that
2 failed to appear; and

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

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

9 SECTION 5. AMENDATORY 22 O.S. 2011, Section 1106, is
10 amended to read as follows:

11 Section 1106. A deposit of the sum of money mentioned in ~~the~~
12 any order admitting to bail with financial conditions is equivalent
13 to bail and upon such deposit the defendant must be discharged from
14 custody.

15 SECTION 6. AMENDATORY 22 O.S. 2011, Section 1108.1, is
16 amended to read as follows:

17 Section 1108.1. A. Own recognizance bonds ~~set in a penal~~
18 amount ordered by the court pursuant to subsection E of Section
19 1105.2 of this title shall be posted by executing an own
20 recognizance indenture contract which shall be executed and
21 maintained by the district court clerk. The indenture shall
22 constitute an inchoate obligation to pay in the event forfeiture
23 proceedings are commenced and result in a final order of forfeiture
24 by the authorizing and issuing judge of the district court.

1 B. Setting aside of forfeitures shall be governed by the same
2 rules and procedures applicable to cash, property or surety bonds,
3 provided that if the forfeiture is set aside, the district court
4 shall exempt from forfeiture set aside all reasonable costs of
5 recovery to return the defendant to custody, and an administrative
6 fee to be retained by the court fund in a sum not to exceed ten
7 percent (10%) of the total penal bond amount plus all costs incurred
8 in processing the forfeiture proceeding to include costs of notices,
9 warrants, service and execution.

10 C. The final judgment of forfeiture shall constitute a judgment
11 enforceable through all procedures available for the collection of a
12 civil judgment, provided that the judgment shall be considered a
13 debt in the nature of defalcation as defined by the United States
14 Bankruptcy Code, and shall not be subject to other forms of debtor
15 relief. The judgment shall be subject to collection as costs in the
16 underlying action regardless of final disposition or determination
17 of guilt.

18 D. The district attorney or the Administrator of the District
19 Court Cost Collection Division as determined by administration order
20 in each judicial district shall initiate the forfeiture action and
21 collection of forfeitures and shall receive one-third (1/3) of all
22 sums collected from the ten percent (10%) premium, not to include
23 costs as defined in subsection B of this section, to offset the
24 costs of administering the program.

1 E. This section does not apply to traffic or wildlife cases.

2 SECTION 7. AMENDATORY 22 O.S. 2011, Section 1109, is
3 amended to read as follows:

4 Section 1109. When proof is made to any court, judge or other
5 magistrate having authority to commit on criminal charges and the
6 court finds by a preponderance of the evidence, that a person
7 previously admitted to bail on any such charge is about to abscond,
8 or ~~that his bail is insufficient~~ information was made available that
9 was not presented at the previous bond hearing, or has removed from
10 the state, the judge or magistrate shall require such person to give
11 better security, or for default thereof cause him or her to be
12 committed to prison; and an order for ~~his~~ the person's arrest may be
13 endorsed on the former commitment, or a new warrant therefor may be
14 issued by such judge or magistrate, setting forth the cause thereof.

15 SECTION 8. AMENDATORY 22 O.S. 2011, Section 1110, is
16 amended to read as follows:

17 Section 1110. Whoever, having been admitted to bail or released
18 on recognizance, bond, or undertaking for appearance before any
19 magistrate or court of ~~the State of Oklahoma~~ this state, incurs a
20 forfeiture of the bail or violates such undertaking or recognizance
21 and willfully fails to surrender himself or herself within ~~five (5)~~
22 thirty (30) days following the date of such forfeiture shall, ~~if~~ be
23 subject to the following penalties:

1 1. If the bail was given or undertaking or recognizance
2 extended in connection with a charge of felony or pending appeal or
3 certiorari after conviction of any such offense, be guilty of a
4 felony and shall be fined not more than One Thousand Dollars
5 (\$1,000.00) or imprisoned not more than one (1) year, or both; or

6 2. If the bail was given or undertaking or recognizance
7 extended in connection with a charge of a crime other than a felony
8 or pending appeal or certiorari after conviction of any such
9 offense, be guilty of a misdemeanor and shall be fined not more than
10 Five Hundred Dollars (\$500.00) or imprisoned not more than six (6)
11 months, or both.

12 Nothing in this section shall be construed to interfere with or
13 prevent the exercise by any court of its power to punish for
14 contempt.

15 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1334, is
16 amended to read as follows:

17 Section 1334. A. Any person in custody before a court or
18 magistrate of ~~the State of Oklahoma~~ this state subject to discretion
19 of the court may be admitted to bail on his or her personal
20 recognizance ~~subject to such conditions as the court or magistrate~~
21 ~~may reasonably prescribe to assure his appearance when required in~~
22 accordance with the requirements of Chapter 19 of Title 22 of the
23 Oklahoma Statutes.

1 B. When a person is admitted to bail on his or her personal
2 recognizance, the court or magistrate may determine an amount of
3 money, property, or securities which shall be paid or forfeited as a
4 penalty by the defendant for failure to comply with the terms of his
5 or her admission to bail on personal recognizance. This penalty
6 shall be in addition to the penalties provided for in Section 1335
7 of this title.

8 C. Any person admitted to bail as herein provided shall be
9 fully appraised by the court or magistrate of the penalties provided
10 for failure to comply with the terms of his or her recognizance and,
11 upon a failure of compliance, a warrant for the arrest of such
12 person shall be issued forthwith.

13 SECTION 10. AMENDATORY 59 O.S. 2011, Section 1335, is
14 amended to read as follows:

15 Section 1335. Whoever, having been admitted to bail for
16 appearance before any district court in ~~the State of Oklahoma, (1)~~
17 this state incurs a forfeiture of the bail and willfully fails to
18 surrender himself or herself within thirty (30) days following the
19 date of such forfeiture, or ~~(2)~~ willfully fails to comply with the
20 terms of his or her personal recognizance, shall be subject to the
21 following penalties:

22 1. If the underlying offense for which the defendant was
23 admitted to bail was a felony, he or she shall be guilty of a felony
24

1 and shall be fined not more than Five Thousand Dollars (\$5,000.00)
2 or imprisoned not more than ~~two (2) years~~ one (1) year, or both; or

3 2. If the underlying offense for which the defendant was
4 admitted to bail was a crime other than a felony, he or she shall be
5 guilty of a misdemeanor and shall be fined not more than Five
6 Hundred Dollars (\$500.00) or imprisoned not more than six (6)
7 months, or both.

8 SECTION 11. This act shall become effective November 1, 2019.

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