1st Session of the 57th Legislature (2019)

SENATE BILL NO. 846   By: Weaver

AS INTRODUCED

An Act relating to the Pretrial Release Act; amending 22 O.S. 2011, Section 1105.3, as last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp. 2018, Section 1105.3), which relates to pretrial release programs; establishing annual reporting requirement; requiring certain annual report to be filed with court; specifying information to be included in certain annual report; updating statutory references; and providing an effective date.

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

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

Section 1105.3. A. Any county pursuant to the provisions of this act Section 1105.1 et seq. of this title may establish and fund a pretrial program to be utilized by the district court in that jurisdiction.

B. When a pretrial release program is established pursuant to this act Section 1105.1 et seq. of this title and private bail has not been furnished, the judge may order a person to be evaluated

through the pretrial program. After conducting an evaluation of the

person applying for pretrial release, the pretrial program shall

make a recommendation to the court. The recommendation shall

indicate any special supervisory conditions for pretrial release.

The judge shall consider the recommendations and may grant or deny

pretrial release. The presiding judge of the judicial district may

issue a standing order outlining criteria for cases that may

automatically be evaluated for pretrial release by a pretrial

program operating in the jurisdiction. The standing order may

include amounts for bail and types of bonds deemed appropriate for

certain offenses.

C. Except as otherwise authorized by the provisions of this

subsection, persons accused of or detained for any of the following

offenses or conditions shall not be eligible for pretrial release by

any pretrial program:

1. Aggravated driving under the influence of an intoxicating

substance;

2. Any felony driving under the influence of an intoxicating

substance;

3. Any offense prohibited by the Trafficking In Illegal Drugs

Act;

4. Any person having a violent felony conviction within the

past ten (10) years;

5. Appeal bond;

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

7. Assault and battery on a police officer;

8. Bail jumping;

9. Bribery of a public official;

10. Burglary in the first or second degree;

11. Civil contempt proceedings;

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

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

14. Driving under the influence of intoxicating substance where property damage or personal injury occurs;

15. Felony discharging a firearm from a vehicle;

16. Felony sex offenses;

17. Fugitive bond or a governor's fugitive warrant;

18. Immigration charges;

19. Kidnapping;

20. Juvenile or youthful offender detention;

21. Manslaughter;

22. Manufacture of a controlled dangerous substance;

23. Murder in the first degree, including attempts or conspiracy to commit murder in the first degree;

24. Murder in the second degree, including attempts or conspiracy to commit murder in the second degree;

25. Negligent homicide;

26. Out-of-county holds;

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

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

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

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

31. Possession of a stolen vehicle;

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

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

34. Robbery by force or fear;

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

36. Sexual assault or violent offenses against children;

37. Shooting with intent to kill;

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

2   39.   Two or more prior felony convictions; or

3   40.   Unauthorized use of a motor vehicle.

4   D.   A person not eligible for pretrial release pursuant to the

5 provisions of subsection C of this section may be released upon

6 order of a district judge, associate district judge or special judge

7 under conditions prescribed by the judge, which may include an order

8 to require the defendant, as a condition of pretrial release, to use

9 or participate in any monitoring or testing including, but not

10 limited to, a Global Positioning System (GPS) monitoring device and

11 urinalysis testing.   The court may further order the defendant to

12 pay costs and expenses related to any supervision, monitoring or

13 testing.

14   E.   Every pretrial services program operating pursuant to the

15 provisions of ~~this act~~ Section 1105.1 et seq. of this title shall

16 meet the following minimum criteria:

17   1.   The program shall establish a procedure for screening and

18 evaluating persons who are detained or have been arrested for the

19 alleged commission of a crime.   The program shall obtain criminal

20 history records on detained persons through the National Crime

21 Information Center (NCIC).   The information obtained from the

22 screening and evaluation process must be submitted in a written

23 report without unnecessary delay to the judge who is assigned to

24

1 hear pretrial release applications when the person is eligible for

2 pretrial release;

3   2. The program shall provide reliable information to the judge

4 relating to the person applying for pretrial release so a reasonable

5 decision can be made concerning the amount and type of bail

6 appropriate for pretrial release. The information provided shall be

7 based upon facts relating to the person's risk of danger to the

8 community and the risk of failure to appear for court; and

9   3. The program shall make all reasonable attempts to provide

10 the court with information appropriate to each person considered for

11 pretrial release.

12   F. A pretrial program established pursuant to ~~this act~~ Section

13 1105.1 et seq. of this title may provide different methods and

14 levels of community-based supervision to meet any court-ordered

15 conditions of release. The program may use existing supervision

16 methods for persons who are released prior to trial. Pretrial

17 programs which employ peace officers certified by the Council on Law

18 Enforcement Education and Training (CLEET) are authorized to enforce

19 court-ordered conditions of release.

20   G. Each pretrial program established pursuant to ~~this act~~

21 Section 1105.1 et seq. of this title shall provide a quarterly

22 report to the presiding judge of the judicial district of the

23 jurisdiction in which it operates. A copy of the report shall be

24 filed of record with the court clerk of the jurisdiction. Each

report shall include, but is not limited to, the following

information:

    1. The total number of persons screened, evaluated or otherwise

considered for pretrial release;

    2. The total number and nature of recommendations made;

    3. The number of persons admitted to pretrial release that

failed to appear; and

    4. Any other information deemed appropriate by the reporting

judicial district or that the program desires to report.

    H. Prior to the end of the first quarter of each calendar year,

each pretrial program established pursuant to this act shall submit

an annual report to the presiding judge of the judicial district of

the jurisdiction in which it operates for the prior calendar year.

A copy of the annual report shall be filed of record with the court

clerk of the jurisdiction in which it operates and made available to

the public online. The annual report shall include, but is not

limited to, the following information:

    1. The total number of release recommendations made by the

pretrial program;

    2. The total number of cases reviewed by the pretrial program;

    3. The total number of cases in which non-secured release was

denied by the pretrial program;

    4. The number of defendants released on non-secured release

after a positive recommendation by the pretrial program;

1   5. The average period of time defendants are incarcerated on a

2 felony charge before being released on recommendation by the

3 pretrial program;

4   6. The average period of time defendants are incarcerated on a

5 misdemeanor charge before being released on recommendation by the

6 pretrial program;

7   7. The total number of cases where the defendant was released

8 on a non-secured release after a positive recommendation by the

9 pretrial program and the defendant had at least one missed court

10 date within one (1) year of the date of release;

11   8. The total number of cases where a defendant was released on

12 a non-secured release after a positive recommendation by the

13 pretrial program and a bench warrant was issued by the court on the

14 defendant's failure to appear on a non-secured release;

15   9. The total number of cases where a defendant was released on

16 a non-secured release after a positive recommendation by the

17 pretrial program and a bench warrant was issued by the court but

18 remained unserved after one (1) year;

19   10. The total number of cases where a defendant was released on

20 a non-secured release after a positive recommendation by the

21 pretrial program and a warrant was issued for the defendant after

22 their release for additional criminal charges within one (1) year;

23 and

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1   11. The total number of cases where a defendant was released on

2 a non-secured release after a positive recommendation by the

3 pretrial program and the defendant was arrested on a new offense

4 while on release under the pretrial program's recommendation.

5   I. 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 2. This act shall become effective November 1, 2019.

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