

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1647

By: Humphrey

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8 COMMITTEE SUBSTITUTE

9 An Act relating to criminal procedure; amending 22  
10 O.S. 2011, Section 1105.3, as last amended by Section  
11 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp. 2020,  
12 Section 1105.3), which relates to the Pretrial  
13 Release Act; updating language; making entities that  
14 provide pretrial services subject to the Pretrial  
15 Release Act; requiring notification to victims of  
16 pretrial release proceedings; allowing victims to  
17 appear and be heard at pretrial release proceedings;  
18 modifying minimum criteria requirements for pretrial  
19 services programs; directing pretrial programs to  
20 prepare certain monthly reports; making monthly  
21 reports a public record; requiring the addition of  
22 certain information on monthly reports; and providing  
23 an effective date.

24 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.  
2020, Section 1105.3), is amended to read as follows:

Section 1105.3 A. Any county, pursuant to the provisions of  
~~this act~~ the Pretrial Release Act, may establish and fund a pretrial

1 program to be utilized by the district court in that jurisdiction.  
2 Any entity offering pretrial services in a county within this state  
3 shall also be subject to the provisions of the Pretrial Release Act.

4 B. When a pretrial release program is ~~established pursuant to~~  
5 operating in this act state and private bail has not been furnished,  
6 the judge may order a person to be evaluated through the pretrial  
7 program. After conducting an evaluation of the person applying for  
8 pretrial release, the pretrial program shall make a recommendation  
9 to the court. The recommendation shall indicate any special  
10 supervisory conditions for pretrial release. The judge shall  
11 consider the recommendations and may grant or deny pretrial release.  
12 The presiding judge of the judicial district may issue a standing  
13 order outlining criteria for cases that may automatically be  
14 evaluated for pretrial release by a pretrial program operating in  
15 the jurisdiction. The standing order may include amounts for bail  
16 and types of bonds deemed appropriate for certain offenses. As  
17 provided in Section 34 of Article II of the Oklahoma Constitution,  
18 the victim shall be notified and allowed to appear and be heard at  
19 any proceeding concerning the release of the person from custody.

20 C. Except as otherwise authorized by the provisions of this  
21 subsection, persons accused of or detained for any of the following  
22 offenses or conditions shall not be eligible for pretrial release by  
23 any pretrial program:  
24

- 1 1. Aggravated driving under the influence of an intoxicating  
2 substance;
- 3 2. Any felony driving under the influence of an intoxicating  
4 substance;
- 5 3. Any offense prohibited by the Trafficking In Illegal Drugs  
6 Act;
- 7 4. Any person having a violent felony conviction within the  
8 past ten (10) years;
- 9 5. Appeal bond;
- 10 6. Arson in the first degree, including attempts to commit  
11 arson in the first degree;
- 12 7. Assault and battery on a police officer;
- 13 8. Bail jumping;
- 14 9. Bribery of a public official;
- 15 10. Burglary in the first or second degree;
- 16 11. Civil contempt proceedings;
- 17 12. Distribution of a controlled dangerous substance, including  
18 the sale or possession of a controlled dangerous substance with  
19 intent to distribute or conspiracy to distribute;
- 20 13. Domestic abuse, domestic assault or domestic assault and  
21 battery with a dangerous weapon, or domestic assault and battery  
22 with a deadly weapon;
- 23 14. Driving under the influence of intoxicating substance where  
24 property damage or personal injury occurs;

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

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

5           34. Robbery by force or fear;

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

8           36. Sexual assault or violent offenses against children;

9           37. Shooting with intent to kill;

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

11          39. Two or more prior felony convictions; or

12          40. Unauthorized use of a motor vehicle.

13          D. A person not eligible for pretrial release pursuant to the  
14 provisions of subsection C of this section may be released upon  
15 order of a district judge, associate district judge or special judge  
16 under conditions prescribed by the judge, which may include an order  
17 to require the defendant, as a condition of pretrial release, to use  
18 or participate in any monitoring or testing including, but not  
19 limited to, a Global Positioning System (GPS) monitoring device and  
20 urinalysis testing. The court may further order the defendant to  
21 pay costs and expenses related to any supervision, monitoring or  
22 testing.

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1 E. Every pretrial services program operating ~~pursuant to the~~  
2 ~~provisions of~~ in this act state shall meet the following minimum  
3 criteria:

4 1. The program shall establish a procedure for screening and  
5 evaluating persons who are detained or have been arrested for the  
6 alleged commission of a crime. The program shall obtain ~~criminal~~  
7 ~~history records on detained persons through the National Crime~~  
8 ~~Information Center (NCIC)~~ background information from the defendant  
9 including all previous arrests, convictions and orders of  
10 protection. The program shall use court records available through  
11 the Oklahoma State Courts Network, Department of Corrections,  
12 Oklahoma State Bureau of Investigations and any other information  
13 provider as ordered by the court. The information obtained from the  
14 screening and evaluation process must be submitted in a written  
15 report without unnecessary delay to the judge who is assigned to  
16 hear pretrial release applications when the person is eligible for  
17 pretrial release;

18 2. The program shall provide reliable information to the judge  
19 relating to the person applying for pretrial release so a reasonable  
20 decision can be made concerning the amount and type of bail  
21 appropriate for pretrial release. The information provided shall be  
22 based upon facts relating to the person's risk of danger to the  
23 community and the risk of failure to appear for court; and  
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1           3. The program shall make all reasonable attempts to provide  
2 the court with information appropriate to each person considered for  
3 pretrial release.

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

12           G. Each pretrial program ~~established pursuant to~~ operating in  
13 ~~this act shall provide a quarterly report to the presiding judge of~~  
14 ~~the judicial district of the jurisdiction in which it operates. A~~  
15 ~~copy of the report~~ state shall prepare a monthly report to be filed  
16 of record with the court clerk as a public record in and of the  
17 jurisdiction of each pretrial release obtained. Each report shall  
18 include, but is not limited to, the following information:

- 19           1. The total number of persons screened, evaluated or otherwise  
20 considered for pretrial release;
- 21           2. The total number and nature of recommendations made;
- 22           3. The number of persons admitted to pretrial release that  
23 failed to appear; ~~and~~

1       4. The name, case number and criminal charge of each person the  
2 program obtained a pretrial release for;

3       5. The name and case number of each person the program obtained  
4 a pretrial release for that failed to appear in court or failed to  
5 comply with the conditions of pretrial release;

6       6. The name and case number of each person the program obtained  
7 a commitment from a judge or any return to custody by the program  
8 and the reason for the return to custody;

9       7. The amount each person was charged for participating in the  
10 pretrial program; and

11       8. Any other information deemed appropriate by the reporting  
12 judicial district or that the program desires to report.

13       H. Every pretrial release program ~~established pursuant to~~  
14 operating in this section state shall utilize the services of local  
15 providers; provided, however, any program in continuous existence  
16 since July 1, 1999, shall be exempt from the provisions of this  
17 subsection.

18       SECTION 2. This act shall become effective November 1, 2021.

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20       58-1-7830           GRS           02/25/21

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