

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 2733

By: Kendrix

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. Sections 180 and 181, which relate to bail procedures; providing time limitation for bail hearings; amending 21 O.S. 2021, Section 1105, which relates to discharge or release on bail; providing time limitation for bail hearings; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 180, is amended to read as follows:

Section 180. When, by the preceding sections of this chapter, the defendant is required to be taken before the magistrate who issued the warrant, ~~he may~~ the defendant shall, if the magistrate be absent or unable to act, be taken before the nearest or most accessible magistrate in the same county or nearest adjoining county, if necessary, no later than seventy-two (72) hours after arrest. The officer ~~must~~ shall, at the same time, deliver to the magistrate the warrant, with the return endorsed and subscribed by ~~him~~ the officer.

1 SECTION 2. AMENDATORY 22 O.S. 2021, Section 181, is
2 amended to read as follows:

3 Section 181. The defendant ~~must~~ shall, in all cases, be taken
4 before the magistrate without unnecessary delay and no later than
5 seventy-two (72) hours after arrest.

6 SECTION 3. AMENDATORY 22 O.S. 2021, Section 1105, is
7 amended to read as follows:

8 Section 1105. A. Except as otherwise provided by this section,
9 upon the allowance of bail and the execution of the requisite
10 recognizance, bond, or undertaking to the state, the magistrate,
11 judge, or court shall, if the defendant is in custody, make and sign
12 an order for discharge no later than seventy-two (72) hours after
13 arrest. The court, in its discretion, may prescribe by court rule
14 the conditions under which the court clerk or deputy court clerk, or
15 the sheriff or deputy sheriff, may prepare and execute an order of
16 release on behalf of the court.

17 B. No police officer or sheriff may release a person arrested
18 for a violation of an ex parte or final protective order as provided
19 in Sections 60.2 and 60.3 of this title, or arrested for an act
20 constituting domestic abuse as specified in Section 644 of Title 21
21 of the Oklahoma Statutes, or arrested for any act constituting
22 domestic abuse, stalking or harassment as defined by Section 60.1 of
23 this title, or arrested for an act constituting domestic assault and
24 battery or domestic assault and battery with a deadly weapon

1 pursuant to Section 644 of Title 21 of the Oklahoma Statutes,
2 without the violator appearing before a magistrate, judge or court.
3 To the extent that any of the following information is available to
4 the court, the magistrate, judge or court shall consider, in
5 addition to any other circumstances, before determining bond and
6 other conditions of release as necessary for the protection of the
7 alleged victim, the following:

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

10 2. The mental health of the person;

11 3. Whether the person has a history of violating the orders of
12 any court or governmental entity;

13 4. Whether the person is potentially a threat to any other
14 person;

15 5. Whether the person has a history of abusing alcohol or any
16 controlled substance;

17 6. Whether the person has access to deadly weapons or a history
18 of using deadly weapons;

19 7. The severity of the alleged violence that is the basis of
20 the alleged offense including, but not limited to:

21 a. the duration of the alleged violent incident,

22 b. whether the alleged violent incident involved serious
23 physical injury,

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- c. whether the alleged violent incident involved sexual assault,
- d. whether the alleged violent incident involved strangulation,
- e. whether the alleged violent incident involved abuse during the pregnancy of the alleged victim,
- f. whether the alleged violent incident involved the abuse of pets, or
- g. whether the alleged violent incident involved forcible entry to gain access to the alleged victim;

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

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

10. Whether the person has expressed suicidal or homicidal ideations; and

11. Any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint.

C. A person arrested for:

1. A violation of an ex parte or final protective order as provided in Sections 60.2 and 60.3 of this title;

1 2. An act constituting domestic abuse, domestic assault and
2 battery or domestic assault and battery with a deadly weapon as
3 specified in Section 644 of Title 21 of the Oklahoma Statutes; or

4 3. An act constituting domestic abuse, stalking or harassment
5 as defined by Section 60.1 of this title,
6 shall not be eligible for a personal recognizance bond pursuant to
7 Section 1108.1 of this title.

8 D. No police officer or sheriff may release a person arrested
9 for any violation of subsection G of Section 2-401 of Title 63 of
10 the Oklahoma Statutes, without the violator appearing before a
11 magistrate, judge, or court. In determining bond and other
12 conditions of release, the magistrate, judge, or court shall
13 consider any evidence that the person is in any manner dependent
14 upon a controlled dangerous substance or has a pattern of regular,
15 illegal use of any controlled dangerous substance. A rebuttable
16 presumption that no conditions of release on bond would assure the
17 safety of the community or any person therein shall arise if the
18 state shows by clear and convincing evidence:

19 1. The person was arrested for a violation of subsection G of
20 Section 2-401 of Title 63 of the Oklahoma Statutes, relating to
21 manufacturing or attempting to manufacture a controlled dangerous
22 substance, or possessing any of the substances listed in subsection
23 G of Section 2-401 of Title 63 of the Oklahoma Statutes with the
24 intent to manufacture a controlled dangerous substance; and

1 2. The person is in any manner dependent upon a controlled
2 dangerous substance or has a pattern of regular illegal use of a
3 controlled dangerous substance, and the violation referred to in
4 paragraph 1 of this subsection was committed or attempted in order
5 to maintain or facilitate the dependence or pattern of illegal use
6 in any manner.

7 SECTION 4. This act shall become effective November 1, 2025.

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