

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 967

By: Gollihare

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2021, Section 251, which relates to duty to inform defendant of the charge and rights; requiring certain pretrial release hearing; amending 22 O.S. 2021, Section 1105.2, which relates to pretrial bail requirements; modifying certain bail procedures; prohibiting certain actions without certain hearing; updating statutory language; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 251, is amended to read as follows:

Section 251. A. When the defendant is brought before a ~~magistrate~~ judge of the district court upon an arrest, either with or without a warrant for an initial appearance, on a charge of having committed a public offense, the ~~magistrate court~~ must immediately inform ~~him~~ the defendant of the charge against him, ~~or~~ her and conduct a pretrial release hearing to determine the conditions under which the defendant will be held or released ~~pretrial of his right to the aid of counsel in every stage of the~~

1 ~~proceedings, and also of his right to waive an examination before~~  
2 ~~any further proceedings are had. The rules of evidence shall not~~  
3 ~~apply at the pretrial release hearing.~~

4 B. The following procedural protections shall be provided at  
5 the pretrial release hearing:

6 1. Right to counsel:

7 a. the defendant shall be advised that he or she has the  
8 right to be represented by an attorney of his or her  
9 choosing or an appointed attorney at no expense. The  
10 court shall appoint counsel unless the defendant has  
11 counsel, or the court finds that the defendant has  
12 been advised of and knowingly waived appointment of  
13 counsel and chooses to proceed pro se, and

14 b. the defendant shall be advised that he or she has the  
15 right to consult with his or her attorney privately  
16 before, or at any time during, the pretrial release  
17 hearing,

18 2. Ability to contest and present evidence:

19 a. the defendant shall be advised of and shall have the  
20 opportunity to examine and challenge any evidence  
21 presented to or considered by the court in connection  
22 with the release determination and to cross-examine  
23 any witnesses, and

1           b. the defendant shall be allowed to present evidence and  
2           witness testimony and to make argument, and

3           3. Each of the findings required in this section shall be:

4           a. made by clear and convincing evidence, and

5           b. contained in a record which also identifies the  
6           evidence on which the court relied to make each of its  
7           findings.

8           C. At the pretrial release hearing, the court shall:

9           1. Inform the defendant orally and in writing of the next court  
10          date;

11          2. Order the defendant, if released, to appear at all court  
12          hearings as directed and not to commit a criminal offense while  
13          released;

14          3. Advise the defendant that if he or she fails to appear as  
15          directed or commits a criminal offense while released, a warrant may  
16          be issued for his or her arrest for violating the release conditions  
17          and the defendant could be subjected to greater restrictions or  
18          ordered to stay in jail pending trial; and

19          4. Advise the defendant that he or she can provide up to two  
20          telephone numbers at which he or she can be called or texted with a  
21          reminder on the business day before the next court date. The court  
22          shall give the defendant at the pretrial release hearing, orally and  
23          in writing, instructions for supplementing or changing any numbers

1 provided at the pretrial release hearing. If the defendant provides  
2 one or more numbers:

- 3       a. the court shall provide the defendant with a telephone  
4       conversation, voice mail, or text message reminder of  
5       each court date at which he or she is required to  
6       appear, at each of the numbers provided, on the  
7       business day before the scheduled court date, and  
8       b. the reminder shall include the time and date of the  
9       appearance, the nature of the appearance, and a  
10       warning that if the defendant does not appear, a  
11       warrant may be issued for his or her arrest. The  
12       reminder shall include instructions for contacting the  
13       court by phone with any questions.

14       D. 1. At the pretrial release hearing, the court shall make a  
15 finding of whether the defendant, if released, is unlikely to appear  
16 in court as directed or will create a safety threat to one or more  
17 identifiable members of the community.

18       2. The state may present evidence, including evidence received  
19 from pretrial services if available at the time of the pretrial  
20 release hearing, that the defendant, if released, is unlikely to  
21 appear in court as directed or will create a safety threat to one or  
22 more identifiable members of the community.

1       3. If the state presents evidence, the defendant shall have the  
2 opportunity to review and challenge such evidence and to produce  
3 contrary evidence and legal argument.

4       4. In making its finding, the court shall consider the  
5 following factors:

- 6           a. the seriousness of the crime charged against the  
7           defendant, the apparent likelihood of conviction, and  
8           the extent of the punishment prescribed by the  
9           Legislature,
- 10          b. the defendant's criminal record, if any, and previous  
11          record on bail, if any,
- 12          c. the defendant's reputation and mental condition,
- 13          d. the length of the defendant's residence in the  
14          community,
- 15          e. the defendant's family ties and relationships,
- 16          f. the defendant's employment status, record of  
17          employment, and his or her financial condition,
- 18          g. the identity of responsible members of the community  
19          who would vouch for the defendant's reliability, and
- 20          h. any other factors indicating the defendant's mode of  
21          life, ties to the community, or bearing on the risk of  
22          failure to appear.

23       5. If the court finds the defendant, if released, is unlikely  
24 to appear in court as directed or will create a safety threat to one  
25

1 or more identifiable members of the community, the court shall  
2 determine the release conditions that are sufficient to reasonably  
3 assure the return of the defendant to court as directed and to  
4 assure the safety of one or more identifiable members of the  
5 community.

6 6. The court may impose conditions of release in addition to  
7 ordering the defendant to appear in court as directed and not to  
8 commit a criminal offense while released, provided:

9 a. the court shall impose a condition or a set of  
10 conditions that are the least restrictive necessary to  
11 reasonably assure the return of the defendant to court  
12 as directed or the safety of one or more identifiable  
13 members of the community, and

14 b. the court shall impose a partially or fully secured  
15 bond, cash bond, or property bond only after a finding  
16 that no set of non-monetary conditions, including  
17 unsecured bond, can reasonably assure the return of  
18 the defendant to court as directed or the safety of  
19 one or more identifiable members of the community.

20 7. The court may order the defendant detained only after a  
21 finding that no condition or combination of conditions of release  
22 can reasonably assure the return of the defendant to court as  
23 directed or the safety of one or more identifiable members of the  
24 community.

1       8. For the purposes of this subsection, any secured or  
2 partially secured bond condition shall be deemed an order of  
3 detention unless the court finds the defendant has the present  
4 ability to pay the secured portion of the bond.

5       E. 1. If the defendant had a monetary bond set by a schedule  
6 following arrest, and the defendant remains in custody at the time  
7 of the pretrial release hearing, there is a rebuttable presumption  
8 that the defendant is unable to afford the preset bond amount.

9       2. The defendant shall be presumed presently unable to pay any  
10 bond or fee if the defendant receives means-tested government  
11 assistance, has an income at or below two hundred percent (200%) of  
12 the federal poverty level, is eligible for appointed counsel, is or  
13 within the last two (2) years has been homeless, is incarcerated or  
14 residing in a mental health or other treatment facility, or for the  
15 last three (3) months has had monthly expenses that are equal to or  
16 in excess of the defendant's monthly income and assets.

17       SECTION 2.        AMENDATORY        22 O.S. 2021, Section 1105.2, is  
18 amended to read as follows:

19       Section 1105.2. A. Following an arrest for a misdemeanor or  
20 felony offense and before formal charges have been filed or an  
21 indictment made, the arrested person may have bail set by the court  
22 as provided in this act; provided there are no provisions of law to  
23 the contrary.

1           B. When the defendant appears before the court for a pretrial  
2 release hearing or when formal charges or an indictment has been  
3 filed, ~~bail conditions of release shall be set according to law and~~  
4 ~~the pretrial bond, if any, may be reaffirmed unless additional~~  
5 ~~security is required~~ determined as provided in Section 251 of this  
6 title. Every judicial district may, upon the order of the presiding  
7 judge for the district, establish a ~~pretrial~~ pre-appearance bail  
8 schedule for use by the sheriff or other operator of a jail or  
9 detention facility to set bail prior to the pretrial release hearing  
10 before the court for felony or misdemeanor offenses, ~~except for~~  
11 ~~traffic.~~ Traffic offenses included in subsections B, C and D of  
12 Section 1115.3 of Title 22 of the Oklahoma Statutes and those  
13 offenses specifically excluded herein shall not be included. The  
14 bail schedule established pursuant to the authority of this act  
15 shall exclude any offense for which bail is not allowed by law. The  
16 bail schedule authorized by this act shall be set in accordance with  
17 guidelines relating to bail and shall be published and reviewed by  
18 March 1 of each year by the courts and district attorney of the  
19 judicial district. The bail schedule authorized by this section  
20 shall be made public and shall be displayed in the public area of  
21 the jail or detention facility.

22           C. When a person is assigned bail under a bail schedule, the  
23 amount shall be determined by reference to the charge of arrest  
24



1 associated with the highest bail amount. Scheduled bail amounts  
2 shall not be aggregated.

3 D. 1. Any bail amount imposed pursuant to a bail schedule or  
4 by any order of the court can be satisfied by posting a cash bond or  
5 secured bond in the full amount, or by posting a partially secured  
6 bond by depositing cash equal to ten percent (10%) of the bond  
7 amount and executing a promise to pay the remaining amount upon a  
8 court ordering the bond forfeited.

9 2. An individualized court order may require that a money bond  
10 be fully secured but only if the order complied with all the  
11 requirements of Section 251 of this title for imposing bail  
12 conditions.

13 E. Bail amounts prescribed by a bail schedule shall not be  
14 considered presumptively reasonable when a judge subsequently  
15 determines the person's release conditions.

16 ~~C.~~ F. The ~~pretrial~~ pre-appearance bail shall be set in a  
17 numerical dollar amount. If the person fails to appear in court as  
18 required the judge ~~shall~~ may, if in accordance with the provisions  
19 of Section 3 of this act:

20 1. Rescind the bond and proceed to enter a judgment against the  
21 defendant for the dollar amount of the pretrial bail if no private  
22 bail was given at the time of release; provided, however, the court  
23 clerk shall follow the procedures as set forth in Section 1301 et  
24 seq. of Title 59 of the Oklahoma Statutes in collecting the

1 forfeiture amount against the person who fails to appear in court;  
2 or

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

6 ~~D. G.~~ ~~When a pretrial program exists in the judicial district~~  
7 ~~where the person is being held, the~~ The judge may utilize the  
8 services of the pretrial ~~release~~ services program when ordering  
9 pretrial release, except when private bail has been furnished.

10 ~~F. H.~~ Upon an order for pretrial release or release on bond,  
11 the person shall be released from custody without undue delay.

12 ~~F. I.~~ The court may require the person to be placed on an  
13 electronic monitoring device as a condition of pretrial release,  
14 provided that the provisions of Section 251 of this title for  
15 requiring such a condition have been satisfied.

16 ~~G. J.~~ In instances where an electronic monitoring device has  
17 been ordered, the court may impose payment of a supervision fee.  
18 Payment of the fee, in whole or according to a court-ordered  
19 installment schedule, shall be a condition of pretrial release,  
20 provided that a finding of ability to pay has been made in  
21 accordance with Section 251 of this title. The court clerk shall  
22 collect the supervision fees.

1 SECTION 3. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 1105.2a of Title 22, unless  
3 there is created a duplication in numbering, reads as follows:

4 A. A bond may not be modified, revoked, or forfeited without a  
5 hearing that complies with the procedural requirements for a  
6 pretrial release hearing as provided in Section 251 of Title 22 of  
7 the Oklahoma Statutes.

8 B. A bail modification hearing shall be scheduled:

9 1. At any time, upon a showing by any party that there has been  
10 a change in material circumstances; or

11 2. Sua sponte by the court, within forty-eight (48) hours of  
12 imposition of a monetary bond condition if the person remains in  
13 jail, unless at the time the bond was imposed the court found the  
14 person unable to pay as provided in Section 251 of Title 22 of the  
15 Oklahoma Statutes. The administrator of the jail in which the  
16 person is detained shall provide the court with the information  
17 necessary to schedule hearings as provided in this subsection.

18 C. At a modification hearing:

19 1. The court may not revoke or forfeit bond, impose additional  
20 or more restrictive conditions of release, or order the person  
21 detained:

22 a. unless the substantive and procedural requirements for  
23 imposing conditions at pretrial release hearings as  
24

1 provided in Section 251 of Title 22 of the Oklahoma  
2 Statutes are satisfied, or

3 b. on grounds that the person violated a condition of  
4 release if:

5 (1) the violated rule or condition was imposed by any  
6 entity other than the court, including court  
7 services or pretrial services, or

8 (2) the violated condition was a requirement to pay a  
9 monetary amount, absent a finding of willfulness;  
10 and

11 2. No person shall be jailed for failure to pay an unsecured  
12 portion of bond following forfeiture absent a finding of ability to  
13 pay that follows the procedural and substantive requirements for  
14 determining ability to pay at a pretrial release hearing.

15 D. Whenever a bond modification hearing is scheduled, and the  
16 person is not in custody, the court shall provide notice to the  
17 person, as follows:

18 1. Notice shall be provided in person or by mail at least seven  
19 (7) calendar days before the hearing, and by phone on the business  
20 day before the scheduled hearing at every phone number, if any,  
21 provided by the person as provided in Section 251 of Title 22 of the  
22 Oklahoma Statutes; and

23 2. The notice shall include the time and date of the hearing,  
24 the nature of the hearing, and an advisement that if the person does  
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1 not appear, a warrant may be issued for his or her arrest. The  
2 reminder shall include instructions for contacting the court with  
3 any questions.

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

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