

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1037

By: Walke

4
5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Sections 1101 and 1105, which relate to
9 bailable offenses; modifying list of exceptions that
10 prohibits certain persons from receiving bail;
11 clarifying and deleting conditions considered by the
12 court prior to determining bond or release; providing
13 statutory references; deleting evidentiary
14 requirements considered by the court when determining
15 bond or release of persons arrested for certain drug
16 crimes; amending 22 O.S. 2011, Sections 1105.2, as
17 amended by Section 1, Chapter 59, O.S.L. 2016,
18 1105.3, as last amended by Section 1, Chapter 2,
19 O.S.L. 2018, 1106, 1108.1, 1109 and 1110 (22 O.S.
20 Supp. 2018, Sections 1105.2 and 1105.3), which relate
21 to the Pretrial Release Act; establishing pretrial
22 procedures for persons arrested with or without a
23 warrant; providing time limitation for initial
24 appearances; directing courts to release persons
arrested for certain crimes on his or her own
recognizance; providing exceptions; directing courts
to set appropriate conditions for persons released on
personal recognizance bonds; allowing sheriffs or
operators of jails or detention facilities to use
pretrial bail schedules; requiring posting of bail
schedules in public jail areas; deleting electronic
monitoring option as a pretrial release condition;
directing pretrial services programs to provide
recommendation to the court within certain time
frame; providing judicial discretion when considering
pretrial release recommendations; directing courts to
order the least restrictive pretrial release
conditions; providing judicial discretion when
determining eligibility for pretrial evaluation;
removing electronic monitoring option as a condition
to consider for pretrial release; directing

1 submission of written evaluation report within
2 certain time frame; directing pretrial programs to
3 provide different methods and levels of services for
4 pretrial release participants; deleting authorization
5 of certain peace officers to enforce court-ordered
6 conditions of release; modifying quarterly report
7 requirements for pretrial programs; deleting
8 exemption for certain pretrial release programs;
9 clarifying deposit for bail procedure; providing
10 statutory reference for own recognizance indenture
11 contract requirements; deleting certain circumstance
12 that requires better security for bail; extending
13 time limitation for persons to surrender after
14 forfeiture; providing separate bail jumping penalty
15 for persons charged with certain crimes; amending 59
16 O.S 2011, Sections 1334 and 1335, which relate to
17 bail on personal recognizance and penalties for
18 forfeiture; modifying guidelines for admitting
19 persons to bail on personal recognizance; providing
20 statutory reference; providing gender-neutral
21 language; providing separate bail jumping penalty for
22 persons charged with certain crimes; repealing 22
23 O.S. 2011, Section 1101.1, which relates to bail for
24 prostitution-related offenses; and providing an
effective date.

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

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

19 Section 1101. A. Except as otherwise provided by law, bail, by
20 sufficient sureties, shall be admitted upon all arrests in criminal
21 cases where the offense is not punishable by death and in such cases
22 it may be taken by any of the persons or courts authorized by law to
23 arrest, ~~to~~ or imprison offenders or to perform pretrial services, or
24

1 by the clerk of the district court or his or her deputy, or by the
2 judge of such courts.

3 B. In criminal cases where the defendant is currently an
4 escaped prisoner from the Department of Corrections, the defendant
5 must be processed back into the Department of Corrections prior to
6 bail being set on new criminal charges.

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

9 1. Capital offenses ~~when the proof of guilt is evident, or the~~
10 ~~presumption thereof is great;~~

11 2. Violent ~~offenses~~ crime as defined in Section 571 of Title 57
12 of the Oklahoma Statutes;

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

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

18 5. Controlled dangerous substances offenses where the maximum
19 sentence may be at least ten (10) ~~years~~ years of imprisonment.

20 On all offenses specified in paragraphs ~~2~~ 1 through 5 of this
21 subsection, the proof of guilt must be evident, or the presumption
22 must be great, and ~~it must be on the grounds~~ the court shall make an
23 individualized determination on the record that no condition of
24

1 release would assure the return of the defendant to court or the
2 safety of the community or any person.

3 ~~D. There shall be a rebuttable presumption that no condition of~~
4 ~~release would assure the safety of the community if the state shows~~
5 ~~by clear and convincing evidence that the person was arrested for a~~
6 ~~violation of Section 741 of Title 21 of the Oklahoma Statutes.~~

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

9 Section 1105. A. Except as otherwise provided by this section,
10 upon the allowance of bail and the execution of the requisite
11 recognizance, bond, or undertaking to the state, the magistrate,
12 judge, or court, shall, if the defendant is in custody, make and
13 sign an order for discharge. The court, in its discretion, may
14 prescribe by court rule the conditions under which the court clerk
15 or deputy court clerk, or the sheriff or deputy sheriff, may prepare
16 and execute an order of 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~~ protective
12 ~~orders of~~ issued by any court ~~or governmental entity~~;

13 4. Whether the person ~~is potentially a~~ poses a specific threat
14 ~~to any other~~ a specific 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.~~ 6. 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,

24

- 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.~~ 7. 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.~~ 8. 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.~~ 9. Whether the person has expressed suicidal or homicidal ideations; and

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

C. No police officer or sheriff may release a person arrested for any violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes, without the violator appearing before a

1 magistrate, judge, or court pursuant to Section 1105.2 of this
2 title. In determining bond and other conditions of release, the
3 magistrate, judge, or court shall consider any evidence that the
4 person is in any manner dependent upon a controlled dangerous
5 substance or has a pattern of regular, illegal use of any controlled
6 dangerous substance and may consider the recommendation of a
7 pretrial service provider pursuant to Section 1105.3 of this title.

8 ~~A rebuttable presumption that no conditions of release on bond would~~
9 ~~assure the safety of the community or any person therein shall arise~~
10 ~~if the state shows by clear and convincing evidence:~~

11 1. ~~The person was arrested for a violation of subsection G of~~
12 ~~Section 2-401 of Title 63 of the Oklahoma Statutes, relating to~~
13 ~~manufacturing or attempting to manufacture a controlled dangerous~~
14 ~~substance, or possessing any of the substances listed in subsection~~
15 ~~G of Section 2-401 of Title 63 of the Oklahoma Statutes with the~~
16 ~~intent to manufacture a controlled dangerous substance; and~~

17 2. ~~The person is in any manner dependent upon a controlled~~
18 ~~dangerous substance or has a pattern of regular illegal use of a~~
19 ~~controlled dangerous substance, and the violation referred to in~~
20 ~~paragraph 1 of this subsection was committed or attempted in order~~
21 ~~to maintain or facilitate the dependence or pattern of illegal use~~
22 ~~in any manner.~~

23
24

1 SECTION 3. AMENDATORY 22 O.S. 2011, Section 1105.2, as
2 amended by Section 1, Chapter 59, O.S.L. 2016 (22 O.S. Supp. 2018,
3 Section 1105.2), is amended to read as follows:

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

9 B. ~~When formal charges or an indictment has been filed, bail~~
10 ~~shall be set according to law and the pretrial bond, if any, may be~~
11 ~~reaffirmed unless additional security is required. If not otherwise~~
12 ~~released, the arrested person with or without a warrant shall be~~
13 ~~taken without unnecessary delay before the nearest and most~~
14 ~~accessible magistrate in that county for an initial appearance and~~
15 ~~formal charges shall be filed. In no case shall the delay from~~
16 ~~arrest to initial appearance be more than forty-eight (48) hours,~~
17 ~~inclusive of weekends and holidays.~~

18 C. In cases where the most serious offense with which the
19 arrested person is charged is not a violent crime, as defined in
20 Section 571 of Title 57 of the Oklahoma Statutes, domestic assault
21 and battery as provided in Sections 644, 645 and 647 of Title 21 of
22 the Oklahoma Statutes, violation of a protective order as provided
23 in Section 60.6 of this title, stalking as provided in Section 1173
24 of Title 21 of the Oklahoma Statutes, or felony offenses involving

1 escape or attempt to escape from lawful arrest or confinement as
2 defined in sections 434, 436, 443 or 444 of Title 21 of the Oklahoma
3 Statutes, the court shall release the person pending trial on his or
4 her own recognizance unless the court finds on the record or in
5 writing one or more of the following:

6 1. The person's own recognizance will not reasonably assure the
7 return of the person to court. In making a finding pursuant to this
8 paragraph, the court may consider any prior record of failing to
9 appear for court in the previous two (2) years, or any other pending
10 criminal cases of the arrested person;

11 2. The person will obstruct or attempt to obstruct justice, or
12 threaten, injure or intimidate or attempt to threaten, injure or
13 intimidate a prospective witness or juror; or

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

16 D. In cases where a person is not released on his or her own
17 recognizance pursuant to subsection C of this section, the court
18 shall set appropriate conditions on the personal recognizance bond
19 or shall set reasonable bail. In all cases, the court shall set the
20 least restrictive conditions necessary to reasonably assure the
21 appearance of the person.

22 E. Every judicial district may, upon the order of the presiding
23 judge for the district, establish a pretrial bail schedule for use
24 by the sheriff or other operator of a jail or detention facility to

1 set bail prior to the initial appearance of the person before the
2 court for felony or misdemeanor offenses, ~~except for traffic.~~
3 Traffic offenses included in subsections B, C and D of Section
4 1115.3 of Title 22 of the Oklahoma Statutes and those offenses
5 specifically excluded herein shall not be included. The bail
6 schedule established pursuant to the authority of this act shall
7 exclude any offense for which bail is not allowed by law. The bail
8 schedule authorized by this act shall be set in accordance with
9 guidelines relating to bail and shall be published and reviewed by
10 March 1 of each year by the courts and district attorney of the
11 judicial district. The bail schedule authorized by this section
12 shall be made public and shall be displayed in the public area of
13 the jail or detention facility.

14 E. F. The pretrial bail shall be set in a numerical dollar
15 amount. If the person fails to appear in court as required the
16 judge shall:

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

24

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

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

8 ~~E.~~ H. Upon an order for pretrial release or release on bond,
9 the person shall be released from custody without undue delay.

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

12 ~~G.~~ ~~In instances where an electronic monitoring device has been~~
13 ~~ordered, the court may impose payment of a supervision fee. Payment~~
14 ~~of the fee, in whole or according to a court-ordered installment~~
15 ~~schedule, shall be a condition of pretrial release. The court clerk~~
16 ~~shall collect the supervision fees.~~

17 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1105.3, as
18 last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp.
19 2018, Section 1105.3), is amended to read as follows:

20 Section 1105.3 A. Any county pursuant to the provisions of
21 this act may establish and fund a pretrial services program to be
22 utilized by the district court in that jurisdiction.

23 B. When a pretrial ~~release~~ services program is established
24 pursuant to this act ~~and private bail has not been furnished~~, the

1 judge may order a person to be evaluated through the pretrial
2 services program. ~~After~~ Within forty-eight (48) hours of conducting
3 ~~an evaluation of the person applying for pretrial release,~~ the
4 pretrial services program shall make a recommendation to the court.
5 The recommendation shall indicate any special supervisory conditions
6 for pretrial release. The judge ~~shall~~ may consider the
7 recommendations and ~~may grant or deny pretrial release~~ shall order
8 the least restrictive conditions that will reasonably assure the
9 return of the person to court. The presiding judge of the judicial
10 district may issue a standing order outlining criteria for cases
11 that may automatically be evaluated for pretrial release by a
12 pretrial program operating in the jurisdiction. The standing order
13 may include amounts for bail and types of bonds deemed appropriate
14 for certain offenses.

15 C. ~~Except as otherwise authorized by the provisions of this~~
16 ~~subsection, persons~~ Persons accused of or detained for any of the
17 following offenses or conditions shall ~~not,~~ pursuant to judicial
18 discretion, be eligible for pretrial ~~release~~ evaluation by any
19 pretrial services program:

20 1. Aggravated driving under the influence of an intoxicating
21 substance;

22 2. Any felony driving under the influence of an intoxicating
23 substance;

24

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

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

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

3 36. Sexual assault or violent offenses against children;

4 37. Shooting with intent to kill;

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

6 39. Two or more prior felony convictions; or

7 40. Unauthorized use of a motor vehicle.

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

18 E. Every pretrial services program operating pursuant to the
19 provisions of this act shall meet the following minimum criteria:

20 1. The program shall establish a procedure for screening and
21 evaluating persons who are detained or have been arrested for the
22 alleged commission of a crime. The program shall obtain criminal
23 history records on detained persons through the National Crime
24 Information Center (NCIC). The information obtained from the

1 ~~screening and~~ evaluation process must be submitted in a written
2 report ~~without unnecessary delay~~ within forty-eight (48) hours to
3 the judge who ~~is assigned to hear pretrial release applications when~~
4 ~~the person is eligible for pretrial release~~ ordered the evaluation;

5 2. The program shall provide reliable information to the judge
6 relating to the person ~~applying for pretrial release~~ so a reasonable
7 decision can be made concerning the ~~amount and type of bail~~
8 nonfinancial conditions appropriate for pretrial release. The
9 information provided shall be based upon facts relating to the
10 person's risk of danger to the community and the risk of failure to
11 appear for court; and

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

15 F. A pretrial services program established pursuant to this act
16 ~~may shall~~ provide different methods and levels of ~~community-based~~
17 ~~supervision to meet any court-ordered conditions of release. The~~
18 ~~program may use existing supervision methods~~ services for persons
19 who are released prior to trial to ensure the appearance of the
20 person for court and to assist with compliance with any nonfinancial
21 pretrial release conditions. ~~Pretrial programs which employ peace~~
22 ~~officers certified by the Council on Law Enforcement Education and~~
23 ~~Training (CLEET) are authorized to enforce court-ordered conditions~~
24 ~~of release.~~

1 G. Each pretrial services program established pursuant to this
2 act shall provide a quarterly report to the presiding judge of the
3 judicial district of the jurisdiction in which it operates. A copy
4 of the report shall be filed of record with the court clerk of the
5 jurisdiction. Each report shall include, but is not limited to, the
6 following information:

7 1. The total number of persons ~~screened,~~ evaluated ~~or otherwise~~
8 ~~considered~~ for pretrial release;

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

10 3. The number of persons admitted to pretrial release that
11 failed to appear; and

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

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

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

20 Section 1106. A deposit of the sum of money mentioned in ~~the~~
21 any order admitting to bail with financial conditions is equivalent
22 to bail and upon such deposit the defendant must be discharged from
23 custody.

24

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

3 Section 1108.1 A. Own recognizance bonds ~~set in a penal amount~~
4 ordered by the court pursuant to subsection C of Section 1105.2 of
5 this title shall be posted by executing an own recognizance
6 indenture contract which shall be executed and maintained by the
7 district court clerk. The indenture shall constitute an inchoate
8 obligation to pay in the event forfeiture proceedings are commenced
9 and result in a final order of forfeiture by the authorizing and
10 issuing judge of the district court.

11 B. Setting aside of forfeitures shall be governed by the same
12 rules and procedures applicable to cash, property or surety bonds,
13 provided that if the forfeiture is set aside, the district court
14 shall exempt from forfeiture set aside all reasonable costs of
15 recovery to return the defendant to custody, and an administrative
16 fee to be retained by the court fund in a sum not to exceed ten
17 percent (10%) of the total penal bond amount plus all costs incurred
18 in processing the forfeiture proceeding to include costs of notices,
19 warrants, service and execution.

20 C. The final judgment of forfeiture shall constitute a judgment
21 enforceable through all procedures available for the collection of a
22 civil judgment, provided that the judgment shall be considered a
23 debt in the nature of defalcation as defined by the United States
24 Bankruptcy Code, and shall not be subject to other forms of debtor

1 relief. The judgment shall be subject to collection as costs in the
2 underlying action regardless of final disposition or determination
3 of guilt.

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

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

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

14 Section 1109. When proof is made to any court, judge or other
15 magistrate having authority to commit on criminal charges, that a
16 person previously admitted to bail on any such charge is about to
17 abscond, ~~or that his bail is insufficient,~~ or has removed from the
18 state, the judge or magistrate shall require such person to give
19 better security, or for default thereof cause him or her to be
20 committed to prison~~r,~~ and an order for his or her arrest may be
21 endorsed on the former commitment, or a new warrant therefor may be
22 issued by such judge or magistrate, setting forth the cause thereof.

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

1 Section 1110. Whoever, having been admitted to bail or released
2 on recognizance, bond, or undertaking for appearance before any
3 magistrate or court of the State of Oklahoma, incurs a forfeiture of
4 the bail or violates such undertaking or recognizance and willfully
5 fails to surrender himself or herself within ~~five (5)~~ thirty (30)
6 days following the date of such forfeiture shall, ~~if~~ be subject to
7 the following penalties:

8 1. If the bail was given or the undertaking or recognizance
9 extended in connection with a charge of ~~felony~~ a violent crime, as
10 defined in Section 571 of Title 57 of the Oklahoma Statutes, or
11 pending appeal or certiorari after conviction of any such offense,
12 be guilty of a felony and shall be fined not more than One Thousand
13 Dollars (\$1,000.00) or imprisoned in the custody of the Department
14 of Corrections for not more than one (1) year, or both; or

15 2. If the bail was given or the undertaking or recognizance
16 extended in connection with a charge of a crime other than a violent
17 crime as defined in Section 571 of Title 57 of the Oklahoma Statutes
18 or pending appeal or certiorari after conviction of any such
19 offense, be guilty of a misdemeanor and shall be fined not more than
20 Five Hundred Dollars (500.00) or imprisoned in the custody of the
21 county jail for not more than six (6) months, or both.

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

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

3 Section 1334. A. Any person in custody before a court or
4 magistrate of the State of Oklahoma ~~subject to discretion of the~~
5 ~~court~~ may be admitted to bail on his or her personal recognizance
6 ~~subject to such conditions as the court or magistrate may reasonably~~
7 ~~prescribe to assure his appearance when required~~ in accordance with
8 the requirements of Sections 1101 through 1115.5 of this title.

9 B. When a person is admitted to bail on his or her personal
10 recognizance, the court or magistrate may determine an amount of
11 money, property, or securities which shall be paid or forfeited as a
12 penalty by the defendant for failure to comply with the terms of his
13 or her admission to bail on personal recognizance. This penalty
14 shall be in addition to the penalties provided for in Section 1335
15 of this title.

16 C. Any person admitted to bail as herein provided shall be
17 fully appraised by the court or magistrate of the penalties provided
18 for failure to comply with the terms of his or her recognizance and,
19 upon a failure of compliance, a warrant for the arrest of such
20 person shall be issued forthwith.

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

23 Section 1335. Whoever, having been admitted to bail for
24 appearance before any district court in the State of Oklahoma, ~~(1)~~

1 incurs a forfeiture of the bail and willfully fails to surrender
2 himself or herself within thirty (30) days following the date of
3 such forfeiture, or ~~(2)~~ willfully fails to comply with the terms of
4 his or her personal recognizance, shall be subject to the following
5 penalties:

6 1. If the underlying offense for which the defendant was
7 admitted to bail was a violent crime as defined in Section 571 of
8 Title 57 of the Oklahoma Statutes, the defendant shall, upon
9 conviction, be guilty of a felony and shall be fined not more than
10 Five Thousand Dollars (\$5,000.00) or imprisoned in the custody of
11 the Department of Corrections for not more than ~~two (2) years~~ one
12 (1) year, or both; or

13 2. If the underlying offense for which the defendant was
14 admitted to bail was a crime other than a violent crime as defined
15 in Section 571 of Title 57 of the Oklahoma Statutes, the defendant
16 shall, upon conviction, be guilty of a misdemeanor and shall be
17 fined not more than Five Hundred Dollars (\$500.00) or imprisoned in
18 the county jail for not more than six (6) months, or both.

19 SECTION 11. REPEALER 22 O.S. 2011, Section 1101.1, is
20 hereby repealed.

21 SECTION 12. This act shall become effective November 1, 2019.

22
23 57-1-5364 GRS 01/08/19
24