

1 ENGROSSED HOUSE
2 BILL NO. 2019

By: Albright and Davis of the
House

3 and

4 Kirt of the Senate

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8 [criminal procedure - directing courts to determine
9 certain status of accused persons when considering
10 pretrial release - effective date]
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13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1105.4 of Title 22, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Upon making a pretrial release determination, the court
18 shall inquire about the pregnancy or primary caregiver status of the
19 accused person. If the court determines that the accused person is
20 pregnant or is the primary caregiver and the person does not impose
21 a substantial risk of physical harm to the community, the court
22 shall permit pretrial release on his or her own personal
23 recognizance.
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1 B. The court may impose conditions of pretrial release that are
2 the least restrictive and appropriate to caregiver-dependent unity
3 and support.

4 C. The court shall determine the ability of an accused person
5 to contribute financially toward the receipt of services in
6 compliance with any imposed conditions. Inability to pay for
7 conditions set by the court shall not constitute a willful violation
8 of the imposed conditions.

9 D. The court shall consider caregiver responsibilities when
10 determining whether or not an accused person has violated any
11 imposed conditions.

12 E. The provisions of this section shall be retroactive. A
13 pregnant person or primary caregiver currently in pretrial custody
14 may request modification of bail by motion to the court. The court
15 shall thereupon modify bail in accordance with the provisions of
16 this section.

17 F. As used in this section:

18 1. "Accused person" means an individual who has not been
19 convicted of the accusations or charges against him or her; and

20 2. "Primary caregiver" means:

21 a. an individual who has consistently assumed
22 responsibility for the housing, health and safety of a
23 child, adult with disabilities, older person and other
24 dependents prior to his or her incarceration or

1 expresses a willingness to assume responsibility for
2 the housing, health and safety of the dependent, or
3 b. a woman who has given birth to a child after or while
4 awaiting pretrial release and expresses a willingness
5 to assume responsibility for the housing, health and
6 safety of her child.

7 A parent who has arranged for the temporary care of a child in the
8 home of a relative or other responsible adult shall not, for that
9 reason, be excluded from this definition.

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 991a-22 of Title 22, unless
12 there is created a duplication in numbering, reads as follows:

13 A. Prior to sentencing a person convicted of an offense, the
14 sentencing court shall determine if the convicted person is pregnant
15 or the primary caregiver. If the court determines that the
16 convicted person is pregnant or the primary caregiver and the
17 offense does not pose a substantial risk of physical harm to the
18 community, the court shall impose an individually assessed sentence,
19 without imprisonment.

20 B. In imposing the individually assessed sentence, the court
21 may require the person to meet certain conditions that are the least
22 restrictive and substantially related to the offense including, but
23 not limited to:

24 1. Drug and alcohol treatment;

2. Domestic violence education and prevention;
3. Physical and sexual abuse counseling;
4. Anger management;
5. Vocational and educational services;
6. Job training and placement;
7. Affordable and safe housing assistance;
8. Financial literacy;
9. Parenting classes;
10. Family and individual counseling; and
11. Family case management services.

C. The court shall determine the ability of a convicted person to contribute financially toward the receipt of services in compliance with the conditions listed in subsection B of this section. Inability to pay for conditions set by the court shall not constitute a willful violation of said conditions.

D. The court may require the appearance of the person in court during the sentence of the convicted person to evaluate the progress of the person in meeting any of the conditions provided in subsection B of this section. Upon appearance, the court may:

1. Modify the conditions of the sentence;
2. Decrease the duration of the sentence; and
3. Sanction the person for a willful violation of the sentence.

1 E. The court shall consider caregiver responsibilities when
2 determining whether or not a convicted person has violated any
3 imposed conditions.

4 F. The provisions of this section shall be retroactive. A
5 pregnant person or primary caregiver currently sentenced to a period
6 of incarceration may request modification of the sentence by motion
7 to the court. The court shall thereupon modify the sentence in
8 accordance with the provisions of this section.

9 G. As used in this section:

10 1. "Convicted person" means an individual who has been found
11 guilty of an offense; and

12 2. "Primary caregiver" means:

13 a. an individual who has consistently assumed
14 responsibility for the housing, health and safety of a
15 child, adult with disabilities, older person and other
16 dependents prior to his or her incarceration or

17 expresses a willingness to assume responsibility for
18 the housing, health and safety of the dependent, or

19 b. a woman who has given birth to a child while awaiting
20 sentencing and expresses a willingness to assume
21 responsibility for the housing, health and safety of
22 her child.

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1 A parent who has arranged for the temporary care of the child in the
2 home of a relative or other responsible adult shall not, for that
3 reason, be excluded from this definition.

4 SECTION 3. This act shall become effective November 1, 2019.

5 Passed the House of Representatives the 14th day of March, 2019.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2019.

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Presiding Officer of the Senate

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