

1 STATE OF OKLAHOMA

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

3 SENATE BILL NO. 846

By: Weaver

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5  
6 AS INTRODUCED

7 An Act relating to the Pretrial Release Act; amending  
8 22 O.S. 2011, Section 1105.3, as last amended by  
9 Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp.  
10 2018, Section 1105.3), which relates to pretrial  
11 release programs; establishing annual reporting  
12 requirement; requiring certain annual report to be  
13 filed with court; specifying information to be  
14 included in certain annual report; updating statutory  
15 references; 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 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~~ Section 1105.1 et seq. of this title may establish and fund  
22 a pretrial program to be utilized by the district court in that  
23 jurisdiction.

24 B. When a pretrial release program is established pursuant to  
~~this act~~ Section 1105.1 et seq. of this title and private bail has  
not been furnished, the judge may order a person to be evaluated

1 through the pretrial program. After conducting an evaluation of the  
2 person applying for pretrial release, the pretrial program shall  
3 make a recommendation to the court. The recommendation shall  
4 indicate any special supervisory conditions for pretrial release.  
5 The judge shall consider the recommendations and may grant or deny  
6 pretrial release. The presiding judge of the judicial district may  
7 issue a standing order outlining criteria for cases that may  
8 automatically be evaluated for pretrial release by a pretrial  
9 program operating in the jurisdiction. The standing order may  
10 include amounts for bail and types of bonds deemed appropriate for  
11 certain offenses.

12 C. Except as otherwise authorized by the provisions of this  
13 subsection, persons accused of or detained for any of the following  
14 offenses or conditions shall not be eligible for pretrial release by  
15 any pretrial program:

16 1. Aggravated driving under the influence of an intoxicating  
17 substance;

18 2. Any felony driving under the influence of an intoxicating  
19 substance;

20 3. Any offense prohibited by the Trafficking In Illegal Drugs  
21 Act;

22 4. Any person having a violent felony conviction within the  
23 past ten (10) years;

24 5. Appeal bond;

- 1       6. Arson in the first degree, including attempts to commit
- 2 arson in the first degree;
- 3       7. Assault and battery on a police officer;
- 4       8. Bail jumping;
- 5       9. Bribery of a public official;
- 6       10. Burglary in the first or second degree;
- 7       11. Civil contempt proceedings;
- 8       12. Distribution of a controlled dangerous substance, including
- 9 the sale or possession of a controlled dangerous substance with
- 10 intent to distribute or conspiracy to distribute;
- 11       13. Domestic abuse, domestic assault or domestic assault and
- 12 battery with a dangerous weapon, or domestic assault and battery
- 13 with a deadly weapon;
- 14       14. Driving under the influence of intoxicating substance where
- 15 property damage or personal injury occurs;
- 16       15. Felony discharging a firearm from a vehicle;
- 17       16. Felony sex offenses;
- 18       17. Fugitive bond or a governor's fugitive warrant;
- 19       18. Immigration charges;
- 20       19. Kidnapping;
- 21       20. Juvenile or youthful offender detention;
- 22       21. Manslaughter;
- 23       22. Manufacture of a controlled dangerous substance;
- 24

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

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

2 39. Two or more prior felony convictions; or

3 40. Unauthorized use of a motor vehicle.

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

14 E. Every pretrial services program operating pursuant to the  
15 provisions of ~~this act~~ Section 1105.1 et seq. of this title shall  
16 meet the following minimum criteria:

17 1. The program shall establish a procedure for screening and  
18 evaluating persons who are detained or have been arrested for the  
19 alleged commission of a crime. The program shall obtain criminal  
20 history records on detained persons through the National Crime  
21 Information Center (NCIC). The information obtained from the  
22 screening and evaluation process must be submitted in a written  
23 report without unnecessary delay to the judge who is assigned to  
24

1 hear pretrial release applications when the person is eligible for  
2 pretrial release;

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

9 3. The program shall make all reasonable attempts to provide  
10 the court with information appropriate to each person considered for  
11 pretrial release.

12 F. A pretrial program established pursuant to ~~this act~~ Section  
13 1105.1 et seq. of this title may provide different methods and  
14 levels of community-based supervision to meet any court-ordered  
15 conditions of release. The program may use existing supervision  
16 methods for persons who are released prior to trial. Pretrial  
17 programs which employ peace officers certified by the Council on Law  
18 Enforcement Education and Training (CLEET) are authorized to enforce  
19 court-ordered conditions of release.

20 G. Each pretrial program established pursuant to ~~this act~~  
21 Section 1105.1 et seq. of this title shall provide a quarterly  
22 report to the presiding judge of the judicial district of the  
23 jurisdiction in which it operates. A copy of the report shall be  
24 filed of record with the court clerk of the jurisdiction. Each

1 report shall include, but is not limited to, the following  
2 information:

- 3 1. The total number of persons screened, evaluated or otherwise  
4 considered for pretrial release;
- 5 2. The total number and nature of recommendations made;
- 6 3. The number of persons admitted to pretrial release that  
7 failed to appear; and
- 8 4. Any other information deemed appropriate by the reporting  
9 judicial district or that the program desires to report.

10 H. Prior to the end of the first quarter of each calendar year,  
11 each pretrial program established pursuant to this act shall submit  
12 an annual report to the presiding judge of the judicial district of  
13 the jurisdiction in which it operates for the prior calendar year.  
14 A copy of the annual report shall be filed of record with the court  
15 clerk of the jurisdiction in which it operates and made available to  
16 the public online. The annual report shall include, but is not  
17 limited to, the following information:

- 18 1. The total number of release recommendations made by the  
19 pretrial program;
- 20 2. The total number of cases reviewed by the pretrial program;
- 21 3. The total number of cases in which non-secured release was  
22 denied by the pretrial program;
- 23 4. The number of defendants released on non-secured release  
24 after a positive recommendation by the pretrial program;

1       5. The average period of time defendants are incarcerated on a  
2 felony charge before being released on recommendation by the  
3 pretrial program;

4       6. The average period of time defendants are incarcerated on a  
5 misdemeanor charge before being released on recommendation by the  
6 pretrial program;

7       7. The total number of cases where the defendant was released  
8 on a non-secured release after a positive recommendation by the  
9 pretrial program and the defendant had at least one missed court  
10 date within one (1) year of the date of release;

11       8. The total number of cases where a defendant was released on  
12 a non-secured release after a positive recommendation by the  
13 pretrial program and a bench warrant was issued by the court on the  
14 defendant's failure to appear on a non-secured release;

15       9. The total number of cases where a defendant was released on  
16 a non-secured release after a positive recommendation by the  
17 pretrial program and a bench warrant was issued by the court but  
18 remained unserved after one (1) year;

19       10. The total number of cases where a defendant was released on  
20 a non-secured release after a positive recommendation by the  
21 pretrial program and a warrant was issued for the defendant after  
22 their release for additional criminal charges within one (1) year;  
23 and



1       11. The total number of cases where a defendant was released on  
2 a non-secured release after a positive recommendation by the  
3 pretrial program and the defendant was arrested on a new offense  
4 while on release under the pretrial program's recommendation.

5       I. Every pretrial release program established pursuant to this  
6 section shall utilize the services of local providers; provided,  
7 however, any program in continuous existence since July 1, 1999,  
8 shall be exempt from the provisions of this subsection.

9       SECTION 2. This act shall become effective November 1, 2019.

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