

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1085

By: Grau

6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 1105.3, which relates to the
9 Pretrial Release Act; modifying pretrial release
10 conditions to include various monitoring and testing
11 methods; and providing an effective date.

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

13 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1105.3, is
14 amended to read as follows:

15 Section 1105.3 A. Any eligible county pursuant to the
16 provisions of this act may establish and fund a pretrial program to
17 be utilized by the district court in that jurisdiction.

18 B. When a pretrial release program is established pursuant to
19 this act and private bail has not been furnished, the judge may
20 order a person to be evaluated through the pretrial program. After
21 conducting an evaluation of the person applying for pretrial
22 release, the pretrial program shall make a recommendation to the
23 court. The recommendation shall indicate any special supervisory
24 conditions for pretrial release. The judge shall consider the

1 recommendations and may grant or deny pretrial release. The
2 presiding judge of the judicial district may issue a standing order
3 outlining criteria for cases that may automatically be evaluated for
4 pretrial release by a pretrial program operating in the
5 jurisdiction. The standing order may include amounts for bail and
6 types of bonds deemed appropriate for certain offenses.

7 C. Except as otherwise authorized by the provisions of this
8 subsection, persons accused of or detained for any of the following
9 offenses or conditions shall not be eligible for pretrial release by
10 any pretrial program:

11 1. Aggravated driving under the influence of an intoxicating
12 substance;

13 2. Any felony driving under the influence of an intoxicating
14 substance;

15 3. Any offense prohibited by the Trafficking In Illegal Drugs
16 Act;

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

19 5. Appeal bond;

20 6. Arson in the first degree, including attempts to commit
21 arson in the first degree;

22 7. Assault and battery on a police officer;

23 8. Bail jumping;

24 9. Bribery of a public official;

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

1 27. Persons currently on pretrial release who are arrested on a
2 new felony offense;

3 28. Possession, manufacture, use, sale or delivery of an
4 explosive device;

5 29. Possession of a controlled dangerous substance on Schedule
6 I or II of the Controlled Dangerous Substances Act;

7 30. Possession of a firearm or other offensive weapon during
8 the commission of a felony;

9 31. Possession of a stolen vehicle;

10 32. Rape in the first degree, including attempts to commit rape
11 in the first degree;

12 33. Rape in the second degree, including attempts to commit
13 rape in the second degree;

14 34. Robbery by force or fear;

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

17 36. Sexual assault or violent offenses against children;

18 37. Shooting with intent to kill;

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

20 39. Two or more prior felony convictions; or

21 40. Unauthorized use of a motor vehicle.

22 D. A person not eligible for pretrial release pursuant to the
23 provisions of subsection C of this section may be released upon
24 order of a district judge or associate district judge under

1 conditions prescribed by the judge, which may include an order to
2 require the defendant, as a condition of pretrial release, to use ~~an~~
3 ~~active, real-time, twenty-four-hour~~ or participate in any monitoring
4 or testing including, but not limited to, a Global Positioning
5 System (GPS) monitoring device ~~as a condition of pretrial release~~
6 and urinalysis testing. The court may further order the defendant
7 to pay costs and expenses related to ~~the GPS device and monitoring~~
8 any supervision, monitoring or testing.

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

11 1. The program shall establish a procedure for screening and
12 evaluating persons who are detained or have been arrested for the
13 alleged commission of a crime. The program shall obtain criminal
14 history records on detained persons through the National Crime
15 Information Center (NCIC). The information obtained from the
16 screening and evaluation process must be submitted in a written
17 report without unnecessary delay to the judge who is assigned to
18 hear pretrial release applications when the person is eligible for
19 pretrial release;

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

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

6 F. A pretrial program established pursuant to this act may
7 provide different methods and levels of community-based supervision
8 to meet any court-ordered conditions of release. The program may
9 use existing supervision methods for persons who are released prior
10 to trial. Pretrial programs which employ peace officers certified
11 by the Council on Law Enforcement Education and Training (CLEET) are
12 authorized to enforce court-ordered conditions of release.

13 G. Each pretrial program established pursuant to this act shall
14 provide a quarterly report to the presiding judge of the judicial
15 district of the jurisdiction in which it operates. A copy of the
16 report shall be filed of record with the court clerk of the
17 jurisdiction. Each report shall include, but is not limited to, the
18 following information:

19 1. The total number of persons screened, evaluated or otherwise
20 considered for pretrial release;

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

22 3. The number of persons admitted to pretrial release that
23 failed to appear; and
24

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

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

7 SECTION 2. This act shall become effective November 1, 2013.

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9 54-1-5550 GRS 12/14/12