

An Act

ENROLLED SENATE
BILL NO. 363

By: Holt, Sharp and Pittman of
the Senate

and

O'Donnell of the House

An Act relating to the Pretrial Release Act; amending 22 O.S. 2011, Section 1105.3, as last amended by Section 2, Chapter 59, O.S.L. 2016 (22 O.S. Supp. 2017, Section 1105.3), which relates to pretrial release programs; authorizing special judges to determine eligibility for certain release; and declaring an emergency.

SUBJECT: Pretrial Release Act

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1105.3, as last amended by Section 2, Chapter 59, O.S.L. 2016 (22 O.S. Supp. 2017, Section 1105.3), is amended to read as follows:

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

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

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

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

1. Aggravated driving under the influence of an intoxicating substance;
2. Any felony driving under the influence of an intoxicating substance;
3. Any offense prohibited by the Trafficking In Illegal Drugs Act;
4. Any person having a violent felony conviction within the past ten (10) years;
5. Appeal bond;
6. Arson in the first degree, including attempts to commit arson in the first degree;
7. Assault and battery on a police officer;
8. Bail jumping;
9. Bribery of a public official;
10. Burglary in the first or second degree;
11. Civil contempt proceedings;

12. Distribution of a controlled dangerous substance, including the sale or possession of a controlled dangerous substance with intent to distribute or conspiracy to distribute;

13. Domestic abuse, domestic assault or domestic assault and battery with a dangerous weapon, or domestic assault and battery with a deadly weapon;

14. Driving under the influence of intoxicating substance where property damage or personal injury occurs;

15. Felony discharging a firearm from a vehicle;

16. Felony sex offenses;

17. Fugitive bond or a governor's fugitive warrant;

18. Immigration charges;

19. Kidnapping;

20. Juvenile or youthful offender detention;

21. Manslaughter;

22. Manufacture of a controlled dangerous substance;

23. Murder in the first degree, including attempts or conspiracy to commit murder in the first degree;

24. Murder in the second degree, including attempts or conspiracy to commit murder in the second degree;

25. Negligent homicide;

26. Out-of-county holds;

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

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

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

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

31. Possession of a stolen vehicle;

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

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

34. Robbery by force or fear;

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

36. Sexual assault or violent offenses against children;

37. Shooting with intent to kill;

38. Stalking or violation of a Victim Protection Order;

39. Two or more prior felony convictions; or

40. Unauthorized use of a motor vehicle.

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

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

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

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

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

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

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

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

2. The total number and nature of recommendations made;

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

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

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

SECTION 2. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 5th day of March, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 14th day of February, 2018.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____