SENATE BILL NO. 363   By: Holt

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.
2016, Section 1105.3), which relates to pretrial
release programs; authorizing special judges to
determine eligibility for certain release; and
providing an effective date.

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.

2016, 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

1 court. The recommendation shall indicate any special supervisory

2 conditions for pretrial release. The judge shall consider the

3 recommendations and may grant or deny pretrial release. The

4 presiding judge of the judicial district may issue a standing order

5 outlining criteria for cases that may automatically be evaluated for

6 pretrial release by a pretrial program operating in the

7 jurisdiction. The standing order may include amounts for bail and

8 types of bonds deemed appropriate for certain offenses.

9   C. Except as otherwise authorized by the provisions of this

10 subsection, persons accused of or detained for any of the following

11 offenses or conditions shall not be eligible for pretrial release by

12 any pretrial program:

13   1. Aggravated driving under the influence of an intoxicating

14 substance;

15   2. Any felony driving under the influence of an intoxicating

16 substance;

17   3. Any offense prohibited by the Trafficking In Illegal Drugs

18 Act;

19   4. Any person having a violent felony conviction within the

20 past ten (10) years;

21   5. Appeal bond;

22   6. Arson in the first degree, including attempts to commit

23 arson in the first degree;

24   7. Assault and battery on a police officer;

1   8.   Bail jumping;

2   9.   Bribery of a public official;

3   10. Burglary in the first or second degree;

4   11. Civil contempt proceedings;

5   12. Distribution of a controlled dangerous substance, including

6   the sale or possession of a controlled dangerous substance with

7   intent to distribute or conspiracy to distribute;

8   13. Domestic abuse, domestic assault or domestic assault and

9   battery with a dangerous weapon, or domestic assault and battery

10 with a deadly weapon;

11   14. Driving under the influence of intoxicating substance where

12 property damage or personal injury occurs;

13   15. Felony discharging a firearm from a vehicle;

14   16. Felony sex offenses;

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

16   18. Immigration charges;

17   19. Kidnapping;

18   20. Juvenile or youthful offender detention;

19   21. Manslaughter;

20   22. Manufacture of a controlled dangerous substance;

21   23. Murder in the first degree, including attempts or

22 conspiracy to commit murder in the first degree;

23   24. Murder in the second degree, including attempts or

24 conspiracy to commit murder in the second degree;

1   25. Negligent homicide;

2   26. Out-of-county holds;

3   27. Persons currently on pretrial release who are arrested on a

4 new felony offense;

5   28. Possession, manufacture, use, sale or delivery of an

6 explosive device;

7   29. Possession of a controlled dangerous substance on Schedule

8 I or II of the Controlled Dangerous Substances Act;

9   30. Possession of a firearm or other offensive weapon during

10 the commission of a felony;

11   31. Possession of a stolen vehicle;

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

13 in the first degree;

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

15 rape in the second degree;

16   34. Robbery by force or fear;

17   35. Robbery with a firearm or dangerous weapon, including

18 attempts to commit robbery with a firearm or dangerous weapon;

19   36. Sexual assault or violent offenses against children;

20   37. Shooting with intent to kill;

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

22   39. Two or more prior felony convictions; or

23   40. Unauthorized use of a motor vehicle.

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1   D. A person not eligible for pretrial release pursuant to the

2 provisions of subsection C of this section may be released upon

3 order of a district judge ~or~, associate district judge or special

4 judge under conditions prescribed by the judge, which may include an

5 order to require the defendant, as a condition of pretrial release,

6 to use or participate in any monitoring or testing including, but

7 not limited to, a Global Positioning System (GPS) monitoring device

8 and urinalysis testing. The court may further order the defendant

9 to pay costs and expenses related to any supervision, monitoring or

10 testing.

11   E. Every pretrial services program operating pursuant to the

12 provisions of this act shall meet the following minimum criteria:

13   1. The program shall establish a procedure for screening and

14 evaluating persons who are detained or have been arrested for the

15 alleged commission of a crime. The program shall obtain criminal

16 history records on detained persons through the National Crime

17 Information Center (NCIC). The information obtained from the

18 screening and evaluation process must be submitted in a written

19 report without unnecessary delay to the judge who is assigned to

20 hear pretrial release applications when the person is eligible for

21 pretrial release;

22   2. The program shall provide reliable information to the judge

23 relating to the person applying for pretrial release so a reasonable

24 decision can be made concerning the amount and type of bail

1 appropriate for pretrial release. The information provided shall be

2 based upon facts relating to the person's risk of danger to the

3 community and the risk of failure to appear for court; and

4 　　3.　The program shall make all reasonable attempts to provide

5 the court with information appropriate to each person considered for

6 pretrial release.

7 　　F.　A pretrial program established pursuant to this act may

8 provide different methods and levels of community-based supervision

9 to meet any court-ordered conditions of release. The program may

10 use existing supervision methods for persons who are released prior

11 to trial. Pretrial programs which employ peace officers certified

12 by the Council on Law Enforcement Education and Training (CLEET) are

13 authorized to enforce court-ordered conditions of release.

14 　　G.　Each pretrial program established pursuant to this act shall

15 provide a quarterly report to the presiding judge of the judicial

16 district of the jurisdiction in which it operates. A copy of the

17 report shall be filed of record with the court clerk of the

18 jurisdiction. Each report shall include, but is not limited to, the

19 following information:

20 　　1.　The total number of persons screened, evaluated or otherwise

21 considered for pretrial release;

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

23 　　3.　The number of persons admitted to pretrial release that

24 failed to appear; and

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, 2017.

8   COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
     February 23, 2017 - DO PASS

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