

1 ENGROSSED HOUSE AMENDMENTS

TO

2 ENGROSSED SENATE BILL NO. 252

By: Thompson of the Senate

3 and

4 Kannady and Blancett of the
5 House

6 [conditions of release of arrested persons - bail
7 and the Pretrial Release Act - eligibility -
8 determination - effective date]

9
10 AUTHORS: Add the following House Coauthors: Dunnington and Munson

11 AMENDMENT NO. 1. Page 1, line 10, strike the enacting clause

12 AMENDMENT NO. 2. Page 3, lines 2 through 4, delete all inserted
13 language beginning with the comma "," through the
word "detention"

14 Page 3, line 4, after the word "shall" insert the
15 word "individually"

16 Page 3, line 5, delete all inserted language
beginning with the word "set" through the word
17 "that" and insert in lieu thereof, the following
language:

18 "not set a bail that exceeds"

19 Page 3, line 6, delete all inserted language
beginning with the word "person" through the word
20 "present" and insert the word "person's"

21 Page 3, lines 6 through 7, delete the inserted
language beginning with the word "the" on line 6
22 through the word "release" on line 7

23 Page 4, line 19, restore the stricken word "the"

24 Page 4, line 19, delete the inserted word
"protective"

1 Page 4, line 20, restore the stricken word "~~of~~"

2 Page 4, line 20, delete the words "issued by"

3 Page 4, line 23, restore the stricken phrases
4 "~~whether the person~~" and "~~abusing alcohol~~"

5 Page 4, line 23, insert before the restored word
6 "abusing" the words "is presently" and by
7 renumbering subsequent paragraphs on pages 5 and 6

8 Page 7, lines 19-20, delete inserted language
9 beginning with the word "an" on line 19 through
10 the word "filed" on line 20, and insert the
11 following language:
12 "a probable cause and bond hearing"

13 Page 7, line 22, delete the word "inclusive" and
14 insert the word "exclusive"

15 Pages 7 through 8, delete all inserted language
16 beginning with the word "A" on page 7, line 23
17 through the word "continuance" on page 8, line 1

18 Page 8, line 3, after the word "continuance"
19 insert the following language:
20 "of the probable cause and bond hearing"

21 Page 8, line 7, after the word "appointed" insert
22 the following language:
23 "for the limited purpose of the hearing. If the
24 presence of counsel at the hearing is impractical,
the hearing may be conducted via telephone
conference or video call"

Page 8, lines 8-12, delete subsection "D." in its
entirety and reletter subsequent subsections

Page 9, line 4, after the word "years" insert the
following language:
"or in the present case"

Page 9, line 20, delete all inserted language
beginning with the word "on" through the word
"bond"

Page 13, line 11, restore the stricken word "~~Bail~~"

1
2 Page 13, line 11, delete the inserted words
"Felony bail"

3 Page 13, lines 11-12, delete all inserted language
4 beginning with the word "pursuant" on line 13
through the word "title" on line 14

5 Page 14, lines 18-19, strike paragraph "29." in
6 its entirety and by renumbering subsequent
paragraphs

7 Page 19, line 17, before the comma "," insert the
8 following language:
"and the court finds by a preponderance of the
9 evidence"

10 Page 19, line 19, before the word "or" insert the
11 following language:
", or information was made available that was not
12 presented at the previous bond hearing,"

13 Page 20, line 11 and line 17, delete the word
14 "violent"

15 Page 20, lines 11-12, delete all inserted language
16 beginning with the word "as" on line 11 through
17 the word "Statutes" on line 12

18 Page 20, lines 18-19, delete all inserted language
19 beginning with the word "as" on line 18 through
20 the word "Statutes" on line 19

21 Page 22, line 11 and line 17, delete the word
22 "violent"

23 Page 22, lines 11-12, delete all inserted language
24 beginning with the word "as" on line 11 through
the word "Statutes" on line 12

Page 22, lines 17-18, delete all inserted language
beginning with the word "as" on line 17 through
the word "Statutes" on line 18

and amend title to conform

ENGROSSED SENATE
BILL NO. 252

By: Thompson of the Senate

and

Kannady and Blancett of the
House

[conditions of release of arrested persons - bail
and the Pretrial Release Act - eligibility -
determination - effective date]

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1101, is
amended to read as follows:

Section 1101. A. Except as otherwise provided by law, bail, by
sufficient sureties, shall be admitted upon all arrests in criminal
cases where the offense is not punishable by death and in such cases
it may be taken by any of the persons or courts authorized by law to
arrest, to imprison offenders or to perform pretrial services, or by
the clerk of the district court or his or her deputy, or by the
judge of such courts.

B. In criminal cases where the defendant is currently an
escaped prisoner from the Department of Corrections, the defendant
must be processed back into the Department of Corrections prior to
bail being set on new criminal charges.

1 C. All persons shall be bailable by sufficient sureties, except
2 that bail may be denied for:

3 1. Capital offenses when the proof of guilt is evident, or the
4 presumption thereof is great. Such proof or presumption must be
5 supported by clear and convincing evidence;

6 2. Violent offenses as defined in Section 571 of Title 57 of
7 the Oklahoma Statutes;

8 3. Offenses where the maximum sentence may be life imprisonment
9 or life imprisonment without parole;

10 4. Felony offenses where the person charged with the offense
11 has been convicted of two or more felony offenses arising out of
12 different transactions; and

13 5. Controlled dangerous substances offenses where the maximum
14 sentence may be at least ten (10) years' imprisonment.

15 On all offenses specified in paragraphs 2 through 5 of this
16 subsection, the proof of guilt must be evident, or the presumption
17 must be great, demonstrated by clear and convincing evidence, and it
18 must be on the grounds that no condition of release would assure the
19 person's return to court or the safety of the community or any
20 person, demonstrated by clear and convincing evidence.

21 ~~D. There shall be a rebuttable presumption that no condition of~~
22 ~~release would assure the safety of the community if the state shows~~
23 ~~by clear and convincing evidence that the person was arrested for a~~
24 ~~violation of Section 741 of Title 21 of the Oklahoma Statutes Bail~~

1 shall not be set in an amount higher than what the court determines
2 is necessary to ensure the person's return to court, and it shall
3 not be set in an amount that results in the person's pretrial
4 detention. The court shall consider a person's ability to pay when
5 setting bail and shall set money bail only upon a finding that the
6 person has the present ability to pay the amount required for
7 release.

8 E. In any case in which the court denies bail, the court shall
9 make an individualized determination supported by clear and
10 convincing evidence on the record, supported by written findings of
11 fact, that proof of guilt is evident or the presumption is great,
12 and that no condition of release would assure the person's return to
13 court or the safety of the community or any person.

14 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1105, is
15 amended to read as follows:

16 Section 1105. A. Except as otherwise provided by this section,
17 upon the allowance of bail and the execution of the requisite
18 recognizance, bond, or undertaking to the state, the magistrate,
19 judge, or court, shall, if the defendant is in custody, make and
20 sign an order for discharge. The court, in its discretion, may
21 prescribe by court rule the conditions under which the court clerk
22 or deputy court clerk, or the sheriff or deputy sheriff, may prepare
23 and execute an order of release on behalf of the court.

24

1 B. No police officer or sheriff may release a person arrested
2 for a violation of an ex parte or final protective order as provided
3 in Sections 60.2 and 60.3 of this title, or arrested for an act
4 constituting domestic abuse as specified in Section 644 of Title 21
5 of the Oklahoma Statutes, or arrested for any act constituting
6 domestic abuse, stalking or harassment as defined by Section 60.1 of
7 this title, or arrested for an act constituting domestic assault and
8 battery or domestic assault and battery with a deadly weapon
9 pursuant to Section 644 of Title 21 of the Oklahoma Statutes,
10 without the violator appearing before a magistrate, judge or court.
11 To the extent that any of the following information is available to
12 the court, the magistrate, judge or court shall consider, in
13 addition to any other circumstances, before determining bond and
14 other conditions of release as necessary for the protection of the
15 alleged victim, the following:

- 16 1. Whether the person has a history of domestic violence or a
17 history of other violent acts;
- 18 2. The mental health of the person;
- 19 3. Whether the person has a history of violating ~~the~~ protective
20 ~~orders of~~ issued by any court ~~or governmental entity;~~
- 21 4. Whether the person ~~is potentially a~~ poses a threat to ~~any~~
22 ~~other a~~ specific person;
- 23 5. ~~Whether the person has a history of abusing alcohol or any~~
24 ~~controlled substance;~~

1 ~~6.~~ Whether the person has access to deadly weapons or a history
2 of using deadly weapons;

3 ~~7.~~ 6. The severity of the alleged violence that is the basis of
4 the alleged offense including, but not limited to:

- 5 a. the duration of the alleged violent incident,
- 6 b. whether the alleged violent incident involved serious
7 physical injury,
- 8 c. whether the alleged violent incident involved sexual
9 assault,
- 10 d. whether the alleged violent incident involved
11 strangulation,
- 12 e. whether the alleged violent incident involved abuse
13 during the pregnancy of the alleged victim,
- 14 f. whether the alleged violent incident involved the
15 abuse of pets, or
- 16 g. whether the alleged violent incident involved forcible
17 entry to gain access to the alleged victim;

18 ~~8.~~ 7. Whether a separation of the person from the alleged
19 victim or a termination of the relationship between the person and
20 the alleged victim has recently occurred or is pending;

21 ~~9.~~ 8. Whether the person has exhibited obsessive or controlling
22 behaviors toward the alleged victim including, but not limited to,
23 stalking, surveillance, or isolation of the alleged victim;

24

1 ~~10.~~ 9. Whether the person has expressed suicidal or homicidal
2 ideations; and

3 ~~11.~~ 10. Any information contained in the complaint and any
4 police reports, affidavits, or other documents accompanying the
5 complaint.

6 C. No police officer or sheriff may release a person arrested
7 for any violation of subsection G of Section 2-401 of Title 63 of
8 the Oklahoma Statutes, without the violator appearing before a
9 magistrate, judge, or court pursuant to Section 1105.2 of this
10 title. In determining bond and other conditions of release, the
11 magistrate, judge, or court shall consider any evidence that the
12 person is in any manner dependent upon a controlled dangerous
13 substance or has a pattern of regular, illegal use of any controlled
14 dangerous substance, and may consider the recommendations of a
15 pretrial service provider pursuant to Section 1105.3 of this title.
16 ~~A rebuttable presumption that no conditions of release on bond would~~
17 ~~assure the safety of the community or any person therein shall arise~~
18 ~~if the state shows by clear and convincing evidence:~~

19 ~~1. The person was arrested for a violation of subsection G of~~
20 ~~Section 2-401 of Title 63 of the Oklahoma Statutes, relating to~~
21 ~~manufacturing or attempting to manufacture a controlled dangerous~~
22 ~~substance, or possessing any of the substances listed in subsection~~
23 ~~G of Section 2-401 of Title 63 of the Oklahoma Statutes with the~~
24 ~~intent to manufacture a controlled dangerous substance; and~~

1 ~~2. The person is in any manner dependent upon a controlled~~
2 ~~dangerous substance or has a pattern of regular illegal use of a~~
3 ~~controlled dangerous substance, and the violation referred to in~~
4 ~~paragraph 1 of this subsection was committed or attempted in order~~
5 ~~to maintain or facilitate the dependence or pattern of illegal use~~
6 ~~in any manner.~~

7 SECTION 3. AMENDATORY 22 O.S. 2011, Section 1105.2, as
8 amended by Section 1, Chapter 59, O.S.L. 2016 (22 O.S. Supp. 2018,
9 Section 1105.2), is amended to read as follows:

10 Section 1105.2. A. Following an arrest for a misdemeanor or
11 felony offense ~~and before formal charges have been filed or an~~
12 ~~indictment made~~, the arrested person may have bail set by the court
13 as provided in ~~this act~~ Section 1105.1 et seq. of this title;
14 provided there are no provisions of law to the contrary.

15 B. ~~When formal charges or an indictment has been filed, bail~~
16 ~~shall be set according to law and the pretrial bond, if any, may be~~
17 ~~reaffirmed unless additional security is required~~ If not otherwise
18 released, the arrested person shall be taken without unnecessary
19 delay before the most accessible magistrate in that county for an
20 initial appearance, and formal charges shall be filed. In no case
21 shall the delay from arrest to initial appearance be more than
22 forty-eight (48) hours, inclusive of weekends and holidays.

23 C. A hearing shall be held immediately upon the arrested
24 person's initial appearance before the magistrate unless the person

1 or the attorney for the state seeks a continuance. Except for good
2 cause, a continuance on motion of the person may not exceed five
3 business days, and a continuance on motion of the attorney for the
4 state may not exceed three business days. At the hearing, the
5 person shall have the right to be represented by counsel and, if
6 financially unable to obtain adequate representation, to have
7 counsel appointed.

8 D. The person shall be afforded an opportunity to testify, to
9 present witnesses, to cross-examine witnesses who appear at the
10 hearing and to present information by proffer or otherwise. The
11 rules concerning admissibility of evidence in criminal trials shall
12 not apply in such hearing.

13 E. In cases where the most serious offense with which the
14 arrested person is charged is not a violent felony as defined in
15 Section 571 of Title 57 of the Oklahoma Statutes, domestic assault
16 and battery as defined in Sections 644, 645 and 647 of Title 21 of
17 the Oklahoma Statutes, violation of a protective order as defined in
18 Section 60.6 of this title, stalking as defined in Section 1173 of
19 Title 21 of the Oklahoma Statutes, or felony offenses involving
20 escape or attempt to escape from lawful arrest or confinement as
21 defined in Sections 434, 436, 443 or 444 of Title 21 of the Oklahoma
22 Statutes, the court shall release the person pending trial on the
23 person's own recognizance unless the court finds on the record or in
24 writing one or more of the following:

1 1. The person's own recognizance will not reasonably assure the
2 person's return to court. In making a finding pursuant to this
3 paragraph, the court may consider any prior record of failing to
4 appear as required in the court in the last two years, or any other
5 pending criminal case of the arrested person;

6 2. The person will obstruct or attempt to obstruct justice, or
7 threaten, injure or intimidate or attempt to threaten, injure or
8 intimidate a prospective witness or juror;

9 3. The person will engage in conduct that threatens the safety
10 of himself or herself or another person.

11 F. The hearing may be reopened after an initial determination
12 by the court at any time before trial if the court finds that
13 information exists that:

14 1. Was not known to the person at the time of the hearing; and

15 2. Has a material bearing on whether there are conditions of
16 release that will reasonably assure the appearance of the person as
17 required and the safety of any other person and the community.

18 G. In cases where a person is not released on his or her own
19 recognizance pursuant to subsection E of this section, the court
20 shall set appropriate conditions on the personal recognizance bond
21 or shall set reasonable bail. In all cases, the court shall set the
22 least restrictive conditions necessary to reasonably assure the
23 appearance of the person.

1 H. Every judicial district may, upon the order of the presiding
2 judge for the district, establish a pretrial bail schedule for use
3 by the sheriff or other operator of the detention facility to set
4 bail prior to the initial appearance of the person before a court
5 for felony or misdemeanor offenses, ~~except for traffic~~. Any such
6 pretrial bail schedule shall not apply to traffic offenses included
7 in subsections B, C and D of Section 1115.3 of ~~Title 22 of the~~
8 ~~Oklahoma Statutes~~ this title and those offenses specifically
9 excluded herein. The bail schedule established pursuant to the
10 authority of this act shall exclude any offense for which bail is
11 not allowed by law. The bail schedule authorized by this act shall
12 be set in accordance with guidelines relating to bail ~~and shall be,~~
13 published and reviewed by March 1 of each year by the courts and
14 district attorney of the judicial district, and displayed in the
15 public area of the jail.

16 ~~C.~~ I. The pretrial bail shall be set in a numerical dollar
17 amount. If the person fails to appear in court as required the
18 judge shall:

19 1. Rescind the bond and proceed to enter a judgment against the
20 defendant for the dollar amount of the pretrial bail if no private
21 bail was given at the time of release; provided, however, the court
22 clerk shall follow the procedures as set forth in Section 1301 et
23 seq. of Title 59 of the Oklahoma Statutes in collecting the
24

1 forfeiture amount against the person who fails to appear in court;
2 or

3 2. Rescind and forfeit the private bail if cash, property or
4 surety bail was furnished at the time of release as set forth in
5 Section 1301 et seq. of Title 59 of the Oklahoma Statutes.

6 ~~D.~~ J. When a pretrial program exists in the judicial district
7 where the person is being held, the judge may utilize the services
8 of the pretrial release program when ordering pretrial release,
9 except when private bail has been furnished.

10 ~~E.~~ K. Upon an order for pretrial release or release on bond,
11 the person shall be released from custody without undue delay.

12 ~~F.~~ L. The court may require the person to be placed on an
13 electronic monitoring device as a condition of pretrial release.

14 ~~G.~~ M. In instances where an electronic monitoring device has
15 been ordered, the court may impose payment of a supervision fee.
16 Payment of the fee, in whole or according to a court-ordered
17 installment schedule, shall be a condition of pretrial release. The
18 court clerk shall collect the supervision fees.

19 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1105.3, as
20 last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp.
21 2018, Section 1105.3), is amended to read as follows:

22 Section 1105.3. A. Any county pursuant to the provisions of
23 ~~this act~~ Section 1105 et seq. of this title may establish and fund a
24

1 pretrial program to be utilized by the district court in that
2 jurisdiction.

3 B. When a pretrial release program is established pursuant to
4 ~~this act~~ Section 1105.1 et seq. of this title and private bail has
5 not been furnished, the judge may order a person to be evaluated
6 through the pretrial program. After conducting an evaluation of the
7 person applying for pretrial release, the pretrial program shall
8 make a recommendation to the court. The recommendation shall
9 indicate any special supervisory conditions for pretrial release.
10 The judge shall consider the recommendations and ~~may grant or deny~~
11 ~~pretrial release~~ shall order the least restrictive conditions that
12 will reasonably assure the person's return to court. The presiding
13 judge of the judicial district may issue a standing order outlining
14 criteria for cases that may automatically be evaluated for pretrial
15 release by a pretrial program operating in the jurisdiction. The
16 standing order may include amounts for bail and types of bonds
17 deemed appropriate for certain offenses.

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

22 1. Aggravated driving under the influence of an intoxicating
23 substance;

24

- 1 2. Any felony driving under the influence of an intoxicating
2 substance;
- 3 3. Any offense prohibited by the Trafficking In Illegal Drugs
4 Act;
- 5 4. Any person having a violent felony conviction within the
6 past ten (10) years;
- 7 5. Appeal bond;
- 8 6. Arson in the first degree, including attempts to commit
9 arson in the first degree;
- 10 7. Assault and battery on a police officer;
- 11 8. ~~Bail~~ Felony bail jumping pursuant to paragraph 1 of Section
12 1110 of this title;
- 13 9. Bribery of a public official;
- 14 10. Burglary in the first or second degree;
- 15 11. Civil contempt proceedings;
- 16 12. Distribution of a controlled dangerous substance, including
17 the sale or possession of a controlled dangerous substance with
18 intent to distribute or conspiracy to distribute;
- 19 13. Domestic abuse, domestic assault or domestic assault and
20 battery with a dangerous weapon, or domestic assault and battery
21 with a deadly weapon;
- 22 14. Driving under the influence of intoxicating substance where
23 property damage or personal injury occurs;
- 24 15. Felony discharging a firearm from a vehicle;

- 1 16. Felony sex offenses;
- 2 17. Fugitive bond or a governor's fugitive warrant;
- 3 18. Immigration charges;
- 4 19. Kidnapping;
- 5 20. Juvenile or youthful offender detention;
- 6 21. Manslaughter;
- 7 22. Manufacture of a controlled dangerous substance;
- 8 23. Murder in the first degree, including attempts or
9 conspiracy to commit murder in the first degree;
- 10 24. Murder in the second degree, including attempts or
11 conspiracy to commit murder in the second degree;
- 12 25. Negligent homicide;
- 13 26. Out-of-county holds;
- 14 27. Persons currently on pretrial release who are arrested on a
15 new felony offense;
- 16 28. Possession, manufacture, use, sale or delivery of an
17 explosive device;
- 18 29. Possession of a controlled dangerous substance on Schedule
19 I or II of the Controlled Dangerous Substances Act;
- 20 30. Possession of a firearm or other offensive weapon during
21 the commission of a felony;
- 22 31. Possession of a stolen vehicle;
- 23 32. Rape in the first degree, including attempts to commit rape
24 in the first degree;

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

3 34. Robbery by force or fear;

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

6 36. Sexual assault or violent offenses against children;

7 37. Shooting with intent to kill;

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

9 39. Two or more prior felony convictions; or

10 40. Unauthorized use of a motor vehicle.

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

21 E. Every pretrial services program operating pursuant to the
22 provisions of ~~this act~~ Section 1105.1 et seq. of this title shall
23 meet the following minimum criteria:
24

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

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

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

19 F. A pretrial program established pursuant to ~~this act~~ Section
20 1105.1 et seq. of this title may provide different methods and
21 levels of community-based supervision to meet any court-ordered
22 conditions of release. The program may use existing supervision
23 methods for persons who are released prior to trial. Pretrial
24 programs which employ peace officers certified by the Council on Law

1 Enforcement Education and Training (CLEET) are authorized to enforce
2 court-ordered conditions of release.

3 G. Each pretrial program established pursuant to ~~this act~~
4 Section 1105.1 et seq. of this title shall provide a quarterly
5 report to the presiding judge of the judicial district of the
6 jurisdiction in which it operates. A copy of the report shall be
7 filed of record with the court clerk of the jurisdiction. Each
8 report shall include, but is not limited to, the following
9 information:

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

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

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

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

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

21 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1106, is
22 amended to read as follows:

23 Section 1106. A deposit of the sum of money mentioned in ~~the~~
24 any order admitting to bail with financial conditions is equivalent

1 to bail and upon such deposit the defendant must be discharged from
2 custody.

3 SECTION 5. AMENDATORY 22 O.S. 2011, Section 1108.1, is
4 amended to read as follows:

5 Section 1108.1. A. Own recognizance bonds ~~set in a penal~~
6 ~~amount~~ ordered by the court pursuant to subsection E of Section
7 1105.2 of this title shall be posted by executing an own
8 recognizance indenture contract which shall be executed and
9 maintained by the district court clerk. The indenture shall
10 constitute an inchoate obligation to pay in the event forfeiture
11 proceedings are commenced and result in a final order of forfeiture
12 by the authorizing and issuing judge of the district court.

13 B. Setting aside of forfeitures shall be governed by the same
14 rules and procedures applicable to cash, property or surety bonds,
15 provided that if the forfeiture is set aside, the district court
16 shall exempt from forfeiture set aside all reasonable costs of
17 recovery to return the defendant to custody, and an administrative
18 fee to be retained by the court fund in a sum not to exceed ten
19 percent (10%) of the total penal bond amount plus all costs incurred
20 in processing the forfeiture proceeding to include costs of notices,
21 warrants, service and execution.

22 C. The final judgment of forfeiture shall constitute a judgment
23 enforceable through all procedures available for the collection of a
24 civil judgment, provided that the judgment shall be considered a

1 debt in the nature of defalcation as defined by the United States
2 Bankruptcy Code, and shall not be subject to other forms of debtor
3 relief. The judgment shall be subject to collection as costs in the
4 underlying action regardless of final disposition or determination
5 of guilt.

6 D. The district attorney or the Administrator of the District
7 Court Cost Collection Division as determined by administration order
8 in each judicial district shall initiate the forfeiture action and
9 collection of forfeitures and shall receive one-third (1/3) of all
10 sums collected from the ten percent (10%) premium, not to include
11 costs as defined in subsection B of this section, to offset the
12 costs of administering the program.

13 E. This section does not apply to traffic or wildlife cases.

14 SECTION 6. AMENDATORY 22 O.S. 2011, Section 1109, is
15 amended to read as follows:

16 Section 1109. When proof is made to any court, judge or other
17 magistrate having authority to commit on criminal charges, that a
18 person previously admitted to bail on any such charge is about to
19 abscond, ~~or that his bail is insufficient,~~ or has removed from the
20 state, the judge or magistrate shall require such person to give
21 better security, or for default thereof cause him or her to be
22 committed to prison; and an order for ~~his~~ the person's arrest may be
23 endorsed on the former commitment, or a new warrant therefor may be
24 issued by such judge or magistrate, setting forth the cause thereof.

1 SECTION 7. AMENDATORY 22 O.S. 2011, Section 1110, is
2 amended to read as follows:

3 Section 1110. Whoever, having been admitted to bail or released
4 on recognizance, bond, or undertaking for appearance before any
5 magistrate or court of ~~the State of Oklahoma~~ this state, incurs a
6 forfeiture of the bail or violates such undertaking or recognizance
7 and willfully fails to surrender himself within ~~five (5)~~ thirty (30)
8 days following the date of such forfeiture shall, ~~if~~ be subject to
9 the following penalties:

10 1. If the bail was given or undertaking or recognizance
11 extended in connection with a charge of a violent felony as defined
12 in Section 571 of Title 57 of the Oklahoma Statutes or pending
13 appeal or certiorari after conviction of any such offense, be guilty
14 of a felony and shall be fined not more than One Thousand Dollars
15 (\$1,000.00) or imprisoned not more than one (1) year, or both; or

16 2. If the bail was given or undertaking or recognizance
17 extended in connection with a charge of a crime other than a violent
18 felony as defined in Section 571 of Title 57 of the Oklahoma
19 Statutes or pending appeal or certiorari after conviction of any
20 such offense, be guilty of a misdemeanor and shall be fined not more
21 than Five Hundred Dollars (\$500.00) or imprisoned not more than six
22 (6) months, or both.

23
24

1 Nothing in this section shall be construed to interfere with or
2 prevent the exercise by any court of its power to punish for
3 contempt.

4 SECTION 8. AMENDATORY 59 O.S. 2011, Section 1334, is
5 amended to read as follows:

6 Section 1334. A. Any person in custody before a court or
7 magistrate of ~~the State of Oklahoma~~ this state subject to discretion
8 of the court may be admitted to bail on his or her personal
9 recognizance ~~subject to such conditions as the court or magistrate~~
10 ~~may reasonably prescribe to assure his appearance when required in~~
11 accordance with the requirements of Chapter 19 of Title 22 of the
12 Oklahoma Statutes.

13 B. When a person is admitted to bail on his or her personal
14 recognizance, the court or magistrate may determine an amount of
15 money, property, or securities which shall be paid or forfeited as a
16 penalty by the defendant for failure to comply with the terms of his
17 or her admission to bail on personal recognizance. This penalty
18 shall be in addition to the penalties provided for in Section 1335
19 of this title.

20 C. Any person admitted to bail as herein provided shall be
21 fully appraised by the court or magistrate of the penalties provided
22 for failure to comply with the terms of his or her recognizance and,
23 upon a failure of compliance, a warrant for the arrest of such
24 person shall be issued forthwith.

1 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1335, is
2 amended to read as follows:

3 Section 1335. Whoever, having been admitted to bail for
4 appearance before any district court in ~~the State of Oklahoma, (1)~~
5 this state incurs a forfeiture of the bail and willfully fails to
6 surrender himself or herself within thirty (30) days following the
7 date of such forfeiture, or ~~(2)~~ willfully fails to comply with the
8 terms of his or her personal recognizance, shall be subject to the
9 following penalties:

10 1. If the underlying offense for which the defendant was
11 admitted to bail was a violent felony as defined in Section 571 of
12 Title 57 of the Oklahoma Statutes, he or she shall be guilty of a
13 felony and shall be fined not more than Five Thousand Dollars
14 (\$5,000.00) or imprisoned not more than ~~two (2) years~~ one (1) year,
15 or both; or

16 2. If the underlying offense for which the defendant was
17 admitted to bail was a crime other than a violent felony as defined
18 in Section 571 of Title 57 of the Oklahoma Statutes, he or she shall
19 be guilty of a misdemeanor and shall be fined not more than Five
20 Hundred Dollars (\$500.00) or imprisoned not more than six (6)
21 months, or both.

22 SECTION 10. This act shall become effective November 1, 2019.
23
24

1 Passed the Senate the 14th day of March, 2019.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2019.

7
8 _____
9 Presiding Officer of the House
10 of Representatives