

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend House Bill No. 2019, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Kirt

Kirt-TEK-FS-Req#4143
5/13/2020 1:27 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 FLOOR SUBSTITUTE
4 FOR ENGROSSED

5 HOUSE BILL NO. 2019

By: Albright and Davis of the
House

6 and

7 Kirt of the Senate

8
9 FLOOR SUBSTITUTE

10 [criminal procedure - directing courts to determine
11 certain status of accused persons when considering
pretrial release - codification - effective date]

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13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 991a-22 of Title 22, unless
17 there is created a duplication in numbering, reads as follows:

18 A. Prior to sentencing a person convicted of an offense, the
19 sentencing court shall determine if the convicted person is pregnant
20 or a primary caregiver. If the court determines that the convicted
21 person is pregnant or a primary caregiver and the person does not
22 pose a substantial risk of physical harm to the community, the court
23 shall impose an individually assessed sentence, without
24 imprisonment.

1 B. In imposing the individually assessed sentence, the court
2 may require the person to meet certain conditions that are the least
3 restrictive and substantially related to the offense including, but
4 not limited to:

- 5 1. Drug and alcohol treatment;
- 6 2. Domestic violence education and prevention;
- 7 3. Physical and sexual abuse counseling;
- 8 4. Anger management;
- 9 5. Vocational and educational services;
- 10 6. Job training and placement;
- 11 7. Affordable and safe housing assistance;
- 12 8. Financial literacy;
- 13 9. Parenting classes;
- 14 10. Family and individual counseling; and
- 15 11. Family case management services.

16 C. The court shall determine the ability of a convicted person
17 to contribute financially toward the receipt of services in
18 compliance with the conditions listed in subsection B of this
19 section. Inability to pay for conditions set by the court shall not
20 constitute a willful violation of such conditions.

21 D. The court may require the appearance of the person in court
22 during the sentence of the convicted person to evaluate the progress
23 of the person in meeting any of the conditions provided in
24 subsection B of this section. Upon appearance, the court may:

- 1 1. Modify the conditions of the sentence;
- 2 2. Decrease the duration of the sentence; and
- 3 3. Sanction the person for a willful violation of the sentence.

4 E. The court shall consider caregiver responsibilities when
5 determining whether a convicted person has violated any imposed
6 conditions.

7 F. The provisions of this section shall be retroactive. A
8 pregnant person or primary caregiver currently sentenced to a period
9 of incarceration may request modification of the sentence by motion
10 to the court. Upon such request, the court shall modify the
11 sentence in accordance with the provisions of this section.

12 G. As used in this section:

13 1. "Convicted person" means an individual who has been found
14 guilty of an offense; and

15 2. "Primary caregiver" means:

- 16 a. an individual who has consistently assumed
17 responsibility for the housing, health and safety of a
18 child, adult with disabilities, older person and other
19 dependents prior to his or her incarceration or
20 expresses a willingness to assume responsibility for
21 the housing, health and safety of the dependent, or
- 22 b. a woman who has given birth to a child while awaiting
23 sentencing and expresses a willingness to assume

1 responsibility for the housing, health and safety of
2 her child.

3 c. "Primary caregiver" may include a parent who has
4 arranged for the temporary care of a child in the home
5 of a relative or other responsible adult.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1105.4 of Title 22, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Upon making a pretrial release determination, the court
10 shall inquire about the pregnancy or primary caregiver status of the
11 accused person. If the court determines that the accused person is
12 pregnant or is a primary caregiver and conditions of release will
13 reasonably assure the appearance of the person as required and the
14 safety of any other person and the community, the court shall permit
15 pretrial release on his or her own personal recognizance within
16 forty-eight (48) hours, exclusive of weekends and holidays.

17 B. The court may impose conditions of pretrial release that are
18 the least restrictive and appropriate to caregiver-dependent unity
19 and support.

20 C. The court shall determine the ability of an accused person
21 to contribute financially toward the receipt of services in
22 compliance with any imposed conditions based on a determination made
23 pursuant to Section 138.5 of Title 19 of the Oklahoma Statutes.

1 Inability to pay for conditions set by the court shall not
2 constitute a willful violation of the imposed conditions.

3 D. The court shall consider caregiver responsibilities when
4 determining whether an accused person has violated any imposed
5 conditions.

6 E. The provisions of this section shall be retroactive. A
7 pregnant person or primary caregiver currently in pretrial custody
8 may request modification of pretrial custody or conditions by motion
9 to the court. The court shall thereupon modify pretrial custody or
10 conditions in accordance with the provisions of this section.

11 F. As used in this section:

12 1. "Accused person" means an individual who has not been
13 convicted of the accusations or charges against him or her; and

14 2. "Primary caregiver" means:

15 a. an individual who has consistently assumed
16 responsibility for the housing, health and safety of a
17 child, adult with disabilities, older person and other
18 dependents prior to his or her incarceration or
19 expresses a willingness to assume responsibility for
20 the housing, health and safety of the dependent, or

21 b. a woman who has given birth to a child after or while
22 awaiting pretrial release and expresses a willingness
23 to assume responsibility for the housing, health and
24 safety of her child.

1 c. "Primary caregiver" may include a parent who has
2 arranged for the temporary care of a child in the home
3 of a relative or other responsible adult.

4 SECTION 3. This act shall become effective November 1, 2020.

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6 57-2-4143 TEK 5/13/2020 1:27:50 PM
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