

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1850

By: Humphrey

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Sections 176 and 185, which relate to
9 arrests and appearances before magistrates for felony
10 and misdemeanor offenses; authorizing magistrates to
11 release defendants arrested for misdemeanor and
12 felony offenses under certain conditions; defining
13 term; amending 22 O.S. 2011, Section 454, which
14 relates to bench warrants; prohibiting the issuance
15 of certain bench warrants; authorizing judgments to
16 be entered against defendants under certain
17 circumstances; prohibiting the issuance of bench or
18 arrest warrants if alternative fine collection
19 methods exist; and providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2011, Section 176, is
18 amended to read as follows:

19 Section 176. A. If the offense charged in the warrant be a
20 felony, the officer making the arrest must take the defendant before
21 the magistrate who issued the warrants or some other magistrate in
22 the county or the image of the defendant may be broadcast by closed
23 circuit television to the magistrate. A closed circuit television
24 system may not be used under this section and Section 177 of this

1 title unless the system provides for a two-way communication of
2 image and sound between the arrested person and the magistrate.

3 B. The magistrate shall allow bail on the own recognizance of
4 the defendant or upon condition of the defendant contacting the
5 office of the prosecutor periodically pending further court
6 appearance, except when the offense is a violent crime or where the
7 magistrate believes by clear and convincing evidence that there is a
8 substantial risk that the defendant will flee the jurisdiction of
9 the court.

10 C. For purposes of this section, "violent crime" means any of
11 the following felony offenses and any attempts to commit, conspiracy
12 to commit or solicitation to commit the following crimes:

13 1. Assault, battery, or assault and battery with a dangerous or
14 deadly weapon, as provided for in Sections 644 and 645 of Title 21
15 of the Oklahoma Statutes;

16 2. Shooting with intent to kill, assault, battery, or assault
17 and battery with a deadly weapon or by other means likely to produce
18 death or great bodily harm, as provided for in Section 652 of Title
19 21 of the Oklahoma Statutes;

20 3. Aggravated assault and battery on a police officer, sheriff,
21 highway patrolman or any other officer of the law, as provided for
22 in Section 650 of Title 21 of the Oklahoma Statutes;

23 4. Poisoning with intent to kill, as provided for in Section
24 651 of Title 21 of the Oklahoma Statutes;

1 5. Assault with intent to commit a felony, as provided for in
2 Section 681 of Title 21 of the Oklahoma Statutes;

3 6. Assaults while masked or disguised, as provided for in
4 Section 1303 of Title 21 of the Oklahoma Statutes;

5 7. Murder in the first degree, as provided for in Section 701.7
6 of Title 21 of the Oklahoma Statutes;

7 8. Murder in the second degree, as provided for in Section
8 701.8 of Title 21 of the Oklahoma Statutes;

9 9. Manslaughter in the first degree, as provided for in Section
10 711 of Title 21 of the Oklahoma Statutes;

11 10. Manslaughter in the second degree, as provided for in
12 Section 716 of Title 21 of the Oklahoma Statutes;

13 11. Kidnapping, as provided for in Section 741 of Title 21 of
14 the Oklahoma Statutes;

15 12. Burglary in the first degree, as provided for in Section
16 1431 of Title 21 of the Oklahoma Statutes;

17 13. Burglary with explosives, as provided for in Section 1441
18 of Title 21 of the Oklahoma Statutes;

19 14. Kidnapping for extortion, as provided for in Section 745 of
20 Title 21 of the Oklahoma Statutes;

21 15. Maiming, as provided for in Section 751 of Title 21 of the
22 Oklahoma Statutes;

23 16. Robbery, as provided for in Section 791 of Title 21 of the
24 Oklahoma Statutes;

- 1 17. Robbery in the first degree, as provided for in Section 797
2 of Title 21 of the Oklahoma Statutes;
- 3 18. Robbery in the second degree, as provided for in Section
4 797 of Title 21 of the Oklahoma Statutes;
- 5 19. Robbery by two or more persons, as provided for in Section
6 800 of Title 21 of the Oklahoma Statutes;
- 7 20. Robbery with a dangerous weapon or imitation firearm, as
8 provided for in Section 801 of Title 21 of the Oklahoma Statutes;
- 9 21. Child abuse, as provided for in Section 843.5 of Title 21
10 of the Oklahoma Statutes;
- 11 22. Wiring any equipment, vehicle or structure with explosives,
12 as provided for in Section 849 of Title 21 of the Oklahoma Statutes;
- 13 23. Forcible sodomy, as provided for in Section 888 of Title 21
14 of the Oklahoma Statutes;
- 15 24. Rape in the first degree, as provided for in Section 1114
16 of Title 21 of the Oklahoma Statutes;
- 17 25. Rape in the second degree, as provided for in Section 1114
18 of Title 21 of the Oklahoma Statutes;
- 19 26. Rape by instrumentation, as provided for in Section 1111.1
20 of Title 21 of the Oklahoma Statutes;
- 21 27. Lewd or indecent proposition or lewd or indecent act with a
22 child, as provided for in Section 1123 of Title 21 of the Oklahoma
23 Statutes;
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1 28. Use of a firearm or offensive weapon to commit or attempt
2 to commit a felony, as provided for in Section 1287 of Title 21 of
3 the Oklahoma Statutes;

4 29. Pointing firearms, as provided for in Section 1279 of Title
5 21 of the Oklahoma Statutes;

6 30. Rioting, as provided for in Section 1311 of Title 21 of the
7 Oklahoma Statutes;

8 31. Incitement to riot, as provided for in Section 1320.2 of
9 Title 21 of the Oklahoma Statutes;

10 32. Arson in the first degree, as provided for in Section 1401
11 of Title 21 of the Oklahoma Statutes;

12 33. Injuring or burning public buildings, as provided for in
13 Section 349 of Title 21 of the Oklahoma Statutes;

14 34. Sabotage, as provided for in Section 1262 of Title 21 of
15 the Oklahoma Statutes;

16 35. Criminal syndicalism, as provided for in Section 1261 of
17 Title 21 of the Oklahoma Statutes;

18 36. Extortion, as provided for in Section 1481 of Title 21 of
19 the Oklahoma Statutes;

20 37. Obtaining a signature by extortion, as provided for in
21 Section 1485 of Title 21 of the Oklahoma Statutes;

22 38. Seizure of a bus or discharging a firearm into or within
23 any bus, as provided for in Section 1903 of Title 21 of the Oklahoma
24 Statutes;

1 39. Mistreatment of a vulnerable adult, as provided for in
2 Section 843.1 of Title 21 of the Oklahoma Statutes;

3 40. Using a vehicle to facilitate the discharge of a weapon, as
4 provided for in Section 652 of Title 21 of the Oklahoma Statutes;

5 41. Bombing offenses, as provided for in Section 1767.1 of
6 Title 21 of the Oklahoma Statutes;

7 42. Child pornography or aggravated child pornography, as
8 provided for in Section 1021.2, 1021.3, 1024.1 or 1040.12a of Title
9 21 of the Oklahoma Statutes;

10 43. Child prostitution, as provided for in Section 1030 of
11 Title 21 of the Oklahoma Statutes;

12 44. Abuse of a vulnerable adult as defined in Section 10-103 of
13 Title 43A of the Oklahoma Statutes who is a resident of a nursing
14 facility;

15 45. Aggravated trafficking, as provided for in subsection C of
16 Section 2-415 of Title 63 of the Oklahoma Statutes;

17 46. Aggravated assault and battery upon any person defending
18 another person from assault and battery;

19 47. Human trafficking, as provided for in Section 748 of Title
20 21 of the Oklahoma Statutes; or

21 48. Terrorism crimes, as provided for in Sections 1268 through
22 1268.8 of Title 21 of the Oklahoma Statutes.

23 SECTION 2. AMENDATORY 22 O.S. 2011, Section 185, is
24 amended to read as follows:

1 Section 185. A. If the offense charged in the warrant issued,
2 pursuant to the second preceding section is a misdemeanor, the
3 officer must upon being required by the defendant, take ~~him~~ the
4 defendant before a magistrate of the county in which the warrant was
5 issued, who must admit the defendant to bail, and immediately
6 transmit the warrant, complaint, depositions, if any, and
7 undertaking, to the clerk of the court in which the defendant is
8 required to appear. The magistrate shall allow bail on the own
9 recognizance of the defendant or upon condition of the defendant
10 contacting the office of the prosecutor periodically pending further
11 court appearance, except when the offense is a violent crime or
12 where the magistrate believes by clear and convincing evidence that
13 there is a substantial risk that the defendant will flee the
14 jurisdiction of the court.

15 B. For purposes of this section, "violent crime" means any of
16 the following felony offenses and any attempts to commit, conspiracy
17 to commit or solicitation to commit the following crimes:

18 1. Assault, battery, or assault and battery with a dangerous or
19 deadly weapon, as provided for in Sections 644 and 645 of Title 21
20 of the Oklahoma Statutes;

21 2. Shooting with intent to kill, assault, battery, or assault
22 and battery with a deadly weapon or by other means likely to produce
23 death or great bodily harm, as provided for in Section 652 of Title
24 21 of the Oklahoma Statutes;

- 1 3. Aggravated assault and battery on a police officer, sheriff,
2 highway patrolman or any other officer of the law, as provided for
3 in Section 650 of Title 21 of the Oklahoma Statutes;
- 4 4. Poisoning with intent to kill, as provided for in Section
5 651 of Title 21 of the Oklahoma Statutes;
- 6 5. Assault with intent to commit a felony, as provided for in
7 Section 681 of Title 21 of the Oklahoma Statutes;
- 8 6. Assaults while masked or disguised, as provided for in
9 Section 1303 of Title 21 of the Oklahoma Statutes;
- 10 7. Murder in the first degree, as provided for in Section 701.7
11 of Title 21 of the Oklahoma Statutes;
- 12 8. Murder in the second degree, as provided for in Section
13 701.8 of Title 21 of the Oklahoma Statutes;
- 14 9. Manslaughter in the first degree, as provided for in Section
15 711 of Title 21 of the Oklahoma Statutes;
- 16 10. Manslaughter in the second degree, as provided for in
17 Section 716 of Title 21 of the Oklahoma Statutes;
- 18 11. Kidnapping, as provided for in Section 741 of Title 21 of
19 the Oklahoma Statutes;
- 20 12. Burglary in the first degree, as provided for in Section
21 1431 of Title 21 of the Oklahoma Statutes;
- 22 13. Burglary with explosives, as provided for in Section 1441
23 of Title 21 of the Oklahoma Statutes;

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- 1 14. Kidnapping for extortion, as provided for in Section 745 of
2 Title 21 of the Oklahoma Statutes;
- 3 15. Maiming, as provided for in Section 751 of Title 21 of the
4 Oklahoma Statutes;
- 5 16. Robbery, as provided for in Section 791 of Title 21 of the
6 Oklahoma Statutes;
- 7 17. Robbery in the first degree, as provided for in Section 797
8 of Title 21 of the Oklahoma Statutes;
- 9 18. Robbery in the second degree, as provided for in Section
10 797 of Title 21 of the Oklahoma Statutes;
- 11 19. Robbery by two or more persons, as provided for in Section
12 800 of Title 21 of the Oklahoma Statutes;
- 13 20. Robbery with a dangerous weapon or imitation firearm, as
14 provided for in Section 801 of Title 21 of the Oklahoma Statutes;
- 15 21. Child abuse, as provided for in Section 843.5 of Title 21
16 of the Oklahoma Statutes;
- 17 22. Wiring any equipment, vehicle or structure with explosives,
18 as provided for in Section 849 of Title 21 of the Oklahoma Statutes;
- 19 23. Forcible sodomy, as provided for in Section 888 of Title 21
20 of the Oklahoma Statutes;
- 21 24. Rape in the first degree, as provided for in Section 1114
22 of Title 21 of the Oklahoma Statutes;
- 23 25. Rape in the second degree, as provided for in Section 1114
24 of Title 21 of the Oklahoma Statutes;

1 26. Rape by instrumentation, as provided for in Section 1111.1
2 of Title 21 of the Oklahoma Statutes;

3 27. Lewd or indecent proposition or lewd or indecent act with a
4 child, as provided for in Section 1123 of Title 21 of the Oklahoma
5 Statutes;

6 28. Use of a firearm or offensive weapon to commit or attempt
7 to commit a felony, as provided for in Section 1287 of Title 21 of
8 the Oklahoma Statutes;

9 29. Pointing firearms, as provided for in Section 1279 of Title
10 21 of the Oklahoma Statutes;

11 30. Rioting, as provided for in Section 1311 of Title 21 of the
12 Oklahoma Statutes;

13 31. Incitement to riot, as provided for in Section 1320.2 of
14 Title 21 of the Oklahoma Statutes;

15 32. Arson in the first degree, as provided for in Section 1401
16 of Title 21 of the Oklahoma Statutes;

17 33. Injuring or burning public buildings, as provided for in
18 Section 349 of Title 21 of the Oklahoma Statutes;

19 34. Sabotage, as provided for in Section 1262 of Title 21 of
20 the Oklahoma Statutes;

21 35. Criminal syndicalism, as provided for in Section 1261 of
22 Title 21 of the Oklahoma Statutes;

23 36. Extortion, as provided for in Section 1481 of Title 21 of
24 the Oklahoma Statutes;

- 1 37. Obtaining a signature by extortion, as provided for in
2 Section 1485 of Title 21 of the Oklahoma Statutes;
- 3 38. Seizure of a bus or discharging a firearm into or within
4 any bus, as provided for in Section 1903 of Title 21 of the Oklahoma
5 Statutes;
- 6 39. Mistreatment of a vulnerable adult, as provided for in
7 Section 843.1 of Title 21 of the Oklahoma Statutes;
- 8 40. Using a vehicle to facilitate the discharge of a weapon, as
9 provided for in Section 652 of Title 21 of the Oklahoma Statutes;
- 10 41. Bombing offenses, as provided for in Section 1767.1 of
11 Title 21 of the Oklahoma Statutes;
- 12 42. Child pornography or aggravated child pornography, as
13 provided for in Section 1021.2, 1021.3, 1024.1 or 1040.12a of Title
14 21 of the Oklahoma Statutes;
- 15 43. Child prostitution, as provided for in Section 1030 of
16 Title 21 of the Oklahoma Statutes;
- 17 44. Abuse of a vulnerable adult as defined in Section 10-103 of
18 Title 43A of the Oklahoma Statutes who is a resident of a nursing
19 facility;
- 20 45. Aggravated trafficking, as provided for in subsection C of
21 Section 2-415 of Title 63 of the Oklahoma Statutes;
- 22 46. Aggravated assault and battery upon any person defending
23 another person from assault and battery;
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1 47. Human trafficking, as provided for in Section 748 of Title
2 21 of the Oklahoma Statutes; or

3 48. Terrorism crimes, as provided for in Sections 1268 through
4 1268.8 of Title 21 of the Oklahoma Statutes.

5 SECTION 3. AMENDATORY 22 O.S. 2011, Section 454, is
6 amended to read as follows:

7 Section 454. A. If the defendant has been discharged on bail,
8 or have deposited money instead thereof, and does not appear to be
9 arraigned, when his or her personal attendance is necessary, the
10 court in addition to the forfeiture of the undertaking of bail or of
11 the money deposited, may direct the clerk to issue a bench warrant
12 for ~~his~~ the arrest of the defendant.

13 B. No bench warrant may be issued for failure to appear in
14 court in a misdemeanor case in which the defendant has not signed a
15 citation or certified mail receipt indicating the defendant has been
16 personally made aware of the charge and the court date.

17 C. If the defendant has signed a citation or certified mail
18 receipt indicating the defendant has been personally made aware of
19 the charge and the court date, upon the failure of the defendant to
20 appear in such case, judgment may be entered against the defendant.

21 No bench warrant or arrest warrant shall be issued if another means
22 of collecting the fine allowable for the charge exists including,
23 but not limited to, an Oklahoma municipal utility account, title to
24 real estate, mineral interests, a motor vehicle in Oklahoma, an

1 account in a financial institution in Oklahoma or a record of
2 current employment in Oklahoma, where such account or record is
3 readily ascertainable in a simple online search.

4 SECTION 4. This act shall become effective November 1, 2019.

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