

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 245

BY: EASLEY

AS INTRODUCED

AN ACT RELATING TO CITIES AND TOWNS; AMENDING 11 O.S. 1981, SECTION 27-104, AS LAST AMENDED BY SECTION 1, CHAPTER 32, O.S.L. 1984 AND SECTION 1, CHAPTER 173, O.S.L. 1987, AS AMENDED BY SECTION 1, CHAPTER 69, O.S.L. 1990 (11 O.S. SUPP. 1990, SECTIONS 27-104 AND 27-122.1), WHICH RELATE TO MUNICIPAL JUDGES; LIMITING FINES IMPOSED BY CERTAIN MUNICIPAL JUDGES; REDEFINING TERM; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 11 O.S. 1981, Section 27-104, as last amended by Section 1, Chapter 32, O.S.L. 1984 (11 O.S. Supp. 1990, Section 27-104), is amended to read as follows:

Section 27-104. A. The number of judges for each municipal court shall be determined by the governing body of the municipality where the court is established. The judge of each municipal court shall be appointed by the mayor of the municipality where the court is established, with the consent of the municipal governing body. The judge of any municipal court shall be licensed to practice law in Oklahoma, except as provided for in subsections B and C of this section. He shall serve for a term of two (2) years, said term

expiring on a date fixed by ordinance, and until his successor is appointed and qualified, unless removed by the vote of a majority of all members of the governing body for such cause as is provided for by law for the removal of public officers. Any appointment to fill a vacancy shall be for the unexpired term. Except in cities with a population of more than two hundred thousand (200,000), nothing in the provisions of this section shall be construed to prevent the judge from engaging in the practice of law in any other court during his tenure of office. The judge shall be paid a salary to be fixed by the municipal governing body. He shall be paid in the same manner as other municipal officials.

B. In any municipality with a population of less than seven thousand five hundred (7,500), the mayor, with the consent of the governing body of the municipality, may appoint as judge:

1. an attorney licensed to practice law in Oklahoma, who resides in the county in which the municipality is located or in an adjacent county; or

2. an attorney licensed to practice law in Oklahoma who maintains a permanent office in the municipality; or

3. any suitable person residing in the municipality or within twenty (20) miles of the boundaries of the municipality.

The mayor may be designated as judge of the municipal court upon approval of the governing body of the municipality.

C. In any municipality with a population of seven thousand five hundred (7,500) or more, if no attorney licensed to practice law in Oklahoma resides in the county or in an adjacent county in which the municipality is located, who is at the time of appointment willing to accept the appointment as judge, the mayor, with the consent of the governing body of the municipality, may appoint any suitable and proper person as judge.

D. If the judge of the municipal court is not a licensed attorney, the trial shall be to the court, and the court may not

impose a fine of more than Fifty Dollars (\$50.00), except as provided in subsection E of this section and may not order the defendant imprisoned except for the nonpayment of fines or costs or both.

E. If the judge of the municipal court is not a licensed attorney in this state but has completed the mandatory continuing legal education courses held for municipal judges, the court may not impose a fine of more than One Hundred Dollars (\$100.00).

SECTION 2. AMENDATORY Section 1, Chapter 173, O.S.L. 1987, as amended by Section 1, Chapter 69, O.S.L. 1990 (11 O.S. Supp. 1990, Section 27-122.1), is amended to read as follows:

Section 27-122.1 A. All sentences of imprisonment shall be executed by the chief of police of the municipality, and any person convicted of a violation of any ordinance of the municipality and sentenced to imprisonment shall be confined in the jail, farm or workhouse, of the municipality, in the discretion of the court, for the time specified in the sentence; provided, however, the court may, in lieu of imprisonment, order the defendant to engage in a term of community service without compensation. If the defendant fails to perform the required community service or if the conditions of community service are violated, the judge may impose a sentence of imprisonment, not to exceed the maximum sentence allowable for the violation for which the defendant was convicted.

B. The judge of the municipal court imposing a judgment and sentence, at his discretion, is empowered to modify, reduce, or suspend or defer the imposition of such sentence or any part thereof and to authorize probation for a period not to exceed six (6) months from the date of sentence, under such terms or conditions as the judge may specify. Procedures relating to suspension of the judgment or costs or both shall be as provided in Section 27-123 of Title 11 of the Oklahoma Statutes. Upon completion of the probation term, the defendant shall be discharged without a court judgment of

guilt, and the verdict, judgment of guilty or plea of guilty shall be expunged from the record and said charge dismissed with prejudice to any further action. Upon a finding of the court that the conditions of probation have been violated, the municipal judge may enter a judgment of guilty.

C. The judge of the municipal court may continue or delay imposing a judgment and sentence for a period of time not to exceed six (6) months from the date of sentence. At the expiration of such period of time the judge may allow the municipal attorney to amend the charge to a lesser offense.

D. If a deferred sentence is imposed, an administrative fee of not to exceed One Hundred Dollars (\$100.00) may be imposed as costs in the case.

E. For purposes of this section, "judge of the municipal court" means a municipal court judge who is licensed to practice law in Oklahoma or a municipal judge who is not licensed to practice law in Oklahoma but has completed the mandatory continuing legal education courses held for municipal judges.

SECTION 3. This act shall become effective September 1, 1991.

43-1-578

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