

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2545

By: Kouba

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 1991, Section 1761.1, which relates to dumping of trash; providing for citizen reports in certain circumstances; amending 22 O.S. 1991, Section 196, which relates to arrest without a warrant; modifying misdemeanor arrest; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1761.1, is amended to read as follows:

Section 1761.1 A. Any person who deliberately places, throws, drops, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on any public property or on any private property of another without consent shall be guilty of a misdemeanor.

B. Any person convicted of violating the provisions of subsection A of this section shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

C. In addition to the penalty prescribed by subsection B of this section, the court may direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, refuse or debris from the property; to pick up, remove and properly dispose of garbage, trash, waste, rubbish, refuse, debris and other nonhazardous deleterious substances from public property; or any combination of the foregoing which the court, in its discretion, deems appropriate. The dates, times and locations of such activities shall be scheduled by the sheriff pursuant to the order of the court in such a manner as not to interfere with the employment or family responsibilities of the person.

D. In addition to the penalty prescribed in subsection B and the restitution prescribed in subsection C, the court may order the defendant to pay into the reward fund as prescribed in Section 1334 of this title an amount not to exceed One Thousand Dollars (\$1,000.00).

E. Any full-time peace officer in this state including but not limited to the state highway patrol, county sheriffs and deputies, municipal law enforcement department, and any other employee of this state having peace officer authority upon investigation of the disposal of any substance in violation of this section which contains three or more items bearing a common address in a form which tends to identify the latest owner of the items shall create a rebuttable presumption that all competent persons residing at such address committed the unlawful act. The discovery or use of such evidence shall not be sufficient to qualify for the reward provided in Section 1334 of Title 22 of the Oklahoma Statutes.

F. Any person may report a violation of this section, if committed in their presence, to the state highway patrol, county sheriffs and deputies, municipal law enforcement departments or any other full-time peace officer in this state. The peace officer

shall then conduct an investigation into the reported allegations.
If the report is verified by the peace officer investigation, the
person reported as violating subsection A of this section may be
arrested by the peace officer.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 196, is amended to read as follows:

Section 196. A peace officer may, without a warrant, arrest a person:

1. For a public offense, committed or attempted in his presence, except the peace officer's presence is not required for those offenses specified in Section 1761.1 of Title 21 of the Oklahoma Statutes;

2. When the person arrested has committed a felony, although not in his presence;

3. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it;

4. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested;

5. When he has probable cause to believe that the party was driving or in actual physical control of a motor vehicle involved in an accident upon the public highways, streets or turnpikes and was under the influence of alcohol or intoxicating liquor or who was under the influence of any substance included in the Uniform Controlled Dangerous Substances Act, Sections 2-101 et seq. of Title 63 of the Oklahoma Statutes; or

6. Anywhere, including his place of residence, if the peace officer has probable cause to believe the person within the preceding four (4) hours has committed an act of domestic abuse as defined by Section 60.1 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first

observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim.

SECTION 3. This act shall become effective September 1, 1994.

44-2-8101

AJW