

ENROLLED HOUSE
BILL NO. 1541

By: Settle, Hastings and
Perry of the House

and

Smith of the Senate

An Act relating to cities and towns; amending 11 O.S. 1991, Sections 27-119, 27-129 and 28-102, which relate to jury trials in municipal courts and appeals; raising the minimum fine entitling a person to a jury trial and an appeal; excluding certain court costs from minimum fine; adding certain imprisonment requirement for municipal criminal courts of record; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 27-119, is amended to read as follows:

Section 27-119. In all prosecutions in the municipal court for any offense punishable by a fine of more than ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00), excluding court costs, or by imprisonment, or by both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality, provided that the municipality has compiled its penal ordinances in accordance with the provisions of Sections 14-109 and 14-110 of this title. If the municipality has not compiled its ordinances as provided by law, the fine shall not exceed Fifty Dollars (\$50.00). In prosecutions for all other offenses, or in cases wherein a jury trial is waived by the defendant and the municipality, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five of whom may return a verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 27-129, is amended to read as follows:

Section 27-129. A. An appeal may be taken from a final judgment of the municipal court by the defendant by filing in the district court in the county where the situs of the municipal government is located, within ten (10) days from the date of the final judgment, a notice of appeal and by filing a copy of the notice with the municipal court. In case of an appeal, a trial de novo shall be had, and there shall be a right to a jury trial if the offense is punishable by a fine of more than ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00) and costs.

B. Upon conviction, at the request of the defendant, or upon notice of appeal being filed, the judge of the municipal court shall enter an order on his docket fixing an amount in which bond may be given by the defendant, in cash or sureties for cash in an amount of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00); except that, if the conviction involved a fine only, the amount of the bond shall be no greater than twice the

amount of such fine. Bond shall be taken by the clerk of the court wherein judgment was rendered. Any pledge of sureties must be approved by a judge of the court.

C. Upon appeal being filed the judge shall within ten (10) days thereafter certify to the clerk of the appellate court the original papers in the case. If the papers have not been certified to the appellate court, the prosecuting attorney shall take the necessary steps to have the papers certified to the appellate court within twenty (20) days of the filing of the notice of appeal, and failure to do so, except for good cause shown, shall be grounds for dismissal of the charge by the appellate court, the cost to be taxed to the municipality. The certificate shall state whether or not the municipal judge hearing the case was a licensed attorney in Oklahoma.

D. All proceedings necessary to carry the judgment into effect shall be had in the appellate court.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 28-102, is amended to read as follows:

Section 28-102. A. The municipal criminal courts of record shall have original jurisdiction to hear and determine all prosecutions when a violation of any of the ordinances of the city where the court is established is charged, as provided by Article VII, Section 1 of the Oklahoma Constitution.

B. Except in cases when the penalty provided for the violation of an ordinance does not exceed a fine in the amount of ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00), excluding court costs, or by imprisonment, or by both such fine and imprisonment, all persons charged before such municipal criminal court of record shall be entitled to a trial by jury, unless waived by the defendant. Judgment and sentence imposed by the judge shall be as effective as if the same had been rendered and imposed by a jury.

C. The maximum punishment which may be levied in any municipal criminal court of record is a fine not exceeding Five Hundred Dollars (\$500.00) and costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment. Provided, that any municipal criminal court of record may levy a fine not to exceed One Thousand Dollars (\$1,000.00) and costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. A municipal ordinance may not impose a penalty greater than that established by state statute for the same offense.

D. When a defendant has been in jeopardy for the same or any lesser included offense in the municipal criminal court of record or district court, he shall not be prosecuted in any other court for the same or a lesser included offense.

SECTION 4. This act shall become effective November 1, 1995.

Passed the House of Representatives the 4th day of April, 1995.

Speaker of the House of
Representatives

Passed the Senate the 22nd day of March, 1995.

President of the Senate