STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1435 By: Deutschendorf

COMMITTEE SUBSTITUTE

An Act relating to cities and towns; amending 11 O.S. 1991, Sections 27-117, 27-117.1, as amended by Section 1, Chapter 15, O.S.L. 1993, 27-119, as amended by Section 1, Chapter 61, O.S.L. 1995, and 27-129, as amended by Section 2, Chapter 61, O.S.L. 1995 (11 O.S. Supp. 1996, Sections 27-117.1, 27-119 and 27-129), which relate to municipal courts not of record; setting maximum amount of bail with exception; modifying criteria for determining right to jury trial; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 27-117, is amended to read as follows:

Section 27-117. A. If a resident of a municipality served by a municipal court is arrested by a law enforcement officer for the violation of any traffic ordinance for which Section ~~8~~ 27-117.1 of this ~~act~~ title does not apply, or is arrested for the violation of a nontraffic ordinance, the officer shall immediately release said person if the person acknowledges receipt of a citation by signing it. Provided, however, the arresting officer need not release said person if it reasonably appears to the officer that the person may cause injury to himself or others or damage to property if released, that the person will not appear in response to the citation, or the person is arrested for an offense against a person or property. If said person fails to appear in response to the citation, a warrant shall be issued for his arrest and his appearance shall be compelled.

If the arrested resident is not released by being permitted to sign a citation as provided for in this subsection, he shall be admitted to bail either before or after arraignment, or shall be released on personal recognizance. A municipality may prescribe a

fine for up to the maximum amount authorized by courts not of record for failure of a person to have a valid driver's license when charged with a traffic violation.

B. If a nonresident of a municipality served by a municipal court is arrested by a law enforcement officer for a violation of any ordinance for which Section ~~8~~ 27-117.1 of this ~~act~~ title does not apply, the defendant shall be eligible to be admitted to bail either before or after arraignment.

C. The amount and conditions of bail granted pursuant to the provisions of subsections A and B of this section shall be determined by the judge who shall prescribe rules for the receipt of bail and for the release on personal recognizance. The amount of bail for each offense shall not exceed the maximum fine plus court costs, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond. In the event of arrests at night, emergencies, or when the judge is not available, a court official, the chief of police or his designated representative may be authorized by the judge, subject to such conditions as shall be prescribed by the judge, to accept a temporary cash bond in a sufficient amount to secure the appearance of the accused. The cash bond shall not exceed the maximum fine provided for by ordinance for each offense charged, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond. The court official, chief of police or his designated representative is authorized, subject to such conditions as shall be prescribed by the judge, to release a resident of the municipality on personal recognizance.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 27-117.1, as amended by Section 1, Chapter 15, O.S.L. 1993 (11 O.S. Supp. 1996, Section 27-117.1), is amended to read as follows:

Section 27-117.1 If a resident or nonresident of a municipality having a municipal court is arrested by a law enforcement officer solely for a misdemeanor violation of a traffic ordinance, other than an ordinance pertaining to a parking or standing traffic violation, and the arrested person is eligible

to sign a written promise to appear and be released upon personal recognizance as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes, then the procedures provided for in the State and Municipal Traffic Bail Bond Procedure Act as applied to municipalities, shall govern. A municipality, by ordinance, may prescribe a bail bond schedule for this purpose and may provide for bail to be used as payment of the fine and costs upon a plea of guilty or nolo contendere, as provided for in Section 1115.1 of Title 22 of the Oklahoma Statutes. Absent such ordinance, the municipal court may prescribe a bail bond schedule for traffic offenses. The amount of bail shall not exceed the maximum fine and costs provided by ordinance for each offense, unless the defendant has a previous history of failing to appear according to the terms or conditions of a bond.

SECTION 3. AMENDATORY 11 O.S. 1991, Section 27-119, as amended by Section 1, Chapter 61, O.S.L. 1995 (11 O.S. Supp. 1996, Section 27-119), is amended to read as follows:

Section 27-119. In all prosecutions in the municipal court for any offense ~~punishable by~~ for which the municipality, with the concurrence of the court, seeks imposition of a fine of more than 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 4. AMENDATORY 11 O.S. 1991, Section 27-129, as amended by Section 2, Chapter 61, O.S.L. 1995 (11 O.S. Supp. 1996, 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 sentence imposed for the offense ~~is punishable by~~ was a fine of more than 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 5. This act shall become effective November 1, 1997.

46-1-6626 SD