

ENGROSSED HOUSE  
BILL NO. 2005

By: Roach of the House

and

Smith of the Senate

An Act relating to cities and towns; amending 11 O.S. 1991, Sections 27-117, as amended by Section 6, Chapter 251, O.S.L. 1997 and 28-114 (11 O.S. Supp. 1999, Section 27-117), which relate to procedures upon arrest; authorizing arresting officer to determine whether person should be released or held; 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, as amended by Section 6, Chapter 251, O.S.L. 1997 (11 O.S. Supp. 1999, Section 27-117), is amended to read as follows:

Section 27-117. A. If a resident of a municipality served by a municipal court not of record is arrested by a law enforcement officer for the violation of any traffic ordinance for which Section 27-117.1 of this title does not apply, or is arrested for the violation of a nontraffic ordinance, the officer ~~shall immediately~~ may 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~~ may be released by a municipal court not of record 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 not of record is arrested by a law enforcement officer for a violation of any ordinance for which Section 27-117.1 of this 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 which case the amount of bail shall not exceed One Thousand Dollars (\$1,000.00). 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, in which case the amount of the cash bond shall not exceed One Thousand Dollars (\$1,000.00). 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 28-114, is amended to read as follows:

Section 28-114. A. If a resident of a municipality served by a municipal criminal court of record is arrested by a law enforcement officer for the violation of any ordinance for which Section ~~41~~ 28-114.1 of this ~~act~~ title does not apply, or is arrested for violation of a nontraffic ordinance, the officer ~~shall immediately~~ may 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~~ may be released by a municipal criminal court of record 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 criminal court of record is arrested by a law enforcement officer for a violation of any ordinance for which Section ~~41~~ 28-114.1 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. 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. 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 3. This act shall become effective November 1, 2000.

Passed the House of Representatives the 6th day of March, 2000.

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Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2000.

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President of the Senate