

EHB 1393

THE STATE SENATE
Monday, March 22, 1999

ENGROSSED

House Bill No. 1393

As Amended

ENGROSSED HOUSE BILL NO. 1393 - By: PAULK of the House and HERBERT of the Senate.

(cities and towns - amending 11 O.S., Sections 28-113 and 28-123 - prosecutions in municipal criminal courts of record - sentences imposed in municipal criminal courts of record - effective date)

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 28-113, is amended to read as follows:

Section 28-113. A. All prosecutions commenced in a municipal criminal court of record shall be by information, pursuant to Section 16-108 of Title 47 of the Oklahoma Statutes, for traffic offenses and by information as in the district courts in other cases, which shall be subscribed by the person making complaint and shall be verified before a judge, the court clerk, or a deputy court clerk. All prosecutions for the violation of municipal ordinances shall be styled, "The City of _____ (naming the municipality) vs. _____ (naming the person or persons charged)".

1 B. Upon receipt of a traffic ticket or complaint by the court
2 clerk, other than a traffic ticket which has been signed by the
3 arrested person as a plea of guilty, the court clerk shall either
4 prepare a copy of the ticket or complaint and deliver the original
5 or duplicate original to the municipal attorney, or record the
6 ticket on a list maintained in the clerk's office and deliver the
7 ticket to the municipal attorney for his disposition. After
8 disposition of the ticket by the municipal attorney, the name shall
9 be removed from the list by the court clerk. A traffic ticket or
10 complaint that is certified by the arresting officer, the
11 complainant, or the municipal attorney, shall constitute an
12 information against the person arrested and served with the traffic
13 ticket or complaint. The ticket or complaint shall be endorsed by
14 the municipal attorney before it is filed with the court clerk;
15 except if the person arrested and served with a traffic ticket or
16 complaint either at the time he is arrested or at a subsequent time
17 shall indicate in writing on the ticket or complaint, above his
18 signature, that he elects to plead guilty to the violation charged,
19 the traffic ticket or complaint shall be filed with the court clerk,
20 as an information, without the endorsement of the municipal
21 attorney, and it shall be the duty of the court clerk to notify the
22 municipal attorney as to the fact of such filing.

1 C. The municipal governing body, by ordinance, may prescribe a
2 schedule of fines which a defendant may pay in lieu of an appearance
3 before the municipal court, and such payment shall constitute a
4 final determination of the cause against the defendant.

5 SECTION 2. AMENDATORY 11 O.S. 1991, Section 28-123, as
6 amended by Section 2, Chapter 265, O.S.L. 1993 (11 O.S. Supp. 1998,
7 Section 28-123), is amended to read as follows:

8 Section 28-123. A. All sentences of imprisonment shall be
9 executed by the chief of police of the city, and any person
10 convicted of a violation of any ordinance of the city and sentenced
11 to imprisonment shall be confined in the jail, farm or workhouse, of
12 the city, in the discretion of the court, for the time specified in
13 the sentence. All persons who shall be convicted in the court of
14 violation of any ordinance of the city and sentenced to pay a fine
15 and costs, who shall refuse to pay such fine or costs, shall be
16 imprisoned in the jail of the city for one (1) day for each Two
17 Dollars (\$2.00) of the fine and costs assessed.

18 B. The judge of the municipal criminal court of record imposing
19 a judgment and sentence, at his discretion, is empowered to modify,
20 reduce, or suspend or defer the imposition of such sentence or any
21 part thereof and to authorize probation for a period not to exceed
22 six (6) months from the date of sentence, under such terms or
23 conditions as the judge may specify. Upon completion of the

1 probation term following a deferred sentence, the defendant shall be
2 discharged without a court judgment of guilt, and the verdict,
3 judgment of guilty or plea of guilty shall be expunged from the
4 record and said charge be dismissed with prejudice to any further
5 action. Upon a finding of the court that the conditions of
6 probation have been violated, the municipal judge may enter a
7 judgment of guilty.

8 C. The judge of the municipal court of record may continue or
9 delay imposing a judgment and sentence for a period of time not to
10 exceed ~~six (6) months~~ one (1) year from the date of sentence. At
11 the expiration of such period of time the judge may allow the city
12 attorney to amend the charge to a lesser offense.

13 D. If a deferred sentence is imposed, an administrative fee of
14 One Hundred Dollars (\$100.00) may be imposed as costs in the case.

15 SECTION 3. This act shall become effective November 1, 1999.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-16-99 - DO
17 PASS, As Amended.