

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

HOUSE BILL HB1787

By: Newport

AS INTRODUCED

An Act relating to municipal courts; amending 11 O.S. 1991, Section 28-101, which relates to municipal courts of record; providing that all municipal courts are courts of record for certain cases; providing article of the Oklahoma Municipal Code that is applicable; providing exception; authorizing levy of fines; amending 11 O.S. 1991, Sections 27-115 and 27-129, as last amended by Section 9, Chapter 251, O.S.L. 1997 (11 O.S. Supp. 2000, Section 27-129), which relate to municipal courts not of record; providing for prosecution and appeal for cases in which court sits as court of record; providing for compliance with criminal code of procedure; authorizing appointment of court reporter; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 28-101, is amended to read as follows:

Section 28-101. A. In cities having a population of more than two hundred thousand (200,000) inhabitants, as determined by the latest federal census, there is hereby created a "Municipal Criminal Court of Record of the City of \_\_\_\_\_". References Except as provided in subsection B of this section, references in Sections 28-101 through 28-128 of this title to the municipal criminal court of record shall mean the courts established by the provisions of this article in cities over two hundred thousand (200,000) population.

B. In cities having a population of two hundred thousand (200,000) or less inhabitants, as determined by the latest federal census, the municipal court shall be a court of record for cases involving prosecution of a person for operating or being in actual

physical control of a motor vehicle while the person is under the influence of alcohol or other intoxicating substances, or a combination of alcohol and other intoxicating substances. These courts shall be governed by the provisions of Article 27 of this title and shall not be subject to the provisions of Article 28 of this title; provided, however, municipal courts of record established pursuant to this subsection shall be authorized to levy fines up to the maximum amount authorized pursuant to Section 28-102 of this title.

SECTION 2. AMENDATORY 11 O.S. 1991, Section 27-115, is amended to read as follows:

Section 27-115. A. All prosecutions commenced in the municipal court, when the court is not sitting as a court of record, shall be by complaint which shall be subscribed by the person making the complaint and shall be verified before a judge, the court clerk, a deputy court clerk, or a police officer. No warrant for arrest shall be issued until the complaint has been approved by the judge of the municipal court.

B. All prosecutions commenced in the municipal court as a court of record shall be by information, as in the district courts, which shall be subscribed by the person making the complaint and shall be verified before a judge, the court clerk, or a deputy court clerk.

C. All prosecutions for the violation of municipal ordinances shall be styled, "The \_\_\_\_\_ (City or Town) of \_\_\_\_\_ (name the municipality) vs. \_\_\_\_\_ (naming the person or persons charged)".

SECTION 3. AMENDATORY 11 O.S. 1991, Section 27-129, as last amended by Section 9, Chapter 251, O.S.L. 1997 (11 O.S. Supp. 2000, Section 27-129), is amended to read as follows:

Section 27-129. A. ~~An~~ Except for cases in which the court sits as a court of record, 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 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-129.1 of Title 11, unless there is created a duplication in numbering, reads as follows:

Appeals may be taken from a judgment or order of a municipal court sitting as a court of record to the Court of Criminal Appeals in the same manner and to the same extent that appeals are now taken from the district courts to the Court of Criminal Appeals in criminal matters, and no appeals other than those herein provided shall be allowed.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-133 of Title 11, unless there is created a duplication in numbering, reads as follows:

Except as otherwise specifically provided, the municipal court, when sitting as a court of record, shall comply with the criminal code of procedure, as in the district court for misdemeanor cases.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-134 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The presiding judge of the municipal court may recommend to the governing body of the city the appointment of a suitable and proper person as court reporter for the court while sitting as a court of record, whose duty it shall be to correctly take and record all of the testimony and proceedings had upon the trial or cases when required by either party. The city governing body shall fix the compensation to be allowed the court reporter. Such reporter may also perform such other clerical duties as the city governing body and judge and clerk of the court may require and shall have power to certify all transcripts and records of evidence and proceedings taken by the reporter.

B. The court reporter, before entering upon the duties of office, shall be duly sworn in open court faithfully to perform the duties of the office.

C. The reporter shall not receive any fees from the city other than salary but shall receive the same fees for transcribing the testimony and proceedings from other parties that are received by reporters of the district court for like services.

SECTION 7. This act shall become effective November 1, 2001.

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