

ENGROSSED HOUSE
BILL NO. 2365

By: Cargill and Vaughn of the
House

and

Coffee of the Senate

An Act relating to cities and towns; amending 11 O.S. 2001, Section 27-129, which relates to appeals in municipal courts not of record; modifying maximum amount allowed for appeal bond; amending 11 O.S. 2001, Section 28-101, which relates to municipal criminal courts of record; changing the population requirement for municipal criminal courts of record; providing procedure for creating 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. 2001, 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 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~~ the 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 2. AMENDATORY 11 O.S. 2001, 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)~~ sixty-five thousand (65,000) inhabitants, as determined by the latest federal census, there is hereby created a "Municipal Criminal Court of Record of the City of _____", subject to the restrictions of 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)~~ sixty-five thousand (65,000) population.

B. Before a municipal criminal court of record not in existence before November 1, 2004, may be created, the municipal governing body shall determine by resolution that the efficient disposition of cases involving the violation of municipal ordinances necessitates

creating a court of record. If such a resolution is not adopted,
the criminal court of the municipality shall remain a court not of
record. The governing body shall cause a certified copy of the
resolution to be filed in the office of the county clerk of each
county in which the municipality is located. The resolution and the
filing thereof shall be judicially noticed in all courts of this
state. The provisions of this subsection shall not apply to any
municipal criminal court of record created prior to November 1,
2004, and such courts shall have all the powers and duties
heretofore provided for such courts.

SECTION 3. This act shall become effective November 1, 2004.

Passed the House of Representatives the 10th day of March, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2004.

Presiding Officer of the Senate