

By Wilkerson of the Senate  
and  
Ferguson of the House

[ criminal procedure - authorizing release for  
violation of certain marihuana offense -  
codification -

effective date ]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1114.51 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is arrested by a law enforcement officer for simple possession of a minor amount of marihuana, may be released by the arresting officer upon personal recognizance if:

1. The arresting officer is satisfied as to the identity of the arrested person; and

2. The arrested person signs a written promise to appear as provided for on the citation, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician.

B. If the arrested person can be released on personal recognizance as provided for in subsection A of this section, then the arresting officer shall:

1. Designate the offense of simple possession of a minor amount of marihuana;

2. Record information from the arrested person's driver license on the citation form, including the name, address, date of birth, personal description, type of driver license, driver license number, issuing state, and expiration date;

3. Record the motor vehicle make, model and tag information, if applicable;

4. Record the arraignment date and time on the citation;

5. Permit the arrested person to sign a written promise to appear as provided for in the citation; and

6. Release the person upon personal recognizance based upon the signed promise to appear.

C. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment may result in the issuance of an arrest warrant pursuant to subsection E of this section. The citation and promise to appear shall be transmitted by the arresting officer to the clerk of the court having jurisdiction over the offense.

D. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment upon request of the arrested person or the attorney for that person. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time; provided, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment.

E. If the defendant fails to timely appear for arraignment, in person or by counsel, the court shall issue, on motion of the district attorney, a bench warrant for the arrest of the defendant.

F. As used in this section, the term "simple possession of a minor amount of marihuana" means possession of twenty-eight and one-half (28 1/2) grams or less of marihuana for one's own use and not for the purpose of sale, distribution, dispensing, or delivery, as those terms are defined in Section 2-101 of Title 63 of the Oklahoma Statutes.

G. Upon conviction of a defendant for the offense of simple possession of marihuana, the court shall order the defendant to be fingerprinted and shall order the fingerprints transmitted to the Oklahoma State Bureau of Investigation for inclusion in criminal history records.

SECTION 2. This act shall become effective July 1, 2004.

Passed the Senate the 2nd day of March, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
2004.

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Presiding Officer of the House  
of Representatives