

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 636

By: Laster of the Senate

and

Jett of the House

(jails - emergency medical treatment - duties -
clarifying responsibility for certain costs -
emergency)

AUTHORS: Add the following House Coauthors: Sullivan and Nance

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"An Act relating to jails; amending 21 O.S. 2001, Section 533, as amended by Section 1, Chapter 199, O.S.L. 2003 (21 O.S. Supp. 2004, Section 533), which relates to crime for refusing to receive or fingerprinting prisoners; providing exception to receive or fingerprint certain persons; providing for emergency medical care prior to being received into certain custody; establishing responsibility for certain emergency medical costs; defining terms; amending 22 O.S. 2001, Section 459, as amended by Section 4, Chapter 199, O.S.L. 2003 (22 O.S. Supp. 2004, Section 459), which relates to nonbailable offenses; adding exception to custody requirement under certain circumstances; defining terms; amending 22 O.S. 2001, Section 979a, as last amended by Section 11, Chapter 275, O.S.L. 2004 (22 O.S. Supp. 2004, Section 979a), which relates to payment of jail costs by inmate; clarifying responsibility for jail costs; making exception for certain emergency medical care costs; requiring person to be actually received into custody; defining terms; amending 22 O.S. 2001, Section 1115.2, which relates to the State and Municipal Traffic Bail Bond Procedure Act; adding exception to custody requirement under certain circumstances; defining terms; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 533, as amended by Section 1, Chapter 199, O.S.L. 2003 (21 O.S. Supp. 2004, Section 533), is amended to read as follows:

Section 533. A. Any Except as provided in this section and Section 979a of Title 22 of the Oklahoma Statutes for emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb, any peace officer or jail or prison contractor who, in violation of a duty imposed upon the officer or contractor by law as such officer or by contract to receive into the officer's custody any person as a prisoner, willfully neglects or refuses so to receive such person into the officer's custody is guilty of a misdemeanor.

B. Any Except as provided in this section and Section 979a of Title 22 of the Oklahoma Statutes for emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb, any peace officer or jail or prison contractor who, in violation of a duty imposed upon the officer or contractor by laws law or by contract to fingerprint any person received into the officer's custody as a prisoner, willfully neglects or refuses so to fingerprint such person is guilty of a misdemeanor.

C. Any person coming into contact with a peace officer prior to being actually received into custody at a jail facility, including, but not limited to, during the time of any arrest, detention, transportation, investigation of any incident, accident or crime, who needs emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb shall be taken directly to a medical facility or hospital for such emergency medical care notwithstanding any duty imposed pursuant to this section or any other provision of law to first take such person into custody or to fingerprint such person. The responsibility for payment of such emergency medical costs shall be the sole responsibility of the person coming into the officer's contact and

shall not be the responsibility of any jail, law enforcement agency, jail or prison contractor, sheriff, peace officer, municipality or county, except when the condition is a direct result of injury caused by such officer acting outside the scope of lawful authority.

D. As used in this section, "emergency medical treatment" means a medical condition obvious to a person without medical or nursing training in which it is clear that medical treatment is needed to prevent further harm or injury to the person presented for custody. In a jail facility with qualified medical personnel available to screen persons presented for custody, the phrase "emergency medical treatment" means a condition observed or detected by a person with medical or nursing training in accordance with local jail policy and procedure for medical screenings and evaluations which requires medical attention beyond the abilities of the jail facility to prevent further harm to the person being presented for custody.

SECTION 2. AMENDATORY Section 3, Chapter 199, O.S.L. 2003 (22 O.S. Supp. 2004, Section 190.1), is amended to read as follows:

Section 190.1 The person, when arrested without warrant for an offense not bailable, shall be held in custody by the sheriff of the county in which the arrest was made. If the sheriff has contracted for the custody of prisoners in the county, the contractor shall be required to hold in custody any prisoner delivered to the contractor pursuant to this section. The provisions of this section shall not apply if the sheriff or contractor determines that the person being presented for custody is in need of emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb. As used in this section, "emergency medical treatment" means a medical condition obvious to a person without medical or nursing training in which it is clear that medical treatment is needed to prevent further harm or injury to the person presented for custody. In a jail facility with qualified medical

personnel available to screen persons presented for custody, the phrase "emergency medical treatment" means a condition observed or detected by a person with medical or nursing training in accordance with local jail policy and procedure for medical screenings and evaluations which requires medical attention beyond the abilities of the jail facility to prevent further harm to the person being presented for custody.

SECTION 3. AMENDATORY 22 O.S. 2001, Section 459, as amended by Section 4, Chapter 199, O.S.L. 2003 (22 O.S. Supp. 2004, Section 459), is amended to read as follows:

Section 459. The defendant, when arrested under a warrant for an offense not bailable, shall be held in custody by the sheriff of the county in which the indictment or information is filed. If the sheriff has contracted for the custody of prisoners in the county, such contractor shall be required to hold in custody any prisoner delivered to the contractor pursuant to this section. The provisions of this section shall not apply if the sheriff or contractor determines that the defendant being presented for custody is in need of emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb. As used in this section, "emergency medical treatment" means a medical condition obvious to a person without medical or nursing training in which it is clear that medical treatment is needed to prevent further harm or injury to the person presented for custody. In a jail facility with qualified medical personnel available to screen persons presented for custody, the phrase "emergency medical treatment" means a condition observed or detected by a person with medical or nursing training in accordance with local jail policy and procedure for medical screenings and evaluations which requires medical attention beyond the abilities of the jail facility to prevent further harm to the person being presented for custody.

SECTION 4. AMENDATORY 22 O.S. 2001, Section 979a, as last amended by Section 11, Chapter 275, O.S.L. 2004 (22 O.S. Supp. 2004, Section 979a), is amended to read as follows:

Section 979a. A. Except as otherwise provided in this section, the municipal attorney or district attorney shall ask the court to require a person who is actually received into custody at a jail facility or who is confined in a city or county jail, for any offense, to pay the jail facility the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the clerk of the court. Costs of incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services. The costs for incarceration shall be an amount equal to the actual cost of the services and shall be determined by the chief of police for city jails, by the county sheriff for county jails or by contract amount, if applicable. In the event a person requires emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb prior to being actually received into the custody of any jail facility, the provisions of Section 533 of Title 21 of the Oklahoma Statutes shall apply to taking custody, medical care and cost responsibility. The cost of incarceration shall be paid to the municipality, county or other public entity responsible for the operation of all jail facilities where the person ~~is~~ was held ~~before and after conviction~~ in custody at any time. Except for medical costs, incarceration costs shall not be assessed if, in the judgment of the court, such costs would impose a manifest hardship on the person, or if in the opinion of the court the property of the person is needed for the maintenance and support of immediate family. ~~Ten~~ Except for medical costs, ten percent (10%) of any amount collected shall be paid to the municipal attorney's or district attorney's office, and the remaining amount

shall be paid to the municipality, the sheriff's service fee account or, if the sheriff does not operate the jail facility, the remaining amount shall be deposited with the public entity responsible for the operation of the jail facility where the person ~~is~~ was held at any time.

B. Any Except as may otherwise be provided in Section 533 of Title 21 of the Oklahoma Statutes, any offender receiving routine or emergency medical services or medications or injured during the commission of a felony or misdemeanor offense and administered any medical care shall be required to reimburse the sheriff, municipality or other public entity responsible for the operation of the jail, the full amount paid by the sheriff, municipality or other public entity responsible for the operation of the jail for any medical care or treatment administered to such offender during any period of incarceration ~~or preceding incarceration~~ or when the person was actually received into custody for any reason in that jail facility. The sheriff, municipality or other public entity responsible for the operation of the jail may deduct the costs of medical care and treatment as authorized by Section 531 of Title 19 of the Oklahoma Statutes. If the funds collected from the inmate's jail account are insufficient to satisfy the actual medical costs paid, the sheriff, municipality or other public entity responsible for the operation of the jail shall be authorized to collect the remaining balance of the medical care and treatment by civil actions.

C. As used in subsection A of this section, "emergency medical treatment" means a medical condition obvious to a person without medical or nursing training in which it is clear that medical treatment is needed to prevent further harm or injury to the person presented for custody. In a jail facility with qualified medical personnel available to screen persons presented for custody, the phrase "emergency medical treatment" means a condition observed or

detected by a person with medical or nursing training in accordance with local jail policy and procedure for medical screenings and evaluations which requires medical attention beyond the abilities of the jail facility to prevent further harm to the person being presented for custody.

SECTION 5. AMENDATORY 22 O.S. 2001, Section 1115.2, is amended to read as follows:

Section 1115.2 A. If a person arrested for a traffic violation is released upon personal recognizance as provided for in Section ~~2~~ 1115.1 of this ~~act~~ title, but subsequently posts bail and thereafter fails to timely appear as provided for by law, the court may issue a warrant for the ~~person's~~ arrest of the person and the case shall be processed as follows:

1. If for a state traffic violation, as provided for in Section 1108 of ~~Title 22 of the Oklahoma Statutes~~ this title; or

2. If for a violation filed in a municipal court not of record, as provided for in Section 27-118 of Title 11 of the Oklahoma Statutes; or

3. If for a violation filed in a municipal court of record, as provided for in Section 28-127 of Title 11 of the Oklahoma Statutes.

B. If the defendant is not eligible for release upon personal recognizance as provided for in Section ~~2~~ 1115.1 of this ~~act~~ title, or if eligible but refuses to sign a written promise to appear, the officer shall deliver the person to an appropriate magistrate for arraignment and the magistrate shall proceed as otherwise provided for by law. If no magistrate is available, the defendant shall be placed in the custody of the appropriate municipal or county jailor or custodian, to be held until a magistrate is available or bail is posted as provided for in Section ~~4~~ 1115.3 of this ~~act~~ title or as otherwise provided for by law or ordinance~~r~~. The provisions of this section shall not apply if the municipal or county jailor or custodian determines that the defendant being presented for custody

is in need of emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb. As used in this subsection, "emergency medical treatment" means a medical condition obvious to a person without medical or nursing training in which it is clear that medical treatment is needed to prevent further harm or injury to the person presented for custody. In a jail facility with qualified medical personnel available to screen persons presented for custody, the phrase "emergency medical treatment" means a condition observed or detected by a person with medical or nursing training in accordance with local jail policy and procedure for medical screenings and evaluations which requires medical attention beyond the abilities of the jail facility to prevent further harm to the person being presented for custody.

C. 1. If a resident or nonresident is arrested for any overweight violation, a violation of a special permit exceeding authorized permit weight, or a violation relating to the transportation of hazardous material, the arresting officer may release the defendant if:

- a. in case of a state violation, the defendant deposits with the arresting officer appropriate bail or payment of the fine and costs in an amount and in the form as provided for in Section 4 1115.3 of this ~~act~~ title, except currency, or
- b. in case of a municipal violation, then as may be provided by local authority;

2. In the event the defendant is additionally arrested for any violation for which personal recognizance is authorized pursuant to Section 2 1115.1 of this ~~act~~ title, the arresting officer, for ~~such~~ the additional violation, may either release the defendant upon such recognizance or require bail as provided for in this subsection;

3. If the defendant is unable to post bail with the arresting officer, then the officer shall proceed as otherwise provided for in this section.

D. 1. Notwithstanding any other provision of law, a juvenile may be held in custody pursuant to the provisions of this section, but shall be incarcerated separately from any adult offender.

Provided however, the arresting officer shall not be required to:

- a. place a juvenile into custody as provided for in this section, or
- b. place any other traffic offender into custody:
 - (1) who is injured, disabled, or otherwise incapacitated, or
 - (2) if custodial arrest may require impoundment of a vehicle containing livestock, perishable cargo, or items requiring special maintenance or care, or
 - (3) if extraordinary circumstances exist, which, in the judgment of the arresting officer, custodial arrest should not be made.

In such cases, the arresting officer may designate the date and time for arraignment on the citation and release the person. If the person fails to appear without good cause shown, the court may issue a warrant for the ~~person's~~ arrest of the person.

2. The provisions of this subsection shall not be construed to:

- a. create any duty on the part of the officer to release a person from custody, or
- b. create any duty on the part of the officer to make any inquiry or investigation relating to any condition which may justify release under this subsection, or
- c. create any liability upon any officer, or the state or any political subdivision thereof, arising from the

decision to release or not to release such person from custody pursuant to the provisions of this subsection.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 28th day of April, 2005.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2005.

Presiding Officer of the Senate