

3 Senate Bill No. 1470
4 As Amended

5 SENATE BILL NO. 1470- By: CAIN of the Senate and DANK of the House.

6 An Act relating to cities and towns; amending 11 O.S. 2001,
7 Sections 28-102, as last amended by Section 6, Chapter 173,
8 O.S.L. 2004 and 28-113 (11 O.S. Supp. 2005, Section 28-102),
9 which relate to courts of record; increasing certain amount;
10 and providing an effective date.

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

12 SECTION 1. AMENDATORY 11 O.S. 2001, Section 28-102, as
13 last amended by Section 6, Chapter 173, O.S.L. 2004 (11 O.S. Supp.
14 2005, Section 28-102), is amended to read as follows:

15 Section 28-102. A. The municipal criminal courts of record
16 shall have original jurisdiction to hear and determine all
17 prosecutions when a violation of any of the ordinances of the city
18 where the court is established is charged, as provided by Article
19 VII, Section 1 of the Oklahoma Constitution.

20 B. ~~Except in~~ In cases when the penalty provided for the
21 violation of an ordinance is a fine in ~~the~~ an amount of ~~Two Hundred~~
22 ~~Dollars (\$200.00) or less~~ more than Five Hundred Dollars (\$500.00),
23 excluding court costs, or by imprisonment, or by both such fine and
24 imprisonment, all persons charged before such municipal criminal
25 court of record shall be entitled to a trial by jury, unless waived

1 by the defendant. Judgment and sentence imposed by the judge shall
2 be as effective as if the same had been rendered and imposed by a
3 jury.

4 C. The maximum punishment that may be levied in any municipal
5 criminal court of record is a fine not exceeding One Thousand Two
6 Hundred Dollars (\$1,200.00) and costs, an imprisonment not to exceed
7 six (6) months, or both such fine and imprisonment. Provided, the
8 maximum punishment that may be levied in any municipal criminal
9 court of record for violations of municipal traffic ordinances not
10 including ordinances relating to driving a motor vehicle under the
11 influence of alcohol or drugs is a fine not exceeding Seven Hundred
12 Fifty Dollars (\$750.00) and costs, an imprisonment not to exceed
13 ninety (90) days, or both such fine and imprisonment. Provided,
14 further that any municipal criminal court of record may levy a fine
15 not to exceed One Thousand Dollars (\$1,000.00) and costs, an
16 imprisonment not to exceed six (6) months, or both such fine and
17 imprisonment for violations of municipal ordinances regulating the
18 pretreatment of wastewater and regulating stormwater discharges.
19 Provided, further, that for violations of municipal ordinances
20 relating to prostitution, including but not limited to engaging in
21 prostitution or soliciting or procuring prostitution, any municipal
22 criminal court of record in cities with more than two hundred
23 thousand (200,000) in population may levy an imprisonment not to

1 exceed six (6) months, and fines as follows: a fine not to exceed
2 Two Thousand Five Hundred Dollars (\$2,500.00) upon the first
3 conviction for violation of any such ordinances, a fine of not more
4 than Five Thousand Dollars (\$5,000.00) upon the second conviction
5 for violation of any of such ordinances, and a fine of not more than
6 Seven Thousand Five Hundred Dollars (\$7,500.00) upon the third or
7 subsequent convictions for violation of any of such ordinances, or
8 both such fine and imprisonment, as well as a term of community
9 service of not less than forty (40) nor more than eighty (80) hours.
10 If imprisonment is available for the offense, then that person
11 charged shall have a right to a jury trial.

12 D. A defendant who has been in jeopardy for the same or any
13 lesser included offense in the municipal criminal court of record or
14 district court shall not be prosecuted in any other court for the
15 same or a lesser included offense.

16 SECTION 2. AMENDATORY 11 O.S. 2001, Section 28-113, is
17 amended to read as follows:

18 Section 28-113. A. All prosecutions commenced in a municipal
19 criminal court of record shall be by information, pursuant to
20 Section 16-108 of Title 47 of the Oklahoma Statutes, for traffic
21 offenses and by information as in the district courts in other
22 cases, which shall be subscribed by the person making complaint and
23 shall be verified before a judge, the court clerk, or a deputy court

1 clerk. All prosecutions for the violation of municipal ordinances
2 shall be styled, "The City of _____ (naming the municipality) vs.
3 _____ (naming the person or persons charged)".

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

1 endorsement of the municipal attorney, and it shall be the duty of
2 the court clerk to notify the municipal attorney as to the fact of
3 such filing.

4 C. The municipal governing body, by ordinance, may prescribe a
5 schedule of fines for nonjury cases which a defendant may pay in
6 lieu of an appearance before the municipal court, and such payment
7 shall constitute a final determination of the cause against the
8 defendant; provided, however, this subsection shall not apply to
9 those offenses for which the penalty is a fine of more than ~~Two~~
10 ~~Hundred Dollars (\$200.00)~~ Five Hundred Dollars (\$500.00).

11 SECTION 3. This act shall become effective November 1, 2006.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-7-06 - DO PASS,
13 As Amended and Coauthored.