

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1345

By: Sullivan

AS INTRODUCED

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 refusing to receive prisoners; providing an exception; amending Section 3, Chapter 199, O.S.L. 2003 (22 O.S. Supp. 2004, Section 190.1), which relates to custody of person arrested without warrant for nonbailable offense; providing an exception; 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 defendant held for nonbailable offense; providing an exception; amending 22 O.S. 2001, Section 1115.2, which relates to posting bail after release on personal recognizance; providing for the refusal of custody under certain circumstance; and providing an effective date.

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 officer or 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 of the officer any person as a prisoner, willfully neglects or refuses so to receive ~~such~~ the person into the ~~officer's~~ custody of the officer is guilty of a misdemeanor. The provisions of this subsection shall not apply if the officer or contractor determines that the person being presented for custody is in need of immediate medical attention.

B. Any officer or contractor who, in violation of a duty imposed upon the officer by laws or by contract to fingerprint any

person received into the ~~officer's~~ custody of the officer as a prisoner, willfully neglects or refuses so to fingerprint such person is guilty of a misdemeanor.

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 immediate medical attention.

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 person being presented for custody is in need of immediate medical attention.

SECTION 4. 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 immediate medical attention.

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 5. This act shall become effective November 1, 2005.

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