

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1413

By: Russ

7 COMMITTEE SUBSTITUTE

8 An Act relating to criminal procedure; amending 22
9 O.S. 2011, Section 1115.1, which relates to release
10 on personal recognizance; specifying a defendant
11 shall have the opportunity to enter certain plea and
12 pay fine during certain time period; allowing plea to
13 be entered and payment of fine and costs made over
14 the phone; allowing electronic payment over the
15 phone; and providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1115.1, is
18 amended to read as follows:

19 Section 1115.1 A. In addition to other provisions of law for
20 posting bail, any person, whether a resident of this state or a
21 nonresident, who is arrested by a law enforcement officer solely for
22 a misdemeanor violation of a state traffic law or municipal traffic
23 ordinance, shall be released by the arresting officer upon personal
24 recognizance if:

1 1. The arrested person has been issued a valid license to
2 operate a motor vehicle by this state, another state jurisdiction
3 within the United States, which is a participant in the Nonresident
4 Violator Compact or any party jurisdiction of the Nonresident
5 Violator Compact;

6 2. The arresting officer is satisfied as to the identity of the
7 arrested person;

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

12 4. The violation does not constitute:

13 a. a felony, or

14 b. negligent homicide, or

15 c. driving or being in actual physical control of a motor
16 vehicle while impaired or under the influence of
17 alcohol or other intoxicating substances, unless the
18 person is unconscious or injured and requires
19 immediate medical treatment as determined by a
20 treating physician, or

21 d. eluding or attempting to elude a law enforcement
22 officer, or

23 e. operating a motor vehicle without having been issued a
24 valid driver license, or while the driving privilege

1 and driver license is under suspension, revocation,
2 denial or cancellation, or

3 f. an arrest based upon an outstanding warrant, or

4 g. a traffic violation coupled with any offense stated in
5 subparagraphs a through f of this paragraph.

6 B. If the arrested person is eligible for release on personal
7 recognizance as provided for in subsection A of this section, then
8 the arresting officer shall:

9 1. Designate the traffic charge;

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

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

15 4. Record the date and time on the citation on which, or before
16 which, the arrested person promises to contact, pay, or appear at
17 the court, as applicable to the court; and

18 5. Permit the arrested person to sign a written promise to
19 contact, pay, or appear at the court, as provided for in the
20 citation.

21 The arresting officer shall then release the person upon personal
22 recognizance based upon the signed promise to appear. The citation
23 shall contain a written notice to the arrested person that release
24 upon personal recognizance based upon a signed written promise to

1 appear for arraignment is conditional and that failure to timely
2 appear for arraignment shall result in the suspension of the
3 arrested person's driving privilege and driver license in this
4 state, or in the nonresident's home state pursuant to the
5 Nonresident Violator Compact.

6 C. The court, or the court clerk as directed by the court, may
7 continue or reschedule the date and time of arraignment upon request
8 of the arrested person or the attorney for that person. If the
9 arraignment is continued or rescheduled, the arrested person shall
10 remain on personal recognizance and written promise to appear until
11 such arraignment, in the same manner and with the same consequences
12 as if the continued or rescheduled arraignment was entered on the
13 citation by the arresting officer and signed by the defendant. An
14 arraignment may be continued or rescheduled more than one time.
15 Provided, however, the court shall require an arraignment to be had
16 within a reasonable time. It shall remain the duty of the defendant
17 to appear for arraignment unless the citation is satisfied as
18 provided for in subsection D of this section.

19 D. A defendant released upon personal recognizance ~~may elect~~
20 shall have the opportunity to enter a plea of guilty or nolo
21 contendere to the violation charged and pay and satisfy the fine and
22 costs at any time before the defendant is required to appear for
23 arraignment during the regular business hours of the court clerk.
24 The defendant may enter a plea of guilty or nolo contendere by

1 either indicating such plea on the copy of the citation furnished to
2 the defendant or on a legible copy thereof, together with the date
3 of the plea and signature or over the phone in a manner approved by
4 the court. The defendant shall ~~be responsible for assuring~~ have the
5 opportunity to make full payment of the fine and costs to the
6 appropriate court clerk in the same manner they enter their plea as
7 provided in this subsection. Payment of the fine and costs may be
8 made by personal, cashier's, traveler's, certified or guaranteed
9 bank check, postal or commercial money order, electronic payment
10 over the phone, or other form of payment approved by the court in an
11 amount prescribed as bail for the offense. Provided, however, the
12 defendant shall not use currency for payment by mail. If the
13 defendant has entered a plea of guilty or nolo contendere as
14 provided for in this subsection, such plea shall be accepted by the
15 court and the amount of the fine and costs shall be:

16 1. As prescribed in Section 1115.3 of this title as bail for
17 the violation; or

18 2. In case of a municipal violation, as prescribed by municipal
19 ordinance for the violation charged; or

20 3. In the absence of such law or ordinance, then as prescribed
21 by the court.

22 E. 1. If, pursuant to the provisions of subsection D of this
23 section, the defendant does not timely elect to enter a plea of
24 guilty or nolo contendere and fails to timely appear for

1 arraignment, the court may issue a warrant for the arrest of the
2 defendant and the municipal or district court clerk, within one
3 hundred twenty (120) calendar days from the date the citation was
4 issued by the arresting officer, shall notify the Department of
5 Public Safety that:

- 6 a. the defendant was issued a traffic citation and
7 released upon personal recognizance after signing a
8 written promise to appear for arraignment as provided
9 for in the citation,
- 10 b. the defendant has failed to appear for arraignment
11 without good cause shown,
- 12 c. the defendant has not posted bail, paid a fine, or
13 made any other arrangement with the court to satisfy
14 the citation, and
- 15 d. the citation has not been satisfied as provided by
16 law.

17 Additionally, the court clerk shall request the Department of Public
18 Safety to either suspend the defendant's driving privilege and
19 driver license to operate a motor vehicle in this state, or notify
20 the defendant's home state and request suspension of the defendant's
21 driving privilege and driver license in accordance with the
22 provisions of the Nonresident Violator Compact. Such notice and
23 request shall be on a form approved or furnished by the Department
24 of Public Safety.

1 2. The court clerk shall not process the notification and
2 request provided for in paragraph 1 of this subsection if, with
3 respect to such charges:

4 a. the defendant was arraigned, posted bail, paid a fine,
5 was jailed, or otherwise settled the case, or

6 b. the defendant was not released upon personal
7 recognizance upon a signed written promise to appear
8 as provided for in this section or if released, was
9 not permitted to remain on such personal recognizance
10 for arraignment, or

11 c. the violation relates to parking or standing, or

12 d. a period of one hundred twenty (120) calendar days or
13 more has elapsed from the date the citation was issued
14 by the arresting officer.

15 F. Following receipt of the notice and request from the court
16 clerk for driving privilege and driver license suspension as
17 provided for in subsection E of this section, the Department of
18 Public Safety shall proceed as provided for in Section 1115.5 of
19 this title.

20 G. The municipal or district court clerk shall maintain a
21 record of each request for driving privilege and driver license
22 suspension submitted to the Department of Public Safety pursuant to
23 the provisions of this section. When the court or court clerk
24 receives appropriate bail or payment of the fine and costs, settles

1 the citation, makes other arrangements with the defendant, or
2 otherwise closes the case, the court clerk shall furnish proof
3 thereof to such defendant, if the defendant personally appears, or
4 shall mail such proof by first class mail, postage prepaid, to the
5 defendant at the address noted on the citation or at such other
6 address as is furnished by the defendant. Additionally, the court
7 or court clerk shall notify the home jurisdiction of the defendant
8 as listed on the citation, if such jurisdiction is a member of the
9 Nonresident Violator Compact, and shall, in all other cases, notify
10 the Department, of the resolution of the case. The form of proof
11 and the procedures for notification shall be approved by the
12 Department of Public Safety. Provided, however, the court or court
13 clerk's failure to furnish such proof or notice in the manner
14 provided for in this subsection shall in no event create any civil
15 liability upon the court, the court clerk, the State of Oklahoma or
16 any political subdivision thereof, or any state department or agency
17 or any employee thereof but duplicate proof shall be furnished to
18 the person entitled thereto upon request.

19 SECTION 2. This act shall become effective November 1, 2017.
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21 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,
22 dated 03/02/2017 - DO PASS, As Amended.
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