

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3226

By: Nollan

6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 1115.1, which relates to release
9 upon personal recognizance after arrest; authorizing
10 municipal court clerk to request cancellation of
11 vehicle registrations under certain conditions;
12 authorizing Tax Commission to cancel vehicle
13 registration; requiring notice to defendant;
14 providing cancellation shall not be canceled if
15 certain proof is presented; and providing an
16 effective date.

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

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

18 Section 1115.1 A. In addition to other provisions of law for
19 posting bail, any person, whether a resident of this state or a
20 nonresident, who is arrested by a law enforcement officer solely for
21 a misdemeanor violation of a state traffic law or municipal traffic
22 ordinance, shall be released by the arresting officer upon personal
23 recognizance if:
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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 to
20 enter a plea of guilty or nolo contendere to the violation charged
21 at any time before the defendant is required to appear for
22 arraignment by indicating such plea on the copy of the citation
23 furnished to the defendant or on a legible copy thereof, together
24 with the date of the plea and signature. The defendant shall be

1 responsible for assuring full payment of the fine and costs to the
2 appropriate court clerk. Payment of the fine and costs may be made
3 by personal, cashier's, traveler's, certified or guaranteed bank
4 check, postal or commercial money order, or other form of payment
5 approved by the court in an amount prescribed as bail for the
6 offense. Provided, however, the defendant shall not use currency
7 for payment by mail. If the defendant has entered a plea of guilty
8 or nolo contendere as provided for in this subsection, such plea
9 shall be accepted by the court and the amount of the fine and costs
10 shall be:

11 1. As prescribed in Section 1115.3 of this title as bail for
12 the violation; ~~or~~

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

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

17 E. 1. If, pursuant to the provisions of subsection D of this
18 section, the defendant does not timely elect to enter a plea of
19 guilty or nolo contendere and fails to timely appear for
20 arraignment, the court may issue a warrant for the arrest of the
21 defendant and the municipal or district court clerk, within one
22 hundred twenty (120) calendar days from the date the citation was
23 issued by the arresting officer, shall notify the Department of
24 Public Safety that:

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

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

20 ~~2.~~ 3. The municipal court clerk may request the Oklahoma Tax
21 Commission to cancel the current registration of the vehicle driven
22 by the defendant at the time of the arrest; provided the defendant
23 is the registered owner of the vehicle, and to place a hold on the
24 future registrations until such time as the defendant has satisfied

1 the court. The Oklahoma Tax Commission shall serve notice to the
2 defendant thirty (30) days before the registration is canceled. Any
3 defendant providing proof to the Tax Commission within thirty (30)
4 days after notice is provided that any outstanding fines in the case
5 which was the basis for the cancellation action have been paid or
6 the court has been otherwise satisfied shall not have their
7 registration canceled.

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

- 11 a. the defendant was arraigned, posted bail, paid a fine,
12 was jailed, or otherwise settled the case, ~~or~~
- 13 b. the defendant was not released upon personal
14 recognizance upon a signed written promise to appear
15 as provided for in this section or if released, was
16 not permitted to remain on such personal recognizance
17 for arraignment, ~~or~~
- 18 c. the violation relates to parking or standing, or
- 19 d. a period of one hundred twenty (120) calendar days or
20 more has elapsed from the date the citation was issued
21 by the arresting officer.

22 F. Following receipt of the notice and request from the court
23 clerk for driving privilege and driver license suspension as
24 provided for in subsection E of this section, the Department of

1 Public Safety shall proceed as provided for in Section 1115.5 of
2 this title.

3 G. The municipal or district court clerk shall maintain a
4 record of each request for driving privilege and driver license
5 suspension submitted to the Department of Public Safety pursuant to
6 the provisions of this section. When the court or court clerk
7 receives appropriate bail or payment of the fine and costs, settles
8 the citation, makes other arrangements with the defendant, or
9 otherwise closes the case, the court clerk shall furnish proof
10 thereof to such defendant, if the defendant personally appears, or
11 shall mail such proof by first class mail, postage prepaid, to the
12 defendant at the address noted on the citation or at such other
13 address as is furnished by the defendant. Additionally, the court
14 or court clerk shall notify the home jurisdiction of the defendant
15 as listed on the citation, if such jurisdiction is a member of the
16 Nonresident Violator Compact, and shall, in all other cases, notify
17 the Department, of the resolution of the case. The form of proof
18 and the procedures for notification shall be approved by the
19 Department of Public Safety. Provided, however, the court or court
20 clerk's failure to furnish such proof or notice in the manner
21 provided for in this subsection shall in no event create any civil
22 liability upon the court, the court clerk, the State of Oklahoma or
23 any political subdivision thereof, or any state department or agency

1 or any employee thereof but duplicate proof shall be furnished to
2 the person entitled thereto upon request.

3 SECTION 2. This act shall become effective November 1, 2018.

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