

1 **SENATE FLOOR VERSION**

2 March 30, 2021

3 ENGROSSED HOUSE
4 BILL NO. 1022

By: Worthen of the House

5 and

6 Weaver of the Senate

7
8 An Act relating to criminal procedure; amending 22
9 O.S. 2011, Section 1115.1A, as last amended by
10 Section 1, Chapter 61, O.S.L. 2013 (22 O.S. Supp.
11 2020, Section 1115.1A), which relates to the State
12 and Municipal Traffic, Water Safety, and Wildlife
13 Bail Bond Procedure Act; stating effect of paying
14 traffic fines and costs when guilty plea is not
15 indicated on citation form; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1115.1A, as
19 last amended by Section 1, Chapter 61, O.S.L. 2013 (22 O.S. Supp.
20 2020, Section 1115.1A), is amended to read as follows:

21 Section 1115.1A. A. In addition to other provisions of law for
22 posting bail, any person, whether a resident of this state or a
23 nonresident, who is arrested by a law enforcement officer solely for
24 a misdemeanor violation of a state traffic law or municipal traffic
ordinance, shall be released by the arresting officer upon personal
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 and certifies the date and time and the location of
8 the violation, as ~~evidence~~ evidenced by the electronic signature of
9 the officer;

10 3. The arrested person acknowledges, as evidenced by the
11 electronic signature of the person, a written promise to appear as
12 provided for on the citation, unless the person is unconscious or
13 injured and requires immediate medical treatment as determined by a
14 treating physician; and

15 4. The violation does not constitute:

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

1 d. eluding or attempting to elude a law enforcement
2 officer,

3 e. operating a motor vehicle without having been issued a
4 valid driver license or while the driving privilege
5 and driver license is under suspension, revocation,
6 denial or cancellation,

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

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

10 B. If the arrested person is eligible for release on personal
11 recognizance as provided for in subsection A of this section, then
12 the arresting officer shall on the citation:

13 1. Designate the traffic charge;

14 2. Record information from the driver license of the arrested
15 person on the citation form, including the name, address, date of
16 birth, physical description, type of driver license, driver license
17 number, issuing state, and expiration date;

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

19 4. Record the date and time on which, or before which, the
20 arrested person promises, as evidenced by the electronic signature
21 of the person, to contact, pay, or appear at the court, as
22 applicable to the court;

1 5. Record the electronic signature of the arrested person which
2 shall serve as evidence and acknowledgment of a promise to contact,
3 pay, or appear at the court, as provided for in the citation; and

4 6. Record the electronic signature of the arrested person which
5 shall serve as evidence to certify the date and time and the
6 location that the arrested person was served with a copy of the
7 citation and notice to appear,

8 after which, the arresting officer shall then release the person
9 upon personal recognizance based upon the acknowledged promise to
10 appear. The citation shall contain a written notice to the arrested
11 person that release upon personal recognizance based upon an
12 acknowledged promise to appear, as evidenced by the electronic
13 signature of the person, for arraignment is conditional and that
14 failure to timely appear for arraignment shall result in the
15 suspension of the driving privilege and driver license of the
16 arrested person in this state, or in the home state of the
17 nonresident pursuant to the Nonresident Violator Compact.

18 C. The court, or the court clerk as directed by the court, may
19 continue or reschedule the date and time of arraignment at the
20 discretion of the court or upon request of the arrested person or
21 the attorney for that person. If the arraignment is continued or
22 rescheduled, the arrested person shall remain on personal
23 recognizance and acknowledged promise to appear until such
24 arraignment, in the same manner and with the same consequences as if

1 the continued or rescheduled arraignment was entered on the citation
2 by the arresting officer and electronically signed by the defendant.
3 An arraignment may be continued or rescheduled more than one time.
4 Provided, however, the court shall require an arraignment to be had
5 within a reasonable time. It shall remain the duty of the defendant
6 to appear for arraignment unless the citation is satisfied as
7 provided for in subsection D of this section.

8 D. A defendant released upon personal recognizance may elect to
9 enter a plea of guilty or nolo contendere to the violation charged
10 at any time before the defendant is required to appear for
11 arraignment by indicating such plea on the copy of the citation
12 furnished to the defendant or on a legible copy, together with the
13 date of the plea and signature of the defendant, or such plea may be
14 entered by the defendant using an electronic method provided by the
15 court for such purposes, either through the website of the court or
16 otherwise. The defendant shall be responsible for assuring full
17 payment of the fine and costs to the appropriate court clerk.
18 Payment of the fine and costs may be made by personal, cashier's,
19 traveler's, certified or guaranteed bank check, postal or commercial
20 money order, or other form of payment approved by the court in an
21 amount prescribed as bail for the offense. Provided, however, the
22 defendant shall not use currency for payment by mail. ~~If the~~
23 ~~defendant has entered a~~ Payment of the fine and costs which is not
24 accompanied by a written plea of guilty or nolo contendere shall

1 constitute a plea of nolo contendere entered by the defendant as
2 allowed by law, and shall function as a written, dated and signed
3 citation form acceptable to the court. A plea of guilty or nolo
4 contendere as provided for in this subsection, ~~such plea~~ shall be
5 accepted by the court and the amount of the fine and costs shall be:

6 1. As prescribed in Section 1115.3 of this title as bail for
7 the violation;

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

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

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

20 a. the defendant was issued a traffic citation and
21 released upon personal recognizance after
22 acknowledging a written promise to appear for
23 arraignment as provided for in the citation,
24

1 b. the defendant has failed to appear for arraignment
2 without good cause shown,

3 c. the defendant has not posted bail, paid a fine, or
4 made any other arrangement with the court to satisfy
5 the citation, and

6 d. the citation has not been satisfied as provided by
7 law.

8 Additionally, the court clerk shall request the Department of Public
9 Safety to either suspend the driving privilege and driver license of
10 the defendant to operate a motor vehicle in this state, or notify
11 the home state of the defendant and request suspension of the
12 driving privilege and driver license of the defendant in accordance
13 with the provisions of the Nonresident Violator Compact. The notice
14 and request shall be on a form approved or furnished by the
15 Department of Public Safety.

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

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

21 b. the defendant was not released upon personal
22 recognizance upon an acknowledged written promise to
23 appear as provided for in this section or if released,
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1 was not permitted to remain on such personal
2 recognizance for arraignment,

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

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

7 F. Following receipt of the notice and request from the court
8 clerk for driving privilege and driver license suspension as
9 provided for in subsection E of this section, the Department of
10 Public Safety shall proceed as provided for in Section 1115.5 of
11 this title.

12 G. The municipal or district court clerk shall maintain a
13 record of each request for driving privilege and driver license
14 suspension submitted to the Department of Public Safety pursuant to
15 the provisions of this section. When the court or court clerk
16 receives appropriate bail or payment of the fine and costs, settles
17 the citation, makes other arrangements with the defendant, or
18 otherwise closes the case, the court clerk shall furnish proof
19 thereof to the defendant, if the defendant personally appears, or
20 shall mail such proof by first-class mail, postage prepaid, to the
21 defendant at the address noted on the citation or at such other
22 address as is furnished by the defendant or by ~~e-mail~~ email if the
23 defendant has furnished an ~~e-mail~~ email address for such purposes.
24 Additionally, the court or court clerk shall notify the home

1 jurisdiction of the defendant as listed on the citation, if such
2 jurisdiction is a member of the Nonresident Violator Compact, and
3 shall, in all other cases, notify the Department of the resolution
4 of the case. The form of proof and the procedures for notification
5 shall be approved by the Department of Public Safety. Provided
6 however, failure by the court or court clerk to furnish such proof
7 or notice in the manner provided for in this subsection shall in no
8 event create any civil liability upon the court, the court clerk,
9 the State of Oklahoma or any political subdivision thereof, or any
10 state department or agency or any employee thereof but duplicate
11 proof shall be furnished to the person entitled to such proof or
12 notice upon request.

13 H. For purposes of this section, "electronic signature" shall
14 have the same meaning as defined in Section 15-102 of Title 12A of
15 the Oklahoma Statutes.

16 SECTION 2. This act shall become effective November 1, 2021.

17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
18 March 30, 2021 - DO PASS
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