

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1120

By: West (Kevin)

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5
6 AS INTRODUCED

7 An Act relating to limited municipal criminal courts
8 of record; amending 11 O.S. 2011, Section 28-101,
9 which relates to municipal criminal courts of record;
10 creating limited municipal criminal courts of record
11 in certain counties; defining term; requiring certain
12 determinations by resolution; requiring filing of
13 resolution; amending Section 7, Chapter 172, O.S.L.
14 2016 (47 O.S. Supp. 2018, Section 11-902c), which
15 relates to preemption of prosecution of offenses
16 related to driving under the influence; expanding
17 preemption exemption; and providing an effective
18 date.

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1 Sections 28-101 through 28-128 of this title to the municipal
2 criminal court of record shall mean the courts established by the
3 provisions of this article in cities over sixty-five thousand
4 (65,000) population.

5 B. Before a municipal criminal court of record not in existence
6 before November 1, 2004, may be created, the municipal governing
7 body shall determine by resolution that the efficient disposition of
8 cases involving the violation of municipal ordinances necessitates
9 creating a court of record. If such a resolution is not adopted,
10 the criminal court of the municipality shall remain a court not of
11 record. The governing body shall cause a certified copy of the
12 resolution to be filed in the office of the county clerk of each
13 county in which the municipality is located. The resolution and the
14 filing thereof shall be judicially noticed in all courts of this
15 state. The provisions of this subsection shall not apply to any
16 municipal criminal court of record created prior to November 1,
17 2004, and such courts shall have all the powers and duties
18 heretofore provided for such courts.

19 C. In municipalities that have an average of one hundred or
20 more arrests per year for the prior three (3) consecutive years for
21 offenses relating to driving under the influence of alcohol or any
22 other intoxicating substance or operating a motor vehicle while
23 impaired, there is hereby created a "limited municipal criminal
24 court of record" within each respective municipality with the sole

1 purpose of prosecuting offenses relating to driving under the
2 influence of alcohol or any other intoxicating substance or
3 operating a motor vehicle while impaired. References in Sections
4 28-101 through 28-128 of this title to the municipal criminal court
5 of record shall also mean "limited municipal criminal court of
6 record".

7 D. Before a limited municipal criminal court of record may be
8 created, the municipal governing body shall determine by resolution
9 that the efficient disposition of cases involving offenses relating
10 to driving under the influence of alcohol or any other intoxicating
11 substance or operating a motor vehicle while impaired necessitates
12 creating a limited municipal criminal court of record. If the
13 resolution is not adopted, the criminal court of the municipality
14 shall remain a court not of record. If the resolution is adopted,
15 the criminal court of the municipality shall remain a court not of
16 record for all offenses other than offenses relating to driving
17 under the influence of alcohol or any other intoxicating substance
18 or operating a motor vehicle while impaired. The governing body
19 shall cause a certified copy of the resolution to be filed in the
20 office of the county clerk of each county in which the municipality
21 is located. The resolution and the filing thereof shall be
22 judicially noticed in all courts of this state.

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1 SECTION 2. AMENDATORY Section 7, Chapter 172, O.S.L.
2 2016 (47 O.S. Supp. 2018, Section 11-902c), is amended to read as
3 follows:

4 Section 11-902c. A. The State Legislature hereby occupies and
5 preempts the entire field of legislation in this state touching in
6 any way the prosecution of offenses relating to driving under the
7 influence of alcohol or any other intoxicating substance or
8 operating a motor vehicle while impaired to the complete exclusion
9 of any order, ordinance, local legislation or regulation by any
10 municipality or other political subdivision of this state.

11 B. No municipality or other political subdivision shall
12 prosecute any laws or ordinances relating to the offense of driving
13 under the influence of alcohol or any other intoxicating substance
14 or operating a motor vehicle while impaired. Any existing or future
15 orders, ordinances, local legislation or regulations in violation of
16 this section ~~is~~ are void and unenforceable.

17 C. The preemption provisions of this section shall not apply to
18 prosecutions in municipal criminal courts of record or limited
19 municipal criminal courts of record for offenses relating to driving
20 under the influence of alcohol or any other intoxicating substance
21 or operating a motor vehicle while impaired. Nothing in this
22 section shall prohibit a municipality from establishing a municipal
23 criminal court of record or limited municipal criminal court of
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1 record pursuant to the provisions of Section 28-101 of Title 11 of
2 the Oklahoma Statutes.

3 SECTION 3. This act shall become effective November 1, 2019.
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5 57-1-5002 AMM 12/28/18
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