

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1380

By: Stone

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Sections 1115.1 and 1115.1A, as last
9 amended by Section 1, Chapter 61, O.S.L. 2013 (22
10 O.S. Supp. 2016, Section 1115.1A), which relate to
11 the State and Municipal Traffic, Water Safety and
12 Wildlife Bail Bond Procedure Act; prohibiting
13 officers from adding notations to traffic tickets
14 after issuance; and providing an 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:

24 1. The arrested person has been issued a valid license to
operate a motor vehicle by this state, another state jurisdiction
within the United States, which is a participant in the Nonresident

1 Violator Compact or any party jurisdiction of the Nonresident
2 Violator Compact;

3 2. The arresting officer is satisfied as to the identity of the
4 arrested person;

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

9 4. The violation does not constitute:

10 a. a felony, or

11 b. negligent homicide, or

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

18 d. eluding or attempting to elude a law enforcement
19 officer, or

20 e. operating a motor vehicle without having been issued a
21 valid driver license, or while the driving privilege
22 and driver license is under suspension, revocation,
23 denial or cancellation, or

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

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

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

6 1. Designate the traffic charge;

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

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

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

15 5. Permit the arrested person to sign a written promise to
16 contact, pay, or appear at the court, as provided for in the
17 citation.

18 The arresting officer shall then release the person upon personal
19 recognizance based upon the signed promise to appear. The citation
20 shall contain a written notice to the arrested person that release
21 upon personal recognizance based upon a signed written promise to
22 appear for arraignment is conditional and that failure to timely
23 appear for arraignment shall result in the suspension of the
24 arrested person's driving privilege and driver license in this

1 state, or in the nonresident's home state pursuant to the
2 Nonresident Violator Compact. After obtaining the signature of the
3 person and issuing the traffic citation, the arresting officer shall
4 be prohibited from thereafter recording or otherwise making
5 additional notations anywhere on the traffic citation retained by
6 the arresting officer.

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

20 D. A defendant released upon personal recognizance may elect to
21 enter a plea of guilty or nolo contendere to the violation charged
22 at any time before the defendant is required to appear for
23 arraignment by indicating such plea on the copy of the citation
24 furnished to the defendant or on a legible copy thereof, together

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

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

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

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

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

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

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

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

- 1 a. the defendant was arraigned, posted bail, paid a fine,
2 was jailed, or otherwise settled the case, or
3 b. the defendant was not released upon personal
4 recognizance upon a signed written promise to appear
5 as provided for in this section or if released, was
6 not permitted to remain on such personal recognizance
7 for arraignment, or
8 c. the violation relates to parking or standing, or
9 d. a period of one hundred twenty (120) calendar days or
10 more has elapsed from the date the citation was issued
11 by the arresting officer.

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

17 G. The municipal or district court clerk shall maintain a
18 record of each request for driving privilege and driver license
19 suspension submitted to the Department of Public Safety pursuant to
20 the provisions of this section. When the court or court clerk
21 receives appropriate bail or payment of the fine and costs, settles
22 the citation, makes other arrangements with the defendant, or
23 otherwise closes the case, the court clerk shall furnish proof
24 thereof to such defendant, if the defendant personally appears, or

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

16 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1115.1A, as
17 last amended by Section 1, Chapter 61, O.S.L. 2013 (22 O.S. Supp.
18 2016, Section 1115.1A), is amended to read as follows:

19 Section 1115.1A 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 and certifies the date and time and the location of
8 the violation, as evidence by the electronic signature of the
9 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;
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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. After
18 obtaining the electronic signature of the person and issuing the
19 traffic citation, the arresting officer shall be prohibited from
20 thereafter recording or otherwise making additional notations
21 anywhere on the traffic citation retained by the arresting officer.

22 C. The court, or the court clerk as directed by the court, may
23 continue or reschedule the date and time of arraignment at the
24 discretion of the court or upon request of the arrested person or

1 the attorney for that person. If the arraignment is continued or
2 rescheduled, the arrested person shall remain on personal
3 recognizance and acknowledged promise to appear until such
4 arraignment, in the same manner and with the same consequences as if
5 the continued or rescheduled arraignment was entered on the citation
6 by the arresting officer and electronically signed by the defendant.
7 An arraignment may be continued or rescheduled more than one time.
8 Provided, however, the court shall require an arraignment to be had
9 within a reasonable time. It shall remain the duty of the defendant
10 to appear for arraignment unless the citation is satisfied as
11 provided for in subsection D of this section.

12 D. A defendant released upon personal recognizance may elect to
13 enter a plea of guilty or nolo contendere to the violation charged
14 at any time before the defendant is required to appear for
15 arraignment by indicating such plea on the copy of the citation
16 furnished to the defendant or on a legible copy, together with the
17 date of the plea and signature of the defendant, or such plea may be
18 entered by the defendant using an electronic method provided by the
19 court for such purposes, either through the website of the court or
20 otherwise. The defendant shall be responsible for assuring full
21 payment of the fine and costs to the appropriate court clerk.
22 Payment of the fine and costs may be made by personal, cashier's,
23 traveler's, certified or guaranteed bank check, postal or commercial
24 money order, or other form of payment approved by the court in an

1 amount prescribed as bail for the offense. Provided, however, the
2 defendant shall not use currency for payment by mail. If the
3 defendant has entered a plea of guilty or nolo contendere as
4 provided for in this subsection, such plea shall be accepted by the
5 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,

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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 if the
23 defendant has furnished an e-mail 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 3. This act shall become effective November 1, 2017.

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18 56-1-6214 GRS 01/03/17
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