

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1676

By: West (Kevin)

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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. 2020, 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.

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

20 SECTION 1. AMENDATORY 11 O.S. 2011, Section 28-101, is  
21 amended to read as follows:

22 Section 28-101. A. In cities having a population of more than  
23 sixty-five thousand (65,000) inhabitants, as determined by the  
24 latest federal census, there is hereby created a "Municipal Criminal  
Court of Record of the City of \_\_\_\_\_", subject to the  
restrictions of subsection B of this section. References in  
Sections 28-101 through 28-128 of this title to the municipal  
criminal court of record shall mean the courts established by the

1 provisions of this article in cities over sixty-five thousand  
2 (65,000) population.

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

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

1 operating a motor vehicle while impaired. References in Sections  
2 28-101 through 28-128 of this title to the municipal criminal court  
3 of record shall also mean "limited municipal criminal court of  
4 record".

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

21 SECTION 2. AMENDATORY Section 7, Chapter 172, O.S.L.  
22 2016 (47 O.S. Supp. 2020, Section 11-902c), is amended to read as  
23 follows:  
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1 Section 11-902c. A. The State Legislature hereby occupies and  
2 preempts the entire field of legislation in this state touching in  
3 any way the prosecution of offenses relating to driving under the  
4 influence of alcohol or any other intoxicating substance or  
5 operating a motor vehicle while impaired to the complete exclusion  
6 of any order, ordinance, local legislation or regulation by any  
7 municipality or other political subdivision of this state.

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

14 C. The preemption provisions of this section shall not apply to  
15 prosecutions in municipal criminal courts of record or limited  
16 municipal criminal courts of record for offenses relating to driving  
17 under the influence of alcohol or any other intoxicating substance  
18 or operating a motor vehicle while impaired. Nothing in this  
19 section shall prohibit a municipality from establishing a municipal  
20 criminal court of record or limited municipal criminal court of  
21 record pursuant to the provisions of Section 28-101 of Title 11 of  
22 the Oklahoma Statutes.  
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1 SECTION 3. This act shall become effective November 1, 2021.

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