

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2159

By: Nollan

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to criminal procedure; amending 22
10 O.S. 2011, Section 1115.1, which relates to release
11 upon personal recognizance after arrest; directing
12 the court clerk to notify the Oklahoma Tax Commission
13 when defendant fails to enter plea or timely appear
14 for arraignment; modifying requirement that directs
15 court clerks to request suspension of driving
16 privileges; authorizing Tax Commission to cancel
17 vehicle registration; requiring notice to defendant;
18 providing cancellation shall not be cancelled if
19 certain proof is presented; and providing an
20 effective date.

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

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

24 Section 1115.1 A. In addition to other provisions of law for
posting bail, any person, whether a resident of this state or a
nonresident, who is arrested by a law enforcement officer solely for
a misdemeanor violation of a state traffic law or municipal traffic

1 ordinance, shall be released by the arresting officer upon personal
2 recognizance if:

3 1. The arrested person has been issued a valid license to
4 operate a motor vehicle by this state, another state jurisdiction
5 within the United States, which is a participant in the Nonresident
6 Violator Compact or any party jurisdiction of the Nonresident
7 Violator Compact;

8 2. The arresting officer is satisfied as to the identity of the
9 arrested person;

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

14 4. The violation does not constitute:

15 a. a felony, ~~or~~

16 b. negligent homicide, ~~or~~

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

23 d. eluding or attempting to elude a law enforcement
24 officer, ~~or~~

- 1 e. operating a motor vehicle without having been issued a
2 valid driver license, or while the driving privilege
3 and driver license is under suspension, revocation,
4 denial or cancellation, ~~or~~
5 f. an arrest based upon an outstanding warrant, or
6 g. a traffic violation coupled with any offense stated in
7 subparagraphs a through f of this paragraph.

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

- 11 1. Designate the traffic charge;
12 2. Record information from the arrested person's driver license
13 on the citation form, including the name, address, date of birth,
14 personal description, type of driver license, driver license number,
15 issuing state, and expiration date;
16 3. Record the motor vehicle make, model and tag information;
17 4. Record the date and time on the citation on which, or before
18 which, the arrested person promises to contact, pay, or appear at
19 the court, as applicable to the court; and
20 5. Permit the arrested person to sign a written promise to
21 contact, pay, or appear at the court, as provided for in the
22 citation.

23 The arresting officer shall then release the person upon personal
24 recognizance based upon the signed promise to appear. The citation

1 shall contain a written notice to the arrested person that release
2 upon personal recognizance based upon a signed written promise to
3 appear for arraignment is conditional and that failure to timely
4 appear for arraignment shall result in the suspension of the
5 arrested person's driving privilege and driver license in this
6 state, or in the nonresident's home state pursuant to the
7 Nonresident Violator Compact.

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

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

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

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

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

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

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

1 issued by the arresting officer, shall notify the Department of
2 Public Safety and the Oklahoma Tax Commission 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 2. Additionally, the court clerk ~~shall~~ may request the
15 Department of Public Safety to either suspend the defendant's
16 driving privilege and driver license to operate a motor vehicle in
17 this state, or notify the defendant's home state and request
18 suspension of the defendant's driving privilege and driver license
19 in accordance with the provisions of the Nonresident Violator
20 Compact. Such notice and request shall be on a form approved or
21 furnished by the Department of Public Safety.

22 3. The court clerk may request the Oklahoma Tax Commission to
23 cancel the current registration of the vehicle driven by the
24 defendant at the time of the arrest; provided the defendant is the

1 registered owner of the vehicle, and to place a hold on the future
2 registrations until such time as the defendant has satisfied the
3 court. The Oklahoma Tax Commission shall serve notice to the
4 defendant thirty (30) days before the registration is cancelled. Any
5 defendant providing proof to the Tax Commission within thirty (30)
6 days after notice is provided that any outstanding fines in the case
7 which was the basis for the cancellation action have been paid or
8 the court has been otherwise satisfied shall not have their
9 registration cancelled.

10 ~~2.~~ 4. The court clerk shall not process the notification and
11 request provided for in paragraph 1 of this subsection if, with
12 respect to such charges:

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

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1 F. Following receipt of the notice and request from the court
2 clerk for driving privilege and driver license suspension as
3 provided for in subsection E of this section, the Department of
4 Public Safety shall proceed as provided for in Section 1115.5 of
5 this title.

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

1 liability upon the court, the court clerk, the State of Oklahoma or
2 any political subdivision thereof, or any state department or agency
3 or any employee thereof but duplicate proof shall be furnished to
4 the person entitled thereto upon request.

5 SECTION 2. This act shall become effective November 1, 2017.

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7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL JUSTICE AND
8 CORRECTIONS, dated 02/16/2017 - DO PASS, As Amended.

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