

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3694

By: Calvey

4  
5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; creating the  
8 State and Municipal Bail Bond Procedure Act for  
9 Nonviolent Criminal Offenses; providing short title;  
10 defining terms; authorizing release of persons on  
11 personal recognizance under certain circumstances;  
12 establishing procedures for releasing arrestees on  
13 personal recognizance; authorizing courts to continue  
14 arraignments upon request; providing procedures for  
15 continuances; allowing defendants to enter plea prior  
16 to arraignment; authorizing acceptance of certain  
17 forms of payment for fines and costs; establishing  
18 manner in which fines and costs are determined;  
19 providing for the issuance of arrest warrants under  
20 certain circumstances; directing court clerks to  
21 furnish proof to defendants when cases are resolved;  
22 providing procedures for law enforcement when  
23 defendants are not eligible for personal  
24 recognizance; establishing bail amounts for  
nonviolent criminal offenses; providing statutory  
references for fee assessments; directing the  
Administrative Office of the Courts to prepare bail  
schedule; directing distribution of bail schedule;  
requiring court clerks to accept certain forms of  
payment for bail, fines and costs; exempting court  
clerks from civil or criminal liability under certain  
circumstances; authorizing the issue of arrest  
warrants under certain circumstances; directing the  
Supreme Court to appoint statewide Bail Bond  
Commissioner; providing duties for Commissioner;  
providing for codification; and providing an  
effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified  
3 in the Oklahoma Statutes as Section 1116 of Title 22, unless there  
4 is created a duplication in numbering, reads as follows:

5 Sections 1 through 7 of this act shall be known and may be cited  
6 as the "State and Municipal Bail Bond Procedure Act for Nonviolent  
7 Criminal Offenses".

8 SECTION 2. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1116.1 of Title 22, unless there  
10 is created a duplication in numbering, reads as follows:

11 As used in this act:

12 1. "Nonviolent criminal offense" means any offense that is not  
13 listed in Section 571 of Title 57 of the Oklahoma Statutes; and

14 2. "Personal recognizance" means the release of a person on the  
15 basis of a written promise made at the time of the issuance of the  
16 citation that the person will appear in court on the date and time  
17 indicated on the citation.

18 SECTION 3. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 1116.2 of Title 22, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. In addition to other provisions of law for posting bail, any  
22 person, whether a resident of this state or a nonresident, who is  
23 arrested by a law enforcement officer solely for a state or  
24

1 municipal nonviolent criminal offense shall be released by the  
2 arresting officer upon personal recognizance if:

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

5 2. 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 3. The violation does not constitute a violent felony or  
10 violent misdemeanor.

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

14 1. Designate the criminal charge;

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

19 3. Record the date and time on the citation on which, or before  
20 which, the arrested person promises to contact, pay or appear at the  
21 court, as applicable to the court; and

22 4. Permit the arrested person to sign a written promise to  
23 contact, pay or appear at the court, as provided for in the  
24 citation.

1 The arresting officer shall then release the person upon personal  
2 recognizance based upon the signed promise to appear. The citation  
3 shall contain a written notice to the arrested person that release  
4 upon personal recognizance based upon a signed written promise to  
5 appear for arraignment is conditional and that failure to timely  
6 appear for arraignment shall result in the issuance of a warrant for  
7 the arrest of the person.

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 the arrested person. If  
11 the arraignment is continued or rescheduled, the arrested person  
12 shall remain free on personal recognizance and written promise to  
13 appear until such arraignment, in the same manner and with the same  
14 consequences as if the continued or rescheduled arraignment was  
15 entered on the citation by the arresting officer and signed by the  
16 defendant. An arraignment may be continued or rescheduled more than  
17 one time. Provided, however, the court shall require an arraignment  
18 to be had within a reasonable time. It shall remain the duty of the  
19 defendant to appear for arraignment unless the citation is satisfied  
20 as 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 5 of this act as bail for the  
14 violation;

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 statewide Bail Bond Commissioner.

19 E. 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.

24

1 F. When the court or court clerk receives appropriate bail or  
2 payment of the fine and costs, settles the citation, makes other  
3 arrangements with the defendant, or otherwise closes the case, the  
4 court clerk shall furnish proof thereof to such defendant, if the  
5 defendant personally appears, or shall mail such proof by first  
6 class mail, postage prepaid, to the defendant at the address noted  
7 on the citation or at such other address as is furnished by the  
8 defendant.

9 SECTION 4. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 1116.3 of Title 22, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. If a person arrested for a nonviolent criminal offense is  
13 released upon personal recognizance as provided for in Section 3 of  
14 this act, but subsequently posts bail and thereafter fails to timely  
15 appear as provided for by law, the court may issue a warrant for the  
16 arrest of the person and the case shall be processed as follows:

17 1. If for a violation filed in a district court, as provided  
18 for in Section 1108 of Title 22 of the Oklahoma Statutes; or

19 2. If for a violation filed in a municipal court not of record,  
20 as provided for in Section 27-118 of Title 11 of the Oklahoma  
21 Statutes; or

22 3. If for a violation filed in a municipal court of record, as  
23 provided for in Section 28-127 of Title 11 of the Oklahoma Statutes.

24

1 B. If the defendant is not eligible for release upon personal  
2 recognizance as provided for in Section 3 of this act, or if the  
3 defendant is eligible but refuses to sign a written promise to  
4 appear, the officer shall deliver the person to an appropriate  
5 magistrate for arraignment and the magistrate shall proceed as  
6 otherwise provided for by law. If no magistrate is available, the  
7 defendant shall be placed in the custody of the appropriate  
8 municipal or county jailor or custodian, to be held until a  
9 magistrate is available or bail is posted as provided for in Section  
10 5 of this act or as otherwise provided for by law or ordinance.

11 SECTION 5. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 1116.4 of Title 22, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. The amount of bail for a nonviolent criminal offense shall  
15 be the amount of fine and costs, including any penalty assessment  
16 provided for in the Oklahoma Statutes and the fees provided for in  
17 Sections 1313.2, 1313.3, 1313.4 and 1313.5 of Title 20 of the  
18 Oklahoma Statutes.

19 B. On or before September 1 of each year, the Administrative  
20 Office of the Courts shall prepare a schedule of amounts to be  
21 received as bail for each offense pursuant to subsection A of this  
22 section and shall distribute the schedule to each district court  
23 clerk and municipal court clerk in this state and to other  
24 interested parties upon request.

1 C. The district court clerk or municipal court clerk, unless  
2 otherwise directed by the court, shall accept bail or the payment of  
3 a fine and costs in the form of currency or personal, cashier's,  
4 traveler's, certified or guaranteed bank check, or postal or  
5 commercial money order for the amount prescribed in this section for  
6 bail.

7 SECTION 6. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1116.5 of Title 22, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. In any case where a municipal court clerk or district court  
11 clerk accepts any personal check or other form of a negotiable  
12 instrument from the arrestee or from any person acting on behalf of  
13 the arrestee in payment of a fine or as bail for his or her  
14 appearance for arraignment, trial or a hearing, and the check or  
15 instrument proves to be on a closed account or is insufficient,  
16 false, bogus, a forgery or otherwise dishonored for any reason, the  
17 court clerk shall not be civilly liable personally, or upon his or  
18 her official bond, for the amount of such instrument or for the  
19 amount of the fine imposed in the case, or criminally liable.

20 B. A personal check or other instrument tendered to a municipal  
21 court clerk or district court clerk for bail or for the payment of  
22 fine and costs, if dishonored and returned to said clerk for any  
23 reason other than the lack of proper endorsement, shall constitute  
24 nonpayment of bail or fine, as the case may be, and the court, in



1 addition to any civil or criminal remedy otherwise provided for by  
2 law, may issue a bench warrant for the arrest of the person named on  
3 the citation to require his or her appearance on the charge  
4 specified.

5 SECTION 7. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1116.6 of Title 22, unless there  
7 is created a duplication in numbering, reads as follows:

8 The Supreme Court shall appoint within the Administrative Office  
9 of the Courts the position of statewide Bail Bond Commissioner. The  
10 statewide Bail Bond Commissioner shall establish bond amounts to be  
11 used in those circumstances where a person is not eligible for  
12 release on personal recognizance. On or before September 1 of each  
13 year, the statewide Bail Bond Commissioner shall prepare a schedule  
14 of amounts to be received as bail for nonviolent criminal offenses.  
15 The statewide Bail Bond Commissioner shall distribute the schedule  
16 to each district court clerk and each municipal court clerk in this  
17 state and to other interested parties upon request.

18 SECTION 8. This act shall become effective November 1, 2018.

19

20 56-2-8155 GRS 01/13/18

21

22

23

24