

1 STATE OF OKLAHOMA

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

3 SENATE BILL 255

By: Dahm

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6 AS INTRODUCED

7 An Act relating to citations; amending 11 O.S. 2011,
8 Sections 28-113.1, 28-114 and 27-117, which relate to
9 prosecutions by verified complaint, procedures upon
10 arrest and arrests and release by signing citation;
11 removing requirement for complainant's signature;
12 amending 22 O.S. 2011, Section 1115.1A, as last
13 amended by Section 1, Chapter 61, O.S.L. 2013 (22
14 O.S. Supp. 2016, Section 1115.1A), which relates to
15 release on personal recognizance for traffic
16 violation; removing requirement for signature of the
17 arrested person; prohibiting certain entities from
18 making certain plans based on certain number or type
19 of traffic citations or certain amount of money
20 collected from certain traffic citations; prohibiting
21 certain entities from requiring or suggesting that
22 there are certain expectations relating to such
23 citations; providing that certain provisions do not
24 prohibit municipalities from obtaining certain
budgetary information or estimates; stating certain
violations are grounds for removal from office or
from a person's position; providing for codification;
and providing an effective date.

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

SECTION 1. AMENDATORY 11 O.S. 2011, Section 28-113.1, is
amended to read as follows:

Section 28-113.1. A. Notwithstanding other provisions of law,
when a law enforcement officer issues a citation or ticket as the

1 basis for a complaint or information, for an offense against a
2 municipal ordinance which is declared to be a misdemeanor, the
3 citation or ticket shall be properly verified if:

4 1. The issuing officer subscribes the officer's signature on
5 the citation, ticket or complaint to the following statement:

6 "I, the undersigned issuing officer, hereby certify and swear
7 that I have read the foregoing information and know the facts and
8 contents thereof and that the facts supporting the criminal charge
9 stated therein are true." Such a subscription by an issuing
10 officer, in all respects, shall constitute a sworn statement, as if
11 sworn to upon an oath administered by an official authorized by law
12 to administer oaths; and

13 2. The citation or ticket states the specific facts supporting
14 the criminal charge and the ordinance or statute alleged to be
15 violated; or

16 3. A complainant verifies ~~by oath, subscribed on the citation,~~
17 ~~ticket or complaint,~~ that he or she has read the information, knows
18 the facts and contents thereof and that the facts supporting the
19 criminal charge stated therein are true. For purposes of such an
20 oath and subscription, any law enforcement officer of the state,
21 county or municipality of the State of Oklahoma issuing the
22 citation, ticket or complaint shall be authorized to administer the
23 oath to the complainant.

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1 B. As used in this section, the term "signature" shall include
2 a digital or electronic signature, as defined in Section 15-102 of
3 Title 12A of the Oklahoma Statutes.

4 SECTION 2. AMENDATORY 11 O.S. 2011, Section 28-114, is
5 amended to read as follows:

6 Section 28-114. A. Except as otherwise provided in this
7 section, if a resident of a municipality served by a municipal court
8 is arrested by a law enforcement officer for the violation of any
9 ordinance for which Section 28-114.1 of this title does not apply,
10 or is arrested for violation of a nontraffic ordinance, the officer
11 shall immediately release said person if the person acknowledges
12 receipt of a citation ~~by signing it~~. Provided, however, the
13 arresting officer need not release said person if it reasonably
14 appears to the officer that the person may cause injury to self or
15 others or damage to property if released, that the person will not
16 appear in response to the citation, or the person is arrested for an
17 offense against a person or property. If said person fails to
18 appear in response to the citation, a warrant shall be issued for
19 the person's arrest and the person's appearance shall be compelled.

20 If the arrested resident is not released ~~by being permitted to~~
21 ~~sign a citation~~ as provided for in this subsection, the resident
22 shall be admitted to bail either before or after arraignment, or
23 shall be released on personal recognizance. A municipality may
24 prescribe a fine for up to the maximum amount authorized by courts

1 not of record for failure of a person to have a valid driver license
2 when charged with a traffic violation.

3 B. If a nonresident of a municipality served by a municipal
4 court is arrested by a law enforcement officer for a violation of
5 any ordinance for which Section 28-114.1 of this title does not
6 apply, the defendant shall be eligible to be admitted to bail either
7 before or after arraignment.

8 C. The amount and conditions of bail granted pursuant to the
9 provisions of subsections A and B of this section shall be
10 determined by the judge, within the limitation prescribed by this
11 section, who shall prescribe rules for the receipt of bail and for
12 the release on personal recognizance. In the event of arrests at
13 night, emergencies, or when the judge is not available, a court
14 official, the chief of police or the chief's designated
15 representative may be authorized by the judge, subject to such
16 conditions as shall be prescribed by the judge, to accept a
17 temporary cash bond in a sufficient amount to secure the appearance
18 of the accused. Except as provided in this subsection, cash bond
19 shall not exceed the maximum fine provided for by ordinance for each
20 offense charged. The court official, chief of police or the chief's
21 designated representative is authorized, subject to such conditions
22 as shall be prescribed by the judge or by law, to release a resident
23 of the municipality on personal recognizance. Provided, however,
24 that a person arrested in a municipality for violations of municipal

1 ordinances relating to prostitution, including but not limited to
2 engaging in prostitution or soliciting or procuring prostitution,
3 shall not be released on personal recognizance.

4 SECTION 3. AMENDATORY 11 O.S. 2011, Section 27-117, is
5 amended to read as follows:

6 Section 27-117. A. If a resident of a municipality served by a
7 municipal court is arrested by a law enforcement officer for the
8 violation of any traffic ordinance for which Section 27-117.1 of
9 this title does not apply, or is arrested for the violation of a
10 nontraffic ordinance, the officer shall immediately release said
11 person if the person acknowledges receipt of a citation ~~by signing~~
12 ~~it~~. Provided, however, the arresting officer need not release said
13 person if it reasonably appears to the officer that the person may
14 cause injury to himself or others or damage to property if released,
15 that the person will not appear in response to the citation, or the
16 person is arrested for an offense against a person or property. If
17 said person fails to appear in response to the citation, a warrant
18 shall be issued for his arrest and his appearance shall be
19 compelled.

20 If the arrested resident is not released ~~by being permitted to~~
21 ~~sign a citation~~ as provided for in this subsection, he shall be
22 admitted to bail either before or after arraignment, or shall be
23 released on personal recognizance. A municipality may prescribe a
24 fine for up to the maximum amount authorized by courts not of record

1 for failure of a person to have a valid driver's license when
2 charged with a traffic violation.

3 B. If a nonresident of a municipality served by a municipal
4 court is arrested by a law enforcement officer for a violation of
5 any ordinance for which Section 27-117.1 of this title does not
6 apply, the defendant shall be eligible to be admitted to bail either
7 before or after arraignment.

8 C. The amount and conditions of bail granted pursuant to the
9 provisions of subsections A and B of this section shall be
10 determined by the judge who shall prescribe rules for the receipt of
11 bail and for the release on personal recognizance. The amount of
12 bail for each offense shall not exceed the maximum fine plus court
13 costs, unless the defendant has a previous history of failing to
14 appear according to the terms or conditions of a bond, in which case
15 the amount of bail shall not exceed One Thousand Dollars
16 (\$1,000.00). In the event of arrests at night, emergencies, or when
17 the judge is not available, a court official, the chief of police or
18 his designated representative may be authorized by the judge,
19 subject to such conditions as shall be prescribed by the judge, to
20 accept a temporary cash bond in a sufficient amount to secure the
21 appearance of the accused. The cash bond shall not exceed the
22 maximum fine provided for by ordinance for each offense charged,
23 unless the defendant has a previous history of failing to appear
24 according to the terms or conditions of a bond, in which case the

1 amount of the cash bond shall not exceed One Thousand Dollars
2 (\$1,000.00). The court official, chief of police or his designated
3 representative is authorized, subject to such conditions as shall be
4 prescribed by the judge, to release a resident of the municipality
5 on personal recognizance.

6 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1115.1A, as
7 last amended by Section 1, Chapter 61, O.S.L. 2013 (22 O.S. Supp.
8 2016, Section 1115.1A), is amended to read as follows:

9 Section 1115.1A. A. In addition to other provisions of law for
10 posting bail, any person, whether a resident of this state or a
11 nonresident, who is arrested by a law enforcement officer solely for
12 a misdemeanor violation of a state traffic law or municipal traffic
13 ordinance, shall be released by the arresting officer upon personal
14 recognizance if:

15 1. The arrested person has been issued a valid license to
16 operate a motor vehicle by this state, another state jurisdiction
17 within the United States, which is a participant in the Nonresident
18 Violator Compact or any party jurisdiction of the Nonresident
19 Violator Compact;

20 2. The arresting officer is satisfied as to the identity of the
21 arrested person and certifies the date and time and the location of
22 the violation, as evidence by the electronic signature of the
23 officer; and

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1 3. ~~The arrested person acknowledges, as evidenced by the~~
2 ~~electronic signature of the person, a written promise to appear as~~
3 ~~provided for on the citation, unless the person is unconscious or~~
4 ~~injured and requires immediate medical treatment as determined by a~~
5 ~~treating physician; and~~

6 4. The violation does not constitute:

- 7 a. a felony,
- 8 b. negligent homicide,
- 9 c. driving or being in actual physical control of a motor
10 vehicle while impaired or under the influence of
11 alcohol or other intoxicating substances, unless the
12 person is unconscious or injured and requires
13 immediate medical treatment as determined by a
14 treating physician,
- 15 d. eluding or attempting to elude a law enforcement
16 officer,
- 17 e. operating a motor vehicle without having been issued a
18 valid driver license or while the driving privilege
19 and driver license is under suspension, revocation,
20 denial or cancellation,
- 21 f. an arrest based upon an outstanding warrant, or
- 22 g. a traffic violation coupled with any offense stated in
23 subparagraphs a through f of this paragraph.

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

4 1. Designate the traffic charge;

5 2. Record information from the driver license of the arrested
6 person on the citation form, including the name, address, date of
7 birth, physical description, type of driver license, driver license
8 number, issuing state, and expiration date;

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

10 4. Record the date and time on which, or before which, the
11 arrested person promises, as evidenced by the electronic signature
12 of the person, to contact, pay, or appear at the court, as
13 applicable to the court; and

14 ~~5. Record the electronic signature of the arrested person which~~
15 ~~shall serve as evidence and acknowledgment of a promise to contact,~~
16 ~~pay, or appear at the court, as provided for in the citation; and~~

17 ~~6. Record the electronic signature of the arrested person which~~
18 ~~shall serve as evidence to certify the date and time and the~~
19 ~~location that the arrested person was served with a copy of the~~
20 ~~citation and notice to appear, after After which, the arresting~~
21 officer shall then release the person upon personal recognizance
22 ~~based upon the acknowledged promise to appear.~~ The citation shall
23 contain a written notice to the arrested person that release upon
24 personal recognizance based upon an acknowledged promise to appear,

1 ~~as evidenced by the electronic signature of the person,~~ for
2 arraignment is conditional and that failure to timely appear for
3 arraignment shall result in the suspension of the driving privilege
4 and driver license of the arrested person in this state, or in the
5 home state of the nonresident pursuant to the Nonresident Violator
6 Compact.

7 C. The court, or the court clerk as directed by the court, may
8 continue or reschedule the date and time of arraignment at the
9 discretion of the court or upon request of the arrested person or
10 the attorney for that person. If the arraignment is continued or
11 rescheduled, the arrested person shall remain on personal
12 recognizance ~~and acknowledged promise to appear~~ until such
13 arraignment, in the same manner and with the same consequences as if
14 the continued or rescheduled arraignment was entered on the citation
15 by the arresting officer ~~and electronically signed by the defendant.~~
16 An 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, together with the
2 date of the plea and signature of the defendant, or such plea may be
3 entered by the defendant using an electronic method provided by the
4 court for such purposes, either through the website of the court or
5 otherwise. The defendant shall be responsible for assuring full
6 payment of the fine and costs to the appropriate court clerk.
7 Payment of the fine and costs may be made by personal, cashier's,
8 traveler's, certified or guaranteed bank check, postal or commercial
9 money order, or other form of payment approved by the court in an
10 amount prescribed as bail for the offense. Provided, however, the
11 defendant shall not use currency for payment by mail. If the
12 defendant has entered a plea of guilty or nolo contendere as
13 provided for in this subsection, such plea shall be accepted by the
14 court and the amount of the fine and costs shall be:

15 1. As prescribed in Section 1115.3 of this title as bail for
16 the violation;

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

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

21 E. 1. If, pursuant to the provisions of subsection D of this
22 section, the defendant does not timely elect to enter a plea of
23 guilty or nolo contendere and fails to timely appear for
24 arraignment, the court may issue a warrant for the arrest of the

1 defendant. The municipal or district court clerk, within one
2 hundred twenty (120) calendar days from the date the citation was
3 issued by the arresting officer, shall notify the Department of
4 Public Safety that:

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

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

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

4 a. the defendant was arraigned, posted bail, paid a fine,
5 was jailed, or otherwise settled the case,

6 b. the defendant was not released upon personal
7 recognizance ~~upon an acknowledged written promise to~~
8 ~~appear as provided for in this section~~ or if released,
9 was not permitted to remain on such personal
10 recognizance for arraignment,

11 c. the violation relates to parking or standing, or

12 d. a period of one hundred twenty (120) calendar days or
13 more has elapsed from the date the citation was issued
14 by the arresting officer.

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

20 G. The municipal or district court clerk shall maintain a
21 record of each request for driving privilege and driver license
22 suspension submitted to the Department of Public Safety pursuant to
23 the provisions of this section. When the court or court clerk
24 receives appropriate bail or payment of the fine and costs, settles

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

21 H. For purposes of this section, "electronic signature" shall
22 have the same meaning as defined in Section 15-102 of Title 12A of
23 the Oklahoma Statutes.

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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 34-109 of Title 11, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A political subdivision or an agency of this state may not
5 establish or maintain, formally or informally, a plan to evaluate,
6 promote, compensate, or discipline:

7 1. That the peace officer is required or expected to issue a
8 predetermined or specified number of any type or combination of
9 types of traffic citations within a specified period; or

10 2. A justice of the peace or a judge of a county court,
11 municipal court, or municipal court of record according to the
12 amount of money the justice or judge collects from persons convicted
13 of a traffic offense.

14 B. A political subdivision or an agency of this state may not
15 require or suggest to a peace officer, a justice of the peace, or a
16 judge of a county court, municipal court, or municipal court of
17 record: That the justice or judge is required or expected to
18 collect a predetermined amount of money from persons convicted of a
19 traffic offense within a specified period.

20 C. This section does not prohibit a municipality from obtaining
21 budgetary information from a municipal court or a municipal court of
22 record, including an estimate of the amount of money the court
23 anticipates will be collected in a budget year.

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1 D. A violation of this section by an elected official is
2 misconduct and a ground for removal from office. A violation of
3 this section by a person who is not an elected official is a ground
4 for removal from the person's position.

5 SECTION 6. This act shall become effective November 1, 2017.

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