

An Act

ENROLLED HOUSE
BILL NO. 1449

By: Murphey of the House

and

Anderson and Ivester of the
Senate

An Act relating to electronic court records; amending 22 O.S. 2011, Section 1115.1A, as amended by Section 1 of Enrolled Senate Bill No. 450 of the 1st Session of the 54th Oklahoma Legislature, which relates to traffic violation pleas; providing for defendant released upon personal recognizance to enter plea using an electronic method; permitting court clerk to furnish proof of case disposition via e-mail in certain cases; amending 29 O.S. 2011, Section 9-112, as amended by Section 2 of Enrolled Senate Bill No. 450 of the 1st Session of the 54th Oklahoma Legislature, which relates to wildlife violation pleas; providing for certain defendant to enter plea using an electronic method; amending 38 O.S. 2011, Section 20.1, which relates to jury panel oath; modifying juror oath; providing for juror oath to be taken using an electronic method; authorizing court clerk to maintain juror oath in electronic format; and providing an effective date.

SUBJECT: Electronic court records

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1115.1A, as amended by Section 1 of Enrolled Senate Bill No. 450 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 1115.1A 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 ordinance, shall be released by the arresting officer upon personal recognizance if:

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

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

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

4. The violation does not constitute:

a. a felony,

b. negligent homicide,

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

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

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

- f. an arrest based upon an outstanding warrant, or
- g. a traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph.

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

1. Designate the traffic charge;

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

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

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

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

6. Record the electronic signature of the arrested person which shall serve as evidence to certify the date and time and the location that the arrested person was served with a copy of the citation and notice to appear,

after which, the arresting officer shall then release the person upon personal recognizance based upon the acknowledged promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon an acknowledged promise to appear, as evidenced by the electronic signature of the person, for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the driving privilege and driver license of the arrested person in this state, or in the home state of the nonresident pursuant to the Nonresident Violator Compact.

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment at the

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

D. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before the defendant is required to appear for arraignment by indicating such plea on the copy of the citation furnished to the defendant or on a legible copy, together with the date of the plea and signature of the defendant, or such plea may be entered by the defendant using an electronic method provided by the court for such purposes, either through the ~~court's~~ website of the court or otherwise. The defendant shall be responsible for assuring full payment of the fine and costs to the appropriate court clerk. Payment of the fine and costs may be made by personal, cashier's, traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in an amount prescribed as bail for the offense. Provided, however, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and the amount of the fine and costs shall be:

1. As prescribed in Section 1115.3 of ~~Title 22 of the Oklahoma Statutes~~ this title as bail for the violation;

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

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

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

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

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

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

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

- a. the defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case,
- b. the defendant was not released upon personal recognizance upon an acknowledged written promise to appear as provided for in this section or if released, was not permitted to remain on such personal recognizance for arraignment,
- c. the violation relates to parking or standing, or

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

F. Following receipt of the notice and request from the court clerk for driving privilege and driver license suspension as provided for in subsection E of this section, the Department of Public Safety shall proceed as provided for in Section 1115.5 of Title 22 of the Oklahoma Statutes this title.

G. The municipal or district court clerk shall maintain a record of each request for driving privilege and driver license suspension submitted to the Department of Public Safety pursuant to the provisions of this section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to the defendant, if the defendant personally appears, or shall mail such proof by first-class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant or by ~~electronic mail~~ e-mail if the defendant has furnished an e-mail address for such purposes. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall, in all other cases, notify the Department of the resolution of the case. The form of proof and the procedures for notification shall be approved by the Department of Public Safety. Provided however, failure by the court or court clerk to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the State of Oklahoma or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled to such proof or notice upon request.

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

SECTION 2. AMENDATORY 29 O.S. 2011, Section 9-112, as amended by Section 2 of Enrolled Senate Bill No. 450 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 9-112. A. Except as otherwise provided by law, any person arrested for a violation of any section of the Oklahoma Wildlife Conservation Code shall be admitted to bail as follows:

1. Whenever a person is charged for any violation of any of the wildlife laws of this state or rules adopted by the Wildlife Conservation Commission pursuant to law, which violation is punishable as a misdemeanor and the person is not immediately taken into physical custody pursuant to state law, the officer shall prepare a written citation containing a notice to appear in court, the name and address of the person, the offense charged, the time and place where the person shall appear in court and any other pertinent information as may be necessary;

2. The arresting officer shall indicate on the citation the date of the arraignment. The person charged shall appear in person or by counsel at the stated time and place for arraignment;

3. The place specified in the citation for the arraignment shall be before a judge of the district court within the county in which the offense is alleged to have been committed and which has jurisdiction of the offense; and

4. Except as otherwise provided by law, the person charged with the violation shall agree to appear in court by signing at least one copy of the written citation prepared by the arresting officer. After signing, the officer shall deliver a copy of the citation to the person. The officer shall not take the person into physical custody for the violation if:

a. the arrested person is:

(1) a resident, or

(2) a nonresident of another state within the United States which is a participant in the Interstate Wildlife Violator Compact or any party within the jurisdiction of the Interstate Wildlife Violator Compact,

b. the arresting officer is satisfied as to the identity of the arrested person and certifies the date and time and the location of the violation,

c. the arrested person acknowledges the written promise to appear in court as provided for on the citation, and

d. the violation does not constitute:

(1) hunting or fishing while the hunting or fishing license is under suspension, revocation, denial or cancellation, or

(2) an arrest based upon an outstanding warrant.

B. A person charged with a violation listed in divisions (1) and (2) of subparagraph d of paragraph 4 of subsection A of this section shall be taken into custody and required to appear before the court.

C. Except for any person charged with a violation requiring restitution as set forth in Section 7-207 of ~~Title 29 of the Oklahoma Statutes~~ this title or listed in divisions (1) and (2) of subparagraph d of paragraph 4 of subsection A of this section or other applicable law, upon approval of the district court, the person charged may submit payment to the court in the amount of the minimum bond as prescribed by law for a violation for which the person is charged if the violation carries a minimum fine of Fifty Dollars (\$50.00) or less and sign a plea of guilty or nolo contendere on the back of the citation, or such plea may be entered by the defendant using an electronic method provided by the court for such purposes, either through the ~~court's~~ website of the court or otherwise. A person charged who elects to follow the procedure authorized in this subsection shall not be required to appear for arraignment.

D. All persons charged with a violation requiring restitution as set forth in Section 7-207 of ~~Title 29 of the Oklahoma Statutes~~ this title shall be required to appear before the court.

E. If the form of a wildlife citation includes information required by law and is signed by the preparing officer, the citation, when filed with a court having jurisdiction, shall be deemed to be a lawful complaint for the purpose of prosecution under law.

SECTION 3. AMENDATORY 38 O.S. 2011, Section 20.1, is amended to read as follows:

Section 20.1 A. Each member of the general jury panel, when reporting for duty as provided for in Section 20 of ~~Title 38 of the Oklahoma Statutes~~ this title, shall take and subscribe to an oath or affirmation which shall be in substantially the following form:

OATH

I, the undersigned, do solemnly swear or affirm that I am a citizen of the United States and a resident of the State of Oklahoma, County of _____. I further swear or affirm that I am eighteen years of age or older.

I further swear or affirm that I have not been convicted of a felony for which a period of time equal to the original judgment and sentence has not expired, or for which I have not been pardoned. I further swear or affirm that I am not now adjudicated as being mentally incompetent and that I am not mentally retarded do not otherwise have a mental condition which makes me incapable of performing jury service.

I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

(Signature or mark of general jury panel member) (Date and place)

~~(Signature of court clerk)~~

~~(Date)~~

B. The oath or affirmation provided for in subsection A of this section shall be ~~administered by the chief judge of the district court or, during his absence or disability, by some other judge assigned to the district court in the county, and once subscribed to, shall be maintained in the office of the court clerk as a judicial record.~~ The oath or affirmation required by this section may be taken and signed using an electronic method provided by the court for such purposes, either through the website of the court or otherwise, and may be maintained by the court clerk in electronic format.

SECTION 4. This act shall become effective November 1, 2013.

Passed the House of Representatives the 27th day of February, 2013.

Mike Jacobs
Presiding Officer of the House
of Representatives

Passed the Senate the 11th day of April, 2013.

A. Bryan Martin
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 15th
day of April, 20 13, at 4:23 o'clock P M.
By: Audrey Lockwood

Approved by the Governor of the State of Oklahoma this 15th
day of April, 20 13, at 3:42 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 19th
day of April, 20 13, at 9:40 o'clock A. M.
By: Randy B. Parnell