

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 19: Bail

§ 1115.1. Release on personal recognizance—Arraignment—Plea—Failure to plead or appear

Cite as: 22 CNCA § 1115.1

A. In addition to other provisions of law for posting bail, any person, whether a citizen of this Nation or a noncitizen, who is arrested by a law enforcement officer solely for a crime or offense, which if committed under the laws of the State of Oklahoma would constitute a misdemeanor violation, may 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 Oklahoma, 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;
3. The arrested person signs a written promise to appear as provided for on the citation; and
4. The violation does not constitute:
 - a. a crime which if committed under the laws of the State of Oklahoma would constitute a felony; or
 - b. negligent homicide; or
 - c. driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances; or
 - d. eluding or attempting to elude a law enforcement officer; or
 - e. operating a motor vehicle without having been issued a valid driver's license, or while the license is under suspension, revocation, denial or cancellation; or
 - 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; or
 - h. a violation relating to the transportation of hazardous materials.

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:

1. designate the charge, crime or offense;
2. record information from the arrested person's driver's license on the citation form, including the name, address, date of birth, personal description, type of driver's license, driver's license number, issuing state, and expiration date;
3. record the motor vehicle make, model and tag information;
4. record the arraignment date and time on the citation; and
5. permit the arrested person to sign a written promise to appear as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's driver's license in Oklahoma, or in the nonresident's home state 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 upon request of the arrested person or his attorney. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written 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 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 he is required to appear for arraignment by indicating such plea on the copy of the citation furnished to him or on a legible copy thereof, together with the date of the plea and his signature. 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 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.

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; or

b. the defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this section or if released, was not permitted to remain on such personal recognizance for arraignment.

Historical Data

LA 10–90, eff. November 13, 1990.