

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1121

By: West (Kevin)

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5
6 AS INTRODUCED

7 An Act relating to driving under the influence;
8 amending 11 O.S. 2011, Section 28-101, which relates
9 to the creation of municipal criminal courts of
10 record; providing for the creation of limited
11 municipal criminal courts of record for the
12 prosecution of certain offenses; directing
13 municipalities to determine necessity of courts via
14 resolution; requiring filing of certified copy of
15 resolution with county clerk; providing for the
16 judicial recognition of filed resolutions; amending
17 Section 7, Chapter 172, O.S.L. 2016 (47 O.S. Supp.
18 2018, Section 11-902c), which relates to preemption
19 provisions for driving under the influence
20 prosecutions; expanding scope of exception to
21 mandatory preemption; and providing an effective
22 date.

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

24 SECTION 1. AMENDATORY 11 O.S. 2011, Section 28-101, is
amended to read as follows:

Section 28-101. A. In cities having a population of more than
sixty-five thousand (65,000) inhabitants, as determined by the
latest federal census, there is hereby created a "Municipal Criminal
Court of Record of the City of _____", subject to the

1 restrictions of subsection B of this section. References in
2 Sections 28-101 through 28-128 of this title to the municipal
3 criminal court of record shall mean the courts established by the
4 provisions of this article in cities over sixty-five thousand
5 (65,000) population.

6 B. Before a municipal criminal court of record not in existence
7 before November 1, 2004, may be created, the municipal governing
8 body shall determine by resolution that the efficient disposition of
9 cases involving the violation of municipal ordinances necessitates
10 creating a court of record. If such a resolution is not adopted,
11 the criminal court of the municipality shall remain a court not of
12 record. The governing body shall cause a certified copy of the
13 resolution to be filed in the office of the county clerk of each
14 county in which the municipality is located. The resolution and the
15 filing thereof shall be judicially noticed in all courts of this
16 state. The provisions of this subsection shall not apply to any
17 municipal criminal court of record created prior to November 1,
18 2004, and such courts shall have all the powers and duties
19 heretofore provided for such courts.

20 C. In municipalities that have an average of one hundred or
21 more arrests per year for the prior three (3) consecutive years for
22 offenses relating to driving under the influence of alcohol or any
23 other intoxicating substance or operating a motor vehicle while
24 impaired, there is hereby created a "Limited Municipal Criminal

1 Court of Record of the City of " for the prosecution
2 of offenses relating to driving under the influence of alcohol or
3 any other intoxicating substance or operating a motor vehicle while
4 impaired. References made in Section 28-101 through Section 28-128
5 of this title to municipal criminal courts of record shall also
6 apply to limited municipal criminal courts of record.

7 D. Before a limited municipal criminal court of record may be
8 created, the municipal governing body shall determine by resolution
9 that the efficient disposition of cases involving offenses relating
10 to driving under the influence of alcohol or any other intoxicating
11 substance or operating a motor vehicle while impaired necessitates
12 creating a limited municipal criminal court of record. If such a
13 resolution is not adopted, the criminal court of the municipality
14 shall remain a court not of record. If such a resolution is
15 adopted, the criminal court of the municipality shall remain a court
16 not of record for all offenses other than offenses relating to
17 driving under the influence of alcohol or any other intoxicating
18 substance or operating a motor vehicle while impaired. The
19 governing body shall cause a certified copy of the resolution to be
20 filed in the office of the county clerk of each county in which the
21 municipality is located. The resolution and the filing thereof
22 shall be judicially noticed in all courts of this state.

1 SECTION 2. AMENDATORY Section 7, Chapter 172, O.S.L.
2 2016 (47 O.S. Supp. 2018, Section 11-902c), is amended to read as
3 follows:

4 Section 11-902c. A. The State Legislature hereby occupies and
5 preempts the entire field of legislation in this state touching in
6 any way the prosecution of offenses relating to driving under the
7 influence of alcohol or any other intoxicating substance or
8 operating a motor vehicle while impaired to the complete exclusion
9 of any order, ordinance, local legislation or regulation by any
10 municipality or other political subdivision of this state.

11 B. No municipality or other political subdivision shall
12 prosecute any laws or ordinances relating to the offense of driving
13 under the influence of alcohol or any other intoxicating substance
14 or operating a motor vehicle while impaired. Any existing or future
15 orders, ordinances, local legislation or regulations in violation of
16 this section is void and unenforceable.

17 C. The preemption provisions of this section shall not apply to
18 prosecutions in municipal criminal courts of record or limited
19 municipal criminal courts of record for offenses relating to driving
20 under the influence of alcohol or any other intoxicating substance
21 or operating a motor vehicle while impaired. Nothing in this
22 section shall prohibit a municipality from establishing a municipal
23 criminal court of record or limited municipal criminal court of
24

1 record pursuant to the provisions of Section 28-101 of Title 11 of
2 the Oklahoma Statutes.

3 SECTION 3. This act shall become effective November 1, 2019.
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