

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 1065

By: Montgomery

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5
6 AS INTRODUCED

7 An Act relating to ignition interlock devices;
8 amending 47 O.S. 2021, Section 11-902a, which relates
9 to allowing use of motor vehicles without an ignition
10 interlock device; requiring and permitting courts to
11 issue certain release guidelines; amending 47 O.S.
2021, Section 11-902b, which relates to forfeiture of
12 motor vehicles; updating statutory reference; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 47 O.S. 2021, Section 11-902a, is
16 amended to read as follows:

17 Section 11-902a. A. No person shall knowingly authorize or
18 permit a motor vehicle owned or under the control of that person
19 which is not equipped with an ignition interlock device to be driven
20 upon any street or highway of this state by any person who is
21 required to have an ignition interlock device installed upon the
22 vehicle of that person.

23 B. No person shall willfully attempt to interfere in any way
24 with the intended and proper functioning of an ignition interlock
25 device installed in a vehicle as required by law, or intentionally

1 fail to return an ignition interlock device when it is no longer
2 required in the vehicle or upon request by the owner of the device.

3 C. No person granted permission to drive a motor vehicle on the
4 condition of installation of an ignition interlock device shall
5 drive any vehicle that is not equipped with an ignition interlock
6 device unless driving a vehicle of an employer in accordance with
7 subsection A of Section 6-212.3 of this title.

8 D. A violation of subsection A, B or C of this section shall be
9 a misdemeanor and shall be punishable by a fine of not more than
10 Five Hundred Dollars (\$500.00), or by imprisonment in the county
11 jail for not more than six (6) months, or by both such fine and
12 imprisonment.

13 E. A court shall require on release that a defendant charged
14 under subsection C:

15 1. Have installed on the motor vehicle owned by the defendant
16 or on the vehicle most regularly driven by the defendant, an
17 ignition interlock device;

18 2. Not operate any motor vehicle unless the vehicle is equipped
19 with an ignition interlock device; and

20 3. The court may not require the installation of the ignition
21 interlock device if the court finds that to require the ignition
22 interlock device would not be in the best interest of justice.

23 F. If the court is required to have the ignition interlock
24 device installed, the court shall require that the defendant have

1 the ignition interlock device installed on the appropriate motor
2 vehicle, at the defendant's expense, before the thirtieth day after
3 the date the defendant is released on bond.

4 G. The court may designate an appropriate agency to verify the
5 installation of the ignition interlock device and to monitor the
6 device. If the court designates an agency under this subsection, in
7 each month during which the agency verifies the installation of the
8 ignition interlock device or provides a monitoring service the
9 defendant shall pay the initial reimbursement fee to the designated
10 agency in the amount set by the court. The defendant shall pay the
11 initial reimbursement fee at the time the agency verifies the
12 installation of the ignition interlock device. In each subsequent
13 month during which the defendant is required to pay a reimbursement
14 fee the defendant shall pay the fee on the first occasion in that
15 month that the agency provides a monitoring service. The court
16 shall set the fee in an amount not to exceed ten dollars (\$10.00) as
17 determined by the court, to be sufficient to cover the cost incurred
18 by the designated agency in conducting the verification or providing
19 the monitoring service, as applicable in that county.

20 SECTION 2. AMENDATORY 47 O.S. 2021, Section 11-902b, is
21 amended to read as follows:

22 Section 11-902b. A. The district attorney may file a motion
23 requesting forfeiture of the motor vehicle involved in the
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1 commission of an eligible offense as provided in this section. The
2 provisions of this section shall apply to:

3 1. Any person who has been previously convicted of an offense
4 under Section 11-902, 11-902a, 11-903, or 11-904 of this title and
5 who on or after July 1, 1999, is convicted of an offense under
6 Section 11-902, 11-902a, 11-903, or 11-904 of this title within ten
7 (10) years of any prior conviction under Section 11-902, 11-902a,
8 11-903, or 11-904 of this title and where at least one of the
9 offenses, current or prior, involved the death of or serious bodily
10 injury to another person; or

11 2. Any person who has been convicted of a third or subsequent
12 felony offense under Section 11-902 of this title.

13 B. A motion for forfeiture may be filed at the time of charging
14 but not later than thirty (30) days after the verdict or plea of
15 guilty or nolo contendere. If a motion of intent to forfeit is
16 filed prior to the verdict or plea of guilty or nolo contendere, the
17 proceedings shall be stayed until the disposition of the criminal
18 case. Notice shall be required even though the proceedings are
19 stayed. If the motion is filed prior to the disposition on the
20 criminal case, the district attorney shall notify the Oklahoma Tax
21 Commission and the Tax Commission shall place a lien upon the
22 vehicle title. No person shall sell, damage, destroy, transfer or
23 perfect a security interest on any vehicle subject to forfeiture.
24 Prior to filing a motion for forfeiture, the district attorney shall

1 verify whether the vehicle was sold during any period of impoundment
2 as provided by law. Any vehicle sold in an impound sale to pay
3 towing, wrecker services or storage expenses shall not be subject to
4 forfeiture as provided in this section.

5 C. Upon filing a motion for forfeiture, except when the
6 proceedings are stayed pursuant to subsection B of this section, the
7 court shall schedule a hearing on the matter. The hearing shall be
8 not less than twenty (20) days nor more than forty-five (45) days
9 from the date the motion is filed. The district attorney within
10 three (3) days of filing a motion of intent to forfeit shall notify
11 the convicted person, lienholders of record, and any person
12 appearing to have an ownership or security interest in the vehicle.
13 The notice shall contain the date, time and place of the hearing.
14 When a motion for forfeiture has been stayed pending disposition of
15 the criminal case and a verdict or plea of guilty or nolo contendere
16 has been entered, the district attorney shall give notice of the
17 forfeiture hearing not less than ten (10) days prior to the hearing.
18 The notice of persons specified in this subsection shall be by
19 certified mail to the address shown upon the records of the Oklahoma
20 Tax Commission. For owners or interested parties, other than
21 lienholders of record, whose addresses are unknown, but who are
22 believed to have an interest in the vehicle, notice shall be by one
23 publication in a newspaper of general circulation in the county
24 where the motion is filed. The written notice shall include:

- 1 1. A full description of the motor vehicle;
- 2 2. The date, time and place of the forfeiture hearing;
- 3 3. The legal authority under which the motor vehicle may be
- 4 forfeited; and
- 5 4. Notice of the right to intervene to protect an interest in
- 6 the motor vehicle.

7 D. A forfeiture proceeding shall not extinguish any security
8 interest of a lienholder of record; provided, however, the court may
9 order the sale of the motor vehicle and the satisfaction of that
10 security interest from the proceeds of sale as provided in
11 subsection K of this section.

12 For purposes of a forfeiture proceeding, an affidavit obtained
13 from the lienholder of record, in the absence of evidence of bad
14 faith, shall be prima facie evidence of the amount of secured
15 indebtedness owed to that lienholder. It shall be the
16 responsibility of the district attorney to obtain such affidavit
17 prior to the forfeiture proceeding.

18 In the absence of evidence of bad faith, no lienholder of record
19 shall be required to attend the forfeiture proceeding to protect its
20 interest in the motor vehicle. However, each lienholder of record
21 shall be given notice of the forfeiture hearing as provided in
22 subsection C of this section. The district attorney shall notify
23 each lienholder of record at least ten (10) days before the sale of
24 the motor vehicle ordered forfeited pursuant to this section;

1 provided, the lienholder was not represented at the forfeiture
2 proceeding.

3 E. Any person having an ownership or security interest in a
4 vehicle subject to forfeiture which is not perfected by a lien of
5 record may file a written objection to the motion to forfeit within
6 ten (10) days of the mailing of the notice of intent to forfeit.

7 F. At the hearing, any person who claims an ownership or
8 security interest in the motor vehicle which is not perfected by a
9 lien of record shall be required to establish by a preponderance of
10 the evidence that:

11 1. The person has an interest in the motor vehicle and such
12 interest was acquired in good faith;

13 2. The person is not the person convicted of the offense that
14 resulted in the forfeiture proceeding; and

15 3. The person did not know or have reasonable cause to believe
16 that the vehicle would be used in the commission of a felony
17 offense.

18 G. If a person satisfies the requirements of subsection F of
19 this section, or if there is a lienholder of record that has
20 provided an affidavit pursuant to subsection D of this section, the
21 court shall order either an amount equal to the value of the
22 interest of that person in the motor vehicle to be paid to that
23 person upon sale of the motor vehicle after payment of costs and
24 expenses or release the vehicle from the forfeiture proceedings if

1 either the lienholder described in subsection D of this section or
2 the person intervening in accordance with subsection F of this
3 section has full right, title and interest in the vehicle.

4 H. At the hearing, the court may order the forfeiture of the
5 motor vehicle if it is determined by a preponderance of the evidence
6 that the forfeiture of the motor vehicle will serve one or more of
7 the following purposes:

8 1. Incapacitation of the convicted person from the commission
9 of any future offense under Section 11-902, 11-903, or 11-904 of
10 this title;

11 2. Protection of the safety and welfare of the public;

12 3. Deterrence of other persons who are potential offenders
13 under Section 11-902, 11-903, or 11-904 of this title;

14 4. Expression of public condemnation of the serious or
15 aggravated nature of the conduct of the convicted person; or

16 5. Satisfaction of monetary amounts for criminal penalties.

17 I. Upon forfeiture of a motor vehicle pursuant to this act, the
18 court shall require the owner to surrender the motor vehicle, the
19 certificate of title, and the registration of the motor vehicle.

20 The vehicle, the certificate of title, and the registration shall be
21 delivered to the Department of Public Safety within three (3) days
22 of the forfeiture order. The expense of delivering the vehicle
23 shall be paid by the district attorney. Costs of delivering the
24 vehicle to the Department shall be reimbursable as costs of

1 conducting the sale. A motor vehicle forfeited pursuant to this
2 act, shall be sold by the Department of Public Safety as provided by
3 law for the sale of other forfeited property, except as otherwise
4 provided in this section.

5 J. If a vehicle was impounded at the time of delivery to the
6 Department and a forfeiture order is subsequently issued, all
7 towing, wrecker services, and storage expenses shall be satisfied
8 from the sale of the vehicle. If a vehicle is released from
9 forfeiture and the vehicle has been delivered to the Department with
10 impound expenses still owing, all impound expenses, including
11 towing, wrecker service and storage expenses, shall be paid by the
12 person prevailing on the dismissal of the forfeiture proceeding and
13 the release of the vehicle to such person. If a notice for sale of
14 the vehicle was filed for satisfaction of impound expenses prior to
15 the filing of a motion for forfeiture, the vehicle shall be sold as
16 provided by law for unpaid towing, wrecker services, and storage
17 expenses and shall not be subject to forfeiture. If the convicted
18 person redeems his or her interest in the vehicle at a sale for
19 impound expenses, a forfeiture proceeding may thereafter proceed as
20 authorized by this act. Neither the notice of sale for towing,
21 wrecker services, and storage expenses nor the sale of such vehicle
22 for impound expenses shall serve to extend the requirement for
23 filing a motion to forfeit as provided in subsection B of this
24 section.

1 K. Except as provided in subsection J of this section, proceeds
2 from the sale of any vehicle forfeited pursuant to this act shall be
3 paid in the following order:

4 1. To satisfy the interest of any lienholder of record;

5 2. To the Department of Public Safety for the cost of
6 conducting the sale, including expense of delivery, court filing
7 fees, and publication expense;

8 3. To satisfy impound expenses, including any towing, wrecker
9 service and storage expenses incurred prior to delivery to the
10 Department of Public Safety;

11 4. To satisfy the interest of any person making proof as
12 provided in subsection F of this section;

13 5. To satisfy criminal penalties, costs and assessments
14 pursuant to paragraph 5 of subsection H of this section if so
15 ordered by the court;

16 6. To the office of the district attorney who filed the
17 forfeiture proceeding not exceeding twenty-five percent (25%) of any
18 remaining proceeds. Such payment shall be deposited in a special
19 fund for such purpose as determined by the district attorney's
20 office; and

21 7. The balance of the proceeds to be deposited in the Drug
22 Abuse Education and Treatment Revolving Fund established pursuant to
23 Section 2-503.2 of Title 63 of the Oklahoma Statutes for the benefit
24 of drug court treatment as provided by law.

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L. If a motor vehicle subject to forfeiture as provided by this act is a vehicle leased pursuant to a commercial rental agreement for a period of ninety (90) days or less, then the vehicle shall not be subject to the forfeiture proceedings provided by this act.

M. Upon the court dismissing a forfeiture proceeding, any lien placed upon the vehicle title by the Oklahoma Tax Commission pursuant to subsection B of this section shall be released.

SECTION 3. This act shall become effective November 1, 2023.

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