

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2310

By: Frix

COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 926.1, which relates to punishments assessed and declared by juries; directing judge to provide certain instructions to jury; allowing judge or jury to assess punishment under certain circumstances; establishing sentencing procedures for courts and juries when assessing punishment; repealing 22 O.S. 2011, Section 860.1, which relates to trial procedures for person prosecuted for second and subsequent offense; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 926.1, is amended to read as follows:

Section 926.1 A. In all cases of a verdict of conviction for any offense against any of the laws of the State of Oklahoma, the jury may~~r~~ and shall~~l~~ upon the request of the defendant~~l~~ assess and declare the punishment in their verdict within the limitations fixed by law, and the court shall render a judgment according to such verdict, except as ~~hereinafter~~ provided.

1 B. In all cases in which a jury may assess and declare
2 punishment:

3 1. At the conclusion of the evidence, the judge shall instruct
4 the jury on the offense charged. The jury shall be further
5 instructed to determine only the guilt or innocence of the defendant
6 on the offense charged and that punishment shall not be determined
7 by the jury at this time; and

8 2. If the jury reaches a verdict that the defendant is guilty
9 of the offense charged or guilty of a lesser included offense, the
10 judge or jury shall assess punishment within the limitations fixed
11 by law including sentencing alternatives available to the court or
12 jury pursuant to the provisions of Section 991a, 991a-3 or 991c of
13 this title as applicable to the case.

14 C. If the defendant elects to be sentenced by the judge, the
15 court shall order a presentence investigation and report, unless
16 waived by the defendant, and shall set a date for sentencing of the
17 defendant. The court shall receive aggravating and mitigating
18 evidence and argument on punishment unless waived by the state and
19 the defendant prior to pronouncing the sentence. The court shall
20 assess punishment within the limitations fixed by law including
21 sentencing alternatives available to the court pursuant to the
22 provisions of Section 991a, 991a-3 or 991c of this title as
23 applicable to the case.

1 D. If the defendant elects to have the jury assess punishment,
2 aggravating and mitigating evidence, including evidence of second
3 and subsequent offenses, an argument on punishment shall be received
4 by the jury unless waived by the state and the defendant. The court
5 shall instruct the jury on the law relating to punishment for the
6 offense. Additionally, the court shall instruct the jury on the law
7 relating to second and subsequent offenses and sentencing
8 alternatives available to the jury pursuant to the provisions of
9 Section 991a, 991a-3 or 991c of this title as applicable to the
10 case. The jury may assess and declare in its punishment any such
11 sentencing alternatives available to the court.

12 SECTION 2. REPEALER 22 O.S. 2011, Section 860.1, is
13 hereby repealed.

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

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