

<DateSubmitted>

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB2310**

By: Frix of the House and Bice of the Senate

Title: Criminal procedure; directing judge to provide certain instructions to jury; repealer; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

**SENATE CONFEREES**

Bice \_\_\_\_\_  
Daniels \_\_\_\_\_  
Jech \_\_\_\_\_  
Coleman \_\_\_\_\_  
Brooks \_\_\_\_\_  
Floyd \_\_\_\_\_  
Shaw \_\_\_\_\_

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2310

By: Frix of the House

and

Bice of the Senate

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11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to criminal procedure; amending 22  
13 O.S. 2011, Section 926.1, which relates to  
14 punishments assessed and declared by juries;  
15 establishing sentencing procedures for juries that  
16 assess and declare punishment in criminal cases;  
17 providing for consideration of aggravating and  
18 mitigating circumstances unless waived by the state  
19 and defendant; directing court to follow specific  
20 sentencing procedure under certain circumstances;  
21 directing court to instruct juries on laws relating  
22 to punishment and sentencing alternatives; defining  
23 terms; and providing an effective date.

24 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

1 jury may~~7~~ and shall~~2~~, upon the request of the defendant~~3~~, assess and  
2 declare the punishment in their verdict within the limitations fixed  
3 by law, and the court shall render a judgment according to such  
4 verdict, except as hereinafter provided.

5 B. In all cases in which a jury may assess and declare  
6 punishment:

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

12 2. If the jury reaches a verdict that the defendant is guilty  
13 of the offense charged or guilty of a lesser included offense, the  
14 court shall proceed to a second stage in which the jury shall assess  
15 punishment within the limitations fixed by law including sentencing  
16 alternatives available to the court pursuant to the provisions of  
17 Section 991a, 991a-3 or 991c of this title as applicable to the  
18 case.

19 C. If the defendant is not prosecuted for a second or  
20 subsequent offense, evidence of aggravating and mitigating  
21 circumstances and argument on punishment shall be received by the  
22 jury unless waived by the state and the defendant. The court shall  
23 instruct the jury on the penalty fixed by law for the offense and  
24 the jury may assess and declare in its punishment within the penalty

1 fixed by law including any such sentencing alternatives available to  
2 the court including the provisions of Section 991a, 991a-3 or 991c  
3 of this title as applicable to the case. The jury may assess and  
4 declare in its punishment any such sentencing alternatives available  
5 to the court.

6 D. If the defendant is prosecuted for a second or subsequent  
7 offense, except in those cases in which the former conviction is an  
8 element of the offense, the court shall follow the procedure set  
9 forth in Section 860.1 of this title. In addition to the evidence  
10 of prior convictions, evidence of aggravating and mitigating  
11 circumstances and argument on punishment shall be received by the  
12 jury unless waived by the state and the defendant. The court shall  
13 instruct the jury on the penalty fixed by law for the offense and  
14 the jury may assess and declare its punishment within the penalty  
15 fixed by law including sentencing alternatives available to the  
16 court pursuant to the provisions of Section 991a, 991a-3 or 991c of  
17 this title as applicable to the case. The jury may assess and  
18 declare in its punishment any such sentencing alternatives available  
19 to the court.

20 E. For purposes of this section:

21 1. "Aggravating circumstances" means evidence of the conduct of  
22 the defendant relating to the circumstances of the offense itself  
23 that would support a more severe sentence within the range of  
24 punishment fixed by law; and

1        2. "Mitigating circumstances" means evidence of factors that  
2 would support leniency in sentencing including, but not limited to,  
3 lack of a prior criminal record, minor participation in the offense,  
4 culpability of the victim, past circumstances such as abuse that  
5 resulted in the criminal activity, circumstances at the time of the  
6 offense such as provocation, stress or emotional problems that,  
7 while not excusing the crime, may offer an explanation, mental or  
8 physical illness and genuine remorse.

9        SECTION 2. This act shall become effective April 1, 2020.

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