

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 806

6 By: Weaver

7 COMMITTEE SUBSTITUTE

8 An Act relating to crime and punishment; creating the
9 Oklahoma Citizens' Protection Act; providing short
10 title; amending 21 O.S. 2011, Section 649, as last
11 amended by Section 1, Chapter 117, O.S.L. 2015 (21
12 O.S. Supp. 2020, Section 649), which relates to
13 assault and battery upon police officer; modifying
14 penalty; modifying inclusions; amending 21 O.S. 2011,
15 Sections 1312, 1315, 1316, 1317, 1320.4, 1320.5,
16 1362, 1754 and 1760, which relate to punishment for
17 riot and punishment for rout or unlawful assembly,
18 warning to disperse, presence after unlawful purpose
19 becomes known, penalty for riot or incitement to
20 riot, penalty for unlawful assembly, disturbance by
21 loud or unusual noise or abusive, violent, obscene,
22 profane or threatening language, punishment for
23 obstructing highways and malicious injury or
24 destruction of property; clarifying language;
removing certain qualifying element of offense;
modifying penalty; prohibiting certain blockage or
restriction; modifying penalty; providing for
noncodification; and providing an effective date.

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

22 SECTION 1. NEW LAW A new section of law not to be
23 codified in the Oklahoma Statutes reads as follows:
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1 This act shall be known and may be cited as the "Oklahoma
2 Citizens' Protection Act".

3 SECTION 2. AMENDATORY 21 O.S. 2011, Section 649, as last
4 amended by Section 1, Chapter 117, O.S.L. 2015 (21 O.S. Supp. 2020,
5 Section 649), is amended to read as follows:

6 Section 649. A. Every person who, without justifiable or
7 excusable cause, knowingly commits any assault upon the person of a
8 police officer, sheriff, deputy sheriff, highway patrolman,
9 corrections personnel, or state peace officer employed or duly
10 appointed by any state governmental agency to enforce state laws
11 while the officer is in the performance of his or her duties is a
12 misdemeanor punishable by imprisonment in the county jail for a term
13 not ~~exceeding~~ less than six (6) months, ~~or~~ and not more than one (1)
14 year and by a fine not ~~exceeding~~ less than Five Hundred Dollars
15 (\$500.00), ~~or by both such fine and imprisonment~~ and not more than
16 One Thousand Dollars (\$1,000.00).

17 B. Every person who, without justifiable or excusable cause
18 knowingly commits battery or assault and battery upon the person of
19 a police officer, sheriff, deputy sheriff, highway patrolman,
20 corrections personnel, or other state peace officer employed or duly
21 appointed by any state governmental agency to enforce state laws
22 while the officer is in the performance of his or her duties, upon
23 conviction, shall be guilty of a felony punishable by imprisonment
24 in the custody of the Department of Corrections of not more than

1 five (5) years ~~or county jail for a period not to exceed one (1)~~
2 ~~year, or~~ and by a fine not exceeding less than Five Hundred Dollars
3 (\$500.00), ~~or by both such fine and imprisonment~~ and not more than
4 Two Thousand Dollars (\$2,000.00).

5 C. As used in this section and in Section 650 of this title,
6 "corrections personnel" means any person, employed or duly appointed
7 by the state or by a political subdivision, who has direct contact
8 with inmates of a jail or state correctional facility, and includes
9 but is not limited to, Department of Corrections personnel in job
10 classifications requiring direct contact with inmates, persons
11 providing vocational-technical training to inmates, education
12 personnel who have direct contact with inmates because of education
13 programs for inmates, and persons employed or duly appointed by
14 county or municipal jails to supervise inmates or to provide medical
15 treatment or meals to inmates of jails.

16 D. For the purposes of this section, assault and battery upon
17 law officers includes any willful and unlawful touching an officer
18 in a way that was harmful and any attempt to reach for or gain
19 control of the firearm of any police officer, sheriff, deputy
20 sheriff, highway patrol, corrections personnel as defined in Section
21 649 of this title, or any peace officer employed by any state or
22 federal governmental agency to enforce state laws.

23 E. For purposes of this section, if an officer is off duty and
24 the nature of the assault or assault and battery relates back to, or

1 in any manner or circumstances has to do with, his or her official
2 position as a law enforcement officer then it shall fall within the
3 meaning of "in the performance of his or her duties" as an officer.

4 F. This section shall not supersede any other act or acts, but
5 shall be cumulative thereto.

6 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1312, is
7 amended to read as follows:

8 Section 1312. Every person guilty of participating in any riot
9 is punishable as follows:

10 1. If any murder, maiming, robbery, rape or arson was committed
11 in the course of such riot, such person is punishable in the same
12 manner as a principal in such crime;

13 2. If the purpose of the riotous assembly was to resist the
14 execution of any statute of this state or of the United States, or
15 to obstruct any public officer of this state or of the United
16 States, in the performance of any legal duty, or in serving or
17 executing any legal process, such person shall be guilty of a felony
18 punishable by imprisonment in the ~~State Penitentiary~~ custody of the
19 Department of Corrections for a term not exceeding more than ten
20 (10) years and not less than two (2) years;

21 3. If such person carried at the time of such riot any species
22 of firearms, or other deadly or dangerous weapon, or was disguised,
23 such person shall be guilty of a felony punishable by imprisonment
24 in the ~~State Penitentiary~~ custody of the Department of Corrections

1 for a term not ~~exceeding~~ more than ten (10) years and not less than
2 two (2) years;

3 4. If such person directed, advised, encouraged or solicited
4 other persons, who participated in the riot to acts of force or
5 violence, such person shall be guilty of a felony punishable by
6 imprisonment in the ~~State Penitentiary~~ custody of the Department of
7 Corrections for a term not ~~exceeding~~ more than twenty (20) years and
8 not less than two (2) years;

9 5. In all other cases such person is ~~punishable as for~~ guilty
10 of a misdemeanor punishable by imprisonment in the county jail for a
11 term not more than one (1) year or by a fine of not less than Five
12 Hundred Dollars (\$500.00) and not more than One Thousand Dollars
13 (\$1,000.00), or by such fine and imprisonment and by at least forty
14 (40) hours of community service work to be determined by the court;

15 6. In addition to any sentence imposed for a violation of this
16 section, the court shall include an order of restitution for any
17 property damage or loss incurred as a result of the offense.

18 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1315, is
19 amended to read as follows:

20 Section 1315. Every person who participates in any rout or
21 unlawful assembly is guilty of a misdemeanor punishable by
22 imprisonment in the county jail for a term not more than one (1)
23 year or by a fine of not less than Five Hundred Dollars (\$500.00)
24 and not more than One Thousand Dollars (\$1,000.00), or by such fine

1 and imprisonment and by at least forty (40) hours of community
2 service work to be determined by the court. In addition to any
3 sentence imposed for a violation of this section, the court shall
4 include an order of restitution for any property damage or loss
5 incurred as a result of the offense.

6 SECTION 5. AMENDATORY 21 O.S. 2011, Section 1316, is
7 amended to read as follows:

8 Section 1316. Every person remaining present at the place of
9 any riot, rout or unlawful assembly after the same has been lawfully
10 warned to disperse, except public officers and persons assisting
11 them in attempting to disperse the same, is guilty of a misdemeanor
12 punishable by imprisonment in the county jail for a term not more
13 than one (1) year or by a fine of not less than Five Hundred Dollars
14 (\$500.00) and not more than One Thousand Dollars (\$1,000.00), or by
15 such fine and imprisonment and by at least forty (40) hours of
16 community service work to be determined by the court. In addition
17 to any sentence imposed for a violation of this section, the court
18 shall include an order of restitution for any property damage or
19 loss incurred as a result of the offense.

20 SECTION 6. AMENDATORY 21 O.S. 2011, Section 1317, is
21 amended to read as follows:

22 Section 1317. Where three or more persons assemble for a lawful
23 purpose and afterwards proceed to commit an act that would amount to
24 riot if it had been the original purpose of the meeting, every

1 person who does not retire when the change of purpose is made known,
2 except public officers and persons assisting them in attempting to
3 disperse the same, is guilty of a misdemeanor punishable by
4 imprisonment in the county jail for a term not more than one (1)
5 year or by a fine of not less than Five Hundred Dollars (\$500.00)
6 and not less than One Thousand Dollars (\$1,000.00), or by such fine
7 and imprisonment and by at least forty (40) hours of community
8 service work to be determined by the court. In addition to any
9 sentence imposed for a violation of this section, the court shall
10 include an order of restitution for any property damage or loss
11 incurred as a result of the offense.

12 SECTION 7. AMENDATORY 21 O.S. 2011, Section 1320.4, is
13 amended to read as follows:

14 Section 1320.4. Any person guilty of the crime, as set forth in
15 Section 1320.2 of this title, shall be deemed guilty of a felony,
16 punishable by imprisonment in the custody of the Department of
17 Corrections for a term not more than ten (10) years in prison, or a
18 fine of not more than Ten Thousand Dollars (\$10,000.00), or both
19 such fine and imprisonment.

20 SECTION 8. AMENDATORY 21 O.S. 2011, Section 1320.5, is
21 amended to read as follows:

22 Section 1320.5. Any person guilty of the crime, as set forth in
23 Section 1320.3 of this title, shall be deemed guilty of a felony,
24 punishable by imprisonment in the custody of the Department of

1 Corrections for a term not more than five (5) years in prison, or a
2 fine of not more than Five Thousand Dollars (\$5,000.00), or both
3 such fine and imprisonment.

4 SECTION 9. AMENDATORY 21 O.S. 2011, Section 1362, is
5 amended to read as follows:

6 Section 1362. If any person shall willfully or maliciously
7 disturb, either by day or night, the peace and quiet of any city of
8 the first class, town, village, neighborhood, family or person by
9 loud or unusual noise, or by abusive, violent, obscene or profane
10 language, whether addressed to the party so disturbed or some other
11 person, or by threatening behavior or conduct toward others with the
12 intent to intimidate or harass, as defined in Section 1173 of this
13 title, or by threatening to kill, do bodily harm or injury, destroy
14 property, fight, or by quarreling or challenging to fight, or
15 fighting, or shooting off any firearms, or brandishing the same, or
16 by running any horse at unusual speed along any street, alley,
17 highway or public road, he any firearms, upon conviction shall be
18 deemed guilty of a misdemeanor, and, on conviction thereof, shall be
19 fined in any sum not to exceed One Hundred Dollars (\$100.00), or
20 punishable by imprisonment in the county jail for a term not to
21 exceed more than thirty (30) days, or a fine of not less than Five
22 Hundred Dollars (\$500.00) and not more than One Thousand Dollars
23 (\$1,000.00) or by both such fine and imprisonment, at the discretion
24 of the court or jury trying the same.

1 SECTION 10. AMENDATORY 21 O.S. 2011, Section 1754, is
2 amended to read as follows:

3 Section 1754. A. Every person who shall knowingly and
4 willfully ~~obstruct:~~

5 1. Obstruct or plow up, or cause to be obstructed or plowed up,
6 any public highway or public street of any town, except by order of
7 the road supervisors for the purpose of working the same, ~~or injure;~~

8 2. Injure or damage any bridge on the public highway, ~~r;~~ or

9 3. Block or restrict traffic on any public highway or public
10 street as a result of a riot, as provided in Section 1311 of this
11 title or unlawful assembly, as provided in Section 1314 of this
12 title, upon conviction shall be ~~deemed~~ guilty of a misdemeanor, and
13 upon conviction shall be punished by fine not exceeding One Hundred
14 Dollars (\$100.00), and shall be liable for all damages to person or
15 property by reason of the same punishable by imprisonment in the
16 county jail for a term not more than one (1) year or by a fine not
17 more than Five Hundred Dollars (\$500.00), or by such fine and
18 imprisonment and by at least forty (40) hours of community service
19 work to be determined by the court. In addition to any sentence
20 imposed for a violation of this section, the court shall include an
21 order of restitution for any property damage or loss incurred as a
22 result of the offense.

23 SECTION 11. AMENDATORY 21 O.S. 2011, Section 1760, is
24 amended to read as follows:

1 Section 1760. A. Every person who maliciously injures, defaces
2 or destroys any real or personal property not his or her own, in
3 cases other than such as are specified in Section 1761 et seq. of
4 this title, is guilty of:

5 1. A misdemeanor, if the damage, defacement or destruction
6 causes a loss which has an aggregate value of less than One Thousand
7 Dollars (\$1,000.00) punishable by imprisonment in the county jail
8 for a term not more than one (1) year or by a fine of not less than
9 Five Hundred Dollars (\$500.00) and not more than One Thousand
10 Dollars (\$1,000.00), or by such fine and imprisonment and by at
11 least forty (40) hours of community service work to be determined by
12 the court;

13 2. A felony, if the damage, defacement or destruction causes a
14 loss which has an aggregate value of One Thousand Dollars
15 (\$1,000.00) or more, punishable by imprisonment in the custody of
16 the Department of Corrections for a term not less than two (2) years
17 and not more than five (5) years or by a fine of not less than One
18 Thousand Dollars (\$1,000.00), or by such fine and imprisonment; or

19 3. A felony, if the defendant has two or more prior convictions
20 for an offense under this section, notwithstanding the value of loss
21 caused by the damage, defacement or destruction, punishable by
22 imprisonment in the custody of the Department of Corrections for a
23 term not less than five (5) years and not more than ten (10) years
24

1 or by a fine of not less than Two Thousand Dollars (\$2,000.00), or
2 by such fine and imprisonment.

3 B. In addition to the punishment prescribed by law for
4 violations of subsection A of this section, the court shall include
5 an order of restitution for any property damage or loss incurred as
6 a result of the offense.

7 C. In addition to any other punishment prescribed by law for
8 violations of subsection A of this section, he or she is liable in
9 treble damages for the injury done, to be recovered in a civil
10 action by the owner of such property or public officer having charge
11 thereof.

12 SECTION 12. This act shall become effective November 1, 2021.

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