

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2218

By: May

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 926.1, which relates to
9 punishments assessed and declared by juries;
10 directing judge to provide certain instructions to
11 jury; allowing defendant to determine who will assess
12 punishment; establishing sentencing procedures for
13 courts and juries when assessing punishment;
14 repealing 22 O.S. 2011, Section 860.1, which relates
15 to trial procedures for person prosecuted for second
16 and subsequent offense; and providing an effective
17 date.

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

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

21 Section 926.1 A. In all cases of a verdict of conviction for
22 any offense against any of the laws of the State of Oklahoma, the
23 jury may, and shall upon the request of the defendant assess and
24 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 defendant may elect to have the judge or jury assess punishment
11 within the limitations fixed by law including sentencing
12 alternatives available to the court or jury pursuant to the
13 provisions of Section 991a, 991a-3 or 991c of this title as
14 applicable to the case.

15 C. If the defendant elects to be sentenced by the judge, the
16 court shall order a presentence investigation and report, unless
17 waived by the defendant, and shall set a date for sentencing of the
18 defendant. The court shall receive aggravating and mitigating
19 evidence and argument on punishment unless waived by the state and
20 the defendant prior to pronouncing the sentence. The court shall
21 assess punishment within the limitations fixed by law including
22 sentencing alternatives available to the court pursuant to the
23 provisions of Section 991a, 991a-3 or 991c of this title as
24 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.

16 57-1-7113 GRS 01/02/19

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