

1 ENGROSSED HOUSE  
2 BILL NO. 2310

By: Frix of the House

3 and

4 Bice of the Senate

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6  
7 [ criminal procedure - punishments assessed and  
8 declared by juries - allowing judge or jury to  
9 assess punishment under certain circumstances -  
10 effective date ]

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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.

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

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

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

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

22 D. If the jury assesses punishment, aggravating and mitigating  
23 evidence, including evidence of second and subsequent offenses, and  
24 argument on punishment shall be received by the jury unless waived

1 by the state and the defendant. The court shall instruct the jury  
2 on the law relating to punishment for the offense. Additionally,  
3 the court shall instruct the jury on the law relating to second and  
4 subsequent offenses and sentencing alternatives available to the  
5 jury pursuant to the provisions of Section 991a, 991a-3 or 991c of  
6 this title as applicable to the case. The jury may assess and  
7 declare in its punishment any such sentencing alternatives available  
8 to the court.

9 SECTION 2. REPEALER 22 O.S. 2011, Section 860.1, is  
10 hereby repealed.

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

12 Passed the House of Representatives the 6th day of March, 2019.

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Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2019.

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Presiding Officer of the Senate

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