

1 **SENATE FLOOR VERSION**

2 April 9, 2019

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2310

6 By: Frix of the House

7 and

8 Bice of the Senate

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

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

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

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

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

24 1. At the conclusion of the evidence, the judge shall instruct
the jury on the offense charged. The jury shall be further

1 instructed to determine only the guilt or innocence of the defendant
2 on the offense charged and that punishment shall not be determined
3 by the jury at this time; and

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

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

20 D. If the jury assesses punishment, aggravating and mitigating
21 evidence, including evidence of second and subsequent offenses, and
22 argument on punishment shall be received by the jury unless waived
23 by the state and the defendant. The court shall instruct the jury
24 on the law relating to punishment for the offense. Additionally,

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

7 SECTION 2. REPEALER 22 O.S. 2011, Section 860.1, is
8 hereby repealed.

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

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
11 April 9, 2019 - DO PASS AS AMENDED
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