

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2361

By: Burns

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5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Sections 1181, 1181.2, 1182, 1192, 1194,
9 1195 and 1196, which relate to removal of officers;
10 adding causes for removal; modifying removal
11 procedure; modifying type of accusation presented to
12 grand jury; directing district attorney to
13 investigate and institute certain proceedings upon
14 certain notification; authorizing fine upon certain
15 conviction; modifying accusation presented by certain
16 county officials; modifying complaint contents;
17 authorizing certain county officer to voluntarily
18 suspend himself or herself from office under certain
19 circumstances; authorizing judgment to include fine;
20 and providing an effective date.

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

22 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1181, is
23 amended to read as follows:

24 Section 1181. Any officer not subject to impeachment elected or
appointed to any state, county, township, city, town, or other
office under the laws of the state may, in the manner provided in
this article, be removed from office for any of the following
causes:

First. Habitual or willful neglect of duty.

1 Second. Gross partiality in office.

2 Third. Oppression in office.

3 Fourth. Corruption in office.

4 Fifth. Extortion or willful overcharge of fees in office.

5 Sixth. Willful maladministration.

6 Seventh. Habitual drunkenness.

7 Eighth. Failure to produce and account for all public funds and
8 property in his or her hands, at any settlement or inspection
9 authorized or required by law.

10 Ninth. Habitual absence from minimum required training events.

11 Tenth. Dereliction of duty.

12 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1181.2, is
13 amended to read as follows:

14 Section 1181.2 The complaint, petition, accusation or
15 proceeding for removal or ouster from office in accordance with
16 procedures' set forth in Section 18 of Article 11 of the Oklahoma
17 Constitution, Section 101 of Title 38 of the Oklahoma Statutes, or
18 Section 94 of Title 51 of the Oklahoma Statutes, may include
19 allegations or charges of any act or acts of commission, omission or
20 neglect which may be committed, done or omitted during the term of
21 office in which such ~~ouster or removal~~ proceeding may be filed, and
22 may also include allegations or charges as to any act or acts of
23 commission, omission or neglect committed, done or omitted during a
24 previous or preceding term in such office.

1 SECTION 3. AMENDATORY 22 O.S. 2011, Section 1182, is
2 amended to read as follows:

3 Section 1182. A. An accusation in writing, charging such
4 officer with any of the causes for removal ~~mentioned in the first~~
5 ~~preceding section~~ or fine as provided in Section 1181 of this title
6 may be presented by the grand jury to the district court of the
7 county in or for which the officer is elected or appointed;
8 ~~Provided;~~ provided, that in the case of a state officer, such
9 accusation may be presented by the grand jury of the county in which
10 such officer resides, or in which he or she has his or her place of
11 office for the usual transaction of official business.

12 B. It shall be the duty of the district attorney, upon notice
13 in writing and verified by fifty-one percent (51%) of the registered
14 voters that voted in the previous election for the political
15 subdivision of which the officer who is the subject of the complaint
16 is an official, before some officer authorized to administer oaths,
17 that any officer herein mentioned has been guilty of any of the
18 acts, omissions or offenses as set out in Section 1181 of this
19 title, to investigate such complaint, and if on such investigation
20 the district attorney shall find that there is reasonable cause for
21 such complaint, the district attorney shall institute proceedings in
22 the district court of the county of the residence of the accused to
23 fine or remove such officer from office.

1 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1192, is
2 amended to read as follows:

3 Section 1192. Upon a conviction, the court ~~must~~ shall pronounce
4 judgment, that the defendant be removed from office or be fined.
5 But to warrant a removal or fine, the judgment must be entered upon
6 the minutes, assigning therein the causes of removal or fine.

7 SECTION 5. AMENDATORY 22 O.S. 2011, Section 1194, is
8 amended to read as follows:

9 Section 1194. The board of county commissioners may, in the
10 case of any county or township officer, present such accusation and
11 bring an action in the name of the county for the removal or fine of
12 such officer, and the district court shall have exclusive
13 jurisdiction thereof; but if any county commissioner is the party
14 charged, then the judge of the district court and county treasurer
15 shall present such accusation and bring the action. The
16 proceedings, in actions brought under the provisions of this
17 section, shall, except as provided in ~~the two next succeeding~~
18 ~~sections~~ Sections 1195 and 1196 of this title, be as is provided in
19 ~~the preceding sections of this article~~ Sections 1181 through 1193 of
20 this title.

21 SECTION 6. AMENDATORY 22 O.S. 2011, Section 1195, is
22 amended to read as follows:

23 Section 1195. ~~(1)~~ A. When the complaint for removal or fine is
24 filed, if, in addition to the matter charged as ground for removal

1 or fine, the complaint shall also pray that the officer charged be
2 suspended from office pending the investigation, the judge of the
3 court may, if sufficient cause appear from the charge or from the
4 testimony, or affidavits then presented, order the suspension of the
5 accused from the functions of his or her office until the
6 determination of the matter. If the order of suspension be made and
7 the court be then in session, the accused shall be entitled to a
8 trial within ten (10) days, if he or she demands it. If the court
9 be not in session, then the accused shall be entitled to a trial on
10 the first day of the next term. The accused shall have the right to
11 change of judge, or to a change of venue, on application to the
12 court, or to the judge if the court be not in session, on making the
13 showing required to change the venue in a criminal case, and if the
14 application be allowed the matter shall be sent for trial to the
15 nearest adjoining county, and in which the objections stated as
16 ground of change do not exist, and trial shall be there had at the
17 earliest possible date. But one such change shall be allowed. The
18 accused shall be entitled to continuance, as in other cases. If the
19 accused be not suspended from his or her office, then the
20 complainant may have a continuance, as in other criminal cases. If
21 a suspension ~~take~~ takes place, the board of county commissioners may
22 temporarily fill the office by appointment, but if the officer
23 suspended ~~be~~ is a county commissioner, then the vacancy shall be
24 filled by temporary appointment made by the Governor.

1 ~~(2)~~ B. A county officer, other than a county commissioner,
2 against whom a complaint for removal or fine has been filed, may
3 voluntarily suspend himself or herself from office by filing an
4 election of suspension at any time after such complaint has been
5 filed with the board of county commissioners, which board shall
6 temporarily fill the office by appointment. If the officer ~~be~~ is a
7 county commissioner, then such filing shall be made with the
8 Governor of the State of Oklahoma, who shall temporarily fill the
9 office by appointment. If upon trial such officer is found guilty,
10 such temporary appointment shall remain in effect until a successor
11 is duly qualified as provided by law, but if such officer is
12 acquitted, such temporary appointment shall expire at that time, and
13 the person so acquitted shall immediately resume his or her office.

14 SECTION 7. AMENDATORY 22 O.S. 2011, Section 1196, is
15 amended to read as follows:

16 Section 1196. The question of fact shall be tried as in other
17 actions, and if the accused is found guilty, the judgment shall be
18 entered either fining the officer or removing the officer from his
19 or her office and declaring the ~~latter~~ office vacant, or as provided
20 for in the code of criminal procedure, and a copy thereof shall be
21 certified to the board of county commissioners, and the county clerk
22 shall enter the same upon the proper record.

23 SECTION 8. This act shall become effective November 1, 2021.
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1 58-1-5980 AMM 12/30/20

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