

1 ENGROSSED HOUSE  
2 BILL NO. 3562

By: Lepak of the House

3 and

4 Daniels of the Senate

5  
6  
7 [ courts - Court of Civil Appeals - modifying  
8 authority of the Oklahoma Court of Civil Appeals -  
9 requiring establishment of a Court Calendar and  
10 specifying items to be included on the Court  
11 Calendar - effective date ]  
12  
13

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

15 SECTION 1. AMENDATORY 20 O.S. 2011, Section 30.1, is  
16 amended to read as follows:

17 Section 30.1 A. There is hereby established an intermediate  
18 appellate court to be known as the Oklahoma Court of Civil Appeals  
19 ~~of the State of Oklahoma~~ which shall have the power to determine or  
20 otherwise dispose of any civil cases that are assigned to it by the  
21 Supreme Court. Its decisions, when final, shall ~~neither~~ not be  
22 appealable to the Supreme Court ~~nor be subject to reexamination by~~  
23 ~~another division of the Court of Civil Appeals or by the Judges of~~  
24

1 ~~that Court sitting en banc~~ except upon certiorari as provided in  
2 subsection B of this section.

3 B. The Oklahoma Court of Civil Appeals shall have jurisdiction  
4 to issue writs of habeas corpus, mandamus, quo warranto, certiorari,  
5 prohibition, or any other process when this may be necessary in any  
6 case assigned to it by properly before the Supreme Court. A  
7 decision of the Oklahoma Court of Civil Appeals may be reviewed by  
8 the Supreme Court if a majority of its Justices direct that a writ  
9 of certiorari be granted, and the. The Supreme Court may, by order,  
10 shall not recall a case from assigned to the Oklahoma Court of Civil  
11 Appeals.

12 C. Beginning January 1, 2021, and continuing thereafter, the  
13 Supreme Court shall assign every appeal of a district court  
14 decision, except for criminal cases appealed to the Court of  
15 Criminal Appeals as provided by law, to the Oklahoma Court of Civil  
16 Appeals. The Supreme Court shall not retain any appeal of a  
17 district court decision, and shall not have discretion in making  
18 assignments of appeals to the Oklahoma Court of Civil Appeals.  
19 Nothing contained in this section shall be construed to alter the  
20 original jurisdiction of the Supreme Court.

21 D. Upon assignment of an appeal to the Oklahoma Court of Civil  
22 Appeals, the case shall be heard by a three-Judge panel of the  
23 Oklahoma Court of Civil Appeals as provided by law.

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1 SECTION 2. AMENDATORY 20 O.S. 2011, Section 30.2, is  
2 amended to read as follows:

3 Section 30.2 A. The Oklahoma Court of Civil Appeals shall  
4 ~~upon the members being elected and qualified,~~ consist of four two  
5 permanent divisions. Two divisions which shall be known as the  
6 Oklahoma Court of Civil Appeals, Eastern Division and the Oklahoma  
7 Court of Civil Appeals, Western Division. The location and  
8 jurisdiction of each division shall be as follows:

9 1. The Eastern Division shall sit in Tulsa County and two  
10 divisions shall be assigned appeals of decisions of the district  
11 courts of the following counties: Adair, Atoka, Bryan, Carter,  
12 Cherokee, Choctaw, Coal, Craig, Creek, Delaware, Haskell, Hughes,  
13 Johnston, Latimer, LeFlore, Love, Marshall, Mayes, McCurtain,  
14 McIntosh, Murray, Muskogee, Nowata, Okfuskee, Okmulgee, Osage,  
15 Ottawa, Pawnee, Pittsburg, Pontotoc, Pushmataha, Rogers, Seminole,  
16 Sequoyah, Tulsa, Wagoner, and Washington; and

17 2. The Western Division shall sit in Oklahoma County and shall  
18 be assigned appeals of decisions of the district courts of the  
19 following counties: Alfalfa, Beaver, Beckham, Blaine, Caddo,  
20 Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey,  
21 Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper,  
22 Jackson, Jefferson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major,  
23 McClain, Noble, Oklahoma, Payne, Pottawatomie, Roger Mills,  
24 Stephens, Texas, Tillman, Washita, Woods, and Woodward.

1        B. Each division shall consist of ~~three~~ nine Judges, ~~at~~ and

2 shall hear appeals in randomly assigned and rotating three-Judge

3 panels. At least two ~~of whom~~ Judges sitting on a panel shall concur

4 in any decision, and ~~each~~ the division may sit en banc to review the

5 decision of any panel. Petitions for en banc review shall be

6 granted upon the concurrence of a majority of the Judges of the

7 division then in office. The filing of a petition for en banc

8 review shall toll the time period for requesting certiorari from the

9 Supreme Court.

10        C. All Judges of the Court of Civil Appeals serving on January

11 1, 2021, shall serve the remainder of their terms. Beginning

12 January 1, 2021, the Oklahoma Court of Civil Appeals shall be

13 constituted as follows:

14        1. The Judges of Divisions 1 and 2 shall become Judges of the

15 Western Division;

16        2. The Judges of Divisions 3 and 4 shall become Judges of the

17 Eastern Division; and

18        3. Additional Judges shall be appointed as necessary to fill

19 the remaining seats in each division.

20        D. Each division shall ~~select~~ elect a ~~presiding~~ Presiding Judge

21 who shall be responsible for administrative matters of the division

22 with the advice of the Judges of the division and shall act in that

23 capacity without additional compensation. ~~The assignment of Judges~~

24

1 ~~to the divisions shall be effected by the Supreme Court. Judges may~~  
2 ~~be transferred from one division to another.~~

3 SECTION 3. AMENDATORY 20 O.S. 2011, Section 30.4, is  
4 amended to read as follows:

5 Section 30.4 A. ~~The Supreme Oklahoma Court of Civil Appeals~~  
6 ~~shall, by rule, prescribe the promulgate rules of procedure and~~  
7 ~~practice in the Court of Civil Appeals, the procedure in bringing~~  
8 ~~writs of certiorari to the Court of Civil Appeals, and the scope of~~  
9 ~~review to be afforded on certiorari to that Court. Subject to law~~  
10 ~~and the rules of the Supreme Court, the to the extent permitted by~~  
11 law.

12 B. The Oklahoma Court of Civil Appeals may promulgate its own  
13 rules shall afford each party to a case the opportunity to timely  
14 submit a written merits brief and to present oral argument to the  
15 Court, unless one or both are waived by all parties to the appeal.

16 C. The Oklahoma Court of Civil Appeals shall establish a Court  
17 Calendar that includes any information that would assist litigants  
18 or increase transparency to the public, as determined by the Court  
19 in its rules. At a minimum, the Court Calendar shall include dates  
20 and times of oral argument and dates of conferences of the Court.  
21 The Court Calendar shall note the cases scheduled for oral argument  
22 and the matters to be discussed in conference. The Court Calendar  
23 shall be prominently featured on the Court's website and shall be  
24 publicly accessible without charge.

1        ~~B.~~ D. There shall be deposited with the Clerk of the Supreme  
2 Court as costs for the filing of a petition for certiorari to the  
3 Supreme Court One Hundred Dollars (\$100.00) of which no rebate or  
4 refund of any part thereof may be made; provided, the Supreme Court,  
5 by rule, may prescribe the procedure for affording access to the  
6 Supreme Court, on certiorari and without deposit of costs, to those  
7 indigent persons who are deemed by it entitled thereto.

8        SECTION 4.        AMENDATORY        20 O.S. 2011, Section 30.5, is  
9 amended to read as follows:

10        Section 30.5 The Oklahoma Court of Civil Appeals shall effect  
11 disposition of cases ~~assigned to~~ before it by a written opinion  
12 prepared in such form as the Supreme Court prescribes. ~~No opinion~~  
13 ~~of the~~ The Oklahoma Court of Civil Appeals shall ~~be binding or cited~~  
14 ~~as precedent unless it shall have been approved by the majority of~~  
15 ~~the justices of the Supreme Court for publication in the official~~  
16 ~~reporter. The Supreme Court shall direct which opinion or decision,~~  
17 ~~if any, of the Court of Civil Appeals shall be published in the~~  
18 ~~unofficial reporter. Opinions of the Court of Civil Appeals which~~  
19 ~~apply settled precedent and do not settle new questions of law shall~~  
20 ~~not be released for publication in the official reporter~~ establish  
21 rules and procedures governing the publishing of opinions in  
22 official and unofficial reporters, consistent with the procedures of  
23 the Supreme Court for its publication determinations.

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1 SECTION 5. AMENDATORY 20 O.S. 2011, Section 30.7, is  
2 amended to read as follows:

3 Section 30.7 ~~The Oklahoma County divisions of the Court of~~  
4 ~~Appeals shall be quartered in Oklahoma City.~~ Suitable quarters and  
5 maintenance for the ~~Tulsa division~~ divisions of the Oklahoma Court  
6 of Civil Appeals shall be provided for by the State of Oklahoma,  
7 under the supervision of the Administrative Director of the Courts.  
8 Proceedings of the Oklahoma Court of Civil Appeals shall be open to  
9 the public unless sealed by law.

10 SECTION 6. AMENDATORY 20 O.S. 2011, Section 30.15, is  
11 amended to read as follows:

12 Section 30.15 ~~Two Judges shall be appointed or elected to the~~  
13 ~~Court of Civil Appeals from each of the six congressional districts~~  
14 ~~of the State of Oklahoma.~~

15 A. Each Judge of the Oklahoma Court of Civil Appeals shall  
16 have, prior to election or appointment, a minimum of four (4) years'  
17 experience as a licensed practicing attorney, or as a judge of a  
18 court of record, or both, within the State of Oklahoma; shall be a  
19 qualified elector of the ~~respective district~~ State of Oklahoma; and  
20 shall have such additional qualifications as may be prescribed by  
21 statute. Judges of the Oklahoma Court of Civil Appeals ~~shall~~ may  
22 continue to be licensed attorneys while in office.

23 B. The terms of office of the Judges of the Oklahoma Court of  
24 Civil Appeals shall be six (6) years and shall begin on the second

1 Monday of January following their election. Those appointed ~~or~~  
2 ~~elected~~ to fill vacancies shall assume office immediately upon  
3 qualifying for the office.

4 C. Beginning January 1, 2021, no Judge of the Oklahoma Court of  
5 Civil Appeals shall serve more than three (3) terms. Any Judge  
6 -serving on the Oklahoma Court of Civil Appeals on January 1, 2021,  
7 shall be eligible to finish the remainder of his or her term and no  
8 more than two terms thereafter. This subsection shall not be  
9 construed to limit judicial service on other courts after a Judge  
10 has completed service on the Oklahoma Court of Civil Appeals.

11 SECTION 7. AMENDATORY 20 O.S. 2011, Section 30.16, is  
12 amended to read as follows:

13 Section 30.16 At the General Election next before a term  
14 expires, any Judge of the Oklahoma Court of Civil Appeals may seek  
15 retention in office by filing with the Secretary of State, not less  
16 than sixty (60) days before the date of the election, a declaration  
17 of candidacy to succeed himself or herself. At the election, there  
18 shall be submitted to the qualified electors of the state, on a  
19 separate ballot, without party designation, this question:

20 "Shall (Here insert name of Judge) of the Oklahoma Court of  
21 Civil Appeals be retained in Office?"

22  YES

23  NO

24



1 The question shall be decided by a majority of those voting thereon.  
2 If the decision is "yes" the Judge shall be retained in office for  
3 the next ensuing six-year term. If the decision is "no", or if no  
4 declaration of candidacy is filed, the office shall be vacant upon  
5 expiration of the term then being served, and the former Judge shall  
6 not be eligible for appointment to succeed himself or herself.  
7 Retention in office may be sought for successive terms ~~without limit~~  
8 ~~as to number, except for retirement as may be provided by the~~  
9 ~~Legislature for a maximum retirement age, subject to the term~~  
10 limitations contained in Section 30.15 of this title.

11 SECTION 8. REPEALER 20 O.S. 2011, Sections 30.11, 30.14,  
12 30.18 and 30.19, are hereby repealed.

13 SECTION 9. This act shall become effective January 1, 2021.

14 Passed the House of Representatives the 9th day of March, 2020.

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\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2020.

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Presiding Officer of the Senate

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