1	HOUSE OF REPRESENTATIVES - FLOOR VERSION												
2	STATE OF OKLAHOMA												
3	1st Session of the 58th Legislature (2021)												
4	ENGROSSED SENATE												
5	BILL NO. 25 By: Daniels and Boren of the Senate												
6	and												
7	Kannady of the House												
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9													
10	An Act relating to sentencing proceedings; amending												
11	22 O.S. 2011, Section 929, which relates to new sentencing proceedings; modifying eligibility requirements for jury resentencing; authorizing waiver of certain resentencing; requiring reinstatement of sentence upon certain waiver; prohibiting appeal of reinstated sentence; authorizing certain testimony; deleting retroactive applicability of certain provisions; updating												
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15	statutory references; and providing an effective date.												
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18	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:												
19	SECTION 1. AMENDATORY 22 O.S. 2011, Section 929, is												
20	amended to read as follows:												
21	Section 929. A. Upon any appeal of a conviction by the												
22	defendant in a noncapital criminal case, the appellate court, if it												
23	finds prejudicial error in the sentencing proceeding only, may set												
24	aside the sentence rendered and remand the case to the trial court												

- in the jurisdiction in which the defendant was originally sentenced for resentencing. No error in the sentencing proceeding shall result in the reversal of the conviction in a criminal case unless the error directly affected the determination of guilt.
 - B. When a criminal case is remanded for vacation of a sentence, the court may shall:
 - 1. Set the case for a nonjury sentencing proceeding; or
 - 2. If the defendant or the prosecutor so requests in writing was originally sentenced by a jury, impanel a new sentencing jury unless jury resentencing is waived by the defendant and the prosecutor.
 - C. If a written request for a jury trial is filed within twenty

 (20) days of the date of the appellate court order, the trial court

 shall impanel a new jury for the purpose of conducting a new

 sentencing proceeding.
 - 1. The defendant may affirmatively waive resentencing before
 the appropriate trial court within ninety (90) days of the appellate
 court order remanding for resentencing; provided, however, the
 defendant may not waive resentencing after the commencement of the
 resentencing hearing or trial. The defendant may not waive
 resentencing on an appeal or petition for a writ of extraordinary
 relief sought by the prosecution or if the original sentence was
 unlawful. If the defendant affirmatively waives resentencing
 pursuant to this subsection, the original sentence shall be

reins	stated	by	the	tria	l c	ourt	. A	sente	nce	reir	nstated	pursuant	to
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this	subsec	ctio	n sh	nall :	not	be	appe	alable	bv	the	defenda	ant.	

- <u>D.</u> All exhibits and a transcript of all testimony and other evidence properly admitted in the prior trial and sentencing shall be admissible in the new sentencing proceeding. <u>The defendant may testify at his or her resentencing proceeding in accordance with the requirements of the Oklahoma Evidence Code. Additional relevant evidence may be admitted including testimony of witnesses who testified at the previous trial.</u>
- 2. The provisions of this section are procedural and shall apply retroactively to any defendant sentenced in this state.
- D. E. This section shall not be construed to amend or be in conflict with the provisions of Section 701.10 or 701.10a of Title 21 of the Oklahoma Statutes relating to sentencing and resentencing in death penalty cases; Section 438 860.1 of this act title relating to the trial procedure for defendants prosecuted for second or subsequent offense; or the provisions of Sections 439 926.1 and 440 927.1 of this act title relating to assessment of punishment in the original trial proceedings.
- 20 SECTION 2. This act shall become effective November 1, 2021.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated 03/31/2021 - DO PASS.