1	HOUSE OF REPRESENTATIVES - FLOOR VERSION
2	STATE OF OKLAHOMA
3	1st Session of the 59th Legislature (2023)
4	ENGROSSED SENATE BILL NO. 68 By: Daniels of the Senate
5	
6	and
7	Worthen of the House
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9	An Act relating to sentencing proceedings; amending 22 O.S. 2021, Section 929, which relates to new
10	sentencing proceedings; modifying eligibility requirements for jury resentencing; authorizing
11	waiver of certain resentencing; requiring reinstatement of sentence upon certain waiver;
12	prohibiting appeal of reinstated sentence; authorizing certain testimony; deleting retroactive
13	applicability of certain provisions; updating statutory references; and providing an effective
14	date.
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17	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
18	SECTION 1. AMENDATORY 22 O.S. 2021, Section 929, is
19	amended to read as follows:
20	Section 929. A. Upon any appeal of a conviction by the
21	defendant in a noncapital criminal case, the appellate court, if it
22	finds prejudicial error in the sentencing proceeding only, may set
23	aside the sentence rendered and remand the case to the trial court
24	in the jurisdiction in which the defendant was originally sentenced

1 for resentencing. No error in the sentencing proceeding shall result in the reversal of the conviction in a criminal case unless 2 the error directly affected the determination of quilt. 3 When a criminal case is remanded for vacation of a sentence, 4 Β. 5 the court may shall: Set the case for a nonjury sentencing proceeding; or 6 1. 2. If the defendant or the prosecutor so requests in writing 7 was originally sentenced by a jury, impanel a new sentencing jury 8 9 unless jury resentencing is waived by the defendant and the 10 prosecutor. C. If a written request for a jury trial is filed within twenty 11 12 (20) days of the date of the appellate court order, the trial court 13 shall impanel a new jury for the purpose of conducting a new sentencing proceeding. 14 1. The defendant may affirmatively waive resentencing before 15 the appropriate trial court within ninety (90) days of the appellate 16 court order remanding for resentencing; provided, however, the 17 defendant may not waive resentencing after the commencement of the 18 resentencing hearing or trial. The defendant may not waive 19 20 resentencing on an appeal or petition for a writ of extraordinary relief sought by the prosecution or if the original sentence was 21 unlawful. If the defendant affirmatively waives resentencing 22 pursuant to this subsection, the original sentence shall be 23

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1 reinstated by the trial court. A sentence reinstated pursuant to
2 this subsection shall not be appealable by the defendant.

<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</u>
<u>testify at his or her resentencing proceeding in accordance with the</u>
<u>requirements of the Oklahoma Evidence Code.</u> Additional relevant
evidence may be admitted including testimony of witnesses who
testified at the previous trial.

The provisions of this section are procedural and shall
 apply retroactively to any defendant sentenced in this state.

12 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 13 21 of the Oklahoma Statutes relating to sentencing and resentencing 14 in death penalty cases; Section 438 860.1 of this act title relating 15 to the trial procedure for defendants prosecuted for second or 16 subsequent offense; or the provisions of Sections 439 926.1 and 440 17 927.1 of this act title relating to assessment of punishment in the 18 original trial proceedings. 19

20 SECTION 2. This act shall become effective November 1, 2023. 21

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated 04/05/2023 - DO PASS.

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