

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 293

BY: FAIR

AS INTRODUCED

AN ACT RELATING TO CRIMINAL PROCEDURE; AMENDING 22

O.S. 1981, SECTION 860, WHICH RELATES TO SECOND OR
SUBSEQUENT OFFENSE; MODIFYING LANGUAGE; AND
DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 22 O.S. 1981, Section 860, is amended to read as follows:

Section 860. In all cases in which the defendant is prosecuted for a crime which is a second or subsequent offense, except in those cases in which former conviction is an element of the offense, the procedure shall be as follows:

(a) The trial shall proceed initially as though the offense charged was the first offense; when the indictment or information is read all reference to prior offenses shall be omitted; during the trial of the case no reference shall be made nor evidence received of prior offenses except as permitted by the rules of evidence; the judge shall instruct the jury only on the offense charged; the jury shall be further instructed to determine only the guilt or innocence

on the offense charged, and that punishment at this time shall not be determined by the jury.

(b) If the verdict be guilty of the offense charged, that portion of the indictment or information relating to prior offenses shall be read to the jury and evidence of prior offenses shall be received. The court shall then instruct the jury on the law relating to second and subsequent offenses, and the jury shall then retire to determine (1) the fact of former conviction, and (2) the punishment, as in other cases.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-1-736

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