

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 451

BY: EASLEY

AS INTRODUCED

AN ACT RELATING TO CRIMINAL PROCEDURE; AMENDING

SECTION 4, CHAPTER 261, O.S.L. 1990 (22 O.S. SUPP.

1990, SECTION 504.1), WHICH RELATES TO MOTION TO

QUASH FOR INSUFFICIENT EVIDENCE; MODIFYING

STATUTORY REFERENCE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY Section 4, Chapter 261, O.S.L. 1990 (22 O.S. Supp. 1990, Section 504.1), is amended to read as follows:

Section 504.1 A. In addition to a demurrer to the indictment or information, as provided in Section 504 of ~~Title 22 of the Oklahoma Statutes~~ this title, the defendant may file a motion to quash for insufficient evidence in felony cases after preliminary hearing. The defendant must establish beyond the face of the indictment or information that there is insufficient evidence to prove any one of the necessary elements of the offense for which the defendant is charged.

B. The motion to quash for insufficient evidence must be set for hearing on a day certain at the time it is made and notice shall be provided to all parties.

C. The indictment or information must be set aside by the court, in which the defendant is formally arraigned, if judgment for the defendant on a motion to quash for insufficient evidence beyond the face of the information is granted.

D. An order to set aside an indictment or information on judgment for the defendant on a motion to quash for insufficient evidence, as provided in this section, shall not be a bar to a further prosecution for the same offense. A denial of the motion to quash is not a final order from which a defendant may appeal.

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.

43-1-581

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