

ENGROSSED HOUSE
BILL NO. 1003

By: Beutler, Askins, Begley,
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and Wells

(crimes and punishments - amending 21 O.S., Sections 550
and 551 - common barratry - amending 16 O.S., Section 75
- repealing 21 O.S., Section 552 - effective date)

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 550, is
amended to read as follows:

Section 550. A. Common barratry is the practice of knowingly
exciting groundless judicial proceedings or using sham legal
process.

B. As used in this section:

1. "Sham legal process" means the issuance, display, delivery,
distribution or other use of an instrument that meets all of the
following conditions:

a. it is not lawfully issued,

b. it purports to do any of the following:

(1) to be a summons, subpoena, judgment, arrest
warrant, search warrant, or other order of a
court, a law enforcement officer, or a
legislative, executive, or administrative agency,

(2) to assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of any person or property, or

(3) to require or authorize the search, seizure, indictment, arrest, trial, or sentencing of any person or property, and

c. it is designed to make another person believe that it is lawfully issued; and

2. "Lawfully issued" means adopted, issued, or rendered in accordance with the United States Constitution, the constitution of a state, and the applicable statutes, rules, regulations, and ordinances of the United States, a state, or a political subdivision of a state.

C. A person acting as an attorney or agent for a party that issues, displays, delivers or otherwise uses sham legal process, shall not be guilty of a violation of this section if the attorney or agent believes the process to be lawfully issued.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 551, is amended to read as follows:

Section 551. Common barratry is a ~~misdemeanor~~ felony, punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment.

SECTION 3. AMENDATORY 16 O.S. 1991, Section 75, is amended to read as follows:

Section 75. A. To be effective and to be entitled to record the notice above referred to shall contain an accurate and full description of all land affected by such notice which description shall be set forth in particular terms and not by general inclusions; but if said claim is founded upon a recorded instrument, then the description in such notice may be the same as that

contained in such recorded instrument. Such notice shall be filed for record in the county clerk's office of the county or counties where the land described therein is situated. ~~The~~ Except as provided in subsection B of this section, the county clerk of each county shall accept all such notices presented to him which describe land located in the county in which he serves and shall enter, record and index the same in the same way that deeds are recorded and each county clerk shall be entitled to charge the same fees for the recording thereof as are charged for recording deeds. In indexing such notices in his office, each county clerk shall enter such notices in the index of deeds and in the numerical index. The names of the claimants appearing in such notices are to be entered as grantees in such indexes.

B. The county clerk may refuse to file any notice provided for in subsection A of this section, if the clerk has reasonable cause to believe that the instrument constitutes sham legal process, as defined by Section 550 of Title 21 of the Oklahoma Statutes, or if the clerk has reasonable cause to believe the notice is being presented for the purpose of slandering the title to land.

C. Any person aggrieved by the refusal of a county clerk to file any notice provided for in subsection A of this section may commence an action in district court to compel the clerk to record the notice. If the court determines that the notice is not sham legal process or for the purpose of slandering title, the court shall order the clerk to record the notice.

D. If a county clerk improperly refuses to file a notice provided for in subsection A of this section, the clerk shall be immune from liability for such action in any civil suit.

SECTION 4. REPEALER 21 O.S. 1991, Section 552, is hereby repealed.

SECTION 5. This act shall become effective November 1, 1997.

Passed the House of Representatives the 26th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate