

SHORT TITLE: Courts; modifying provisions of Uniform Certified Questions of Law Act; codification; recodification; repealer; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 227

By: Henry

AS INTRODUCED

An Act relating to courts; amending 20 O.S. 1991, Sections 1601, 1602, 1604, 1606, 1608, 1609, 1610, and 1611, which relate to the Uniform Certification of Questions of Law Act; modifying short title; defining terms; expanding power to answer certain questions from certain courts; authorizing reformulation of questions; requiring certification order; authorizing requirement of all or part of record; stating requirements for certification orders; requiring notice; requiring timely response; providing for fees and costs; requiring written opinions; authorizing certification of questions to certain courts under certain circumstances; providing for procedures established by rules of court; modifying requirement for uniformity of application and construction; repealing 20 O.S. 1991, Sections 1603, 1605, and 1607, which relate to certification of questions of law, preparation of certification orders, and court rules and procedures; providing for codification; providing for recodification; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 1991, Section 1601, is amended to read as follows:

Section 1601. Short Title. This act may be cited as the Revised Uniform Certification of Questions of Law Act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1601.1 of Title 20, unless there is created a duplication in numbering, reads as follows:

Definitions. As used in this act:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States; and

2. "Tribe" means a tribe, band, or village of native Americans which is recognized by federal law or formally acknowledged by a state.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 1602, is amended to read as follows:

Section 1602. Power to Answer. The Supreme Court and the Court of Criminal Appeals ~~respectively~~ may answer ~~questions~~ a question of law certified to it by ~~the Supreme Court~~ a court of the United States, ~~a Court of Appeals of the United States, a United States District Court, the United States Court of International Trade, the Judicial Panel on Multidistrict Litigation, the United States Claims Court, the United States Court of Military Appeals, the United States Tax Court,~~ or ~~the highest~~ by an appellate court ~~or the intermediate appellate court of any other~~ another state, or of a tribe, or of Canada, a Canadian province or territory, Mexico, or a Mexican state, ~~when requested by the certifying court if there are involved in any proceeding before it questions of law of this state which the answer may be determinative of the cause then~~ an issue in pending litigation in the certifying court and ~~as to which it~~

~~appears to the certifying court~~ there is no controlling ~~precedent in~~
~~the decisions~~ decision of the Supreme Court or Court of Criminal
Appeals, constitutional provision, or statute of this state.

SECTION 4. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1602.1 of Title 20, unless there
is created a duplication in numbering, reads as follows:

Power to Reformulate Question. The Supreme Court of this state
may reformulate a question of law certified to it.

SECTION 5. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1603.1 of Title 20, unless there
is created a duplication in numbering, reads as follows:

Certification Order - Record. The court certifying a question
of law to the Supreme Court or Court of Criminal Appeals of this
state shall issue a certification order and forward it to the
Supreme Court or Court of Criminal Appeals of this state. Before
responding to a certified question, the Supreme Court or Court of
Criminal Appeals of this state may require the certifying court to
deliver all or part of its record to the Supreme Court or Court of
Criminal Appeals of this state.

SECTION 6. AMENDATORY 20 O.S. 1991, Section 1604, is
amended to read as follows:

Section 1604. Contents of Certification Order. A. A
certification order ~~shall set forth~~ must contain:

1. The ~~questions~~ question of law to be answered; ~~and~~
2. ~~A statement of all~~ The facts relevant to the ~~questions~~
~~certified and~~ question, showing fully the nature of the controversy
~~in~~ out of which the ~~questions~~ question arose;
3. A statement acknowledging that the Supreme Court or Court of
Criminal Appeals of this state, acting as the receiving court, may
reformulate the question; and
4. The names and addresses of counsel of record and parties
appearing without counsel.

B. If the parties cannot agree upon a statement of facts, the certifying court must determine the relevant facts and state them as a part of its certification order.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1604.1 of Title 20, unless there is created a duplication in numbering, reads as follows:

Notice - Response. The Supreme Court or Court of Criminal Appeals of this state, acting as a receiving court, shall notify the certifying court of acceptance or rejection of the question and, in accordance with notions of comity and fairness, respond to an accepted certified question as soon as practicable.

SECTION 8. AMENDATORY 20 O.S. 1991, Section 1606, is amended to read as follows:

Section 1606. Costs of Certification. Fees and costs shall be the same as in ~~civil~~ appeals docketed before the Supreme Court or Court of Criminal Appeals of this state and shall be equally divided between the parties unless otherwise ordered by the certifying court ~~in its order of certification.~~

SECTION 9. AMENDATORY 20 O.S. 1991, Section 1608, is amended to read as follows:

Section 1608. Opinion. The ~~written opinion of the~~ Supreme Court or Court of Criminal Appeals stating of this state shall state in a written opinion the law governing the questions answering the certified question and shall be sent by the Clerk under the seal of the Court send a copy of the opinion to the certifying court, counsel of record, and to the parties appearing without counsel.

SECTION 10. AMENDATORY 20 O.S. 1991, Section 1609, is amended to read as follows:

Section 1609. Power to Certify. The Supreme Court or the Court of Criminal Appeals of this state, on the ~~court's~~ motion of a party to pending litigation or on its own motion or the motion of any party, may order certification of questions certify a question of

law to the highest court of ~~any another~~ state ~~when it appears to the certifying court that there are involved, in any proceeding before the court, questions of law of the receiving state which may be determinative of the cause then pending in the certifying court and it appears to the certifying court that there are no controlling precedents in the decisions of the highest court or intermediate appellate courts of the receiving state, or of a tribe, or of~~ Canada, a Canadian province or territory, Mexico, or a Mexican state if:

1. The pending litigation involves a question to be decided under the law of the other jurisdiction;
2. The answer to the question may be determinative of an issue in the pending litigation; and
3. The question is one for which an answer is not provided by a controlling appellate decision, constitutional provision, or statute of the other jurisdiction.

SECTION 11. AMENDATORY 20 O.S. 1991, Section 1610, is amended to read as follows:

Section 1610. Procedures. After the Supreme Court or Court of Criminal Appeals of this state has accepted a certified question, proceedings shall be governed by the rules of the court. The procedures for certification from this state to ~~the~~ a receiving ~~state shall be~~ court are those provided in the ~~laws~~ rules and statutes of the receiving ~~state~~ forum.

SECTION 12. AMENDATORY 20 O.S. 1991, Section 1611, is amended to read as follows:

Section 1611. Uniformity of Application and Construction. This act shall be ~~se~~ applied and construed ~~as~~ to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 13. RECODIFICATION 20 O.S. 1991, Section 1608, as amended by Section 9 of this act, shall be recodified as Section

1604.3 of Title 20 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 14. RECODIFICATION 20 O.S. 1991, Section 1609, as amended by Section 10 of this act, shall be recodified as Section 1601.2 of Title 20 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 15. RECODIFICATION 20 O.S. 1991, Section 1610, as amended by Section 11 of this act, shall be recodified as Section 1604.2 of Title 20 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 16. REPEALER 20 O.S. 1991, Sections 1603, 1605 and 1607, are hereby repealed.

SECTION 17. This act shall become effective November 1, 1997.

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