ENROLLED SENATE
BILL NO. 524

By: Henry of the Senate

and

Toure of the House

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 831, which relates to order of trial; directing defendant's opening statement in certain order; providing certain exception for defendant's opening statement; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 831, is amended to read as follows:

Section 831. The jury having been impaneled and sworn, the trial must proceed in the following order:

1. If the indictment or information is for a felony, the clerk or district attorney must read it, and state the plea of the defendant to the jury. In other cases this formality may be dispensed with.

2. The district attorney, or other counsel for the state, must open the case and offer the evidence in support of the indictment or information.

3. The defendant or ~~his~~ defendant's counsel ~~may then open his defense, and offer his evidence in support thereof~~ shall give an opening statement immediately after the opening statement of the district attorney unless the defendant affirmatively reserves the opening statement until the district attorney has rested the state's case. The defense may offer evidence after the close of the state's case.

4. The parties may then, respectively, offer rebutting testimony only, unless the court for good reason, in furtherance of justice, or to correct an evident oversight, permit them to offer evidence upon their original case.

5. When the evidence is concluded, the attorneys for the prosecution may submit to the court written instructions. If the questions of law involved in the instructions are to be argued, the court shall direct the jury to withdraw during the argument, and after the argument, must settle the instructions, and may give or

refuse any instructions asked, or may modify the same as he deems the law to be. Instructions refused shall be marked in writing by the judge, if modified, modification shall be shown in the instruction. When the instructions are thus settled, the jury, if sent out, shall be recalled and the court shall thereupon read the instructions to the jury.

6. Thereupon, unless the case is submitted to the jury without argument, the counsel for the state shall commence, and the defendant or his counsel shall follow, then the counsel for the state shall conclude the argument to the jury. During the argument the attorneys shall be permitted to read and comment upon the instructions as applied to the evidence given, but shall not argue to the jury the correctness or incorrectness of the propositions of law therein contained. The court may permit one or more counsel to address the jury on the same side, and may arrange the order in which they shall speak, but shall not without the consent of the attorneys limit the time of their arguments. When the arguments are concluded, if the court be of the opinion that the jury might be misled by the arguments of counsel, he may to prevent the same further instruct the jury. All instructions given shall be in writing unless waived by both parties, and shall be filed and become a part of the record in the case.

SECTION 2. This act shall become effective July 1, 2000.

SECTION 3. 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.

Passed the Senate the 23rd day of May, 2000.

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President of the Senate

Passed the House of Representatives the 24th day of May, 2000.

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Speaker of the House of Representatives