

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 2100

By: Johnson (Constance)

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5
6 AS INTRODUCED

7 An Act relating to mandatory minimum sentencing;
8 amending 21 O.S. 2011, Section 51.1, which relates to
9 second and subsequent offenses; deleting certain
10 provisions relating to punishments for certain
11 subsequent offenses; requiring certain subsequent
12 felony offense to be a violent felony offense;
13 prohibiting enhancement for certain offenses;
14 providing for certain enhancement that exceeds the
15 statutory maximum for the offense; prohibiting
16 certain liability under certain circumstances;
17 construing language; and providing an effective date.

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

19 SECTION 1. AMENDATORY 21 O.S. 2011, Section 51.1, is
20 amended to read as follows:

21 Section 51.1. A. ~~Except as otherwise provided in the Elderly
22 and Incapacitated Victim's Protection Program and Section 3 of this
23 act, every person who, having been convicted of any offense
24 punishable by imprisonment in the State Penitentiary, commits any
crime after such conviction, within ten (10) years of the date
following the completion of the execution of the sentence, and~~

1 ~~against whom the District Attorney seeks to enhance punishment~~
2 ~~pursuant to this section of law, is punishable therefor as follows:~~

3 ~~1. If the offense for which the person is subsequently~~
4 ~~convicted is an offense enumerated in Section 571 of Title 57 of the~~
5 ~~Oklahoma Statutes and the offense is punishable by imprisonment in~~
6 ~~the State Penitentiary for a term exceeding five (5) years, such~~
7 ~~person is punishable by imprisonment in the State Penitentiary for a~~
8 ~~term in the range of ten (10) years to life imprisonment.~~

9 ~~2. If the offense of which such person is subsequently~~
10 ~~convicted is such that upon a first conviction an offender would be~~
11 ~~punishable by imprisonment in the State Penitentiary for any term~~
12 ~~exceeding five (5) years, such person is punishable by imprisonment~~
13 ~~in the State Penitentiary for a term in the range of twice the~~
14 ~~minimum term for a first time offender to life imprisonment. If the~~
15 ~~subsequent felony offense does not carry a minimum sentence as a~~
16 ~~first time offender, such person is punishable by imprisonment in~~
17 ~~the State Penitentiary for a term in the range of two (2) years to~~
18 ~~life imprisonment.~~

19 ~~3. If such subsequent offense is such that upon a first~~
20 ~~conviction the offender would be punishable by imprisonment in the~~
21 ~~State Penitentiary for five (5) years, or any less term, then the~~
22 ~~person convicted of such subsequent offense is punishable by~~
23 ~~imprisonment in the State Penitentiary for a term not exceeding ten~~
24 ~~(10) years.~~

1 4. ~~If such subsequent conviction is for petit larceny, the~~
2 ~~person convicted of such subsequent offense is punishable by~~
3 ~~imprisonment in the State Penitentiary for a term not exceeding five~~
4 ~~(5) years.~~

5 B. 1. Every person who, having been twice convicted of a
6 violent felony offenses offense, as enumerated in Section 571 of
7 Title 57 of the Oklahoma Statutes, commits a subsequent violent
8 felony offense ~~which is an offense enumerated in Section 571 of~~
9 ~~Title 57 of the Oklahoma Statutes,~~ within ten (10) years of the date
10 following the completion of the execution of the sentence, ~~and~~
11 ~~against whom the District Attorney seeks to enhance punishment~~
12 ~~pursuant to this section of law,~~ is punishable by imprisonment in
13 the State Penitentiary custody of the Department of Corrections for
14 a term in the range of twenty (20) years to life imprisonment.

15 2. If an existing enhancement provision exists in the statutes
16 for the felony offense committed, the provisions of this subsection
17 shall not apply and shall not be used for enhancement.

18 3. Felony offenses relied upon for enhancement pursuant to the
19 provisions of this section shall not have arisen out of the same
20 transaction or occurrence or series of events closely related in
21 time and location be separate and distinct offenses. Nothing in
22 this section shall abrogate or affect the punishment by death in all
23 crimes now or hereafter made punishable by death.

1 ~~C. Every person who, having been twice convicted of felony~~
2 ~~offenses, commits a subsequent felony offense within ten (10) years~~
3 ~~of the date following the completion of the execution of the~~
4 ~~sentence, and against whom the District Attorney seeks to enhance~~
5 ~~punishment pursuant to this section of law, is punishable by~~
6 ~~imprisonment in the State Penitentiary for a term in the range of~~
7 ~~three times the minimum term for a first time offender to life~~
8 ~~imprisonment. If the subsequent felony offense does not carry a~~
9 ~~minimum sentence as a first time offender, the person is punishable~~
10 ~~by imprisonment in the State Penitentiary for a term in the range of~~
11 ~~four (4) years to life imprisonment. Felony offenses relied upon~~
12 ~~shall not have arisen out of the same transaction or occurrence or~~
13 ~~series of events closely related in time and location. Nothing in~~
14 ~~this section shall abrogate or affect the punishment by death in all~~
15 ~~crimes now or hereafter made punishable by death.~~

16 B. A sentence that has been enhanced pursuant to this section
17 that exceeds the statutory maximum for the offense committed and
18 expressed in the governing statute shall be reduced to the statutory
19 maximum provided by statute.

20 C. Neither the state, nor any of its agencies or political
21 subdivisions, shall be liable for any damages or claims whether
22 alleged pursuant to the Eighth Amendment of the United States
23 Constitution or habeas corpus or any other claim under federal or
24 state law when the applicability of this act results in an

1 individual being incarcerated for a period of time that exceeds the
2 statutorily permitted period of incarceration authorized to be
3 served pursuant to this act. The penalty modifications contained in
4 this act shall not be construed as the state's recognition of any
5 constitutional infirmity that may or may not exist.

6 SECTION 2. This act shall become effective November 1, 2014.

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