

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1516

By: Peterson of the House and David of the Senate

Title: Crimes and punishments; defining certain term; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its Amendments; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

SENATE CONFEREES

David	_____
Barrington	_____
Griffin	_____
Shaw	_____
Floyd	_____
Pittman	_____
Treat	_____

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1516

By: Peterson, Ritze and Biggs
of the House

and

David of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments; amending 21 O.S. 2011, Section 1173, as amended by Section 1 of Enrolled House Bill No. 1350 of the 1st Session of the 55th Oklahoma Legislature, which relates to the crime of stalking; updating language; defining certain term; amending 21 O.S. 2011, Section 1277, as last amended by Section 1 of Enrolled Senate Bill No. 525 of the 1st Session of the 55th Oklahoma Legislature, which relates to the unlawful carrying of firearms in certain places; clarifying certain prohibited act; prohibiting the carrying of firearms at certain places; amending 21 O.S. 2011, Sections 1289.3 and 1289.25, which relate to the Oklahoma Firearms Act of 1971; modifying certain definition; clarifying certain construing provision; amending 21 O.S. 2011, Section 1290.22, as amended by Section 7, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2014, Section 1290.22), which relates to the Oklahoma Self-Defense Act; modifying internal statutory reference; providing immunity from liability for certain persons and entities; providing certain exemption; amending 21 O.S. 2011, Section 2002, as amended by Section 2, Chapter 409, O.S.L. 2014 (21 O.S. Supp. 2014, Section 2002), which relates to forfeiture of unlawful proceeds; modifying circumstances for forfeiture; and providing an effective date.

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

2 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1173, as
3 amended by Section 1 of Enrolled House Bill No. 1350 of the 1st
4 Session of the 55th Oklahoma Legislature, is amended to read as
5 follows:

6 Section 1173. A. Any person who willfully, maliciously, and
7 repeatedly follows or harasses another person in a manner that:

8 1. Would cause a reasonable person or a member of the immediate
9 family of that person as defined in subsection F of this section to
10 feel frightened, intimidated, threatened, harassed, or molested; and

11 2. Actually causes the person being followed or harassed to
12 feel terrorized, frightened, intimidated, threatened, harassed, or
13 molested,

14 shall, upon conviction, be guilty of the crime of stalking, which is
15 a misdemeanor punishable by imprisonment in a county jail for not
16 more than one (1) year, or by a fine of not more than One Thousand
17 Dollars (\$1,000.00), or by both such fine and imprisonment.

18 B. Any person who violates the provisions of subsection A of
19 this section when:

20 1. There is a permanent or temporary restraining order, a
21 protective order, an emergency ex parte protective order, or an
22 injunction in effect prohibiting the behavior described in
23 subsection A of this section against the same party, when the person
24

1 violating the provisions of subsection A of this section has actual
2 notice of the issuance of such order or injunction;

3 2. Said person is on probation or parole, a condition of which
4 prohibits the behavior described in subsection A of this section
5 against the same party or under the conditions of a community or
6 alternative punishment; or

7 3. Said person, within ten (10) years preceding the violation
8 of subsection A of this section, completed the execution of sentence
9 for a conviction of a crime involving the use or threat of violence
10 against the same party, or against any member of the immediate
11 family of such party,
12 shall, upon conviction, be guilty of a felony punishable by
13 imprisonment in the custody of the Department of Corrections for a
14 term not exceeding five (5) years, or by a fine of not more than Two
15 Thousand Five Hundred Dollars (\$2,500.00), or by both such fine and
16 imprisonment.

17 C. Any person who:

18 1. Commits a second act of stalking within ten (10) years of
19 the completion of sentence for a prior conviction of stalking; or

20 2. Has a prior conviction of stalking and, after being served
21 with a protective order that prohibits contact with an individual,
22 knowingly makes unconsented contact with the same individual,
23 shall, upon conviction, be guilty of a felony punishable by
24 imprisonment in the custody of the Department of Corrections for a

1 term not exceeding five (5) years, or by a fine of not less than Two
2 Thousand Five Hundred Dollars (\$2,500.00), or by both such fine and
3 imprisonment.

4 D. Any person who commits an act of stalking within ten (10)
5 years of the completion of execution of sentence for a prior
6 conviction under subsection B or C of this section shall, upon
7 conviction, be guilty of a felony punishable by imprisonment in the
8 custody of the Department of Corrections for a term not exceeding
9 ten (10) years, or by a fine of not less than Five Thousand Dollars
10 (\$5,000.00), or by both such fine and imprisonment.

11 E. Evidence that the defendant continued to engage in a course
12 of conduct involving repeated unconsented contact, as defined in
13 subsection F of this section, with the victim after having been
14 requested by the victim to discontinue the same or any other form of
15 unconsented contact, and to refrain from any further unconsented
16 contact with the victim, shall give rise to a rebuttable presumption
17 that the continuation of the course of conduct caused the victim to
18 feel terrorized, frightened, intimidated, threatened, harassed, or
19 molested.

20 F. For purposes of ~~this section~~ determining the crime of
21 stalking, the following definitions shall apply:

22 1. "Harasses" means a pattern or course of conduct directed
23 toward another individual that includes, but is not limited to,
24 repeated or continuing unconsented contact, that would cause a

1 reasonable person to suffer emotional distress, and that actually
2 causes emotional distress to the victim. Harassment shall include
3 harassing or obscene phone calls as prohibited by Section 1172 of
4 this title and conduct prohibited by Section 850 of this title.
5 Harassment does not include constitutionally protected activity or
6 conduct that serves a legitimate purpose;

7 2. "Course of conduct" means a pattern of conduct composed of a
8 series of two or more separate acts over a period of time, however
9 short, evidencing a continuity of purpose. Constitutionally
10 protected activity is not included within the meaning of "course of
11 conduct";

12 3. "Emotional distress" means significant mental suffering or
13 distress that may, but does not necessarily require, medical or
14 other professional treatment or counseling;

15 4. "Unconsented contact" means any contact with another
16 individual that is initiated or continued without the consent of the
17 individual, or in disregard of that individual's expressed desire
18 that the contact be avoided or discontinued. Constitutionally
19 protected activity is not included within the meaning of unconsented
20 contact. Unconsented contact includes but is not limited to any of
21 the following:

- 22 a. following or appearing within the sight of that
23 individual,
24

- b. approaching or confronting that individual in a public place or on private property,
- c. appearing at the workplace or residence of that individual,
- d. entering onto or remaining on property owned, leased, or occupied by that individual,
- e. contacting that individual by telephone,
- f. sending mail or electronic communications to that individual, and
- g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual; ~~and~~

5. "Member of the immediate family", ~~for the purposes of this section,~~ means any spouse, parent, child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household or who regularly resided in the household within the prior six (6) months; and

6. "Following" shall include the tracking of the movement or location of an individual through the use of a Global Positioning System (GPS) device or other monitoring device by a person, or person who acts on behalf of another, without the consent of the individual whose movement or location is being tracked; provided, this shall not apply to the lawful use of a GPS device or other monitoring device by a law enforcement agency or the parent or

1 guardian of a minor child who uses such device for the purpose of
2 tracking such minor child.

3 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1277, as
4 last amended by Section 1 of Enrolled Senate Bill No. 525 of the 1st
5 Session of the 55th Oklahoma Legislature, is amended to read as
6 follows:

7 Section 1277.

8 UNLAWFUL CARRY IN CERTAIN PLACES

9 A. It shall be unlawful for any person in possession of a valid
10 handgun license issued pursuant to the provisions of the Oklahoma
11 Self-Defense Act to carry any concealed or unconcealed handgun into
12 any of the following places:

13 1. Any structure, building, or office space which is owned or
14 leased by a city, town, county, state or federal governmental
15 authority for the purpose of conducting business with the public;

16 2. Any prison, jail, detention facility or any facility used to
17 process, hold or house arrested persons, prisoners or persons
18 alleged delinquent or adjudicated delinquent, except as provided in
19 Section 21 of Title 57 of the Oklahoma Statutes;

20 3. Any public or private elementary or public or private
21 secondary school, except as provided in subsection C of this
22 section;

1 4. Any publicly owned or operated sports arena during a
2 professional sporting event or other publicly owned or operated
3 venue during a professional sporting event;

4 5. Any place where pari-mutuel wagering is authorized by law;
5 and

6 6. Any place where a game is sponsored by the National
7 Collegiate Athletic Association, any place where a game is sponsored
8 by a conference that is a member of the National Collegiate Athletic
9 Association, any place where a sporting event is sponsored by the
10 International Olympic Committee or organization or any committee
11 subordinate to the International Olympic Committee; and

12 7. Any other place specifically prohibited by law.

13 B. For purposes of paragraphs 1, 2, 3, 4 and 5 of subsection A
14 of this section, the prohibited place does not include and
15 specifically excludes the following property:

16 1. Any property set aside for the use or parking of any
17 vehicle, whether attended or unattended, by a city, town, county,
18 state or federal governmental authority;

19 2. Any property set aside for the use or parking of any
20 vehicle, whether attended or unattended, by any entity offering any
21 professional sporting event which is open to the public for
22 admission, or by any entity engaged in pari-mutuel wagering
23 authorized by law;
24

1 3. Any property adjacent to a structure, building or office
2 space in which concealed or unconcealed weapons are prohibited by
3 the provisions of this section;

4 4. Any property designated by a city, town, county or state
5 governmental authority as a park, recreational area, or fairgrounds;
6 provided, nothing in this paragraph shall be construed to authorize
7 any entry by a person in possession of a concealed or unconcealed
8 handgun into any structure, building or office space which is
9 specifically prohibited by the provisions of subsection A of this
10 section; and

11 5. Any property set aside by a public or private elementary or
12 secondary school for the use or parking of any vehicle, whether
13 attended or unattended; provided, however, said handgun shall be
14 stored and hidden from view in a locked motor vehicle when the motor
15 vehicle is left unattended on school property.

16 Nothing contained in any provision of this subsection or
17 subsection C of this section shall be construed to authorize or
18 allow any person in control of any place described in paragraph 1,
19 2, 3, 4 or 5 of subsection A of this section to establish any policy
20 or rule that has the effect of prohibiting any person in lawful
21 possession of a handgun license from possession of a handgun
22 allowable under such license in places described in paragraph 1, 2,
23 3, 4 or 5 of this subsection.
24

1 C. A concealed or unconcealed weapon may be carried onto
2 private school property or in any school bus or vehicle used by any
3 private school for transportation of students or teachers by a
4 person who is licensed pursuant to the Oklahoma Self-Defense Act,
5 provided a policy has been adopted by the governing entity of the
6 private school that authorizes the carrying and possession of a
7 weapon on private school property or in any school bus or vehicle
8 used by a private school. Except for acts of gross negligence or
9 willful or wanton misconduct, a governing entity of a private school
10 that adopts a policy which authorizes the possession of a weapon on
11 private school property, a school bus or vehicle used by the private
12 school shall be immune from liability for any injuries arising from
13 the adoption of the policy. The provisions of this subsection shall
14 not apply to claims pursuant to the Workers' Compensation Code.

15 D. Any person violating the provisions of subsection A of this
16 section shall, upon conviction, be guilty of a misdemeanor
17 punishable by a fine not to exceed Two Hundred Fifty Dollars
18 (\$250.00).

19 E. No person in possession of a valid handgun license issued
20 pursuant to the provisions of the Oklahoma Self-Defense Act shall be
21 authorized to carry the handgun into or upon any college, university
22 or technology center school property, except as provided in this
23 subsection. For purposes of this subsection, the following property
24

1 shall not be construed as prohibited for persons having a valid
2 handgun license:

3 1. Any property set aside for the use or parking of any
4 vehicle, whether attended or unattended, provided the handgun is
5 carried or stored as required by law and the handgun is not removed
6 from the vehicle without the prior consent of the college or
7 university president or technology center school administrator while
8 the vehicle is on any college, university or technology center
9 school property;

10 2. Any property authorized for possession or use of handguns by
11 college, university or technology center school policy; and

12 3. Any property authorized by the written consent of the
13 college or university president or technology center school
14 administrator, provided the written consent is carried with the
15 handgun and the valid handgun license while on college, university
16 or technology center school property.

17 The college, university or technology center school may notify
18 the Oklahoma State Bureau of Investigation within ten (10) days of a
19 violation of any provision of this subsection by a licensee. Upon
20 receipt of a written notification of violation, the Bureau shall
21 give a reasonable notice to the licensee and hold a hearing. At the
22 hearing, upon a determination that the licensee has violated any
23 provision of this subsection, the licensee may be subject to an
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1 administrative fine of Two Hundred Fifty Dollars (\$250.00) and may
2 have the handgun license suspended for three (3) months.

3 Nothing contained in any provision of this subsection shall be
4 construed to authorize or allow any college, university or
5 technology center school to establish any policy or rule that has
6 the effect of prohibiting any person in lawful possession of a
7 handgun license from possession of a handgun allowable under such
8 license in places described in paragraphs 1, 2, and 3 of this
9 subsection. Nothing contained in any provision of this subsection
10 shall be construed to limit the authority of any college, university
11 or technology center school in this state from taking administrative
12 action against any student for any violation of any provision of
13 this subsection.

14 F. The provisions of this section shall not apply to any peace
15 officer or to any person authorized by law to carry a pistol in the
16 course of employment. District judges, associate district judges,
17 and special district judges, who are in possession of a valid
18 handgun license issued pursuant to the provisions of the Oklahoma
19 Self-Defense Act and whose names appear on a list maintained by the
20 Administrative Director of the Courts, shall be exempt from this
21 section when acting in the course and scope of employment within the
22 courthouses of this state. Private investigators with a firearms
23 authorization shall be exempt from this section when acting in the
24 course and scope of employment.

1 G. For the purposes of this section, "motor vehicle" means any
2 automobile, truck, minivan or sports utility vehicle.

3 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1289.3, is
4 amended to read as follows:

5 Section 1289.3

6 DEFINITIONS FOR FIREARMS ACT

7 "Pistols" or "handguns" as used in the Oklahoma Firearms Act of
8 1971, ~~Sections 1289.1 through 1289.17 of this title,~~ shall mean any
9 firearm capable of discharging a projectile or series of projectiles
10 from single rounds of ammunition composed of any material which may
11 reasonably be expected to be able to cause lethal injury, with a
12 barrel or barrels less than sixteen (16) inches in length, and using
13 either gunpowder, gas or any means of rocket propulsion, but not to
14 include flare guns, underwater fishing guns or blank pistols.

15 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1289.25, is
16 amended to read as follows:

17 Section 1289.25

18 PHYSICAL OR DEADLY FORCE AGAINST INTRUDER

19 A. The Legislature hereby recognizes that the citizens of the
20 State of Oklahoma have a right to expect absolute safety within
21 their own homes or places of business.

22 B. A person or an owner, manager or employee of a business is
23 presumed to have held a reasonable fear of imminent peril of death
24 or great bodily harm to himself or herself or another when using

1 defensive force that is intended or likely to cause death or great
2 bodily harm to another if:

3 1. The person against whom the defensive force was used was in
4 the process of unlawfully and forcefully entering, or had unlawfully
5 and forcibly entered, a dwelling, residence, occupied vehicle, or a
6 place of business, or if that person had removed or was attempting
7 to remove another against the will of that person from the dwelling,
8 residence, occupied vehicle, or place of business; and

9 2. The person who uses defensive force knew or had reason to
10 believe that an unlawful and forcible entry or unlawful and forcible
11 act was occurring or had occurred.

12 C. The presumption set forth in subsection B of this section
13 does not apply if:

14 1. The person against whom the defensive force is used has the
15 right to be in or is a lawful resident of the dwelling, residence,
16 or vehicle, such as an owner, lessee, or titleholder, and there is
17 not a protective order from domestic violence in effect or a written
18 pretrial supervision order of no contact against that person;

19 2. The person or persons sought to be removed are children or
20 grandchildren, or are otherwise in the lawful custody or under the
21 lawful guardianship of, the person against whom the defensive force
22 is used; or
23
24

1 3. The person who uses defensive force is engaged in an
2 unlawful activity or is using the dwelling, residence, occupied
3 vehicle, or place of business to further an unlawful activity.

4 D. A person who is not engaged in an unlawful activity and who
5 is attacked in any other place where he or she has a right to be has
6 no duty to retreat and has the right to stand his or her ground and
7 meet force with force, including deadly force, if he or she
8 reasonably believes it is necessary to do so to prevent death or
9 great bodily harm to himself or herself or another or to prevent the
10 commission of a forcible felony.

11 E. A person who unlawfully and by force enters or attempts to
12 enter the dwelling, residence, occupied vehicle of another person,
13 or a place of business is presumed to be doing so with the intent to
14 commit an unlawful act involving force or violence.

15 F. A person who uses force, as permitted pursuant to the
16 provisions of subsections B and D of this section, is justified in
17 using such force and is immune from criminal prosecution and civil
18 action for the use of such force. As used in this subsection, the
19 term "criminal prosecution" includes charging or prosecuting the
20 defendant.

21 G. A law enforcement agency may use standard procedures for
22 investigating the use of force, but the law enforcement agency may
23 not arrest the person for using force unless it determines that
24 there is probable cause that the force that was used was unlawful.

1 H. The court shall award reasonable attorney fees, court costs,
2 compensation for loss of income, and all expenses incurred by the
3 defendant in defense of any civil action brought by a plaintiff if
4 the court finds that the defendant is immune from prosecution as
5 provided in subsection F of this section.

6 I. The provisions of this section and the provisions of the
7 Oklahoma Self-Defense Act shall not be construed to require any
8 person using a ~~pistol~~ weapon pursuant to the provisions of this
9 section to be licensed in any manner.

10 J. As used in this section:

11 1. "Dwelling" means a building or conveyance of any kind,
12 including any attached porch, whether the building or conveyance is
13 temporary or permanent, mobile or immobile, which has a roof over
14 it, including a tent, and is designed to be occupied by people;

15 2. "Residence" means a dwelling in which a person resides
16 either temporarily or permanently or is visiting as an invited
17 guest; and

18 3. "Vehicle" means a conveyance of any kind, whether or not
19 motorized, which is designed to transport people or property.

20 SECTION 5. AMENDATORY 21 O.S. 2011, Section 1290.22, as
21 amended by Section 7, Chapter 366, O.S.L. 2013 (21 O.S. Supp. 2014,
22 Section 1290.22), is amended to read as follows:

23 Section 1290.22

24 BUSINESS OWNER'S RIGHTS

1 A. Except as provided in ~~subsection~~ subsections B and C of this
2 section, nothing contained in any provision of the Oklahoma Self-
3 Defense Act shall be construed to limit, restrict or prohibit in any
4 manner the existing rights of any person, property owner, tenant,
5 employer, place of worship or business entity to control the
6 possession of weapons on any property owned or controlled by the
7 person or business entity.

8 B. No person, property owner, tenant, employer, place of
9 worship or business entity shall be permitted to establish any
10 policy or rule that has the effect of prohibiting any person, except
11 a convicted felon, from transporting and storing firearms in a
12 locked vehicle on any property set aside for any vehicle.

13 C. A property owner, tenant, employer, place of worship or
14 business entity may prohibit any person from carrying a concealed or
15 unconcealed firearm on the property. If the building or property is
16 open to the public, the property owner, tenant, employer, place of
17 worship or business entity shall post signs on or about the property
18 stating such prohibition.

19 D. The carrying of a concealed or unconcealed firearm by a
20 person who has been issued a handgun license on property that has
21 signs prohibiting the carrying of firearms shall not be deemed a
22 criminal act but may subject the person to being denied entrance
23 onto the property or removed from the property. If the person
24 refuses to leave the property and a peace officer is summoned, the

1 person may be issued a citation for an amount not to exceed Two
2 Hundred Fifty Dollars (\$250.00).

3 E. A person, corporation, place of worship or any other
4 business entity that does or does not prohibit any individual except
5 a convicted felon from carrying a loaded or unloaded, concealed or
6 unconcealed weapon on property that the person, corporation, place
7 of worship or other business entity owns, or has legal control of,
8 is immune from any liability arising from that decision. Except for
9 acts of gross negligence or willful or wanton misconduct, an
10 employer who does or does not prohibit their employees from carrying
11 a concealed or unconcealed weapon is immune from any liability
12 arising from that decision. A person, property owner, tenant,
13 employer, place of worship or business entity that may not prohibit
14 persons from carrying a concealed or unconcealed firearm pursuant to
15 subsection F of this section shall be immune from liability arising
16 from the carrying of or absence of carrying a concealed or
17 unconcealed firearm on the property. The provisions of this
18 subsection shall not apply to claims pursuant to the Workers'
19 Compensation Code.

20 F. The issuance of an event permit, lease or contract by a
21 city, town, county or state shall not cause the holder of the
22 permit, lease or contract to be deemed a "person, property owner,
23 tenant, employer, place of worship or business entity" for purposes
24 of this section.

1 SECTION 6. AMENDATORY 21 O.S. 2011, Section 2002, as
2 amended by Section 2, Chapter 409, O.S.L. 2014 (21 O.S. Supp. 2014,
3 Section 2002), is amended to read as follows:

4 Section 2002. A. Any commissioned peace officer of this state
5 is authorized to seize any currency, negotiable instrument, monetary
6 instrument, equipment or property used or involved in, used to
7 facilitate, ~~delivered~~ derived from or traceable to a violation of
8 Section 2001 of this title. The seized item may be held as evidence
9 until a forfeiture has been declared or a release ordered.
10 Forfeiture actions under this section may be brought by the district
11 attorney or Attorney General in the proper county of venue as
12 petitioner; provided, in the event the district attorney or Attorney
13 General elects not to file such action, or fails to file such action
14 within ninety (90) days of the date of the seizure of the item, the
15 item shall be returned to the owner.

16 B. Notice of seizure and intended forfeiture proceeding shall
17 be filed in the office of the clerk of the district court for the
18 county wherein the item is seized and shall be given all owners and
19 parties in interest.

20 C. Notice shall be given according to one of the following
21 methods:

22 1. Upon each owner, lienholder, or party in interest whose name
23 and address is known, served in the manner of service of process in
24

1 civil cases prescribed by Section 2004 of Title 12 of the Oklahoma
2 Statutes; or

3 2. Upon all other owners, whose addresses are unknown, but who
4 are believed to have an interest in the property by one publication
5 in a newspaper of general circulation in the county where the
6 seizure was made.

7 D. Within sixty (60) days after the mailing or publication of
8 the notice, the owner of the property and any other party in
9 interest or claimant may file a verified answer and claim to the
10 item described in the notice of seizure and of the intended
11 forfeiture proceeding.

12 E. If at the end of sixty (60) days after the notice has been
13 mailed or published there is no verified answer on file, the court
14 shall hear evidence upon the fact of the unlawful use and may order
15 the item forfeited to the state, if such fact is proven.

16 F. If a verified answer is filed, the forfeiture proceeding
17 shall be set for hearing.

18 G. Proceedings under this section shall be special proceedings.

19 H. At the hearing the petitioner shall prove by a preponderance
20 of the evidence that property was used in the attempt or commission
21 of an act specified in subsection A of this section with knowledge
22 by the owner of the item.

23 I. The claimant of any right, title, or interest in the item
24 may prove the lien, mortgage, or conditional sales contract to be

1 bona fide and that the right, title, or interest created by the item
2 was created without any knowledge or reason to believe that the item
3 was being, or was to be, used for the purpose charged.

4 J. In the event of such proof, the court may order the item
5 released to the bona fide or innocent owner, lienholder, mortgagee,
6 or vendor if the amount due such person is equal to, or in excess
7 of, the value of the item as of the date of the seizure, it being
8 the intention of this section to forfeit only the right, title, or
9 interest of the purchaser.

10 K. If the amount due to such person is less than the value of
11 the item, or if no bona fide claim is established, the item may be
12 forfeited to the state and may be sold pursuant to judgment of the
13 court, as on sale upon execution, and as provided in Section 2-508
14 of Title 63 of the Oklahoma Statutes, except as otherwise provided
15 for by law.

16 L. A seized item taken or detained pursuant to this section
17 shall not be repleviable, but shall be deemed to be in the custody
18 of the petitioner or in the custody of the law enforcement agency.
19 The petitioner shall release the seized item to the owner of the
20 item if it is determined that the owner had no knowledge of the
21 illegal use of the item or if there is insufficient evidence to
22 sustain the burden of showing illegal use of the item. If the owner
23 of the property stipulates to the forfeiture and waives the hearing,
24 the petitioner may determine if the value of the item is equal to or

1 less than the outstanding lien. If such lien exceeds the value of
2 the item, the item may be released to the lienholder. A seized item
3 which has not been released by the petitioner shall be subject to
4 the orders and decrees of the court or the official having
5 jurisdiction thereof.

6 M. Attorney fees shall not be assessed against the state or the
7 petitioner for any actions or proceeding pursuant to this section.

8 N. The proceeds of the sale of any property shall be
9 distributed as follows, in the order indicated:

10 1. To the bona fide or innocent purchaser, conditional sales
11 vendor, or mortgagee of the item, if any, up to the amount of the
12 interest of that person in the property, when the court declaring
13 the forfeiture orders a distribution to such person;

14 2. To the payment of the actual reasonable expenses of
15 preserving the item;

16 3. To the victim of the crime to compensate the victim for any
17 loss incurred as a result of the act for which the item was
18 forfeited; and

19 4. The balance to a revolving fund in the office of the county
20 treasurer of the county wherein the property was seized, to be
21 distributed as follows: one-half (1/2) to the investigating law
22 enforcement agency and one-half (1/2) to the district attorney to be
23 used to defray any lawful expenses of the office of the district
24 attorney. If the petitioner is not the district attorney, then the

1 one-half (1/2) which would have been designated to that office shall
2 be distributed to the petitioner.

3 O. If the court finds that the item was not used in the attempt
4 or commission of an act specified in subsection A of this section
5 and was not an item subject to forfeiture pursuant to subsection B
6 of this section, the court shall order the item released to the
7 owner as the right, title, or interest as determined by the court.

8 P. No vehicle, airplane, or vessel used by a person as a common
9 carrier in the transaction of business as a common carrier shall be
10 forfeited pursuant to the provisions of this section unless it shall
11 be proven that the owner or other person in charge of such
12 conveyance was a consenting party or privy to the attempt or
13 commission of an act specified in subsection A or B of this section.
14 No item shall be forfeited pursuant to the provisions of this
15 section by reason of any act or omission established by the owner
16 thereof to have been committed or omitted without the knowledge or
17 consent of such owner, and by any person other than such owner while
18 the item was unlawfully in the possession of a person other than the
19 owner in violation of the criminal laws of the United States or of
20 any state.

21 Q. Whenever any item is forfeited pursuant to this section, the
22 district court having jurisdiction of the proceeding may order that
23 the forfeited item may be retained for its official use by the
24

1 state, county, or municipal law enforcement agency which seized the
2 item.

3 SECTION 7. This act shall become effective November 1, 2015.

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5 55-1-7541 GRS 05/18/15
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