

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
3 BILL NO. 2310

By: Frix of the House

and

Bice of the Senate

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8 [criminal procedure - punishments assessed and
9 declared by juries - allowing judge or jury to
10 assess punishment under certain circumstances -
11 effective date]
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14 AMENDMENT NO. 1. Page 2, line 13, before the word "order", delete
15 the word "shall" and insert the word "may".

16 AMENDMENT NO. 2. Page 2, line 13, after the word "report" and
17 before the ",", insert the following language:
18 "pursuant to Section 982 of this title".

19 and when the title is restored, amend the title to
conform

20 AMENDMENT NO. 3. Page 1, restore the title
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delete Passed the Senate the 25th day of April, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2019.

Presiding Officer of the House
of Representatives

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

15 SECTION 1. AMENDATORY 22 O.S. 2011, Section 926.1, is
16 amended to read as follows:

17 Section 926.1 A. In all cases of a verdict of conviction for
18 any offense against any of the laws of the State of Oklahoma, the
19 jury may~~r~~ and shall~~l~~ upon the request of the defendant~~l~~ assess and
20 declare the punishment in their verdict within the limitations fixed
21 by law, and the court shall render a judgment according to such
22 verdict, except as ~~hereinafter~~ provided.

23 B. In all cases in which a jury may assess and declare
24 punishment:

1 1. At the conclusion of the evidence, the judge shall instruct
2 the jury on the offense charged. The jury shall be further
3 instructed to determine only the guilt or innocence of the defendant
4 on the offense charged and that punishment shall not be determined
5 by the jury at this time; and

6 2. If the jury reaches a verdict that the defendant is guilty
7 of the offense charged or guilty of a lesser included offense, the
8 judge or jury shall assess punishment within the limitations fixed
9 by law including sentencing alternatives available to the court or
10 jury pursuant to the provisions of Section 991a, 991a-3 or 991c of
11 this title as applicable to the case.

12 C. If the defendant is to be sentenced by the judge, the court
13 shall order a presentence investigation and report, unless waived by
14 the state and the defendant, and shall set a date for sentencing of
15 the defendant. The court shall receive aggravating and mitigating
16 evidence and argument on punishment unless waived by the state and
17 the defendant prior to pronouncing the sentence. The court shall
18 assess punishment within the limitations fixed by law including
19 sentencing alternatives available to the court pursuant to the
20 provisions of Section 991a, 991a-3 or 991c of this title as
21 applicable to the case.

22 D. If the jury assesses punishment, aggravating and mitigating
23 evidence, including evidence of second and subsequent offenses, and
24 argument on punishment shall be received by the jury unless waived

1 by the state and the defendant. The court shall instruct the jury
2 on the law relating to punishment for the offense. Additionally,
3 the court shall instruct the jury on the law relating to second and
4 subsequent offenses and sentencing alternatives available to the
5 jury pursuant to the provisions of Section 991a, 991a-3 or 991c of
6 this title as applicable to the case. The jury may assess and
7 declare in its punishment any such sentencing alternatives available
8 to the court.

9 SECTION 2. REPEALER 22 O.S. 2011, Section 860.1, is
10 hereby repealed.

11 SECTION 3. This act shall become effective November 1, 2019.

12 Passed the House of Representatives the 6th day of March, 2019.

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15 Presiding Officer of the House
16 of Representatives

17 Passed the Senate the ____ day of _____, 2019.

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19 Presiding Officer of the Senate
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