

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2310

By: Frix

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8 COMMITTEE SUBSTITUTE

9 An Act relating to criminal procedure; amending 22
10 O.S. 2011, Section 926.1, which relates to
11 punishments assessed and declared by juries;
12 directing judge to provide certain instructions to
13 jury; allowing judge or jury to assess punishment
14 under certain circumstances; establishing sentencing
15 procedures for courts and juries when assessing
16 punishment; repealing 22 O.S. 2011, Section 860.1,
17 which relates to trial procedures for person
18 prosecuted for second and subsequent offense; and
19 providing an effective date.

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

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

 Section 926.1 A. In all cases of a verdict of conviction for
any offense against any of the laws of the State of Oklahoma, the
jury may~~7~~ and shall~~1~~ upon the request of the defendant~~1~~ assess and
declare the punishment in their verdict within the limitations fixed

1 by law, and the court shall render a judgment according to such
2 verdict, except as ~~hereinafter~~ provided.

3 B. In all cases in which a jury may assess and declare
4 punishment:

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

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

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

3 D. If the defendant elects to have the jury assess punishment,
4 aggravating and mitigating evidence, including evidence of second
5 and subsequent offenses, an argument on punishment shall be received
6 by the jury unless waived by the state and the defendant. The court
7 shall instruct the jury on the law relating to punishment for the
8 offense. Additionally, the court shall instruct the jury on the law
9 relating to second and subsequent offenses and sentencing
10 alternatives available to the jury pursuant to the provisions of
11 Section 991a, 991a-3 or 991c of this title as applicable to the
12 case. The jury may assess and declare in its punishment any such
13 sentencing alternatives available to the court.

14 SECTION 2. REPEALER 22 O.S. 2011, Section 860.1, is
15 hereby repealed.

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

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18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/18/2019 - DO
19 PASS, As Amended.
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