

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3521

By: Frix

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 926.1, which relates to
9 punishments assessed and declared by juries;
10 establishing sentencing procedures for juries that
11 assess and declare punishment in criminal cases;
12 providing for consideration of aggravating and
13 mitigating circumstances unless waived by the state
14 and defendant; directing court to follow specific
15 sentencing procedure under certain circumstances;
16 directing court to instruct juries on laws relating
17 to punishment and sentencing alternatives; defining
18 terms; and providing an effective date.

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

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~~r~~ and shall~~l~~, upon the request of the defendant~~l~~, assess and
declare the punishment in their verdict within the limitations fixed
by law, and the court shall render a judgment according to such
verdict, except as ~~hereinafter~~ provided.

1 B. In all cases in which a jury may assess and declare
2 punishment:

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

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

15 C. If the defendant is not prosecuted for a second or
16 subsequent offense, evidence of aggravating and mitigating
17 circumstances and argument on punishment shall be received by the
18 jury unless waived by the state and the defendant. The court shall
19 instruct the jury on the penalty fixed by law for the offense and
20 the jury may assess and declare its punishment within the penalty
21 fixed by law including sentencing alternatives available to the
22 court pursuant to the provisions of Section 991a, 991a-3 or 991c of
23 this title as applicable to the case. The jury may assess and
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1 declare in its punishment any such sentencing alternatives available
2 to the court.

3 D. If the defendant is prosecuted for a second or subsequent
4 offense, except in those cases in which the former conviction is an
5 element of the offense, the court shall follow the procedure set
6 forth in Section 860.1 of this title. In addition to the evidence
7 of prior convictions, evidence of aggravating and mitigating
8 circumstances and argument on punishment shall be received by the
9 jury unless waived by the state and the defendant. The court shall
10 instruct the jury on the penalty fixed by law for the offense and
11 the jury may assess and declare its punishment within the penalty
12 fixed by law including sentencing alternatives available to the
13 court pursuant to the provisions of Section 991a, 991a-3 or 991c of
14 this title as applicable to the case. The jury may assess and
15 declare in its punishment any such sentencing alternatives available
16 to the court.

17 E. For purposes of this section:

18 1. "Aggravating circumstances" means evidence of the conduct of
19 the defendant relating to the circumstances of the offense itself
20 that would support a more severe sentence within the range of
21 punishment fixed by law; and

22 2. "Mitigating circumstances" means evidence of factors that
23 would support leniency in sentencing including, but not limited to:

24 a. lack of a prior criminal record,

- 1 b. minor participation in the offense,
- 2 c. culpability of the victim,
- 3 d. past circumstances, such as abuse that resulted in the
- 4 criminal activity,
- 5 e. circumstances at the time of the offense, such as
- 6 provocation, stress or emotional problems that, while
- 7 not excusing the crime, may offer an explanation,
- 8 f. mental or physical illness, and
- 9 g. genuine remorse.

10 SECTION 2. This act shall become effective November 1, 2020.

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12 57-2-10026 GRS 12/20/19

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