

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1408

By: Daniels

AS INTRODUCED

An Act relating to sentencing proceedings; amending 22 O.S. 2011, Section 929, which relates to remand for vacation of sentence; modifying eligibility requirements for jury resentencing; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 929, is amended to read as follows:

Section 929. A. Upon any appeal of a conviction by the defendant in a noncapital criminal case, the appellate court, if it finds prejudicial error in the sentencing proceeding only, may set aside the sentence rendered and remand the case to the trial court in the jurisdiction in which the defendant was originally sentenced for resentencing. No error in the sentencing proceeding shall result in the reversal of the conviction in a criminal case unless the error directly affected the determination of guilt.

1 B. When a criminal case is remanded for vacation of a sentence,  
2 the court may:

3 1. Set the case for a nonjury sentencing proceeding; or

4 2. If the defendant was originally sentenced by a jury in the  
5 case and the defendant or the prosecutor so requests in writing,  
6 impanel a new sentencing jury.

7 C. If a written request for a jury trial is filed within twenty  
8 (20) days of the date of the appellate court order, the trial court  
9 shall impanel a new jury for the purpose of conducting a new  
10 sentencing proceeding.

11 1. All exhibits and a transcript of all testimony and other  
12 evidence properly admitted in the prior trial and sentencing shall  
13 be admissible in the new sentencing proceeding. Additional relevant  
14 evidence may be admitted including testimony of witnesses who  
15 testified at the previous trial.

16 2. The provisions of this section are procedural and shall  
17 apply retroactively to any defendant sentenced in this state.

18 D. This section shall not be construed to amend or be in  
19 conflict with the provisions of Section 701.10 or 701.10a of Title  
20 21 of the Oklahoma Statutes relating to sentencing and resentencing  
21 in death penalty cases; ~~Section 438 of this act~~ Section 860.1 of  
22 this title relating to the trial procedure for defendants prosecuted  
23 for second or subsequent offense; or the provisions of ~~Sections 439~~

1 ~~and 440 of this act~~ Sections 926.1 and 927.1 of this title relating  
2 to assessment of punishment in the original trial proceedings.

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