

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1966

By: Jett

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2021, Section 13.1, which relates to required service of minimum percentage of sentence; modifying definition; amending 21 O.S. 2021, Sections 849, 1320.10, 1368, 1441, 1767.1, 1767.2, 1767.3, and 1767.5, which relate to explosives; modifying elements of felony offense; modifying scope of punishment; modifying scope of felony offenses; modifying definitions; creating felony offense; amending 63 O.S. 2021, Section 121.1, which relates to definitions; modifying definition; updating statutory language and references; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 13.1, is amended to read as follows:

Section 13.1. Persons convicted of:

1. First degree murder as defined in Section 701.7 of this title;
2. Second degree murder as defined by Section 701.8 of this title;

1 3. Manslaughter in the first degree as defined by Section 711
2 of this title;

3 4. Poisoning with intent to kill as defined by Section 651 of
4 this title;

5 5. Shooting with intent to kill, use of a vehicle to facilitate
6 use of a firearm, crossbow or other weapon, assault, battery, or
7 assault and battery with a deadly weapon or by other means likely to
8 produce death or great bodily harm, as provided for in Section 652
9 of this title;

10 6. Assault with intent to kill as provided for in Section 653
11 of this title;

12 7. Conjoint robbery as defined by Section 800 of this title;

13 8. Robbery with a dangerous weapon as defined in Section 801 of
14 this title;

15 9. First degree robbery as defined in Section 797 of this
16 title;

17 10. First degree rape as provided for in Section 1111, 1114, or
18 1115 of this title;

19 11. First degree arson as defined in Section 1401 of this
20 title;

21 12. First degree burglary as provided for in Section 1436 of
22 this title;

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1 13. ~~Bombing~~ Use of an explosive, explosive device, incendiary,
2 or incendiary device as ~~defined~~ provided for in Section 1767.1 of
3 this title;

4 14. Any crime against a child provided for in Section 843.5 of
5 this title;

6 15. Forcible sodomy as defined in Section 888 of this title;

7 16. Child pornography or aggravated child pornography as
8 defined in Section 1021.2, 1021.3, 1024.1, 1024.2, or 1040.12a of
9 this title;

10 17. Child prostitution as defined in Section 1030 of this
11 title;

12 18. Lewd molestation of a child as defined in Section 1123 of
13 this title;

14 19. Abuse of a vulnerable adult as defined in Section 10-103 of
15 Title 43A of the Oklahoma Statutes;

16 20. Aggravated trafficking as provided for in subsection C of
17 Section 2-415 of Title 63 of the Oklahoma Statutes;

18 21. Aggravated assault and battery upon any person defending
19 another person from assault and battery; or

20 22. Human trafficking as provided for in Section 748 of this
21 title,
22 shall be required to serve not less than eighty-five percent (85%)
23 of any sentence of imprisonment imposed by the judicial system prior
24 to becoming eligible for consideration for parole. Persons

1 convicted of these offenses shall not be eligible for earned credits
2 or any other type of credits which have the effect of reducing the
3 length of the sentence to less than eighty-five percent (85%) of the
4 sentence imposed.

5 SECTION 2. AMENDATORY 21 O.S. 2021, Section 849, is
6 amended to read as follows:

7 Section 849. Every person who shall attach to, or place in or
8 upon any motor vehicle or any vehicle designed or customarily used
9 to transport a person or persons or any structure designed or
10 customarily used for the occupancy of a person or persons, any
11 explosive or incendiary material, thing, or device with the intent
12 of causing bodily injury or death to any person shall be guilty of a
13 felony, and, upon conviction therefor, ~~shall suffer punishment by~~
14 shall be punished by imprisonment in the custody of the Department
15 of Corrections for a period of time of not less than five (5) years,
16 ~~or imprisonment in the State Penitentiary for life, at the~~
17 ~~discretion of the court or the jury trying the same.~~

18 SECTION 3. AMENDATORY 21 O.S. 2021, Section 1320.10, is
19 amended to read as follows:

20 Section 1320.10. No person, except those specifically
21 authorized by the state or federal government, shall:

22 1. Teach or demonstrate to any group of persons the use,
23 application, or making of any firearm, explosive, explosive device,
24 incendiary, or incendiary device or application of physical force

1 capable of causing injury or death to a person knowing or intending
2 that such firearm, explosive, explosive device, incendiary, or
3 incendiary device or application of physical force will be employed
4 for use in, or in furtherance of, a riot or civil disorder; or

5 2. Assemble with one or more persons for the purpose of
6 training with, practicing with, or being instructed in the use of
7 any firearm, explosive, explosive device, incendiary, or incendiary
8 device or application of physical force capable of causing injury or
9 death to a person, intending to employ such firearm, explosive,
10 explosive device, incendiary, or incendiary device or application of
11 physical force for use in, or in furtherance of, a riot or civil
12 disorder. Any violation of this section shall be a felony.

13 SECTION 4. AMENDATORY 21 O.S. 2021, Section 1368, is
14 amended to read as follows:

15 Section 1368. A. Any person who has been convicted of a felony
16 under the laws of this or any other state or the laws of the United
17 States who, ~~with an unlawful intent,~~ is in possession of any
18 explosives, incendiaries, or any explosive or incendiary devices, or
19 the respective components in various stages of construction or
20 manufacture, upon conviction, shall be guilty of a felony and shall
21 be punished by a fine ~~of~~ not to exceed Five Thousand Dollars
22 (\$5,000.00), or by imprisonment in the ~~State Penitentiary~~ custody of
23 the Department of Corrections for a term not to exceed ten (10)
24 years, or by both such fine and imprisonment.

1 B. For purposes of this section, the term "explosive" shall
2 have the same definition as ~~the term "explosive" as defined by~~
3 ~~Chapter 8 of~~ provided for in Section 121.1 of Title 63 of the
4 Oklahoma Statutes.

5 SECTION 5. AMENDATORY 21 O.S. 2021, Section 1441, is
6 amended to read as follows:

7 Section 1441. Any person who enters any building, railway car,
8 vehicle, or structure and there opens or attempts to open any vault,
9 safe, or receptacle used or kept for the secure keeping of money,
10 securities, books of accounts, or other valuable property, papers,
11 or documents, without the consent of the owner, by the use of or aid
12 of dynamite, nitroglycerine, gunpowder, or other ~~explosives~~
13 explosive, explosive device, incendiary, or incendiary device, or
14 who enters any such building, railway car, vehicle, or structure in
15 which is kept any vault, safe, or other receptacle for the safe
16 keeping of money or other valuable property, papers, books, or
17 documents, with intent and without the consent of the owner, to open
18 or crack such vault, safe, or receptacle by the aid or use of any
19 explosive, upon conviction, shall be ~~deemed~~ guilty of a felony, and
20 upon conviction shall be punished by imprisonment in the ~~State~~
21 Penitentiary custody of the Department of Corrections for ~~a term of~~
22 not less than twenty (20) years nor more than fifty (50) years.

23 SECTION 6. AMENDATORY 21 O.S. 2021, Section 1767.1, is
24 amended to read as follows:

1 Section 1767.1. A. Any person who shall willfully or
2 maliciously commit any of the following acts shall be deemed guilty
3 of a felony:

4 1. Place or conspire to place in, upon, under, against, or near
5 to any building, car, truck, aircraft, motor or other vehicle,
6 vessel, railroad, railway car, or locomotive or structure, any
7 explosive, explosive device, incendiary, or incendiary device with
8 ~~unlawful intent to destroy, throw down, or injure, in whole or in~~
9 ~~part, such property, or conspire, aid, counsel or procure the~~
10 ~~destruction of any building, public or private, or any car, truck,~~
11 ~~aircraft, motor or other vehicle, vessel, railroad, railway car, or~~
12 ~~locomotive or structure~~ capable of causing destruction of such
13 property; or

14 2. Place or conspire to place in, upon, under, against, or near
15 to any building, car, truck, aircraft, motor or other vehicle,
16 vessel, railroad, railway car, or locomotive or structure, any
17 explosive, explosive device, incendiary, or incendiary device with
18 ~~intent to destroy, throw down, or injure in whole or in part,~~
19 capable of causing destruction or injury under circumstances that,
20 if ~~such intent were accomplished~~ functioned, human life or safety
21 would be endangered ~~thereby; or~~

22 3. ~~By~~ Initiate the ~~explosion~~ functioning of any explosive,
23 explosive device, incendiary, or ~~the igniting of any incendiary~~

1 device to destroy, throw down, or injure any property of another
2 person, or cause injury to another person; ~~or~~

3 4. Manufacture, sell, transport, or possess any explosive or
4 explosive device, the component parts or ingredients of ~~an~~ any
5 homemade explosive material or explosive device, an incendiary or
6 incendiary device, or simulated bomb ~~with knowledge or intent that~~
7 ~~it or they will be~~ that could be used to unlawfully kill, injure, or
8 intimidate any person, or unlawfully damage any real or personal
9 property; ~~or~~

10 5. Place or conspire to place in, upon, under, against, or near
11 to any building, car, truck, aircraft, motor or other vehicle,
12 vessel, railroad, railway car, or locomotive or structure, any foul,
13 poisonous, offensive, or injurious substance or compound, explosive,
14 explosive device, incendiary, incendiary device, or simulated bomb
15 with intent to wrongfully injure, molest, or coerce another person
16 or to injure or damage the property of another person; ~~or~~

17 6. Injure, damage, or attempt to damage by an explosive,
18 explosive device, incendiary, or incendiary device any person,
19 persons, or property, whether real or personal; ~~or~~

20 7. Make any threat or convey information known to be false,
21 concerning an attempt or alleged attempt to kill, injure, or
22 intimidate any person or unlawfully damage any real or personal
23 property by means of an explosive, explosive device, incendiary,
24 incendiary device, or simulated bomb; ~~or~~

1 8. Manufacture, sell, deliver, mail, or send an explosive,
2 explosive device, incendiary, incendiary device, or simulated bomb
3 to another person; or

4 9. While committing or attempting to commit any felony,
5 possess, display, or threaten to use any explosive, explosive
6 device, incendiary, incendiary device, or simulated bomb.

7 B. Nothing contained herein shall be construed to apply to, or
8 repeal any laws pertaining to, the acts of mischief of juveniles
9 involving no injurious commercial firecrackers or devices commonly
10 called "stink bombs".

11 SECTION 7. AMENDATORY 21 O.S. 2021, Section 1767.2, is
12 amended to read as follows:

13 Section 1767.2. Any person violating any of the provisions of
14 Section 1767.1 of this title shall be deemed guilty of a felony, and
15 upon conviction shall be punished by imprisonment in the ~~State~~
16 Penitentiary custody of the Department of Corrections for not less
17 than three (3) years nor more than ~~ten (10)~~ twenty (20) years, or by
18 a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by both
19 such imprisonment and fine. If personal injury results, such person
20 shall be punished by imprisonment in the ~~State Penitentiary custody~~
21 of the Department of Corrections for not less than seven (7) years
22 ~~or life imprisonment.~~

23 SECTION 8. AMENDATORY 21 O.S. 2021, Section 1767.3, is
24 amended to read as follows:

1 Section 1767.3. As used in Section 1767.1 of this title:

2 1. "Explosive" or "explosives" means any chemical compound,
3 mixture, incendiary, or other device, the primary or common purpose
4 of which is to function by explosion or which, although not its
5 primary or common purpose, has been modified, manipulated, altered,
6 enhanced, or otherwise caused to function by explosion (that is,
7 with substantial instantaneous release of gas, heat, debris, or
8 concussive pressure or force, or any combination of such actions),
9 unless such compound, mixture, incendiary, or other device is
10 otherwise specifically classified by the United States Department of
11 Transportation. The term "explosive" or "explosives" shall include
12 but not be limited to gunpowder, dynamite, any bomb, all materials
13 as defined in paragraphs 1 and 2 of Section 121.1 of Title 63 of the
14 Oklahoma Statutes, and all material which is classified as
15 explosives by the United States Department of Transportation;

16 2. "Person" means any individual or individuals, firm,
17 copartnership, corporation, company, association, or joint stock
18 association, and includes any trustee, receiver, assignee, or
19 personal representative thereof;

20 3. "Incendiary device" means any chemical compound, mixture, or
21 device, the primary purpose of which is to ignite on impact or as a
22 result of chemical reaction such as a "Molotov cocktail" or
23 "firebomb" which is ignited on impact, causing a mechanical reaction
24 of the container's breaking and permitting the inflammable matter to

1 spread or splatter and is ignited from the burning wick or
2 hypergolic reaction of chemicals;

3 4. "Component parts" means separate parts which if assembled
4 would form an explosive device. Component parts of an "incendiary
5 device" shall consist of an inflammable material, a breakable
6 container, and a source of ignition; and

7 5. "Simulated bomb" means any device or object that by its
8 design, construction, content, or characteristics appears to be, or
9 to contain, an incendiary device, explosive, or explosives, as
10 defined in this section, but is, in fact, an inoperative facsimile
11 or imitation of such a device or explosive.

12 SECTION 9. AMENDATORY 21 O.S. 2021, Section 1767.5, is
13 amended to read as follows:

14 Section 1767.5. A. Any person who shall possess, manufacture,
15 store, or use any explosive, as defined in Section 121.1 of Title 63
16 of the Oklahoma Statutes, without having in the possession of the
17 person a permit, or a copy thereof, issued pursuant to the Oklahoma
18 Explosives and Blasting Regulation Act, shall be deemed guilty of a
19 ~~misdemeanor~~ felony.

20 B. This section shall not be construed to:

21 1. Apply to any person or activity expressly exempted from the
22 Oklahoma Explosives and Blasting Regulation Act;

1 2. Apply to, or repeal any laws pertaining to, the acts of
2 mischief of juveniles involving noninjurious commercial firecrackers
3 or devices commonly called "stink bombs";

4 3. Apply to explosives while in transit in, into, or through
5 this state, if the operator of the vehicle transporting the
6 explosives carries in the vehicle the shipping papers required by 49
7 C.F.R., Section 172.200 et seq., and displays such papers to any law
8 enforcement officer upon request;

9 4. Apply to any person who may possess, store, or use gunpowder
10 in a quantity reasonably calculated to be necessary for hunting or
11 shooting purposes; or

12 5. Apply to any certified bomb technician employed by a
13 federally accredited bomb squad of an agency of the federal
14 government, this state, or any political subdivision of this state.

15 SECTION 10. AMENDATORY 63 O.S. 2021, Section 121.1, is
16 amended to read as follows:

17 Section 121.1. A. For purposes of this chapter:

18 1. "Explosive" or "explosive device" means any chemical
19 compound or mechanical mixture that is commonly used or which is
20 intended for the purpose of producing an explosion and which
21 contains any oxidizing and combustive units or other ingredients in
22 such proportions, quantities, or packing that an ignition by fire,
23 by friction, by concussion, by percussion, by chemical reaction, or
24 by detonation of any part of the compound or mixture may cause

1 gaseous pressures capable of producing destructive effects on
2 contiguous objects or of destroying life or limb. Provided, that
3 dynamite, nitroglycerin, gunpowder, blasting powder, and
4 trinitrotoluene shall be deemed explosives without further proof of
5 their explosive nature. The term "~~explosive~~" explosive shall also
6 include all material which is classified as explosive by the United
7 States Department of Transportation. The term "~~explosive~~" explosive
8 shall not include explosives in the forms prescribed in the official
9 ~~UNITED STATES PHARMACOPOEIA~~ United States Pharmacopeia; fireworks as
10 defined by Section 1622 of Title 68 of the Oklahoma Statutes; or
11 small arms ammunition and components therefor, which are subject to
12 the Gun Control Act of 1968 (Title 18, Chapter 44, U.S. Code) and
13 regulations promulgated thereunder;

14 2. "Blasting agent" means any material or mixture consisting of
15 a fuel and oxidizer, intended for blasting, not otherwise classified
16 as an explosive, provided that the finished product, as mixed and
17 packaged for use or shipment, cannot be detonated when unconfined by
18 means of a test blasting cap containing two (2) grams of a mixture
19 eighty percent (80%) mercury fulminate and twenty percent (20%)
20 potassium chlorate, or a cap of equivalent strength. The term
21 "~~blasting agent~~" blasting agent shall not include explosives in the
22 forms prescribed in the official ~~UNITED STATES PHARMACOPOEIA~~ United
23 States Pharmacopeia; fireworks as defined by Section 1622 of Title
24 68 of the Oklahoma Statutes; or small arms ammunition and components

1 therefor, which are subject to the Gun Control Act of 1968 (Title
2 18, Chapter 44, U.S. Code) and regulations promulgated thereunder;
3 and

4 3. "Person" means any individual, firm, copartnership,
5 corporation, company, association, or joint stock association, and
6 includes any trustee, receiver, assignee, or personal representative
7 thereof.

8 SECTION 11. This act shall become effective November 1, 2024.

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