



January 27, 2016

The Honorable Chris Bengé  
Oklahoma Secretary of State  
2300 N. Lincoln Boulevard, Ste. 101  
Oklahoma City, Oklahoma 73105-4897

Re: Initiative Petition

Dear Mr. Secretary:

Please accept for filing the enclosed copy of an initiative petition and the Proponents' suggested ballot title. The initiative petition would amend statutes to reform criminal sentences for certain property and drug offenses.

Very truly yours,

D. Kent Meyers,  
Roger Stong  
Melanie Wilson Rughani  
CROWE & DUNLEVY  
Braniff Building  
324 N. Robinson Ave., Ste. 100  
Oklahoma City, OK 73102

Counsel for Proponents

cc: Oklahoma Attorney General

**RECEIVED**

**JAN 27 2016**

**OKLAHOMA SECRETARY  
OF STATE**

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JAN 27 2016

OKLAHOMA SECRETARY  
OF STATE

**PROPOSED BALLOT TITLE**

This measure amends statutes to reform criminal sentences for certain property and drug offenses. It makes certain property offenses misdemeanors. It makes simple drug possession a misdemeanor. Property offenses where the value of the property is one thousand dollars or more remain felonies, and the distribution, possession with intent to distribute, transportation with intent to distribute, manufacture, or trafficking of drugs remain felonies.

Shall the proposal be approved?

For the proposal - YES

Against the proposal - NO

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

State Question No. 780, Initiative Petition No. 404

**WARNING**

**IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN THE PETITION WHEN HE IS NOT A LEGAL VOTER.**

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**INITIATIVE PETITION**

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed law shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election, to be held on the 8th day of November, 2016 (or at a special election as may be called by the Governor), and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety (90) days from \_\_\_\_\_. The question we herewith submit to our fellow voters is:

Shall the following bill be approved?

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An Act relating to criminal justice reform for low-level offenses: stating factual findings and intent for the Act; amending 63 O.S. 2011, Section 2-402, relating to offenses involving controlled substances; amending 21 O.S. 2011, Sections 1704, 1705, 1713, 1719.1, 1722, 1731, relating to larceny; amending 21 O.S. 2011, Sections 1451, 1503, 1521, 1541.1, 1541.2, and 1541.3, relating to property offenses involving embezzlement or false pretenses; amending 59 O.S. 2011, Section 1512, relating to pawnbrokers; amending 21 O.S. 2011, Sections 1577, 1578, 1579, and 1621, relating to offenses involving forgery or counterfeiting; repealing 21 O.S. 2011, Section 51.3, related to punishments for second and subsequent offenses; providing for severability; and providing an effective date.

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

SECTION 1. The people of the state of Oklahoma find the fact that Oklahoma has the second-highest overall incarceration rate in the country, and the highest incarceration rate for women, is inconsistent with Oklahoma values, and drains resources away from investments that can do more to promote public safety. Therefore, the people intend, in enacting this initiative measure, to implement criminal justice reforms that: (1) stop wasting taxpayer money keeping people who commit low-level offenses behind bars for years; and (2) saddle fewer people who commit low-level offenses with felony convictions that will follow them through life and prevent them from getting an education or a job.

SECTION 2. This act shall be known and may be cited as the "Oklahoma Smart Justice Reform Act."

SECTION 3. AMENDATORY 63 O.S. 2011, Section 2-402, last amended by Section 10, Chapter 228, O.S.L. 2012 (63 O.S. Supp. 2012. Section 2-402), is amended to read as follows:

Section 2-402. A. 1. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his or her professional practice, or except as otherwise authorized by this act.

2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act pursuant to Section 2-313 of

this title in an amount or within a time interval other than that permitted by Section 2-313 of this title.

3. It shall be unlawful for any person or business to sell, market, advertise or label any product containing ephedrine, its salts, optical isomers, or salts of optical isomers, for the indication of stimulation, mental alertness, weight loss, appetite control, muscle development, energy or other indication which is not approved by the pertinent federal OTC Final Monograph, Tentative Final Monograph, or FDA-approved new drug application or its legal equivalent. In determining compliance with this requirement, the following factors shall be considered:

- a. the packaging of the product,
- b. the name of the product, and
- c. the distribution and promotion of the product, including verbal representations made at the point of sale.

B. Any person who violates this section is guilty of a misdemeanor punishable by confinement for not more than one (1) year and by a fine not exceeding One Thousand Dollars (\$1,000.00).

C. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars (\$100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of this title.

SECTION 4. AMENDATORY 21 O.S. 2011, Section 1704 is amended to read as follows:

Section 1704. Grand larceny is larceny committed in either of the following cases:

1. When the property taken is of value exceeding One Thousand Dollars (\$1,000.00).
2. When such property, although not of value exceeding One Thousand Dollars (\$1,000.00), is taken from the person of another.

Larceny in other cases is petit larceny.

SECTION 5. AMENDATORY 21 O.S. 2011, Section 1705 is amended to read as follows:

Section 1705. Grand larceny is a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years if the value of the property is One Thousand Dollars (\$1,000.00) or more and if the value of the property is less than One Thousand Dollars (\$1,000.00) punishable by incarceration in the county jail for not more than one (1) year or by incarceration in the county jail one or more nights or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the option of the court, and shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) and ordered to provide restitution to the victim as provided in Section 991a of Title 22 of the Oklahoma Statutes.

SECTION 6. AMENDATORY 21 O.S. 2011, Section 1713 is amended to read as follows:

Section 1713. A. Every person who buys or receives, in any manner, upon any consideration, any personal property of any value whatsoever that has been stolen, embezzled, obtained by false pretense or robbery, knowing or having reasonable cause to believe the same to have been stolen, embezzled, obtained by false pretense, or robbery, or who conceals, withholds, or aids in concealing or withholding such property from the owner, shall, if the value of the property is One Thousand Dollars (\$1,000.00) or more be guilty of a felony punishable by imprisonment in the State Penitentiary not to exceed five (5) years, or in the county jail not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars (\$500.00) or by both such fine and imprisonment. If the value of the property received is less than One Thousand Dollars (\$1,000.00), the person shall be guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a term not to exceed six (6) months, or by both such fine and imprisonment.

B. Every person who, without making reasonable inquiry, buys, receives, conceals, withholds, or aids in concealing or withholding any property which has been stolen, embezzled, obtained by false pretense or robbery, or otherwise feloniously obtained, under such circumstances as should cause such person to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it

shall be presumed to have bought or received such property knowing it to have been so stolen or wrongfully obtained. This presumption may, however, be rebutted by proof.

SECTION 7. AMENDATORY 21 O.S. 2011, Section 1719.1 is amended to read as follows:

Section 1719.1. A. For the purpose of this section:

1. "Domesticated fish or game" means all birds, mammals, fish and other aquatic forms and all other animals, regardless of classifications, whether resident, migratory or imported, protected or unprotected, dead or alive, and shall extend to and include every part of any individual species when such domesticated fish or game are not in the wild and are in the possession of a person currently licensed to possess such fish or game; and

2. "Taking" means the pursuing, killing, capturing, trapping, snaring and netting of domesticated fish or game or placing, setting, drawing or using any net, trap or other device for taking domesticated fish or game and includes specifically every attempt to take such domesticated fish or game.

B. Any domesticated fish or game shall be considered the personal property of the owner.

C. Any person who shall take any domesticated fish or game, with the intent to deprive the owner of said fish or game, and any person purchasing or receiving such domesticated fish or game knowing them to have been stolen, shall:

1. Upon conviction, if the current market value of said domesticated fish or game is less than One Thousand Dollars (\$1,000.00), be guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a term not to exceed sixty (60) days, or by both such fine and imprisonment; or

2. Upon conviction, if the current market value of said domesticated fish or game is One Thousand Dollars (\$1,000.00) or more, be guilty of a felony and shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the State Penitentiary for a term of not more than five (5) years, or by both such fine and imprisonment.

SECTION 8. AMENDATORY 21 O.S. 2011, Section 1722 is amended to read as follows:

Section 1722. Any person who shall unlawfully take any crude oil or gasoline, or any product thereof, from any pipe, pipeline, tank, tank car, or other receptacle or container and any person who shall unlawfully take or cause to be taken any machinery, drilling mud, equipment or other materials necessary for the drilling or production of oil or gas wells, with intent to deprive the owner or lessee thereof of said crude oil, gas, gasoline, or any product thereof, machinery, drilling mud, equipment or other materials necessary for the drilling or production of oil or gas wells shall:

1. Be guilty of a misdemeanor if the value of said product so taken is less than One Thousand Dollars (\$1,000.00), and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a term not to exceed sixty (60) days, or by both such fine and imprisonment;

2. Be guilty of a felony if the value of such product so taken is One Thousand Dollars (\$1,000.00) or more and upon conviction thereof, shall be punished by forfeiture of the instrumentality of the crime and by a fine of not less than One Hundred Dollars (\$100.00), and not more than Fifty Thousand Dollars (\$50,000.00), or by imprisonment in the State Penitentiary for a term in the range of one (1) year to ten (10) years, or by both such fine and imprisonment.

SECTION 9. AMENDATORY 21 O.S. 2011, Section 1731 is amended to read as follows:

Section 1731. Larceny of merchandise held for sale in retail or wholesale establishments shall be punishable as follows:

1. For the first or second conviction, in the event the value of the goods, edible meat or other corporeal property which has been taken is less than One Thousand Dollars (\$1,000.00), the violator shall be punishable by imprisonment in the county jail for a term not exceeding thirty (30) days, and by a fine not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00); provided for the first or second conviction, in the event more than one item of goods, edible meat or other corporeal property has been taken, punishment shall be by imprisonment in

