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OKLAHOMA SECRETARY OF STATE

State Question No. 805, Initiative Petition No. 421

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.

INITIATIVE PETITION

To the Honorable John Kevin Stitt, Governor of Oklahoma:

We the undersigned legal voters of the State of Oklahoma respectfully order that the following proposed Amendment to the Constitution shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the next regular general election (or at a special election as may be called by the Governor), and each for himself/herself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence is 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 proposed new Article II-A to the Oklahoma Constitution be approved?

BE IT ENACTED BY THE PEOPLE OF OKLAHOMA THAT A NEW ARTICLE II-A TO THE OKLAHOMA CONSTITUTION BE APPROVED:

**CONSTITUTION OF OKLAHOMA, ARTICLE II-A
CRIMINAL HISTORY IN SENTENCING**

SECTION 1. Definitions

As used in this Article:

- A. "Community supervision" shall be defined as a specified period of supervision with conditions, including but not limited to parole, probation, and post-imprisonment supervision.
- B. "Statutorily allowable base range of punishment" shall be defined as the range of punishment prescribed for the offense or offenses for which an individual is convicted, without the application of a statutory sentencing enhancement based on one or more former convictions.
- C. "Violent felony" shall be defined as any felony offense specified in Section 571 of Title 57 of the Oklahoma Statutes as of January 1, 2020.

SECTION 2. Exclusions

This Article does not apply to, and nothing in this Article shall be construed as applying to, changing, or affecting sentences for a person who has ever been convicted of a violent felony, no matter when convicted.

SECTION 3. Range of punishment after former felony convictions

Except as provided in section 2 of this Article, a former conviction for one or more felonies shall not be used to enhance the statutorily allowable base range of punishment, including but not

limited to minimum and maximum terms, for a person convicted, whether by trial or plea of guilty or nolo contendere, of a felony.

SECTION 4. Sentence modification — eligibility

Except as provided in section 2 of this Article, a person serving a sentence of incarceration or a person incarcerated pending an acceleration or revocation for a felony offense shall be eligible for sentence modification under this Article if the sentence, including any period of community supervision, for which the person is currently incarcerated satisfies the following criteria:

- A. Was imposed based on a statutorily allowable base range of punishment that was enhanced based on one or more former felony convictions; and
- B. Is greater than the current maximum sentence which may be imposed on a person convicted of the same felony or felonies who has not been formerly convicted of a felony.

SECTION 5. Sentence modification — initiation of proceeding

- A. To initiate a proceeding for sentence modification under this Article, a person who believes that they satisfy the criteria in section 4 of this Article, henceforth known as the “petitioner,” shall file a verified “application for modification” with the clerk of the court that imposed the sentence of incarceration. The Court of Criminal Appeals may prescribe the format of the application. If the court that imposed the sentence is not available, the presiding judge shall designate another judge or magistrate to rule on the application. Within thirty (30) days of the filing of the application, a period which may be extended if the court has good cause, the court shall dismiss the application pursuant to subsection B of this section or proceed pursuant to subsection C of this section.
- B. If the court determines, on the basis of the application, that the petitioner does not satisfy the criteria in section 4 of this Article or has not adhered to the format of the prescribed application, it may deny the application, citing reasons for the denial, or allow the petitioner to file an amended application. Denial of the application due to technical errors shall not abridge the right of the petitioner to file a subsequent application.
- C. If the court determines, on the basis of the application, that the petitioner satisfies the criteria in section 4 of this Article, then the court shall conduct a sentence modification hearing and modify the sentence in accordance with section 6 of this Article. In advance of such hearing, the court shall appoint counsel for petitioners who are indigent and notify the state. If the petitioner has a victim registered with the Department of Corrections for the sentence for which the petitioner is applying for modification, the state shall notify the victim of the sentence modification hearing.
- D. The Department of Corrections shall provide support as necessary to ensure this section is implemented, including but not limited to posting information in facility common areas regarding the rights set forth under section 4 of this Article and providing timely and adequate assistance for the preparation of applications pursuant to subsection A of this section.

SECTION 6. Sentence modification — hearing

- A. The sentencing modification hearing shall be held in open court. The court must accord the state, any registered victim, and the counsel for the petitioner an opportunity to make a statement with respect to any matter relevant to the question of sentence. The petitioner has the right to make a statement on his or her own behalf before the court pronounces a modified sentence.
- B. During the sentencing modification hearing, the court shall reconsider the sentence for which the petitioner is currently incarcerated, without any consideration or reference to an enhancement based on one or more former felony convictions, consistent with section 3 of this Article. In reaching this determination, the court shall consider the estimated

cost of the petitioner's continued incarceration to the taxpayers of the State of Oklahoma.

- C. At the conclusion of the sentencing modification hearing, the court shall be empowered to modify any aspect of the original sentence. At minimum, the court shall modify the sentence to be no greater than the current maximum sentence which may be imposed on a person convicted of the same felony or felonies with no former felony convictions. The court shall not modify the sentence so that the portion of the sentence to be served in prison is greater than the remainder of the original sentence to be served in prison.

SECTION 7. Appeal to the Court of Criminal Appeals

A denial pursuant to subsection B of section 5 or a final order entered under subsection C of section 6 of this Article may be appealed by the petitioner to the Court of Criminal Appeals within sixty (60) days from the entry of the denial or final order. The appeal shall be taken in accordance with procedures implemented by the Oklahoma Court of Criminal Appeals.

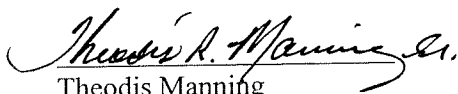
SECTION 8. Implementation

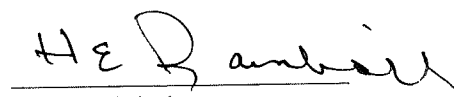
This Article shall become effective on the January 1 immediately following its passage.

SECTION 9. Severability

The provisions of this Article are severable, and if any part or provision shall be void, invalid, or unconstitutional, the decision of the court shall not affect or impair any of the remaining parts or provisions of this Article, and the remaining provisions shall continue in full force and effect.

Name and Address of Proponents


Theodis Manning
8320 NE 10 St.
Midwest City, ok 73110


Gene Rainbolt
101 N. Broadway Ave. Ste 1050
Oklahoma City, OK73102

SIGNATURES

The gist of the proposition is as follows: This measure seeks to add a new Article II-A to the Oklahoma Constitution. This new Article excepts and does not apply to persons who have ever been convicted of a violent felony. It would prohibit the use of a former felony conviction to increase the statutorily allowable base range of punishment for a person subsequently convicted of a felony. Individuals who are currently incarcerated for felony sentences that were enhanced based on one or more former felony convictions, and whose sentences are greater than the maximum sentence that may currently be imposed for such felonies, may seek sentence modification in court. The new Article sets forth a detailed process for such sentence modification, including but not limited to requirements for a hearing, appointment of counsel for indigent petitioners, and notification of victims, and requires that the court impose a modified sentence no greater than the current maximum sentence which may be imposed on a person convicted of the same felony with no former felony convictions, and which results in no greater time served in prison than under the original sentence. It establishes an appeal procedure, provides an effective date, and contains a severability clause.

WARNING

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1.	Signature of Legal Voter	Print Name	Address	City	Zip	County
2.	Signature of Legal Voter	Print Name	Address	City	Zip	County
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PROPOSED BALLOT TITLE

This measure seeks to add a new Article II-A to the Oklahoma Constitution. This new Article excepts and does not apply to persons who have ever been convicted of a violent felony. It would prohibit the use of a former felony conviction to increase the statutorily allowable base range of punishment for a person subsequently convicted of a felony. Individuals who are currently incarcerated for felony sentences that were enhanced based on one or more former felony convictions, and whose sentences are greater than the maximum sentence that may currently be imposed for such felonies, may seek sentence modification in court. The new Article sets forth a detailed process for such sentence modification, including but not limited to requirements for a hearing, appointment of counsel for indigent petitioners, and notification of victims, and requires that the court impose a modified sentence no greater than the current maximum sentence which may be imposed on a person convicted of the same felony with no former felony convictions, and which results in no greater time served in prison than under the original sentence. It establishes an appeal procedure, provides an effective date, and contains a severability clause.

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.