

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 HOUSE BILL 2009

 By: Mize

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7 AS INTRODUCED

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9 An Act relating to crimes and punishments; amending
10 21 O.S. 2011, Section 51.1, as amended by Section 1,
11 Chapter 126, O.S.L. 2018 (21 O.S. Supp. 2018, Section
12 51.1), which relates to penalties for second and
13 subsequent offenses; providing separate penalties for
14 persons previously convicted of certain offenses;
15 deleting list of specific offenses subject to certain
16 penalty provision; and providing an effective date.

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

20 SECTION 1. AMENDATORY 21 O.S. 2011, Section 51.1, as
21 amended by Section 1, Chapter 126, O.S.L. 2018 (21 O.S. Supp. 2018,
22 Section 51.1), is amended to read as follows:

23 Section 51.1 A. Except as otherwise provided in the Elderly
24 and Incapacitated Victim's Protection Program and Section 51.1a of
 this title, every person who, having been convicted of any felony,
 commits any crime after such conviction, within ten (10) years of
 the date following the completion of the execution of the sentence,

1 and against whom the district attorney seeks to enhance punishment
2 pursuant to this section of law, is punishable therefor as follows:

3 1. If the offense for which the person is subsequently
4 convicted is an offense enumerated in Section 571 of Title 57 of the
5 Oklahoma Statutes and the offense is punishable by imprisonment in
6 the custody of the Department of Corrections for a term exceeding
7 five (5) years, such person is punishable by imprisonment in the
8 custody of the Department of Corrections for a term in the range of
9 ten (10) years to life imprisonment;

10 2. If the offense of which such person is subsequently
11 convicted is such that upon a first conviction an offender would be
12 punishable by imprisonment in the custody of the Department of
13 Corrections for any term exceeding five (5) years, such person is
14 punishable by imprisonment in the custody of the Department of
15 Corrections for a term in the range of twice the minimum term for a
16 first time offender to life imprisonment. If the subsequent felony
17 offense does not carry a minimum sentence as a first time offender,
18 such person is punishable by imprisonment in the custody of the
19 Department of Corrections for a term in the range of two (2) years
20 to life imprisonment; and

21 3. If such subsequent offense is such that upon a first
22 conviction the offender would be punishable by imprisonment in the
23 custody of the Department of Corrections for five (5) years, or any
24 less term, then the person convicted of such subsequent offense is

1 punishable by imprisonment in the custody of the Department of
2 Corrections for a term not exceeding ten (10) years.

3 B. Every person who, having been twice convicted of felony
4 offenses, commits a subsequent felony offense which is an offense
5 enumerated in Section 571 of Title 57 of the Oklahoma Statutes,
6 within ten (10) years of the date following the completion of the
7 execution of the sentence, and against whom the district attorney
8 seeks to enhance punishment pursuant to this section of law, is
9 punishable by imprisonment in the custody of the Department of
10 Corrections for a term in the range of twenty (20) years to life
11 imprisonment. Felony offenses relied upon shall not have arisen out
12 of the same transaction or occurrence or series of events closely
13 related in time and location. Nothing in this section shall
14 abrogate or affect the punishment by death in all crimes now or
15 hereafter made punishable by death.

16 C. Every person who, having been twice convicted of felony
17 offenses, commits a subsequent felony offense within ten (10) years
18 of the date following the completion of the execution of the
19 sentence, and against whom the district attorney seeks to enhance
20 punishment pursuant to this section of law, is punishable by
21 imprisonment in the custody of the Department of Corrections for a
22 term in the range of three times the minimum term for a first time
23 offender to life imprisonment. If the subsequent felony offense
24 does not carry a minimum sentence as a first time offender, the

1 person is punishable by imprisonment in the custody of the
2 Department of Corrections for a term in the range of four (4) years
3 to life imprisonment. Felony offenses relied upon shall not have
4 arisen out of the same transaction or occurrence or series of events
5 closely related in time and location. Nothing in this section shall
6 abrogate or affect the punishment by death in all crimes now or
7 hereafter made punishable by death.

8 D. A previous conviction for possession of a controlled
9 dangerous substance pursuant to Section 2-402 of Title 63 of the
10 Oklahoma Statutes, or the equivalent law for possession of a
11 controlled dangerous substance from any other jurisdiction, may not
12 be used to enhance punishment pursuant to this section of law.

13 E. Every Notwithstanding the provisions of subsections A, B and
14 C of this section, every person who, having previously been
15 convicted of a felony other than a felony enumerated in Section 571
16 of Title 57 of the Oklahoma Statutes, subsection E of Section 138 of
17 Title 57 of the Oklahoma Statutes or any sex offense that would
18 require the person to register as a sex offender pursuant to the Sex
19 Offenders Registration Act, is convicted of a second or subsequent
20 felony for:

21 ~~1. Uttering a subscription on instrument as that of one with~~
22 ~~the same name, as provided in Section 1592 of this title;~~

23 ~~2. Receiving or concealing stolen property, as provided in~~
24 ~~Section 1713 of this title;~~

1 ~~3. False personation of another, as provided in Section 1531 of~~
2 ~~this title;~~

3 ~~4. Unauthorized use of a motor vehicle, as provided in Section~~
4 ~~4-102 of Title 47 of the Oklahoma Statutes;~~

5 ~~5. Grand larceny, as provided in Section 1705 of this title;~~

6 ~~6. False declaration of ownership to a pawnbroker, as provided~~
7 ~~in Section 1512 of Title 59 of the Oklahoma Statutes;~~

8 ~~7. Forgery in the second degree, as provided in Section 1577 of~~
9 ~~this title;~~

10 ~~8. Receiving, possessing or concealing a stolen vehicle, as~~
11 ~~provided in Section 4-103 of Title 47 of the Oklahoma Statutes; or~~

12 ~~9. Larceny of merchandise from a retailer, as provided in~~
13 ~~Section 1731 of this title,~~

14 other than a felony enumerated in Section 571 of Title 57 of the
15 Oklahoma Statutes, subsection E of Section 138 of Title 57 of the
16 Oklahoma Statutes or sex offense that would require the person to
17 register as a sex offender pursuant to the Sex Offenders
18 Registration Act, is punishable by imprisonment in the custody of
19 the Department of Corrections for a term of not more than ~~twice~~ the
20 maximum sentence plus one-fourth (1/4) of the maximum sentence that
21 could have been imposed for a first conviction of the current
22 offense.

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1 SECTION 2. This act shall become effective November 1, 2019.

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3 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2019 - DO
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