ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 1518

By: Peterson, Virgin, Ritze, Shelton, McDaniel (Jeannie), Sherrer and Hoskin of the House

and

Shaw of the Senate

An Act relating to criminal procedure; creating the Justice Safety Valve Act; providing short title; authorizing courts to depart from mandatory minimum sentencing requirements under certain circumstances; providing exceptions; directing district court clerks to submit certain report; requiring publication of report; providing for codification; and providing an effective date.

AUTHORS: Add the following Senate coauthors: Matthews and Pittman

AUTHORS: Add the following House coauthors: Billy, Matthews, Griffin, and Banz

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to criminal procedure; creating the Justice Safety Valve Act; providing short title; authorizing courts to depart from mandatory minimum sentencing requirements under certain circumstances; providing exceptions; directing district court clerks to submit certain report; requiring publication of report; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 985 of Title 22, unless there is created a duplication in numbering, reads as follows:

Sections 2 and 3 of this act shall be known and may be cited as the "Justice Safety Valve Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 985.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. When sentencing a person convicted of a criminal offense for which there is a mandatory minimum sentence of imprisonment, the court may depart from the applicable sentence if the court finds substantial and compelling reasons on the record, after giving due regard to the nature of the crime, history, and character of the defendant and his or her chances of successful rehabilitation, that:

1. The mandatory minimum sentence of imprisonment is not necessary for the protection of the public and imposition of the mandatory minimum sentence of imprisonment would result in substantial injustice to the defendant; or

2. The mandatory minimum sentence of imprisonment is not necessary for the protection of the public and the defendant, based on a risk and needs assessment, is eligible for an alternative court, a diversion program or community sentencing, without regard

to exclusions because of previous convictions, and has been accepted to the same, pending sentencing.

B. The court shall not have the discretion to depart from the applicable mandatory minimum sentence of imprisonment on convictions for criminal offenses under the following circumstances:

1. The offense for which the defendant was convicted is among those crimes listed in Section 571 of Title 57 of the Oklahoma Statutes as excepted from the definition of "nonviolent offense";

2. The offense for which the defendant was convicted was a sex offense and will require the defendant to register as a sex offender pursuant to the provisions of the Sex Offenders Registration Act;

3. The offense for which the defendant was convicted involved the use of a firearm;

4. The offense for which the defendant was convicted is a crime listed in Section 13.1 of Title 21 of the Oklahoma Statutes requiring the defendant to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole;

5. The offense for which the defendant was convicted is a violation of the Trafficking in Illegal Drugs Act as provided in Sections 2-414 through 2-420 of Title 63 of the Oklahoma Statutes;

6. The defendant was the leader, manager or supervisor of others in a continuing criminal enterprise; or

7. The offense for which the defendant was convicted is a violation of the Oklahoma Antiterrorism Act as provided in Sections 1268 through 1268.8 of Title 21 of the Oklahoma Statutes.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 985.2 of Title 22, unless there is created a duplication in numbering, reads as follows:

The district court clerk of each county shall submit a report of the departures in sentencing to the Clerk of the Court of Criminal Appeals on or before the first day of February of each year. On or before the first day of March of each year the Clerk of the Court of Criminal Appeals shall make available, in digital electronic format and on the website of the Oklahoma Court of Criminal Appeals, a report as to the number of departures from mandatory minimum sentences made by each judge in the state during the previous calendar year.

SECTION 4. This act shall become effective November 1, 2015."

Passed the Senate the 21st day of April, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

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Presiding Officer of the House of Representatives

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sentences made by each judge in the state during the previous calendar year.

SECTION 4. This act shall become effective November 1, 2015.

Passed the House of Representatives the 11th day of March, 2015.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of _____, 2015.

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Presiding Officer of the Senate