

OKLAHOMA CONSTITUTION ARTICLE II - BILL OF RIGHTS

SECTION II-1

Political power - Purpose of government - Alteration or reformation.

All political power is inherent in the people; and government is instituted for their protection, security, and benefit, and to promote their general welfare; and they have the right to alter or reform the same whenever the public good may require it: Provided, such change be not repugnant to the Constitution of the United States.

SECTION II-2

Inherent rights.

All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.

SECTION II-3

Right of assembly and petition.

The people have the right peaceably to assemble for their own good, and to apply to those invested with the powers of government for redress of grievances by petition, address, or remonstrance.

SECTION II-4

Interference with right of suffrage.

No power, civil or military, shall ever interfere to prevent the free exercise of the right of suffrage by those entitled to such right.

SECTION II-5

Public money or property - Use for sectarian purposes.

No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.

SECTION II-6

Courts of justice open - Remedies for wrongs - Sale, denial or delay.

The courts of justice of the State shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered without sale, denial, delay, or prejudice.

SECTION II-7

Due process of law.

No person shall be deprived of life, liberty, or property, without due process of law.

SECTION II-8

Right to bail - Exceptions.

A. All persons shall be bailable by sufficient sureties, except that bail may be denied for:

1. capital offenses when the proof of guilt is evident, or the presumption thereof is great;

2. violent offenses;

3. offenses where the maximum sentence may be life imprisonment or life imprisonment without parole;

4. felony offenses where the person charged with the offense has been convicted of two or more felony offenses arising out of different transactions; and

5. controlled dangerous substances offenses where the maximum sentence may be at least ten (10) years imprisonment.

On all offenses specified in paragraphs 2 through 5 of this section, the proof of guilt must be evident, or the presumption must be great, and it must be on the grounds that no condition of release would assure the safety of the community or any person.

B. The provisions of this resolution shall become effective on July 1, 1989.

Amended by State Question No. 612, Legislative Referendum No. 269, adopted at election held on Nov. 8, 1988. Amendment proposed by Laws 1988, p. 1850, H.J.R. No. 1053.

SECTION II-9

Excessive bail or fines - Cruel or unusual punishment.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SECTION II-9A

Death penalty.

All statutes of this state requiring, authorizing, imposing or relating to the death penalty are in full force and effect, subject to legislative amendment or repeal by statute, initiative or referendum. Any method of execution shall be allowed, unless prohibited by the United States Constitution. Methods of execution may be designated by the Legislature. A sentence of death shall not be reduced on the basis that a method of execution is invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. The death penalty provided for under such statutes shall not be deemed to be, or to constitute, the infliction of cruel or unusual punishments, nor shall such punishment be deemed to contravene any other provision of this Constitution.

Added by State Question No. 776, Legislative Referendum No. 367, adopted at General Election held on Nov. 8, 2016.

NOTE: State Question No. 776 proposed by Laws 2015, p. 1597, S.J.R. No. 31, § 1.

SECTION II-10

Habeas corpus - Suspension.

The privilege of the writ of habeas corpus shall never be suspended by the authorities of this State.

SECTION II-11

Officers - Personal attention to duties - Intoxication.

Every person elected or appointed to any office or employment of trust or profit under the laws of the State, or under any ordinance of any municipality thereof, shall give personal attention to the duties of the office to which he is elected or appointed. Drunkenness and the excessive use of intoxicating liquors while in office shall constitute sufficient cause for impeachment or removal therefrom.

Amended by State Question No. 73, Initiative Petition No. 46, adopted at election held on Aug. 4, 1914.

SECTION II-12

Officers of United States or other states - Ineligibility to office.

No member of Congress from this State, or person holding any office of trust or profit under the laws of any other State, or of the United States, shall hold any office of trust or profit under the laws of this State; provided, neither the provisions of this section nor any other provision of this Constitution or state law shall be construed to prohibit the following officeholders from holding at the same time any other office of trust or profit:

1. Officers and enlisted members of the National Guard;
2. Officers and enlisted members of the National Guard Reserve;
3. Officers of the Officers Reserve Corps of the United States;
4. Enlisted members of the Organized Reserves of the United States; and
5. Officers and enlisted members of the Oklahoma State Guard and any other active militia or military force organized under state law.

The Legislature shall have the power to enact laws to further implement the provisions of this section.

Amended by State Question No. 769, Legislative Referendum No. 364, adopted at election held on Nov. 4, 2014 (amendment proposed by Laws 2014, S.J.R. No. 33, § 1).

SECTION II-12A

Term limits for Congressman.

Beginning January 1, 1995, persons wanting to become a candidate for election to the United States Congress from this State for a term beginning on or after January 1, 1995, shall be subject to the following provisions:

A. Any person seeking to have his or her name placed on the ballot for election to the United States House of Representatives shall be ineligible if, by the end of the then current term of office, that person has served in that office for three (3) two-year terms.

B. Any person seeking to have his or her name placed on the ballot for election to the United States Senate shall be ineligible if, by the end of the then current term of office, that person has served in that office for two (2) six-year terms.

C. A person elected to serve as a member of the United States Congress shall be eligible to serve as a Representative for a total of six (6) years and as a Senator for a total of twelve (12) years for a maximum total of eighteen (18) years as a member of Congress from this State.

D. The provisions of this section shall not be applicable to or include:

1. The years served by any person as a member of the United States House of Representatives or as a member of the United States Senate which began prior to the election at which this measure was enacted.

2. The years served by a person who has been appointed to complete the remainder of a vacated term.

E. The provisions of this Section shall not be construed so as to prevent casting a ballot for any person regardless of the number of years previously served in the United States Congress by writing the name of that person on the ballot, or from having such ballot counted or to prevent a person from campaigning by means of a "write-in" campaign if that procedure is otherwise authorized in this Constitution or by law.

Added by State Question No. 662, Initiative Petition No. 360, adopted at election held on Sept. 20, 1994.

SECTION II-13

Imprisonment for debt.

Imprisonment for debt is prohibited, except for the non-payment of fines and penalties imposed for the violation of law.

SECTION II-14

Military subordinate to civil authorities - Quartering without owner's consent.

The military shall be held in strict subordination to the civil authorities. No soldier shall be quartered in any house, in time of peace, without the consent of the owner, nor in time of war, except in a manner to be prescribed by law.

SECTION II-15

Bills of attainder - Ex post facto laws - Obligation of contracts - Forfeitures.

No bill of attainder, ex post facto law, nor any law impairing the obligation of contracts, shall ever be passed. No conviction shall work a corruption of blood or forfeiture of estate: Provided, that this provision shall not prohibit the imposition of pecuniary penalties.

SECTION II-16

Treason.

Treason against the State shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SECTION II-17

Indictment or information - Preliminary examination - Prosecutions in courts not of record.

No person shall be prosecuted criminally in courts of record for felony or misdemeanor otherwise than by presentment or indictment or by information. No person shall be prosecuted for a felony by information without having had a preliminary examination before an examining magistrate, or having waived such preliminary examination. Prosecutions may be instituted in courts not of record upon a duly verified complaint.

SECTION II-18

Grand jury.

A grand jury shall be composed of twelve (12) persons, any nine (9) of whom concurring may find an indictment or true bill. A grand jury shall be convened upon the order of a district judge upon his own motion; or such grand jury shall be ordered by a district judge upon the filing of a petition therefor signed by qualified electors of the county equal to the number of signatures required to propose legislation by a county by initiative petition as provided in Section 5 of Article V of the Oklahoma Constitution, with the minimum number of required signatures being five hundred (500) and the maximum being five thousand (5,000); and further providing that in any calendar year in which a grand jury has been convened pursuant to a petition therefor, then any subsequent petition filed during the same calendar year shall require double the minimum number of signatures as were required hereunder for the first petition; or such grand jury shall be ordered convened upon the filing of a verified application by the Attorney General of the State of Oklahoma who shall have authority to conduct the grand jury in investigating crimes which are alleged to have been committed in said county or involving multicounty criminal

activities; when so assembled such grand jury shall have power to inquire into and return indictments for all character and grades of crime. All other provisions of the Constitution or the laws of this state in conflict with the provisions of this constitutional amendment are hereby expressly repealed.

The Legislature shall enact laws to prevent corruption in making, filing, circulating and submitting petitions calling for convening a grand jury.

Amended by State Question No. 354, Legislative Referendum No. 101, adopted at primary election held on July 1, 1952; State Question No. 457, Legislative Referendum No. 170, adopted at election held on Aug. 27, 1968; State Question No. 483, Legislative Referendum No. 189, adopted at election held on Dec. 7, 1971; State Question No. 670, Legislative Referendum No. 302, adopted at election held on Nov. 5, 1996.

SECTION II-19

Trial by jury.

The right of trial by jury shall be and remain inviolate, except in civil cases wherein the amount in controversy does not exceed One Thousand Five Hundred Dollars (\$1,500.00), or in criminal cases wherein punishment for the offense charged is by fine only, not exceeding One Thousand Five Hundred Dollars (\$1,500.00). Provided, however, that the Legislature may provide for jury trial in cases involving lesser amounts. Juries for the trial of civil cases, involving more than Ten Thousand Dollars (\$10,000.00), and felony criminal cases shall consist of twelve (12) persons. All other juries shall consist of six (6) persons. However, in all cases the parties may agree on a lesser number of jurors than provided herein.

In all criminal cases where imprisonment for more than six (6) months is authorized the entire number of jurors must concur to render a verdict. In all other cases three-fourths (3/4) of the whole number of jurors concurring shall have power to render a verdict. When a verdict is rendered by less than the whole number of jurors, the verdict shall be signed by each juror concurring therein. Amended by State Question No. 354, Legislative Referendum No. 101, adopted at primary election held on July 1, 1952; State Question No. 459, Legislative Referendum No. 172, adopted at election held on Sept. 17, 1968, eff. Jan. 13, 1969; State Question No. 623, Legislative Referendum No. 277, adopted at election held on Aug. 28, 1990.

SECTION II-20

Rights of accused in criminal cases.

In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury of the county in which the crime shall have been committed or, where uncertainty exists as

to the county in which the crime was committed, the accused may be tried in any county in which the evidence indicates the crime might have been committed. Provided, that the venue may be changed to some other county of the state, on the application of the accused, in such manner as may be prescribed by law. He shall be informed of the nature and cause of the accusation against him and have a copy thereof, and be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his behalf. He shall have the right to be heard by himself and counsel; and in capital cases, at least two days before the case is called for trial, he shall be furnished with a list of the witnesses that will be called in chief, to prove the allegations of the indictment or information, together with their postoffice addresses.

Amended by State Question No. 401, Referendum Petition No. 132, adopted at special election held on Sept. 12, 1961.

SECTION II-21

Self-incrimination - Double jeopardy.

No person shall be compelled to give evidence which will tend to incriminate him, except as in this Constitution specifically provided; nor shall any person, after having been once acquitted by a jury, be again put in jeopardy of life or liberty for that of which he has been acquitted. Nor shall any person be twice put in jeopardy of life or liberty for the same offense.

SECTION II-22

Liberty of speech and press - Truth as evidence in prosecution for libel.

Every person may freely speak, write, or publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libel, the truth of the matter alleged to be libelous may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous be true, and was written or published with good motives and for justifiable ends, the party shall be acquitted.

SECTION II-23

Private property - Taking or damaging for private use.

No private property shall be taken or damaged for private use, with or without compensation, unless by consent of the owner, except for private ways of necessity, or for drains and ditches across lands of others for agricultural, mining, or sanitary purposes, in such manner as may be prescribed by law.

SECTION II-24

Private property - Public use - Character of use a judicial question.

Private property shall not be taken or damaged for public use without just compensation. Just compensation shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. Such compensation shall be ascertained by a board of commissioners of not less than three freeholders, in such manner as may be prescribed by law. Provided however, in no case shall the owner be required to make any payments should the benefits be judged to exceed damages. The commissioners shall not be appointed by any judge or court without reasonable notice having been served upon all parties in interest. The commissioners shall be selected from the regular jury list of names prepared and made as the Legislature shall provide. Any party aggrieved shall have the right of appeal, without bond, and trial by jury in a court of record. Until the compensation shall be paid to the owner, or into court for the owner, the property shall not be disturbed, or the proprietary rights of the owner divested. When possession is taken of property condemned for any public use, the owner shall be entitled to the immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of such compensation. The fee of land taken by common carriers for right of way, without the consent of the owner, shall remain in such owner subject only to the use for which it is taken. In all cases of condemnation of private property for public or private use, the determination of the character of the use shall be a judicial question.

Amended by State Question No. 624, Legislative Referendum No. 278, adopted at election held on Aug. 28, 1990.

SECTION II-25

Contempt - Definition - Jury trial - Hearing.

The legislature shall pass laws defining contempts and regulating the proceedings and punishment in matters of contempt: Provided, that any person accused of violating or disobeying, when not in the presence or hearing of the court, or judge sitting as such, any order of injunction, or restraint, made or entered by any court or judge of the State shall, before penalty or punishment is imposed, be entitled to a trial by jury as to the guilt or innocence of the accused. In no case shall a penalty or punishment be imposed for contempt, until an opportunity to be heard is given.

SECTION II-26

Bearing arms - Carrying weapons.

The right of a citizen to keep and bear arms in defense of his home, person, or property, or in aid of the civil power, when

thereunto legally summoned, shall never be prohibited; but nothing herein contained shall prevent the Legislature from regulating the carrying of weapons.

SECTION II-27

Witnesses not excused from testifying - Immunity from prosecution.

Any person having knowledge or possession of facts that tend to establish the guilt of any other person or corporation under the laws of the state shall not be excused from giving testimony or producing evidence, when legally called upon so to do, on the ground that it may tend to incriminate him under the laws of the state; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may so testify or produce evidence. All other provisions of the Constitution or the laws of this state in conflict with the provisions of this constitutional amendment are hereby expressly repealed.

Amended by State Question No. 482, Legislative Referendum No. 188, adopted at election held on Dec. 7, 1971.

SECTION II-28

Corporate records, books and files.

The records, books, and files of all corporations shall be, at all times, liable and subject to the full visitorial and inquisitorial powers of the State, notwithstanding the immunities and privileges in this Bill of Rights secured to the persons, inhabitants, and citizens thereof.

SECTION II-29

Transportation out of State.

No person shall be transported out of the State for any offense committed within the State, nor shall any person be transported out of the State for any purpose, without his consent, except by due process of law; but nothing in this provision shall prevent the operation of extradition laws, or the transporting of persons sentenced for crime, to other states for the purpose of incarceration.

SECTION II-30

Unreasonable searches or seizures - Warrants, issuance of.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches or seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, describing as particularly as may be the place to be searched and the person or thing to be seized.

SECTION II-31

State - Engagement in occupation or business.

The right of the State to engage in any occupation or business for public purposes shall not be denied nor prohibited, except that the State shall not engage in agriculture for any other than educational and scientific purposes and for the support of its penal, charitable, and educational institutions.

SECTION II-32

Perpetuities - Monopolies - Primogeniture - Entailments.

Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

SECTION II-33

Effect of enumeration of rights.

The enumeration in this Constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

SECTION II-34

Rights of victims.

A. To secure justice and due process for victims throughout the criminal and juvenile justice systems, a victim of a crime shall have the following rights, which shall be protected by law in a manner no less vigorous than the rights afforded to the accused: to be treated with fairness and respect for the victim's safety, dignity and privacy; upon request, to reasonable and timely notice of and to be present at all proceedings involving the criminal or delinquent conduct; to be heard in any proceeding involving release, plea, sentencing, disposition, parole and any proceeding during which a right of the victim is implicated; to reasonable protection; upon request, to reasonable notice of any release or escape of an accused; to refuse an interview or other request made by the accused or any person acting on behalf of the accused, other than a refusal to appear if subpoenaed by defense counsel; to full and timely restitution; to proceedings free from unreasonable delay and a prompt conclusion of the case; upon request, to confer with the attorney for the state; and to be informed of all rights enumerated in this section.

B. The victim, the victim's attorney or other lawful representative, or the attorney for the state upon request of the victim may assert in any trial or appellate court, or before any other authority with jurisdiction over the case, and have enforced the rights enumerated in this section and any other right afforded to the victim by law. The court or other authority with jurisdiction shall act promptly on such a request. This section does not create any cause of action for compensation or damages against the state,

any political subdivision of the state, any officer, employee or agent of the state or of any of its political subdivisions, or any officer or employee of the court.

C. As used in this section, a "victim" includes any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.

D. The Legislature, or the people by initiative or referendum, has the authority to enact substantive and procedural laws to implement, preserve and protect the rights guaranteed to victims by this section.

E. The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage other rights guaranteed by the Legislature or retained by victims.

Added by State Question No. 674, Legislative Referendum No. 304, adopted at election held on Nov. 5, 1996. Amended by State Question No. 794, Legislative Referendum No. 371, adopted at election held on Nov. 6, 2018.

SECTION II-35.

Marriage defined – Construction of law and Constitution – Recognition of out-of-state marriages – Penalty.

A. Marriage in this state shall consist only of the union of one man and one woman. Neither this Constitution nor any other provision of law shall be construed to require that marital status or the legal incidents thereof be conferred upon unmarried couples or groups.

B. A marriage between persons of the same gender performed in another state shall not be recognized as valid and binding in this state as of the date of the marriage.

C. Any person knowingly issuing a marriage license in violation of this section shall be guilty of a misdemeanor.

Added by State Question No. 711, Legislative Referendum No. 334, adopted at election held Nov. 2, 2004. Addition proposed by Laws 2004, c. 156, § 1.

SECTION II-36

Right to hunt, fish, trap and harvest game and fish.

All citizens of this state shall have a right to hunt, fish, trap, and harvest game and fish, subject only to reasonable regulation as prescribed by the Legislature and the Wildlife Conservation Commission. The Wildlife Conservation Commission shall have the power and authority to approve methods, practices and procedures for hunting, trapping, fishing and the taking of game and fish. Traditional methods, practices and procedures shall be allowed for taking game and fish that are not identified as threatened by law

or by the Commission. Hunting, fishing, and trapping shall be the preferred means of managing game and fish that are not identified as threatened by law or by the Commission. Nothing in this section shall be construed to modify any provision of common law or statutes relating to trespass, eminent domain, or any other property rights. Added by State Question No. 742, Legislative Referendum No. 345, adopted at election held on Nov. 4, 2008.

SECTION II-36A

Prohibition of special treatment or discrimination based on race or sex in public employment, education and contracts.

A. The state shall not grant preferential treatment to, or discriminate against, any individual or group on the basis of race, color, sex, ethnicity or national origin in the operation of public employment, public education or public contracting.

B. This section shall apply only to action taken after the effective date of this section.

C. Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex that are reasonably necessary to the normal operation of public employment, public education or public contracting.

D. Nothing in this section shall be interpreted as invalidating any court order or consent decree that is in force as of the effective date of this section.

E. Nothing in this section shall be interpreted as prohibiting action that must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the state.

F. For the purposes of this section, "state" shall include, but not be limited to, the state itself or an agency, institution, instrumentality, or political subdivision of the state.

G. The remedies available for violations of this section shall be the same, regardless of the injured party's race, color, sex, ethnicity or national origin, as are otherwise available for violations of the antidiscrimination laws of this state.

Added by State Question No. 759, Legislative Referendum No. 359, adopted at election held on Nov. 6, 2012.

NOTE: Editorially renumbered from Article II, § 36 to avoid a duplication in numbering.

SECTION II-37

Health Care System.

A. For purposes of this section:

1. "Compel" shall include penalties or fines;

2. "Direct payment or pay directly" means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service;

3. "Health care system" means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants;

4. "Lawful health care services" means any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services; and

5. "Penalties or fines" means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect established by law or rule by a government-established, -created or -controlled agency that is used to punish or discourage the exercise of rights protected under this section.

B. To preserve the freedom of Oklahomans to provide for their health care:

1. A law or rule shall not compel, directly or indirectly, any person, employer or health care provider to participate in any health care system; and

2. A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

C. Subject to reasonable and necessary rules that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule.

D. This section shall not:

1. Affect which health care services a health care provider or hospital is required to perform or provide;

2. Affect which health care services are permitted by law;

3. Prohibit care related to workers' compensation;

4. Affect laws or rules in effect as of January 1, 2010; or

5. Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services.

Added by State Question No. 756, Legislative Referendum No. 356, adopted at election held on Nov. 2, 2010.