

# STATE QUESTION GUIDE



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805

**Issue:** Criminal Justice Reform (specifically, Sentence Enhancements)

**Ballot language:** 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.



**Supporters say:** Too many people are forced to serve unnecessarily long prison sentences for nonviolent crimes. This measure would change the State Constitution so that past convictions for nonviolent crimes (such as drug possession) cannot be used to "enhance" (i.e. lengthen) sentences.



**Opponents say:** When this measure was written, state law still defined certain crimes - including domestic violence - as "nonviolent." Therefore, this measure could prevent repeat offenders of some violent crimes from serving as longer sentence.



**Issue:** Use of Tobacco Settlement Endowment Trust (TSET) funds

**Ballot language:** This measure seeks to amend Article 10, Section 40 of the Oklahoma Constitution (Section 40), which directs proceeds from the State's settlements with or judgments against tobacco companies. Currently, Section 40 directs 75% of proceeds to the Tobacco Settlement Endowment Trust Fund (TSET Fund), where earnings may only be used for tobacco prevention programs, cancer research, and other such programs to maintain or improve the health of Oklahomans. Meanwhile, the remaining 25% of proceeds are directed to a separate fund for the Legislature (Legislative Fund). The Legislature can also direct some of that 25% to the Attorney General. This measure amends Section 40 to reduce the percentage of proceeds that go into the TSET Fund from 75% to 25%. As a result, the remaining 75% will go to the Legislative Fund and the Legislature may continue to direct a portion to the Attorney General. The measure would also restrict the use of the Legislative Fund. Section 40 currently states only that the Legislative Fund is subject to legislative appropriation. If this measure passes, money from the Legislative Fund must be used to get federal matching funds for Oklahoma's Medicaid Program.



**Supporters say:** Other areas of the state budget need more funding, therefore we need this measure to change the TSET formula so that the state legislature is empowered to appropriate a larger proportion of the money to other programs, including the Medicaid program.



**Opponents say:** This measure will result in less money going into the TSET fund, which will result in a cut in funding for programs such as tobacco cessation, cancer research, and other health care associated programs.

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