

SHORT TITLE: Crimes and punishments; child endangerment; penalties;
emergency.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 578

By: Williams (Penny) and
Shedrick

AS INTRODUCED

An Act relating to crimes and punishments; amending
21 O.S. 1991, Section 852.1, which relates to child
endangerment; modifying crime of child
endangerment; criminalizing certain acts or
omissions by person having custody or control over
child; modifying and construing affirmative
defense; modifying penalty for child endangerment;
construing court authority to take custody and
protect child; providing exception for liability of
certain activities; criminalizing certain false
report; providing penalties; defining terms; and
declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 852.1, is
amended to read as follows:

Section 852.1 A. ~~A Any person who is the parent, guardian, or
person having custody or control over a child as defined in Section
1101 of Title 10 of the Oklahoma Statutes,~~ commits child
endangerment when the person knowingly ~~permits physical or sexual
abuse of~~ and willfully acts in a manner which:

1. Places the child at risk of great bodily injury;
2. Inflicts emotional damage to the child;

3. Establishes a pattern of behavior regarding the child by a series of acts or omissions which are contrary to the care and attention an ordinarily prudent person would provide, and as a result of such acts or omissions the child sustains repeated injuries, or as a result of such acts or omissions the child is in substantial risk of suffering great bodily harm or emotional damage as defined in this section; or

4. Permits any of said acts in paragraphs 1, 2 or 3 of this subsection to occur to a child. ~~However, it is~~ It shall be an affirmative defense to this paragraph ~~if that~~ the person had a reasonable ~~apprehension that~~ belief any action to stop the ~~abuse act or omission~~ would result in substantial bodily harm to the person or the child. This affirmative defense shall not be construed to relieve a person from any duty to report such act or omission regarding the child as may be required by law.

B. The provisions of this section shall not apply to any parent, guardian or other person having custody or control of a child for the sole reason that the parent, guardian or other person in good faith selects and depends upon spiritual means or prayer for the treatment or cure of disease or remedial care for such child. This subsection shall in no way limit or modify the protections afforded said child in Section 852 of ~~Title 21~~ this title or Section 1130 of Title 10 of the Oklahoma Statutes.

C. ~~Any~~ Upon conviction of a violation of any provision of subsection A of this section, a person ~~convicted of violating any provision of this section~~ shall be guilty of a misdemeanor punishable by incarceration for not to exceed one (1) year in the county jail, a fine of not more than Five Hundred Dollars (\$500.00), the completion of not less than twenty (20) hours of community service, or by any combination of such penalties provided the child has not suffered a physical injury resulting in death, permanent disfigurement or protracted loss or impairment of the function of

any bodily member or organ, or permanent emotional damage. Upon any second or subsequent conviction of this section, or when a child suffers a physical injury resulting in death, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ, or permanent emotional damage, the person shall be guilty of a felony, punishable by a fine of not more than Five Thousand Dollars (\$5,000.00), imprisonment in the State Penitentiary for not more than four (4) years in the State Penitentiary or by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

D. Nothing contained herein shall prevent a court if otherwise authorized by law from immediately assuming custody of a child and ordering whatever action may be necessary to protect the child's safety and welfare. Any person having custody or control over a child shall not be criminally liable for any injury resulting from recreational or other activities appropriate to the child's age, development and community setting.

E. Any person who willfully, knowingly and without probable cause makes a false report to any person of the crime of child endangerment, which report causes or encourages the exercise of police action or other investigation, shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

F. As used in this section:

1. "Great bodily injury" means a physical injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ;

2. "Emotional damage" means a mental state evidenced by severe anxiety, fear, depression, withdrawal, or untoward aggressive

behavior which is diagnosed by a medical or osteopathic physician or a psychologist and requires professional treatment; and

3. "Permanent emotional damage" means a mental state evidenced by severe anxiety, fear, depression, withdrawal, or untoward aggressive behavior which is diagnosed by a medical or osteopathic physician or a psychologist and requires continuous professional treatment or medication.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-1-0738

CJ