

ENROLLED HOUSE
BILL NO. 1784

By: Askins, Blackburn, Boyd,
Braddock, Coleman, Dank,
Easley, Greenwood, Staggs,
Winchester, Benge and Piatt
of the House

and

Helton of the Senate

An Act relating to crimes and punishments; amending 21 O.S. 1991, Section 644, as last amended by Section 217, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 644), which relates to assault and battery; mandating minimum sentences for domestic abuse offenses committed under certain circumstances; defining term; amending 21 O.S. 1991, Section 1111, as last amended by Section 1, Chapter 22, O.S.L. 1995 (21 O.S. Supp. 1998, Section 1111), which relates to rape; modifying circumstances constituting crime of rape; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 644, as last amended by Section 217, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 644), is amended to read as follows:

Section 644. A. Assault shall be punishable by imprisonment in a county jail not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

B. Assault and battery shall be punishable by imprisonment in a county jail not exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such imprisonment and fine.

C. Any person who commits any assault and battery against a current or former spouse, an individual with whom the defendant has had a child, or a person living in the same household as the defendant shall be guilty of domestic abuse. Upon conviction, the defendant shall be punished by imprisonment in the county jail not exceeding one (1) year, or by a fine of not more than Three Thousand Dollars (\$3,000.00), or by both such fine and imprisonment. Any person convicted of domestic abuse as defined in this subsection that was committed in the presence of a child shall be sentenced to not less than six (6) months. Any second or subsequent conviction of domestic abuse shall be a felony. Any person convicted of a second or subsequent domestic abuse as defined in this subsection that was committed in the presence of a child shall be sentenced to

not less than one (1) year. The fine for a felony violation of this subsection shall not be more than Five Thousand Dollars (\$5,000.00). Every conviction of domestic abuse shall require as a condition of a suspended sentence that the defendant participate in counseling or treatment to bring about the cessation of domestic abuse. The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court. As used in this section, "in the presence of a child" means in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1111, as last amended by Section 1, Chapter 22, O.S.L. 1995 (21 O.S. Supp. 1998, Section 1111), is amended to read as follows:

Section 1111. A. Rape is an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:

1. Where the victim is under sixteen (16) years of age; or
2. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent; or
3. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person; or
4. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit; or
5. Where the victim is at the time unconscious of the nature of the act and this is known to the accused; or
6. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with ~~such~~ the spouse with intent to induce ~~such~~ that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall be deemed guilty of rape; or
7. Where the victim is under the legal custody or supervision of a state agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, county, municipal or political subdivision employee or an employee of a contractor of the state, a county, a municipality or a political subdivision that exercises authority over the victim.

B. Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.

SECTION 3. This act shall become effective November 1, 1999.

Passed the House of Representatives the 26th day of May, 1999.

Speaker of the House of
Representatives

Passed the Senate the 26th day of May, 1999.

President of the Senate