

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 561

By: Campbell

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 1991, Sections 888, as amended by Section 2, Chapter 289, O.S.L. 1992, 1115 and 1116 (21 O.S. Supp. 1998, Section 888), which relate to forcible sodomy, rape in the first degree and rape in the second degree; modifying language; adding certain chemical treatment as penalty; making certain chemical treatment a condition for suspended sentence or parole; stating duration of treatment; allowing for surgical alternative to chemical treatment; directing the Department of Corrections to administer treatment; providing limitations to certain rules and protocols; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 888, as amended by Section 2, Chapter 289, O.S.L. 1992 (21 O.S. Supp. 1998, Section 888), is amended to read as follows:

Section 888. A. Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony ~~punishable~~ and the violator shall be punished by imprisonment in the ~~penitentiary~~ custody of the Department of Corrections for a ~~period~~ term of not more than twenty (20) years. Any person convicted of a first offense may be required, as a condition of a suspended sentence or as a condition of any parole release, to undergo medroxyprogesterone acetate treatment or its chemical equivalent in addition to any other penalty.

B. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen

(16) years of age, shall not be eligible for probation, suspended or deferred sentence, and shall be required, as a condition of release on parole, to undergo medroxyprogesterone acetate treatment or its chemical equivalent in addition to any other penalty prescribed or any other provision of law.

C. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a person under sixteen (16) years of age, shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term of life, and shall be required, as a condition of any parole release, to undergo medroxyprogesterone acetate treatment or its chemical equivalent in addition to any other penalty, or shall be punished by imprisonment in the custody of the Department of Corrections for a term of life without parole, in the discretion of the jury, or in case the jury fail or refuse to fix punishment then the same shall be pronounced by the court.

~~B.~~ D. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or

2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or

3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime.

E. The person shall begin medroxyprogesterone acetate treatment one week prior to release from confinement and shall continue treatments until the Department of Corrections demonstrates to the court that this treatment is no longer necessary. If any person voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, the provisions of this section

for medroxyprogesterone acetate treatments or its chemical equivalent shall not apply.

F. The Department of Corrections shall administer the treatment required by this section and shall establish protocols and rules to implement these provisions. Nothing in this section or pursuant to any protocol or rule shall require an employee of the Department who is a physician licensed in this state to participate against his or her will in the administration of the provisions of this section. The protocols shall include, but not be limited to, a requirement to inform the person about the effects of hormonal chemical treatment and any side effects that may result from such treatment. A person subject to the provisions of this section shall acknowledge receipt of this information prior to beginning treatment.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1115, is amended to read as follows:

Section 1115. A. Rape in the first degree is punishable by death or imprisonment in the penitentiary, custody of the Department of Corrections for a term of not less than five (5) years, in the discretion of the jury, or in case the jury fail or refuse to fix the punishment then the same shall be pronounced by the court. Any person convicted of a first offense, may be required, as a condition of a suspended sentence or as a condition of any parole release, to undergo medroxyprogesterone acetate treatment or its chemical equivalent in addition to any other penalty prescribed or any other provision of law.

B. Any person convicted of a second or subsequent violation of this section shall be required, as a condition of a suspended sentence or as a condition of any parole release, to undergo medroxyprogesterone acetate treatment or its chemical equivalent, in addition to any other penalty.

C. The person shall begin medroxyprogesterone acetate treatment one week prior to release from confinement and shall continue

treatments until the Department of Corrections demonstrates to the court that this treatment is no longer necessary. If any person voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, the provisions of this section for medroxyprogesterone acetate treatments or its chemical equivalent shall not apply.

D. The Department of Corrections shall administer the treatment required by this section and shall establish protocols and rules to implement these provisions. Nothing in this section or pursuant to any protocol or rule shall require an employee of the Department who is a physician licensed in this state to participate against his or her will in the administration of the provisions of this section. The protocols shall include, but not be limited to, a requirement to inform the person about the effects of hormonal chemical treatment and any side effects that may result from such treatment. A person subject to the provisions of this section shall acknowledge receipt of this information prior to beginning treatment.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1116, is amended to read as follows:

Section 1116. A. Rape in the second degree is punishable by imprisonment in the penitentiary custody of the Department of Corrections for a term of not less than one (1) year nor more than fifteen (15) years. Any person convicted of a first offense may be required, as a condition of a suspended sentence or as a condition of any parole release, to undergo medroxyprogesterone acetate treatment or its chemical equivalent in addition to any other penalty.

B. Any person convicted of a second or subsequent violation of this section shall be required, as a condition of a suspended sentence or as a condition of release on parole, to undergo medroxyprogesterone acetate treatment or its chemical equivalent in addition to any other penalty.

C. The person shall begin medroxyprogesterone acetate treatment one week prior to release from confinement and shall continue treatments until the Department of Corrections demonstrates to the court that this treatment is no longer necessary. If any person voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, the provisions of this section for medroxyprogesterone acetate treatments or its chemical equivalent shall not apply.

D. The Department of Corrections shall administer the treatment required by this section and shall establish protocols and rules to implement these provisions. Nothing in this section or pursuant to any protocol or rule shall require an employee of the Department who is a physician licensed in this state to participate against his or her will in the administration of the provisions of this section. The protocols shall include, but not be limited to, a requirement to inform the person about the effects of hormonal chemical treatment and any side effects that may result from such treatment. A person subject to the provisions of this section shall acknowledge receipt of this information prior to beginning treatment.

SECTION 4. This act shall become effective July 1, 1999.

SECTION 5. 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.

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