THE STATE SENATE
Tuesday, February 27, 2001

Committee Substitute for
Senate Bill No. 494

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 494 - By: CAIN of the Senate and BLACKBURN of the House.

An Act relating to crimes and punishments; amending 21 O.S. 1991, Section 843.1, as last amended by Section 151, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 843.1), which relates to caretaker abuse; modifying language; prohibiting verbal abuse of certain person by caretaker; setting penalty; prohibiting certain defense; defining term; providing for codification; 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 843.1, as last amended by Section 151, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 843.1), is amended to read as follows:

Section 843.1 A. 1. No caretaker shall ~~willfully~~ abuse, neglect, commit sexual abuse, or exploit any person entrusted to the care of the caretaker, or ~~shall~~ knowingly cause, secure, or permit any of these acts to be done.

2. For purposes of this section, the terms "caretaker", "abuse", "neglect", "sexual abuse", and "exploit" shall have the same meaning as such terms are defined and clarified in Section 10-103 of Title 43A of the Oklahoma Statutes.

B. 1. Any person convicted of a violation of this section, except as provided in paragraph 2 of this subsection, shall be guilty of a felony ~~and~~. The violator, upon conviction, shall be ~~subject to incarceration in the custody of the Department of Corrections~~ punished by imprisonment in the State Penitentiary for a ~~period~~ term not to exceed ten (10) years, or by a fine not exceeding Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

2. Any person convicted of violating the provisions of this section by committing sexual abuse shall be guilty of a felony. ~~Any person convicted of a violation of this paragraph~~ The person convicted of sexual abuse shall be ~~subject to incarceration in the custody of the Department of Corrections~~ punished by imprisonment in the State Penitentiary for a ~~period~~ term not to exceed fifteen (15) years, or by a fine not exceeding Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

~~3. The fine for a violation of this section shall not be more than Ten Thousand Dollars ($10,000.00).~~

C. Consent shall not be a defense for any violation of this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 843.2 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. No caretaker shall verbally abuse any person entrusted to the care of the caretaker, or knowingly cause, secure, or permit an act of verbal abuse to be done. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. The violator, upon conviction, shall be punished by imprisonment in the county jail for a term not to exceed one (1) year, or by a fine not exceeding One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

B. For the purpose of this section, "verbal abuse" means the repeated use of words, sounds, or other forms of communication by a caretaker, including but not limited to, language, gestures, actions or behaviors, that are calculated to humiliate or intimidate or cause fear, embarrassment, shame, or degradation to the person entrusted to the care of the caretaker.

SECTION 3. This act shall become effective July 1, 2001.

SECTION 4. 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.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-21-01 - DO PASS, As Amended and Coauthored.