

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2626

By: Askins, Adkins, Calvey and
Hamilton of the House

and

Leftwich (Debbe) of the
Senate

9 An Act relating to crimes and punishments; amending
21 O.S. 2001, Section 644, which relates to assault,
10 assault and battery, and domestic abuse; modifying
certain penalty; adding penalties; and providing an
11 effective date.

13 AUTHOR: Add the following Senate Coauthor: Fair

14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause
and entire bill and insert

15 "[crimes and punishments - domestic abuse - adding
16 penalties -
17 effective date]

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

20 SECTION 1. AMENDATORY 21 O.S. 2001, Section 644, is
21 amended to read as follows:

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

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

30 C. Any person who commits any assault and battery against a
31 current or former spouse, a present spouse of a former spouse,
32 parents, a foster parent, a child, a person otherwise related by

1 blood or marriage, a person with whom the defendant is in a dating
2 relationship as defined by Section 60.1 of Title 22 of the Oklahoma
3 Statutes, an individual with whom the defendant has had a child, a
4 person who formerly lived in the same household as the defendant, or
5 a person living in the same household as the defendant shall be
6 guilty of domestic abuse. Upon conviction, the defendant shall be
7 punished by imprisonment in the county jail ~~not exceeding~~ for not
8 more than one (1) year, or by a fine ~~of not more than Three Thousand~~
9 ~~Dollars (\$3,000.00)~~ exceeding Five Thousand Dollars (\$5,000.00), or
10 by both such fine and imprisonment. Upon conviction for a second or
11 subsequent offense, the person shall be punished by imprisonment in
12 the custody of the Department of Corrections for not more than four
13 (4) years, or by a fine not exceeding Five Thousand Dollars
14 (\$5,000.00), or by both such fine and imprisonment. The provisions
15 of Section 51.1 of this title shall not apply to any second or
16 subsequent offense.

17 D. Any person convicted of domestic abuse as defined in ~~this~~
18 subsection C of this section that was committed in the presence of a
19 child shall be ~~sentenced to~~ punished by imprisonment in the county
20 jail for not less than six (6) months nor more than one (1) year, or
21 by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by
22 both such fine and imprisonment. Any second or subsequent
23 ~~conviction of domestic abuse shall be a felony.~~ Any person
24 convicted of a second or subsequent domestic abuse as defined in
25 ~~this~~ subsection C of this section that was committed in the presence
26 of a child shall be ~~sentenced to~~ punished by imprisonment in the
27 custody of the Department of Corrections for not less than one (1)
28 year nor more than five (5) years, or by a fine not exceeding Seven
29 Thousand Dollars (\$7,000.00), or by both such fine and imprisonment.
30 ~~The fine for a felony violation of this subsection shall not be more~~
31 ~~than Five Thousand Dollars (\$5,000.00)~~ The provisions of Section
32

1 51.1 of this title shall not apply to any second or subsequent
2 offense.

3 E. Every conviction of domestic abuse shall require as a
4 condition of a suspended sentence that the defendant participate in
5 counseling or treatment to bring about the cessation of domestic
6 abuse. The defendant may be required to pay all or part of the cost
7 of the counseling or treatment, in the discretion of the court.

8 F. As used in this section, "in the presence of a child" means
9 in the physical presence of a child⁷, or having knowledge that a
10 child is present and may see or hear an act of domestic violence.

11 G. For the purposes of ~~this subsection~~ subsections C and D of
12 this section, any conviction for assault and battery against a
13 current or former spouse, a present spouse of a former spouse,
14 parents, a foster parent, a child, a person otherwise related by
15 blood or marriage, a person with whom the defendant is in a dating
16 relationship as defined by Section 60.1 of Title 22 of the Oklahoma
17 Statutes, an individual with whom the defendant has had a child, a
18 person who formerly lived in the same household as the defendant, or
19 any person living in the same household as the defendant, shall
20 constitute a sufficient basis for a felony charge:

21 1. If that conviction is rendered in any state, county or
22 parish court of record of this or any other state; or

23 2. If that conviction is rendered in any municipal court of
24 record of this or any other state for which any jail time was
25 served; provided, no conviction in a municipal court of record
26 entered prior to November 1, 1997, shall constitute a prior
27 conviction for purposes of a felony charge.

28 SECTION 2. This act shall become effective November 1, 2004."
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