ENGROSSED SENATE
BILL NO. 1172

By: Corn and Gumm of the Senate

and

Smithson of the House

[crimes and punishments - endangerment - manufacture of methamphetamine near school - penalties - codification -

emergency]

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 852.1, is amended to read as follows:

Section 852.1 A. A person who is the parent, guardian, or person having custody or control over a child as defined in Section 7001-1.3 of Title 10 of the Oklahoma Statutes, commits child endangerment when the person knowingly permits physical or sexual abuse of a child or who knowingly permits a child to be present at a location where a controlled dangerous substance is being manufactured or attempted to be manufactured as defined in Section 2-101 of Title 63 of the Oklahoma Statutes. However, it is an affirmative defense to this paragraph if the person had a reasonable apprehension that any action to stop the abuse would result in substantial bodily harm to the person or the child.

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 this title or Section 7006-1.1 of Title 10 of the Oklahoma Statutes.

C. Any person convicted of violating any provision of this section shall be guilty of a felony punishable by imprisonment 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. Tangible evidence of the presence of a child in any place where methamphetamine is being manufactured shall be prima facia evidence that a child was present in such place in violation of this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-415.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any person who manufactures any amount of methamphetamine in violation of the Uniform Controlled Dangerous Substances Act within two thousand (2,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, public housing projects, or child care facilities as defined by Section 401 of Title 10 of the Oklahoma Statutes, shall be punished by a term of imprisonment of not less than ten (10) years nor more than life, or by a fine not exceeding Two Hundred Thousand Dollars ($200,000.00), or by both such fine and imprisonment.

SECTION 3. 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.

Passed the Senate the 3rd day of March, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2004.

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Presiding Officer of the House
of Representatives