ENROLLED HOUSE
BILL NO. 2626

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

and

Leftwich (Debbe), Fair and Myers of the Senate

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 644, which relates to assault, assault and battery, and domestic abuse; modifying certain penalty; adding penalties; expanding crime of domestic abuse; providing penalty; defining term; amending 21 O.S. 2001, Section 701.7 and 701.9, which relates to murder in the first degree; expanding crime of first degree murder; prohibiting deferment of sentence under certain circumstance; prohibiting the bypass of security checkpoints; requiring facilities to post notice of security checkpoints; providing penalty; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2001, 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 by 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 fine and imprisonment ~~and fine~~.

C. Any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, 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~~ for not more than one (1) year, or by a fine ~~of~~ not ~~more than Three Thousand Dollars ($3,000.00)~~ exceeding Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, the person shall be punished by imprisonment in

the custody of the Department of Corrections for not more than four (4) years, or by a fine not exceeding Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense.

D. Any person convicted of domestic abuse as defined in subsection C of this section that results in great bodily injury to the victim shall be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years, or by imprisonment in the county jail for not more than one (1) year. The provisions of Section 51.1 of this title shall apply to any second or subsequent conviction of a violation of this subsection.

E. Any person convicted of domestic abuse as defined in ~~this~~ subsection C of this section that was committed in the presence of a child shall be ~~sentenced to~~ punished by imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or by a fine not exceeding Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment. ~~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 C of this section that was committed in the presence of a child shall be ~~sentenced to~~ punished by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or by a fine not exceeding Seven Thousand Dollars ($7,000.00), or by both such fine and imprisonment. ~~The fine for a felony violation of this subsection shall not be more than Five Thousand Dollars ($5,000.00)~~ The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense.

F. 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.

G. 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.

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

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

2. If that conviction is rendered in any municipal court of record of this or any other state for which any jail time was served; provided, no conviction in a municipal court of record

entered prior to November 1, 1997, shall constitute a prior conviction for purposes of a felony charge.

I. For purposes of subsection D of this section, "great bodily injury" means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 701.7, is amended to read as follows:

Section 701.7 A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow with intent to kill, intentional discharge of a firearm or other deadly weapon into any dwelling or building as provided in Section 1289.17A of this title, forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances, or trafficking in illegal drugs.

C. A person commits murder in the first degree when the death of a child results from the willful or malicious injuring, torturing, maiming or using of unreasonable force by said person or who shall willfully cause, procure or permit any of said acts to be done upon the child pursuant to Section 7115 of Title 10 of the Oklahoma Statutes. It is sufficient for the crime of murder in the first degree that the person either willfully tortured or used unreasonable force upon the child or maliciously injured or maimed the child.

D. A person commits murder in the first degree when that person unlawfully and with malice aforethought solicits another person or persons to cause the death of a human being in furtherance of unlawfully manufacturing, distributing or dispensing controlled dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, unlawfully possessing with intent to distribute or dispense controlled dangerous substances, or trafficking in illegal drugs.

E. A person commits murder in the first degree when that person intentionally causes the death of a law enforcement officer or correctional officer while the officer is in the performance of official duties.

SECTION 3. AMENDATORY 21 O.S. 2001, Section 701.9, is amended to read as follows:

Section 701.9 A. A person who is convicted of or pleads guilty or nolo contendere to murder in the first degree shall be punished by death, by imprisonment for life without parole or by imprisonment for life. A person who is convicted of or pleads guilty or nolo

contendere to murder in the first degree, as described in subsection E of Section 701.7 of this title, shall not be entitled to or afforded the benefit of deferment of the sentence.

B. A person who is convicted of or pleads guilty or nolo contendere to murder in the second degree shall be guilty of a felony punishable by imprisonment in a state penal institution for not less than ten (10) years nor more than life.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1379 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. No person shall, without authorization, willfully bypass or go around a security checkpoint when entering any facility requiring persons to pass through a security checkpoint used for inspecting or screening persons or their belongings.

B. Every facility requiring persons to pass through a security checkpoint and submit to inspection or screening of their person or belongings shall post notice stating such requirement. All security checkpoints used for persons or their belongings shall be clearly identified as such, and notice shall be posted informing persons that they and their belongings are subject to search.

C. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and punished by imprisonment in the county jail for not more than one (1) year, by a fine not exceeding One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

SECTION 5. This act shall become effective November 1, 2004.

Passed the House of Representatives the 25th day of May, 2004.

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Presiding Officer of the House of Representatives

Passed the Senate the 27th day of May, 2004.

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Presiding Officer of the Senate