

CS for EHB 2626

THE STATE SENATE
Tuesday, April 6, 2004

Committee Substitute for
ENGROSSED
House Bill No. 2626

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2626 - By: ASKINS,
ADKINS, CALVEY and HAMILTON of the House and LEFTWICH (Debbe) and
FAIR of the Senate.

[crimes and punishments - domestic abuse - adding penalties
- 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

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

16 D. Any person convicted of domestic abuse as defined in ~~this~~
17 subsection C of this section that was committed in the presence of a
18 child shall be ~~sentenced to~~ punished by imprisonment in the county
19 jail for not less than six (6) months nor more than one (1) year, or
20 by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by
21 both such fine and imprisonment. Any second or subsequent
22 ~~conviction of domestic abuse shall be a felony.~~ Any person
23 convicted of a second or subsequent domestic abuse as defined in

1 ~~this~~ subsection C of this section that was committed in the presence
2 of a child shall be ~~sentenced to~~ punished by imprisonment in the
3 custody of the Department of Corrections for not less than one (1)
4 year nor more than five (5) years, or by a fine not exceeding Seven
5 Thousand Dollars (\$7,000.00), or by both such fine and imprisonment.
6 ~~The fine for a felony violation of this subsection shall not be more~~
7 ~~than Five Thousand Dollars (\$5,000.00)~~ The provisions of Section
8 51.1 of this title shall not apply to any second or subsequent
9 offense.

10 E. Every conviction of domestic abuse shall require as a
11 condition of a suspended sentence that the defendant participate in
12 counseling or treatment to bring about the cessation of domestic
13 abuse. The defendant may be required to pay all or part of the cost
14 of the counseling or treatment, in the discretion of the court.

15 F. As used in this section, "in the presence of a child" means
16 in the physical presence of a child~~r~~, or having knowledge that a
17 child is present and may see or hear an act of domestic violence.

18 G. For the purposes of ~~this subsection~~ subsections C and D of
19 this section, any conviction for assault and battery against a
20 current or former spouse, a present spouse of a former spouse,
21 parents, a foster parent, a child, a person otherwise related by
22 blood or marriage, a person with whom the defendant is in a dating
23 relationship as defined by Section 60.1 of Title 22 of the Oklahoma

1 Statutes, an individual with whom the defendant has had a child, a
2 person who formerly lived in the same household as the defendant, or
3 any person living in the same household as the defendant, shall
4 constitute a sufficient basis for a felony charge:

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

7 2. If that conviction is rendered in any municipal court of
8 record of this or any other state for which any jail time was
9 served; provided, no conviction in a municipal court of record
10 entered prior to November 1, 1997, shall constitute a prior
11 conviction for purposes of a felony charge.

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

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 3-31-04 - DO
14 PASS, As Amended and Coauthored.