STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2592: McIntyre, Carey, and Hamilton

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 644, which relates to assault, assault and battery, and domestic abuse; providing penalties for domestic abuse committed against pregnant persons; 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 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 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, unless the conviction is

for domestic abuse against a pregnant person with the intent of causing a miscarriage, the defendant shall be punished by imprisonment in the county jail not exceeding one (1) year, or by a fine of not more than Three Thousand Dollars ($3,000.00), or by both such fine and imprisonment. Any person convicted of domestic abuse as defined in this subsection that was committed in the presence of a child shall be sentenced to not less than six (6) months. Any person convicted of domestic abuse committed against a pregnant person shall be sentenced to not less than one (1) year. Any person convicted of domestic abuse against a pregnant woman with the intent of causing a miscarriage shall be guilty of a felony and shall be sentenced to not less than three (3) years. 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 that was committed in the presence of a child shall be sentenced to not less than one (1) year. Any person convicted of a second or subsequent offense of committing domestic abuse against a pregnant person shall be guilty of a felony and shall be sentenced to not less than three (3) years. The fine for a felony violation of this subsection shall not be more than Five Thousand Dollars ($5,000.00). 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. 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. For the purposes of this subsection, 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.

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

49-2-8262 SD 01/22/04