

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1800

By: Nichols and Corn of the
Senate

and

Morgan (Fred), Askins,
Staggs and Dank of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 2001, Section 7115, as amended by Section 7, Chapter 455, O.S.L. 2002 (10 O.S. Supp. 2005, Section 7115), which relates to the child abuse; modifying references; setting death or life without parole for certain conviction of certain offense; modifying definition; establishing Child Abuse Response Team within the Oklahoma State Bureau of Investigation for certain purpose; authorizing certain full-time-equivalent personnel; setting pay rate; setting qualification for certain positions; authorizing certain exception to certain qualification for certain positions; authorizing promulgation of certain rules, procedures and forms for certain purposes; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7115, as amended by Section 7, Chapter 455, O.S.L. 2002 (10 O.S. Supp. 2005, Section 7115), is amended to read as follows:

Section 7115. A. Any parent or other person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection,

"child abuse" means the willful or malicious abuse, as defined by paragraph 1 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another, or the act of willfully or maliciously injuring, torturing or maiming a child under eighteen (18) years of age by another.

B. Any parent or other person who shall willfully or maliciously engage in enabling child abuse shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment. As used in this subsection, "enabling child abuse" means the causing, procuring or permitting of a willful or malicious act of child abuse, as defined by paragraph 1 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of abuse as proscribed by this subsection.

C. Any parent or other person who shall willfully or maliciously engage in child neglect shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "child neglect" means the willful or malicious neglect, as defined by paragraph 3 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another.

D. Any parent or other person who shall willfully or maliciously engage in enabling child neglect shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child neglect" means the causing, procuring or permitting of a willful or malicious act of child neglect, as defined by paragraph 3 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of neglect as proscribed by this subsection.

E. Any parent or other person who shall willfully or maliciously engage in child sexual abuse shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment, except as provided in Section ~~3~~ 51.1 of ~~this act~~ Title 21 of the Oklahoma Statutes. As used in this section, "child sexual abuse" means the willful or malicious sexual abuse, as defined by paragraph 6 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another.

F. Any parent or other person who shall willfully or maliciously engage in enabling child sexual abuse shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding life

imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual abuse" means the causing, procuring or permitting of a willful or malicious act of child sexual abuse, as defined by paragraph 6 of subsection B of Section 7102 of this title, of a child under the age of eighteen (18) by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual abuse as proscribed by this subsection.

G. Any parent or other person who shall willfully or maliciously engage in child sexual exploitation shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "child sexual exploitation" means the willful or malicious sexual exploitation, as defined by paragraph 7 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another.

H. Any parent or other person who shall willfully or maliciously engage in enabling child sexual exploitation shall, upon conviction, be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling

child sexual exploitation" means the causing, procuring or permitting of a willful or malicious act of child sexual exploitation, as defined by paragraph 7 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual exploitation as proscribed by this subsection.

I. Notwithstanding any other provision of law, any parent or other person convicted of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age subsequent to a previous conviction for any offense of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age shall be punished by death or by imprisonment for life without parole.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.38 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Subject to the availability of funds, there is hereby established within the Oklahoma State Bureau of Investigation the Child Abuse Response Team (CART) for the purpose of investigating cases of physical and sexual abuse of a child. For the purpose of implementing CART, the Bureau shall employ at least one Child Abuse Response Team (CART) investigator and at least one Child Abuse Response Team (CART) forensic interviewer which shall be full-time-equivalent positions within the Bureau compensated at the same pay rate as a senior level investigator agent.

B. In addition to any other law or rule specifying requirements or qualifications for an OSBI agent to be employed by the Bureau,

the Child Abuse Response Team employees shall be qualified for the respective positions as follows:

1. Every CART investigator shall:
 - a. have at least five (5) years' experience as a law enforcement officer or criminal investigator in a law enforcement agency or agencies with preference given to additional years in law enforcement,
 - b. be currently certified as a peace officer by the Council on Law Enforcement Education and Training (CLEET),
 - c. have served as the primary criminal investigative officer in a law enforcement agency or agencies with experience as the primary investigative officer on at least five hundred cases of physical or sexual abuse of a child,
 - d. have graduated from an accredited college or university with a bachelor degree with preference given to a post-graduate degree, and
 - e. be not currently employed by the Oklahoma State Bureau of Investigation, nor employed by such agency within the previous six (6) months immediately preceding an application for the position of CART investigator.
2. Every CART forensic interviewer shall:
 - a. have experience in conducting forensic interviews and shall have conducted a minimum of five hundred child forensic interviews in cases of physical or sexual abuse of a child,
 - b. have graduated from an accredited college or university with a bachelor degree with preference given to a post-graduate degree,
 - c. have experience as an expert witness and shall have been certified as an expert witness in cases of

physical or sexual abuse of a child in at least twenty-five legal proceedings in a court of competent jurisdiction,

- d. have completed at least one hundred (100) hours of education or training on forensic interviewing of a child, and
- e. be not currently employed by the Oklahoma State Bureau of Investigation, nor employed by such agency within the previous six (6) months immediately preceding an application for the position of CART forensic interviewer.

3. If the director of the Oklahoma State Bureau of Investigation is unable to find a person whose qualifications meet or exceed the qualifications specified for the position of CART investigator or CART forensic interviewer, the director is authorized to offer such position to a person whose qualifications substantially meet the qualifications specified for the position.

C. The Bureau may promulgate rules, procedures and forms necessary to establish and implement the functions of the Child Abuse Response Team and to coordinate responsibilities with other persons or agencies having responsibilities relating to child abuse investigation and response to child abuse.

SECTION 3. This act shall become effective July 1, 2006.

SECTION 4. 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.

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