

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1880

By: Morgan (Fred)

AS INTRODUCED

An Act relating to crimes and criminal procedure; amending 21 O.S. 2001, Section 852.1, which relates to child endangerment; expanding scope of what constitutes child endangerment; amending 22 O.S. 2001, Section 1054, which relates to appeals and transcripts; requiring that transcript of trial be provided to the family of a murder victim; amending 47 O.S. 2001, Section 10-104, which relates to the requirements in motor vehicle accidents resulting in injury or death; requiring driver in accident resulting in serious injury to submit to drug and alcohol testing; and providing an effective date.

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, or permits a child to be present at a location where a controlled dangerous substance is being consumed or used in the presence of the child. 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.

SECTION 2. AMENDATORY 22 O.S. 2001, Section 1054, is amended to read as follows:

Section 1054. A. In misdemeanor and felony cases the appeal must be perfected within ninety (90) days from the date of the pronouncement of the judgment and sentence. A transcript in both felony and misdemeanor cases must be filed as hereinafter directed.

B. It shall be the duty of the clerk of the court from which notice of appeal has been given, and in which the original record and transcript are to be filed, to notify the clerk of the Court of Criminal Appeals when the original record and transcripts are assembled for transmission to the Court of Criminal Appeals, and the parties, or their counsel, have been advised to that effect. The clerk of the Court of Criminal Appeals shall, within ten (10) days after the receipt of the district court clerk's notice of the completion of the record, issue a notice to transmit the original and one certified copy of the appeal records to the clerk of the Court of Criminal Appeals and one certified copy of the original records and transcripts to either the Oklahoma Indigent Defense

System, pursuant to Section 1362 of this title, or the retained or other appointed counsel of record on appeal.

C. When the Oklahoma Indigent Defense System or another attorney has been appointed to represent an indigent defendant in an application for post-conviction relief ~~where~~ and the defendant has received one or more sentences of death, the notice to the district court clerk shall require a certified copy be sent to the Oklahoma Indigent Defense System or the other attorney in addition to the copy provided for direct appeal and that one certified copy be sent to the family of the murder victim in the case being appealed.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 10-104, is amended to read as follows:

Section 10-104. A. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his correct name, address and registration number of the vehicle he is driving, and shall upon request exhibit his driver license and his security verification form, as defined in Section 7-600 of this title, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. Any driver who provides information required by this section which is intentionally inaccurate shall be subject to the provisions of Section 10-103 of this title.

B. Any driver of any vehicle involved in an accident who could be cited for any traffic offense where said accident resulted in the immediate death or serious injury of any person shall submit to drug and alcohol testing as soon as practicable after such accident

occurs. The traffic offense violation shall constitute probable cause for purposes of Section 752 of this title and the procedures found in Section 752 of this title shall be followed to determine the presence of alcohol or controlled dangerous substances within the driver's blood system.

SECTION 4. This act shall become effective November 1, 2005.

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