

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1841

By: Garrison

AS INTRODUCED

An Act relating to crimes and punishments; defining terms; prohibiting certain abuse, neglect and lewd acts against elderly person or disabled adult; setting penalties; construing neglect; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 843.4 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

1. "Abuse of an elderly person or disabled adult" means:

- a. intentional infliction of physical or psychological injury upon an elderly person or disabled adult,
- b. an intentional act that could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult, or
- c. active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or psychological injury to an elderly person or disabled adult;

2. "Aggravated abuse of an elderly person or disabled adult" occurs when a person:

- a. commits assault and battery with serious bodily injury on an elderly person or disabled adult,

- b. willfully tortures, maliciously punishes, or willfully and unlawfully cages or imprisons an elderly person or disabled adult, or
- c. knowingly or willfully abuses an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult;

3. "Elderly person" means any person sixty-two (62) years of age or older; and

4. "Neglect of an elderly person or disabled adult" means:

- a. a caregiver's failure or omission to provide an elderly person or disabled adult with the care, supervision, and services necessary to maintain the elderly person's or disabled adult's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the elderly or disabled adult, or
- b. a caregiver's failure to make a reasonable effort to protect an elderly person or disabled adult from abuse, neglect, or exploitation by another person.

B. A person who knowingly or willfully abuses an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than seven (7) years and a fine in an amount not exceeding Five Thousand Dollars (\$5,000.00).

C. A person who commits aggravated abuse of an elderly person or disabled adult commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than

twelve (12) years and a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00).

D. 1. A person who willfully or by culpable negligence neglects an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than twelve (12) years and a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00).

2. A person who willfully or by culpable negligence neglects an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than ten (10) years and a fine in an amount not exceeding Five Thousand Dollars (\$5,000.00).

3. Neglect of an elderly person or disabled adult may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or psychological injury, or a substantial risk of death, to an elderly person or disabled adult.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 843.5 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Elderly person" means any person sixty-two (62) years of age or older;

2. "Sexual activity" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose;

3. "Lewd or lascivious battery upon an elderly person or disabled adult" occurs when a person encourages, forces, or entices an elderly person or disabled person to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled adult either lacks the capacity to consent or fails to give consent;

4. "Lewd or lascivious exhibition in the presence of an elderly person or disabled adult" occurs when a person who knows or reasonably should know that the elderly person or disabled adult either lacks the capacity to consent or fails to give consent, in the presence of such elderly person or disabled adult:

- a. intentionally masturbates,
- b. intentionally exposes his or her genitals in a lewd or lascivious manner, or
- c. intentionally commits any other lewd or lascivious act that does not involve physical or sexual contact with the elderly person or disabled adult, including but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity; and

5. "Lewd or lascivious molestation of an elderly person or disabled adult" occurs when a person intentionally touches in a lewd or lascivious manner the breast, genitals, genital area, or buttocks, or the clothing covering them, of an elderly person or disabled adult when the person knows or should know that the elderly person or disabled adult either lacks the capacity to consent or fails to give consent.

B. A person who commits lewd or lascivious battery upon an elderly or disabled adult commits a felony punishable by imprisonment in the custody of the Department of Corrections for a

term not more than seven (7) years and a fine in an amount not exceeding Five Thousand Dollars (\$5,000.00).

C. A person who commits lewd or lascivious molestation of an elderly person or disabled adult commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than ten (10) years and a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00).

D. A person who commits lewd or lascivious exhibition in the presence of an elderly person or disabled person commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than twelve (12) years and a fine in an amount not exceeding Ten Thousand Dollars (\$10,000.00).

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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