STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 2002 By: Pruitt

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 852, which relates to omission to provide for a child; clarifying language; 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, is amended to read as follows:

Section 852. A. Unless otherwise provided for by law, any parent, guardian, or person having custody or control of a child as defined in Section 7001-1.3 of Title 10 of the Oklahoma Statutes who willfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, monetary child support, medical attendance, payment of court-ordered day care or payment of court-ordered medical insurance costs for such child which is imposed by law, upon conviction, is guilty of a misdemeanor; provided, any person obligated to make child support payments who willfully and without lawful excuse becomes delinquent in said child support payments after September 1, 1993, and such delinquent child support accrues without payment by the obligor for a period of one (1) year, or exceeds Five Thousand Dollars ($5,000.00) shall, upon conviction thereof, be guilty of a felony which is punishable in the same manner as any subsequent conviction pursuant to the provisions of this section. Any subsequent conviction pursuant to this section shall be a felony, punishable by imprisonment for not more than four (4) years in the ~~State Penitentiary~~ custody of the Department of Corrections, or by the imposition of a fine ~~of~~ in an amount not more

than Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment. As used in this section, the duty to furnish medical attendance shall mean that the parent or person having custody or control of a child must furnish medical treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide; such parent or person having custody or control of a child is not criminally liable for failure to furnish medical attendance for every minor or trivial complaint with which the child may be afflicted.

B. Any person who leaves the state to avoid providing necessary food, clothing, shelter, court-ordered monetary child support, or medical attendance for such child, upon conviction, shall be guilty of a felony punishable by imprisonment for not more than four (4) years in the ~~State Penitentiary~~ custody of the Department of Corrections, or by the imposition of a fine ~~of~~ in an amount not more than Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment.

C. Nothing in this section shall be construed to mean a child is endangered for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child; provided, that medical care shall be provided where permanent physical damage could result to such child; and that the laws, rules, and regulations relating to communicable diseases and sanitary matters are not violated.

D. Nothing contained in this section shall prevent a court from immediately assuming custody of a child and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

E. Psychiatric and psychological testing and counseling are exempt from the provisions of this section.

F. Except for a third or subsequent conviction, all felony convictions herein shall be administered under the provisions of the Community Sentencing Act.

G. It is the legal duty, obligation and right of any parent or guardian having legal custody of a child who is an alcohol-dependent person or a drug-dependent person, as such terms are defined by Section 3-403 of Title 43A of the Oklahoma Statutes, to provide for the treatment, as such term is defined by Section 3-403 of Title 43A of the Oklahoma Statutes, of such child. Any parent or guardian having legal custody of a child who is an alcohol-dependent person or a drug-dependent person who without having made a reasonable effort fails or willfully omits to provide for the treatment of such child shall be guilty of a misdemeanor. For the purpose of this subsection, the duty to provide for such treatment shall mean that the parent having legal custody of a child must provide for the treatment in such manner and on such occasions as an ordinarily prudent person, solicitous for the welfare of a child, would provide.

SECTION 2. This act shall become effective November 1, 2006.

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