

ENROLLED SENATE
BILL NO. 1600

By: Justice of the Senate

and

Coody, Inman, BigHorse,
Dorman, Hoskin, Kern,
Kiesel, Luttrell, Pittman,
Proctor, Renegar, Sherrer,
Tibbs, Armes, Blackwell,
Harrison, Peterson (Pam)
and Sears of the House

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 843.1, as last amended by Section 5, Chapter 261, O.S.L. 2007 (21 O.S. Supp. 2007, Section 843.1), which relates to caretaker abuse; making certain offenses subject to the Elderly and Incapacitated Victim's Act and certain provisions for mandatory minimum sentencing; amending Section 1, Chapter 195, O.S.L. 2003 (21 O.S. Supp. 2007, Section 843.3), which relates to abuse of vulnerable adult; modifying language; making certain offenses a felony; setting penalties; modifying reference; requiring court to consider the Elderly and Incapacitated Victim's Act; amending 22 O.S. 2001, Section 991a-15, which relates to definitions of Elderly and Incapacitated Victim's Act; modifying name of act; amending 22 O.S. 2001, Section 991a-16, which relates to offenses eligible for certain enhanced sentence; adding certain offense; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 843.1, as last amended by Section 5, Chapter 261, O.S.L. 2007 (21 O.S. Supp. 2007, Section 843.1), is amended to read as follows:

Section 843.1 A. 1. No caretaker or other person shall abuse, commit financial neglect, neglect, commit sexual abuse, or exploit any person entrusted to the care of such caretaker or other person in a nursing facility or other setting, or knowingly cause, secure, or permit any of these acts to be done.

2. For purposes of this section, the terms, "abuse", "financial neglect", "neglect", "sexual abuse", and "exploit" shall have the same meaning as such terms are defined and clarified in Section 10-103 of Title 43A of the Oklahoma Statutes.

B. 1. Any person convicted of a violation of this section, except as provided in paragraph 2 of this subsection, shall be guilty of a felony. The violator, upon conviction, shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed ten (10) years, and by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment, and in addition, the person shall be subject to the Elderly and Incapacitated Victim's Protection Act. Such person's term shall further be subject to the provisions of Section 13.1 of this title for mandatory minimum sentencing.

2. Any person convicted of violating the provisions of this section by committing sexual abuse shall be guilty of a felony. The person convicted of sexual abuse shall be punished by imprisonment in the custody of the Department of Corrections for a term not to exceed fifteen (15) years, and by a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment, and in addition, the person shall be subject to the Elderly and Incapacitated Victim's Protection Act. Such person's imprisonment term imposed pursuant to this section shall further be subject to the provisions of Section 13.1 of this title for mandatory minimum sentencing.

C. Consent shall not be a defense for any violation of this section.

D. Except for persons sentenced to life or life without parole, any person sentenced to imprisonment for two (2) years or more for a violation of paragraph 2 of subsection B of this section shall be required to serve a term of post-imprisonment supervision pursuant to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes under conditions determined by the Department of Corrections. The jury shall be advised that the mandatory post-imprisonment supervision shall be in addition to the actual imprisonment.

SECTION 2. AMENDATORY Section 1, Chapter 195, O.S.L. 2003 (21 O.S. Supp. 2007, Section 843.3), is amended to read as follows:

Section 843.3 A. Any person who engages in abuse, sexual abuse, or exploitation of a vulnerable adult, as defined in Section 10-103 of Title 43A of the Oklahoma Statutes, shall be guilty of a felony. The person, upon conviction, shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned in the custody of the Department of Corrections for a term of not more than ~~eighteen (18) months~~ two (2) years, or both such fine and imprisonment.

B. Any person who has a responsibility to care for a vulnerable adult as defined by Section 10-103 of Title 43A of the Oklahoma Statutes who purposely, knowingly or recklessly neglects the vulnerable adult as defined in Section 10-103 of Title 43A of the Oklahoma Statutes shall be guilty of a felony. The person, upon conviction, shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned in the custody of the Department of Corrections for a term of not more than ~~eighteen (18) months~~ two (2) years, or both such fine and imprisonment.

C. In addition the court shall consider any provision of the Elderly and Incapacitated Victim's Protection Act when the victim is an elderly or incapacitated person as defined by Section 991a-15 of Title 22 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 22 O.S. 2001, Section 991a-15, is amended to read as follows:

Section 991a-15. As used in the Elderly and Incapacitated Victim's Protection ~~Program~~ Act:

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

2. "Incapacitated person" means any person who is disabled by reason of mental or physical illness or disability to such extent the person lacks the ability to effectively protect self or property.

SECTION 4. AMENDATORY 22 O.S. 2001, Section 991a-16, is amended to read as follows:

Section 991a-16. The provisions of the Elderly and Incapacitated Victim's Protection ~~Program~~ Act shall apply to any person convicted of one or more of the following offenses where the victim is an elderly or incapacitated person as defined in Section 991a-15 of this title:

1. Assault, battery, or assault and battery with a dangerous weapon;
2. Aggravated assault and battery;
3. Burglary in the second degree;
4. Use of a firearm or offensive weapon to commit or attempt to commit a felony, or pointing a firearm;
5. Grand larceny;
6. Extortion, or obtaining a signature by extortion;
7. Fraud, or obtaining or attempting to obtain property by trick or deception; ~~or~~
8. Embezzlement; or
9. Caretaker abuse, neglect or exploitation.

SECTION 5. This act shall become effective July 1, 2008.

SECTION 6. 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.

Passed the Senate the 22nd day of May, 2008.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of May, 2008.

Presiding Officer of the House
of Representatives