

THE HOUSE OF REPRESENTATIVES  
Thursday, March 8, 2007

House Bill No. 1897

HOUSE BILL NO. 1897 - By: HAMILTON, SHANNON, INMAN, KIESEL AND HARRISON of the House and LEFTWICH of the Senate.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 644, as last amended by Section 1, Chapter 284, O.S.L. 2006 (21 O.S. Supp. 2006, Section 644), which relates to assault and battery and domestic abuse; providing penalties for domestic abuse against a pregnant woman; and providing an effective date.

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

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 644, as last amended by  
2 Section 1, Chapter 284, O.S.L. 2006 (21 O.S. Supp. 2006, Section 644), is amended to  
3 read as follows:

4 Section 644. A. Assault shall be punishable by imprisonment in a county jail not  
5 exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars (\$500.00),  
6 or by both such fine and imprisonment.

7 B. Assault and battery shall be punishable by imprisonment in a county jail not  
8 exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars  
9 (\$1,000.00), or by both such fine and imprisonment.

10 C. Any person who commits any assault and battery against a current or former  
11 spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person  
12 otherwise related by blood or marriage, a person with whom the defendant is in a dating

1 relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an  
2 individual with whom the defendant has had a child, a person who formerly lived in the  
3 same household as the defendant, or a person living in the same household as the  
4 defendant shall be guilty of domestic abuse. Upon conviction, the defendant shall be  
5 punished by imprisonment in the county jail for not more than one (1) year, or by a fine  
6 not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.  
7 Upon conviction for a second or subsequent offense, the person shall be punished by  
8 imprisonment in the custody of the Department of Corrections for not more than four (4)  
9 years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine  
10 and imprisonment. The provisions of Section 51.1 of this title shall not apply to any  
11 second or subsequent offense.

12 D. Any person convicted of domestic abuse committed against a pregnant woman  
13 shall be guilty of a felony, punishable by imprisonment in the custody of the Department  
14 of Corrections for not less than three (3) years. Any person convicted of domestic abuse  
15 against a pregnant woman with the intent of causing a miscarriage shall be guilty of a  
16 felony, punishable by imprisonment in the custody of the Department of Corrections for  
17 not less than five (5) years. Any person convicted of a second or subsequent offense of  
18 domestic abuse against a pregnant woman shall be guilty of a felony, punishable by  
19 imprisonment in the custody of the Department of Corrections for not less than ten (10)  
20 years.

21 E. Any person convicted of domestic abuse as defined in subsection C of this section  
22 that results in great bodily injury to the victim shall be guilty of a felony and punished by

1 imprisonment in the custody of the Department of Corrections for not more than ten (10)  
2 years, or by imprisonment in the county jail for not more than one (1) year. The  
3 provisions of Section 51.1 of this title shall apply to any second or subsequent conviction  
4 of a violation of this subsection.

5 ~~E. F.~~ Any person convicted of domestic abuse as defined in subsection C of this  
6 section that was committed in the presence of a child shall be punished by imprisonment  
7 in the county jail for not less than six (6) months nor more than one (1) year, or by a fine  
8 not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.  
9 Any person convicted of a second or subsequent domestic abuse as defined in subsection  
10 C of this section that was committed in the presence of a child shall be punished by  
11 imprisonment in the custody of the Department of Corrections for not less than one (1)  
12 year nor more than five (5) years, or by a fine not exceeding Seven Thousand Dollars  
13 (\$7,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this  
14 title shall not apply to any second or subsequent offense. For every conviction of  
15 domestic abuse, the court shall:

16 1. Specifically order as a condition of a suspended sentence or probation that a  
17 defendant participate in counseling or undergo treatment to bring about the cessation of  
18 domestic abuse as specified in paragraph 2 of this subsection;

19 2. a. The court shall require the defendant to participate in counseling or  
20 undergo treatment for domestic abuse by an individual licensed  
21 practitioner or a domestic abuse treatment program certified by the  
22 Attorney General. If the defendant is ordered to participate in a

1 domestic abuse counseling or treatment program, the order shall  
2 require the defendant to attend the program for a minimum of fifty-  
3 two (52) weeks, complete the program, and be evaluated before and  
4 after attendance of the program by a program counselor or a private  
5 counselor.

6 b. A program for anger management, couples counseling, or family and  
7 marital counseling shall not solely qualify for the counseling or  
8 treatment requirement for domestic abuse pursuant to this subsection.  
9 The counseling may be ordered in addition to counseling specifically for  
10 the treatment of domestic abuse or per evaluation as set forth below.  
11 If, after sufficient evaluation and attendance at required counseling  
12 sessions, the domestic violence treatment program or licensed  
13 professional determines that the defendant does not evaluate as a  
14 perpetrator of domestic violence or does evaluate as a perpetrator of  
15 domestic violence and should complete other programs of treatment  
16 simultaneously or prior to domestic violence treatment, including but  
17 not limited to programs related to the mental health, apparent  
18 substance or alcohol abuse or inability or refusal to manage anger, the  
19 defendant shall be ordered to complete the counseling as per the  
20 recommendations of the domestic violence treatment program or  
21 licensed professional;



1           6. At the first review hearing, the court shall require the defendant to appear in  
2 court. Thereafter, for any subsequent review hearings, the court may accept a report on  
3 the progress of the defendant from individual counseling, domestic abuse counseling, or  
4 the treatment program. There shall be no requirement for the victim to attend review  
5 hearings; and

6           7. If funding is available, a referee may be appointed and assigned by the presiding  
7 judge of the district court to hear designated cases set for review under this subsection.  
8 Reasonable compensation for the referees shall be fixed by the presiding judge. The  
9 referee shall meet the requirements and perform all duties in the same manner and  
10 procedure as set forth in Sections 7003-8.6 and 7303-7.5 of Title 10 of the Oklahoma  
11 Statutes pertaining to referees appointed in juvenile proceedings.

12           The defendant may be required to pay all or part of the cost of the counseling or  
13 treatment, in the discretion of the court.

14           ~~F.~~ G. As used in subsection ~~E~~ F of this section, “in the presence of a child” means in  
15 the physical presence of a child; or having knowledge that a child is present and may see  
16 or hear an act of domestic violence. For the purposes of subsections C and ~~E~~ F of this  
17 section, “child” may be any child whether or not related to the victim or the defendant.

18           ~~G.~~ H. For the purposes of subsections C and ~~E~~ F of this section, any conviction for  
19 assault and battery against a current or former spouse, a present spouse of a former  
20 spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage,  
21 a person with whom the defendant is in a dating relationship as defined by Section 60.1  
22 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a

1 child, a person who formerly lived in the same household as the defendant, or any person  
2 living in the same household as the defendant, shall constitute a sufficient basis for a  
3 felony charge:

4 1. If that conviction is rendered in any state, county or parish court of record of this  
5 or any other state; or

6 2. If that conviction is rendered in any municipal court of record of this or any other  
7 state for which any jail time was served; provided, no conviction in a municipal court of  
8 record entered prior to November 1, 1997, shall constitute a prior conviction for purposes  
9 of a felony charge.

10 H. I. Any person who commits any assault and battery with intent to cause great  
11 bodily harm by strangulation or attempted strangulation against a current or former  
12 spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person  
13 otherwise related by blood or marriage, a person with whom the defendant is in a dating  
14 relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an  
15 individual with whom the defendant has had a child, a person who formerly lived in the  
16 same household as the defendant, or a person living in the same household as the  
17 defendant shall, upon conviction, be guilty of domestic abuse by strangulation and shall  
18 be punished by imprisonment in the custody of the Department of Corrections for a  
19 period of not less than one (1) year nor more than three (3) years, or by a fine of not more  
20 than Three Thousand Dollars (\$3,000.00), or by both such fine and imprisonment. Upon  
21 a second or subsequent conviction, the defendant shall be punished by imprisonment in  
22 the custody of the Department of Corrections for a period of not less than three (3) years

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 nor more than ten (10) years, or by a fine of not more than Twenty Thousand Dollars  
2 (\$20,000.00), or by both such fine and imprisonment. As used in this subsection,  
3 “strangulation” means a form of asphyxia characterized by closure of the blood vessels or  
4 air passages of the neck as a result of external pressure on the neck.

5 ~~I.~~ J. Any district court of this state and any judge thereof shall be immune from any  
6 liability or prosecution for issuing an order that requires a defendant to:

- 7 1. Attend a treatment program for domestic abusers certified by the Attorney  
8 General;
- 9 2. Attend counseling or treatment services ordered as part of any suspended or  
10 deferred sentence or probation; and
- 11 3. Attend, complete, and be evaluated before and after attendance by a treatment  
12 program for domestic abusers, certified by the Attorney General.

13 ~~J.~~ K. There shall be no charge of fees or costs to any victim of domestic violence,  
14 stalking, or sexual assault in connection with the prosecution of a domestic violence,  
15 stalking, or sexual assault offense in this state.

16 ~~K.~~ L. In the course of prosecuting any charge of domestic abuse, stalking,  
17 harassment, rape, or violation of a protective order, the prosecutor shall provide the  
18 court, prior to sentencing or any plea agreement, a local history and any other available  
19 history of past convictions of the defendant within the last ten (10) years relating to  
20 domestic abuse, stalking, harassment, rape, violation of a protective order, or any other  
21 violent misdemeanor or felony convictions.

1           ~~L~~. M. For purposes of subsection ~~D~~ E of this section, “great bodily injury” means  
2 bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the  
3 function of a body part, organ or mental faculty, or substantial risk of death.

4           SECTION 2. This act shall become effective November 1, 2007.

5           COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,  
6 dated 03-07-07 - DO PASS, As Coauthored.