

THE HOUSE OF REPRESENTATIVES  
Thursday, March 6, 2008

Committee Substitute for  
House Bill No. 3142

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3142 - By: MCCULLOUGH AND KERN of the House.

An Act relating to children; amending 10 O.S. 2001, Section 7115, as last amended by Section 5 of Enrolled Senate Bill No. 1830 of the 2nd Session of the 51st Oklahoma Legislature, which relates to child abuse and neglect; defining term; expanding application of child neglect; providing for certain offenses of neglect to receive specific punishment; modifying definition; and providing an effective date.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7115, as last amended by  
2 Section 5 of Enrolled Senate Bill No. 1830 of the 2nd Session of the 51st Oklahoma  
3 Legislature, is amended to read as follows:

4 Section 7115. A. For purposes of this section, "person" means anyone who has  
5 assumed responsibility for a child, whether voluntarily or because of legal obligation.

6 B. Any parent or other person who shall willfully or maliciously engage in child  
7 abuse shall, upon conviction, be guilty of a felony punishable by imprisonment in the  
8 custody of the Department of Corrections not exceeding life imprisonment, or by  
9 imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five  
10 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both

1 such fine and imprisonment. As used in this subsection, “child abuse” means the willful  
2 or malicious abuse, as defined by paragraph 1 of subsection B of Section 7102 of this title,  
3 of a child under eighteen (18) years of age by another, or the act of willfully or  
4 maliciously injuring, torturing or maiming a child under eighteen (18) years of age by  
5 another.

6 ~~B. C.~~ Any parent or other person who shall willfully or maliciously engage in  
7 enabling child abuse shall, upon conviction, be punished by imprisonment in the custody  
8 of the Department of Corrections not exceeding life imprisonment, or by imprisonment in  
9 a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred  
10 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or both such fine and  
11 imprisonment. As used in this subsection, “enabling child abuse” means the causing,  
12 procuring or permitting of a willful or malicious act of child abuse, as defined by  
13 paragraph 1 of subsection B of Section 7102 of this title, of a child under eighteen (18)  
14 years of age by another. As used in this subsection, “permit” means to authorize or allow  
15 for the care of a child by an individual when the person authorizing or allowing such care  
16 knows or reasonably should know that the child will be placed at risk of abuse as  
17 proscribed by this subsection.

18 ~~C. D.~~ Any parent or other person who shall willfully, recklessly or maliciously  
19 engage in child neglect shall, upon conviction, be punished by imprisonment in the  
20 custody of the Department of Corrections not exceeding ~~life imprisonment, or by~~  
21 ~~imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five~~

1 ~~Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both~~  
2 ~~such fine and imprisonment:~~

3 1. Five (5) years;

4 2. Ten (10) years if it consists of cruel confinement or abandonment that:

5 a. deprives a child of necessary food, water, or sanitary facilities,

6 b. is in an area not intended for human habitation, or

7 c. involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar  
8 device to physically restrain a child;

9 3. Twenty-five (25) years if it results in bodily injury or is committed while in the  
10 presence of a drug-related offense; or

11 4. Life if it is committed by a person at least eighteen (18) years of age and results  
12 in the death of a child who is less than fourteen (14) years of age.

13 As used in this subsection, “child neglect” means ~~the willful or malicious neglect, as~~  
14 ~~defined by paragraph 3 of subsection B of Section 7102 of this title, of a child under~~  
15 ~~eighteen (18) years of age by another~~ placing the child in a situation that endangers the  
16 life or health of the child, abandoning or cruelly confining the child, or depriving the child  
17 of necessary support.

18 ~~D. E.~~ E. Any parent or other person who shall willfully or maliciously engage in  
19 enabling child neglect shall, upon conviction, be punished by imprisonment in the  
20 custody of the Department of Corrections not exceeding life imprisonment, or by  
21 imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five  
22 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both

1 such fine and imprisonment. As used in this subsection, “enabling child neglect” means  
2 the causing, procuring or permitting of a willful or malicious act of child neglect, as  
3 defined by paragraph 3 of subsection B of Section 7102 of this title, of a child under  
4 eighteen (18) years of age by another. As used in this subsection, “permit” means to  
5 authorize or allow for the care of a child by an individual when the person authorizing or  
6 allowing such care knows or reasonably should know that the child will be placed at risk  
7 of neglect as proscribed by this subsection.

8 ~~E. F.~~ Any parent or other person who shall willfully or maliciously engage in child  
9 sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the  
10 Department of Corrections not exceeding life imprisonment, or by imprisonment in a  
11 county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars  
12 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and  
13 imprisonment, except as provided in Section 51.1a of Title 21 of the Oklahoma Statutes  
14 or as otherwise provided in subsection F of this section for a child victim under twelve  
15 (12) years of age. Except for persons sentenced to life or life without parole, any person  
16 sentenced to imprisonment for two (2) years or more for a violation of this subsection  
17 shall be required to serve a term of post-imprisonment supervision pursuant to  
18 subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the  
19 Oklahoma Statutes under conditions determined by the Department of Corrections. The  
20 jury shall be advised that the mandatory post-imprisonment supervision shall be in  
21 addition to the actual imprisonment. As used in this section, “child sexual abuse” means

1 the willful or malicious sexual abuse, as defined by paragraph 6 of subsection B of  
2 Section 7102 of this title, of a child under eighteen (18) years of age by another.

3 F. G. Any parent or other person who shall willfully or maliciously engage in sexual  
4 abuse to a child under twelve (12) years of age shall, upon conviction, be punished by  
5 imprisonment in the custody of the Department of Corrections for not less than twenty-  
6 five (25) years nor more than life imprisonment, and by a fine of not less than Five  
7 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

8 ~~G. H.~~ Any parent or other person who shall willfully or maliciously engage in  
9 enabling child sexual abuse shall, upon conviction, be punished by imprisonment in the  
10 custody of the Department of Corrections not exceeding life imprisonment, or by  
11 imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five  
12 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
13 such fine and imprisonment. As used in this subsection, “enabling child sexual abuse”  
14 means the causing, procuring or permitting of a willful or malicious act of child sexual  
15 abuse, as defined by paragraph 6 of subsection B of Section 7102 of this title, of a child  
16 under the age of eighteen (18) by another. As used in this subsection, “permit” means to  
17 authorize or allow for the care of a child by an individual when the person authorizing or  
18 allowing such care knows or reasonably should know that the child will be placed at risk  
19 of sexual abuse as proscribed by this subsection.

20 ~~H. I.~~ Any parent or other person who shall willfully or maliciously engage in child  
21 sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of  
22 the Department of Corrections not exceeding life imprisonment, or by imprisonment in a

1 county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars  
2 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and  
3 imprisonment except as provided in subsection I of this section for a child victim under  
4 twelve (12) years of age. Except for persons sentenced to life or life without parole, any  
5 person sentenced to imprisonment for two (2) years or more for a violation of this  
6 subsection shall be required to serve a term of post-imprisonment supervision pursuant  
7 to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the  
8 Oklahoma Statutes under conditions determined by the Department of Corrections. The  
9 jury shall be advised that the mandatory post-imprisonment supervision shall be in  
10 addition to the actual imprisonment. As used in this subsection, “child sexual  
11 exploitation” means the willful or malicious sexual exploitation, as defined by paragraph  
12 7 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age  
13 by another.

14 I. J. Any parent or other person who shall willfully or maliciously engage in sexual  
15 exploitation of a child under twelve (12) years of age shall, upon conviction, be punished  
16 by imprisonment in the custody of the Department of Corrections for not less than  
17 twenty-five (25) years nor more than life imprisonment, and by a fine of not less than  
18 Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

19 ~~J. K.~~ Any parent or other person who shall willfully or maliciously engage in  
20 enabling child sexual exploitation shall, upon conviction, be punished by imprisonment  
21 in the custody of the Department of Corrections not exceeding life imprisonment, or by  
22 imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five

1 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
2 such fine and imprisonment. As used in this subsection, “enabling child sexual  
3 exploitation” means the causing, procuring or permitting of a willful or malicious act of  
4 child sexual exploitation, as defined by paragraph 7 of subsection B of Section 7102 of  
5 this title, of a child under eighteen (18) years of age by another. As used in this  
6 subsection, “permit” means to authorize or allow for the care of a child by an individual  
7 when the person authorizing or allowing such care knows or reasonably should know  
8 that the child will be placed at risk of sexual exploitation as proscribed by this  
9 subsection.

10 ~~K.~~ L. Notwithstanding any other provision of law, any parent or other person  
11 convicted of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd  
12 molestation of a child under fourteen (14) years of age subsequent to a previous  
13 conviction for any offense of forcible anal or oral sodomy, rape, rape by instrumentation,  
14 or lewd molestation of a child under fourteen (14) years of age shall be punished by death  
15 or by imprisonment for life without parole.

16 SECTION 2. This act shall become effective November 1, 2008.

17 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 03-05-08 -  
18 DO PASS, As Amended and Coauthored.