

SB 1600

THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 1600
As Amended

SENATE BILL NO. 1600 - By: JUSTICE of the Senate and COODY of the House.

[crimes and punishments - assault - eligible offenses -
defining terms - effective date -
emergency]

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 644, as last amended by Section 1, Chapter 284, O.S.L. 2006 (21 O.S. Supp. 2007, Section 644), is amended to read as follows:

Section 644. A. Assault shall be punishable by imprisonment in a county jail not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment, except as provided in subsection C of this section.

B. Assault and battery shall be punishable by imprisonment in a county jail not exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment, except as provided in subsection C of this section.

C. Except when a felony penalty is specified for an offense, when the victim of any offense defined in this section is an elderly or incapacitated person, as defined by the Elderly and Incapacitated Victims Protection Act, the offense shall be punishable as a felony.

1 If no felony penalty is specified for the offense, the person
2 violating an elderly or incapacitated victim, upon conviction, shall
3 be punished by imprisonment in the custody of the Department of
4 Corrections for a term not more than two (2) years and by a fine not
5 exceeding Two Thousand Five Hundred Dollars (\$2,500.00), and in
6 addition, the court may consider any provisions of the Elderly and
7 Incapacitated Victims Protection Act.

8 D. Any person who commits any assault and battery against a
9 current or former spouse, a present spouse of a former spouse,
10 parents, a foster parent, a child, a person otherwise related by
11 blood or marriage, a person with whom the defendant is in a dating
12 relationship as defined by Section 60.1 of Title 22 of the Oklahoma
13 Statutes, an individual with whom the defendant has had a child, a
14 person who formerly lived in the same household as the defendant, or
15 a person living in the same household as the defendant shall be
16 guilty of domestic abuse. Upon conviction, the defendant shall be
17 punished by imprisonment in the county jail for not more than one
18 (1) year, or by a fine not exceeding Five Thousand Dollars
19 (\$5,000.00), or by both such fine and imprisonment, except as
20 provided in subsection C of this section. Upon conviction for a
21 second or subsequent offense, the person shall be punished by
22 imprisonment in the custody of the Department of Corrections for not
23 more than four (4) years, or by a fine not exceeding Five Thousand

1 Dollars (\$5,000.00), or by both such fine and imprisonment, and in
2 addition, the violator may be subject to the Elderly and
3 Incapacitated Victims Protection Act. The provisions of Section
4 51.1 of this title shall not apply to any second or subsequent
5 offense.

6 ~~D.~~ E. Any person convicted of domestic abuse as defined in
7 subsection ~~C~~ D of this section that results in great bodily injury
8 to the victim shall be guilty of a felony and punished by
9 imprisonment in the custody of the Department of Corrections for not
10 more than ten (10) years, or except as provided in subsection C of
11 this section, by imprisonment in the county jail for not more than
12 one (1) year. The provisions of Section 51.1 of this title shall
13 apply to any second or subsequent conviction of a violation of this
14 subsection.

15 ~~E.~~ F. Any person convicted of domestic abuse as defined in
16 subsection ~~C~~ D of this section that was committed in the presence of
17 a child shall be punished by imprisonment in the county jail for not
18 less than six (6) months nor more than one (1) year, or by a fine
19 not exceeding Five Thousand Dollars (\$5,000.00), or by both such
20 fine and imprisonment, except as provided in subsection C of this
21 section. Any person convicted of a second or subsequent domestic
22 abuse as defined in subsection ~~C~~ D of this section that was
23 committed in the presence of a child shall be punished by

1 imprisonment in the custody of the Department of Corrections for not
2 less than one (1) year nor more than five (5) years, or by a fine
3 not exceeding Seven Thousand Dollars (\$7,000.00), or by both such
4 fine and imprisonment, and in addition, the violator may be subject
5 to the Elderly and Incapacitated Victims Protection Act. The
6 provisions of Section 51.1 of this title shall not apply to any
7 second or subsequent offense. For every conviction of domestic
8 abuse, the court shall:

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

13 2. a. The court shall require the defendant to participate
14 in counseling or undergo treatment for domestic abuse
15 by an individual licensed practitioner or a domestic
16 abuse treatment program certified by the Attorney
17 General. If the defendant is ordered to participate
18 in a domestic abuse counseling or treatment program,
19 the order shall require the defendant to attend the
20 program for a minimum of fifty-two (52) weeks,
21 complete the program, and be evaluated before and
22 after attendance of the program by a program counselor
23 or a private counselor.

1 b. A program for anger management, couples counseling, or
2 family and marital counseling shall not solely qualify
3 for the counseling or treatment requirement for
4 domestic abuse pursuant to this subsection. The
5 counseling may be ordered in addition to counseling
6 specifically for the treatment of domestic abuse or
7 per evaluation as set forth below. If, after
8 sufficient evaluation and attendance at required
9 counseling sessions, the domestic violence treatment
10 program or licensed professional determines that the
11 defendant does not evaluate as a perpetrator of
12 domestic violence or does evaluate as a perpetrator of
13 domestic violence and should complete other programs
14 of treatment simultaneously or prior to domestic
15 violence treatment, including but not limited to
16 programs related to the mental health, apparent
17 substance or alcohol abuse or inability or refusal to
18 manage anger, the defendant shall be ordered to
19 complete the counseling as per the recommendations of
20 the domestic violence treatment program or licensed
21 professional;
22 3. a. The court shall set a review hearing no more than one
23 hundred twenty (120) days after the defendant is

1 ordered to participate in a domestic abuse counseling
2 program or undergo treatment for domestic abuse to
3 assure the attendance and compliance of the defendant
4 with the provisions of this subsection and the
5 domestic abuse counseling or treatment requirements.

6 b. The court shall set a second review hearing after the
7 completion of the counseling or treatment to assure
8 the attendance and compliance of the defendant with
9 the provisions of this subsection and the domestic
10 abuse counseling or treatment requirements. The court
11 shall retain continuing jurisdiction over the
12 defendant during the course of ordered counseling
13 through the final review hearing;

14 4. The court may set subsequent or other review hearings as the
15 court determines necessary to assure the defendant attends and fully
16 complies with the provisions of this subsection and the domestic
17 abuse counseling or treatment requirements;

18 5. At any review hearing, if the defendant is not
19 satisfactorily attending individual counseling or a domestic abuse
20 counseling or treatment program or is not in compliance with any
21 domestic abuse counseling or treatment requirements, the court may
22 order the defendant to further or continue counseling, treatment, or
23 other necessary services. The court may revoke all or any part of a

1 suspended sentence, deferred sentence, or probation pursuant to
2 Section 991b of Title 22 of the Oklahoma Statutes and subject the
3 defendant to any or all remaining portions of the original sentence;

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

10 7. If funding is available, a referee may be appointed and
11 assigned by the presiding judge of the district court to hear
12 designated cases set for review under this subsection. Reasonable
13 compensation for the referees shall be fixed by the presiding judge.
14 The referee shall meet the requirements and perform all duties in
15 the same manner and procedure as set forth in Sections 7003-8.6 and
16 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees
17 appointed in juvenile proceedings.

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

20 ~~F.~~ G. As used in subsection ~~E~~ F of this section, "in the
21 presence of a child" means in the physical presence of a child; or
22 having knowledge that a child is present and may see or hear an act
23 of domestic violence. For the purposes of subsections ~~C~~ D and ~~E~~ F

1 of this section, "child" may be any child whether or not related to
2 the victim or the defendant.

3 ~~G.~~ H. For the purposes of subsections ~~E~~ D and ~~F~~ F of this
4 section, any conviction for assault and battery against a current or
5 former spouse, a present spouse of a former spouse, parents, a
6 foster parent, a child, a person otherwise related by blood or
7 marriage, a person with whom the defendant is in a dating
8 relationship as defined by Section 60.1 of Title 22 of the Oklahoma
9 Statutes, an individual with whom the defendant has had a child, a
10 person who formerly lived in the same household as the defendant, or
11 any person living in the same household as the defendant, shall
12 constitute a sufficient basis for a felony charge:

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

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

20 ~~H.~~ I. Any person who commits any assault and battery with
21 intent to cause great bodily harm by strangulation or attempted
22 strangulation against a current or former spouse, a present spouse
23 of a former spouse, parents, a foster parent, a child, a person

1 otherwise related by blood or marriage, a person with whom the
2 defendant is in a dating relationship as defined by Section 60.1 of
3 Title 22 of the Oklahoma Statutes, an individual with whom the
4 defendant has had a child, a person who formerly lived in the same
5 household as the defendant, or a person living in the same household
6 as the defendant shall, upon conviction, be guilty of domestic abuse
7 by strangulation and shall be punished by imprisonment in the
8 custody of the Department of Corrections for a period of not less
9 than one (1) year nor more than three (3) years, or by a fine of not
10 more than Three Thousand Dollars (\$3,000.00), or by both such fine
11 and imprisonment, and in addition, the violator may be subject to
12 the Elderly and Incapacitated Victims Protection Act. Upon a second
13 or subsequent conviction, the defendant shall be punished by
14 imprisonment in the custody of the Department of Corrections for a
15 period of not less than three (3) years nor more than ten (10)
16 years, or by a fine of not more than Twenty Thousand Dollars
17 (\$20,000.00), or by both such fine and imprisonment, and in
18 addition, the violator may be subject to the Elderly and
19 Incapacitated Victims Protection Act. As used in this subsection,
20 "strangulation" means a form of asphyxia characterized by closure of
21 the blood vessels or air passages of the neck as a result of
22 external pressure on the neck.

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

4 1. Attend a treatment program for domestic abusers certified by
5 the Attorney General;

6 2. Attend counseling or treatment services ordered as part of
7 any suspended or deferred sentence or probation; and

8 3. Attend, complete, and be evaluated before and after
9 attendance by a treatment program for domestic abusers, certified by
10 the Attorney General.

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

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

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

5 SECTION 2. AMENDATORY 21 O.S. 2001, Section 645, as
6 amended by Section 1, Chapter 62, O.S.L. 2006 (21 O.S. Supp. 2007,
7 Section 645), is amended to read as follows:

8 Section 645. Every person who, with intent to do bodily harm
9 and without justifiable or excusable cause, commits any assault,
10 battery, or assault and battery upon the person of another with any
11 sharp or dangerous weapon, or who, without such cause, shoots at
12 another, with any kind of firearm, air gun, conductive energy weapon
13 or other means whatever, with intent to injure any person, although
14 without the intent to kill such person or to commit any felony, upon
15 conviction is guilty of a felony punishable by imprisonment in the
16 ~~State Penitentiary~~ custody of the Department of Corrections for a
17 term not exceeding ten (10) years, or by imprisonment in a county
18 jail not exceeding one (1) year, and in addition, the violator may
19 be subject to the Elderly and Incapacitated Victims Protection Act.

20 SECTION 3. AMENDATORY 21 O.S. 2001, Section 646, as
21 amended by Section 6, Chapter 460, O.S.L. 2002 (21 O.S. Supp. 2007,
22 Section 646), is amended to read as follows:

1 Section 646. A. An assault and battery becomes aggravated when
2 committed under any of the following circumstances:

3 1. When great bodily injury is inflicted upon the person
4 assaulted; or

5 2. When committed by a person of robust health or strength upon
6 one who is ~~aged, decrepit,~~ elderly or incapacitated, as defined in
7 Section ~~641~~ 991a-15 of ~~this title~~ Title 22 of the Oklahoma Statutes.

8 B. For purposes of this section "great bodily injury" means
9 bone fracture, protracted and obvious disfigurement, protracted loss
10 or impairment of the function of a body part, organ or mental
11 faculty, or substantial risk of death.

12 SECTION 4. AMENDATORY 21 O.S. 2001, Section 647, as
13 amended by Section 7, Chapter 460, O.S.L. 2002 (21 O.S. Supp. 2007,
14 Section 647), is amended to read as follows:

15 Section 647. ~~Aggravated~~ A. Except as provided in subsection B
16 of this section, aggravated assault and battery shall be punished by
17 imprisonment in the ~~State Penitentiary~~ custody of the Department of
18 Corrections for a term not exceeding five (5) years, or by
19 imprisonment in a county jail not exceeding one (1) year, or by a
20 fine of not more than Five Hundred Dollars (\$500.00), or both such
21 fine and imprisonment.

22 B. When the victim of aggravated assault and battery is an
23 elderly or incapacitated person, as defined by the Elderly and

1 Incapacitated Victims Protection Act, the offense shall be a felony
2 punishable by imprisonment in the custody of the Department of
3 Corrections for a term not exceeding seven (7) years and by a fine
4 not exceeding Two Thousand Five Hundred Dollars (\$2,500.00), and in
5 addition, the court may consider any provision of the Elderly and
6 Incapacitated Victims Protection Act.

7 SECTION 5. AMENDATORY 21 O.S. 2001, Section 843.1, as
8 last amended by Section 5, Chapter 261, O.S.L. 2007 (21 O.S. Supp.
9 2007, Section 843.1), is amended to read as follows:

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

15 2. For purposes of this section, the terms, "abuse", "financial
16 neglect", "neglect", "sexual abuse", and "exploit" shall have the
17 same meaning as such terms are defined and clarified in Section 10-
18 103 of Title 43A of the Oklahoma Statutes.

19 B. 1. Any person convicted of a violation of this section,
20 except as provided in paragraph 2 of this subsection, shall be
21 guilty of a felony. The violator, upon conviction, shall be
22 punished by imprisonment in the custody of the Department of
23 Corrections for a term not to exceed ten (10) years, and by a fine

1 not exceeding Ten Thousand Dollars (\$10,000.00), or by both such
2 fine and imprisonment, and in addition, the violator may be subject
3 to the Elderly and Incapacitated Victims Protection Act. Such
4 person's term shall further be subject to the provisions of Section
5 13.1 of this title for mandatory minimum sentencing.

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

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

19 D. Except for persons sentenced to life or life without parole,
20 any person sentenced to imprisonment for two (2) years or more for a
21 violation of paragraph 2 of subsection B of this section shall be
22 required to serve a term of post-imprisonment supervision pursuant
23 to subparagraph f of paragraph 1 of subsection A of Section 991a of

1 Title 22 of the Oklahoma Statutes under conditions determined by the
2 Department of Corrections. The jury shall be advised that the
3 mandatory post-imprisonment supervision shall be in addition to the
4 actual imprisonment.

5 SECTION 6. AMENDATORY 21 O.S. 2001, Section 843.2, is
6 amended to read as follows:

7 Section 843.2 A. No caretaker shall verbally abuse any person
8 entrusted to the care of the caretaker, or knowingly cause, secure,
9 or permit an act of verbal abuse to be done. Any person convicted
10 of violating the provisions of this section shall be guilty of a
11 misdemeanor, except when the victim is an elderly or incapacitated
12 person, as defined by the Elderly and Incapacitated Victim's
13 Protection Act, and in such case the penalty shall be a felony, upon
14 conviction, punishable by imprisonment in the custody of the
15 Department of Corrections for a term not more than two (2) years and
16 a fine not exceeding two Thousand Five Hundred Dollars (\$2,500.00).
17 The violator guilty of a misdemeanor offense, upon conviction, shall
18 be punished by imprisonment in the county jail for a term not to
19 exceed one (1) year, or by a fine not exceeding One Thousand Dollars
20 (\$1,000.00), or by both such fine and imprisonment.

21 B. For the purpose of this section, "verbal abuse" means the
22 repeated use of words, sounds, or other forms of communication by a
23 caretaker, including but not limited to, language, gestures, actions

1 or behaviors, that are calculated to humiliate or intimidate or
2 cause fear, embarrassment, shame, or degradation to the person
3 entrusted to the care of the caretaker.

4 SECTION 7. AMENDATORY Section 1, Chapter 195, O.S.L.
5 2003 (21 O.S. Supp. 2007, Section 843.3), is amended to read as
6 follows:

7 Section 843.3 A. Any person who engages in abuse, sexual
8 abuse, or exploitation of a vulnerable adult, as defined in Section
9 10-103 of Title 43A of the Oklahoma Statutes, or an elderly person
10 as defined in Section 991a-15 of Title 22 of the Oklahoma Statutes,
11 shall be guilty of a felony. The violator, upon conviction, shall
12 be fined not more than Ten Thousand Dollars (\$10,000.00) or be
13 imprisoned in the custody of the Department of Corrections for a
14 term not more than ~~eighteen (18) months~~ two (2) years, or both such
15 fine and imprisonment.

16 B. Any person who has a responsibility to care for a vulnerable
17 adult as defined by Section 10-103 of Title 43A of the Oklahoma
18 Statutes or an elderly person as defined by Section 991a-15 of Title
19 22 of the Oklahoma Statutes who purposely, knowingly or recklessly
20 neglects the vulnerable adult ~~as defined in Section 10-103 of Title~~
21 ~~43A of the Oklahoma Statutes~~ or elderly person shall be guilty of a
22 felony. The violator, upon conviction, shall be fined not more than
23 Ten Thousand Dollars (\$10,000.00) or be imprisoned in the custody of

1 the Department of Corrections for a term not more than eighteen (18)
2 ~~months~~ two (2) years, or both such fine and imprisonment.

3 C. In addition the court may consider any provisions of the
4 Elderly and Incapacitated Victims Protection Act when the victim is
5 an elderly or incapacitated person as defined by Section 991a-15 of
6 Title 22 of the Oklahoma Statutes.

7 SECTION 8. AMENDATORY 22 O.S. 2001, Section 991a-15, is
8 amended to read as follows:

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

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

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

17 SECTION 9. AMENDATORY 21 O.S. 2001, Section 991a-16, is
18 amended to read as follows:

19 Section 991a-16. The provisions of the Elderly and
20 Incapacitated Victim's Protection ~~Program~~ Act shall apply to any
21 person convicted of or pleading guilty or nolo contendere to one or
22 more of the following offenses where the victim is an elderly or
23 incapacitated person as defined in this act:

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

13 SECTION 10. AMENDATORY 22 O.S. 2001, Section 991a-17, is
14 amended to read as follows:

15 Section 991a-17. Whenever a person is convicted of or pleads
16 guilty or nolo contendere to an offense enumerated in Section ~~445~~
17 991a-16 of this ~~act~~ title in which the victim is elderly or
18 incapacitated, the court shall upon conviction:

- 19 1. Commit the defendant for confinement as provided by law;
20 provided, the first thirty (30) days of the sentence shall not be
21 subject to probation, suspension or deferral; provided further, this
22 mandatory minimum period of confinement shall be served in the
23 county jail as a condition of a suspended or deferred sentence,

1 pursuant to Section 991a of ~~Title 22 of the Oklahoma Statutes~~ this
2 title and may be served by night or weekend incarceration pursuant
3 to Section 991a-2 of ~~Title 22 of the Oklahoma Statutes~~ this title;
4 and

- 5 2. a. require restitution be paid to the victim for
6 out-of-pocket expenses, loss or damage to property and
7 medical expenses for injury proximately caused by the
8 conduct of the defendant pursuant to Section ~~447~~ 991a-
9 18 of this ~~act~~ title, or
10 b. assign the offender to perform a required term of
11 community service, according to a schedule consistent
12 with the employment and family responsibility of the
13 person convicted, or
14 c. require restitution as provided in subparagraph a of
15 this paragraph and community service as provided in
16 subparagraph b of this paragraph; and

17 3. The court may further impose a fine or any other penalty
18 otherwise provided by law.

19 SECTION 11. AMENDATORY 22 O.S. 2001, Section 991a-20, is
20 amended to read as follows:

21 Section 991a-20. A. Every person who, having been convicted of
22 or pleaded guilty or nolo contendere to any offense against an
23 elderly or incapacitated person, as defined in Section 991a-15 of

1 this title, and as such offenses are enumerated in Section 445 991a-
2 16 of this act title, commits any subsequent crime against an
3 elderly or incapacitated person after such conviction is punishable
4 as follows:

5 1. If the subsequent offense ~~of which such person is~~
6 ~~subsequently convicted~~ is such that upon a first conviction an
7 offender would be punishable by imprisonment in the ~~State~~
8 Penitentiary custody of the Department of Corrections for any term
9 exceeding five (5) years, such person is punishable by imprisonment
10 in the ~~State Penitentiary~~ custody of the Department of Corrections
11 for a term not less than ten (10) years or as provided in Section
12 51.1 of Title 21 of the Oklahoma Statutes, whichever is longer; or

13 2. If ~~such~~ the subsequent offense is such that upon a first
14 conviction the offender would be punishable by imprisonment in the
15 ~~State Penitentiary~~ custody of the Department of Corrections for five
16 (5) years or less, ~~then the such~~ person ~~convicted of such subsequent~~
17 ~~offense~~ is punishable by imprisonment in the ~~State Penitentiary~~
18 custody of the Department of Corrections for a term not exceeding
19 fifteen (15) years or as provided in Section 51.1 of Title 21 of the
20 Oklahoma Statutes, whichever is longer.

21 B. Every person who, having been twice convicted of or pleading
22 guilty or nolo contendere to felony offenses against an elderly or
23 incapacitated person, as defined in Section 991a-15 of this title,

1 commits a third felony offense against an elderly or incapacitated
2 person within ten (10) years of the date following the completion of
3 the execution of the first sentence, shall be punishable by
4 imprisonment in the ~~State Penitentiary~~ custody of the Department of
5 Corrections for a term of not less than twenty (20) years or as
6 provided in Section 51.1 of Title 21 of the Oklahoma Statutes,
7 whichever is longer.

8 C. All felony offenses arising out of the same transaction or
9 occurrence or series of events closely related in time and location
10 shall be considered as one offense for the purposes of this section.

11 D. Nothing in this section shall be construed to affect the
12 punishment by death or life imprisonment without parole in all
13 crimes now or hereafter made punishable by death or life
14 imprisonment without parole, nor shall any provision of this act
15 have the effect of reducing any imprisonment term or fine.

16 SECTION 12. This act shall become effective July 1, 2008.

17 SECTION 13. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-20-08 - DO
22 PASS, As Amended and Coauthored.