

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2931

By: McCarter

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5
6 AS INTRODUCED

7 An Act relating to criminal justice; amending 21 O.S.
8 2001, Section 646, as amended by Section 6, Chapter
9 460, O.S.L. 2002 (21 O.S. Supp. 2007, Section 646),
10 which relates to aggravated assault and battery;
11 modifying statutory reference; amending 10 O.S. 2001,
12 Section 7102, as last amended by Section 5, Chapter
13 351, O.S.L. 2007 (10 O.S. Supp. 2007, Section 7102),
14 which relates to the Oklahoma Child Abuse Reporting
15 and Prevention Act; expanding scope of certain
16 definition; and providing an effective date.

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

18 SECTION 1. AMENDATORY 21 O.S. 2001, Section 646, as
19 amended by Section 6, Chapter 460, O.S.L. 2002 (21 O.S. Supp. 2007,
20 Section 646), is amended to read as follows:

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

23 1. When great bodily injury is inflicted upon the person
24 assaulted; or

1 2. When committed by a person of robust health or strength upon
2 one who is aged, decrepit, or incapacitated, as defined in Section
3 ~~641~~ 991a-15 of ~~this title~~ Title 22 of the Oklahoma Statutes.

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

8 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7102, as
9 last amended by Section 5, Chapter 351, O.S.L. 2007 (10 O.S. Supp.
10 2007, Section 7102), is amended to read as follows:

11 Section 7102. A. 1. It is the policy of this state to provide
12 for the protection of children who have been abused or neglected and
13 who may be further threatened by the conduct of persons responsible
14 for the health, safety or welfare of such children.

15 2. It is the policy of this state that in responding to a
16 report of child abuse or neglect:

- 17 a. in any necessary removal of a child from the home,
- 18 b. in placements of a child required pursuant to the
19 Oklahoma Child Abuse Reporting and Prevention Act, and
- 20 c. in any administrative or judicial proceeding held
21 pursuant to the provisions of the Oklahoma Child Abuse
22 Reporting and Prevention Act,

23 the best interests of the child shall be of paramount consideration.

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1 B. Except as otherwise provided by and used in the Oklahoma
2 Child Abuse Reporting and Prevention Act:

3 1. "Abuse" means harm or threatened harm to a child's health,
4 safety or welfare by a person responsible for the child's health,
5 safety or welfare, including sexual abuse and sexual exploitation;

6 2. "Harm or threatened harm to a child's health or safety"
7 includes, but is not limited to:

8 a. nonaccidental physical or mental injury,

9 b. sexual abuse,

10 c. sexual exploitation,

11 d. neglect,

12 e. failure or omission to provide protection from harm or
13 threatened harm, or

14 f. abandonment;

15 3. "Neglect" means abandonment, or failure or omission to
16 provide any of the following:

17 a. adequate food, clothing, shelter, medical care, or
18 supervision, or

19 b. special care made necessary by the physical or mental
20 condition of the child;

21 4. "Child" means any unmarried person under the age of eighteen
22 (18) years, except any person convicted of a crime specified in
23 Section 7306-1.1 of this title or any person who has been certified
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1 as an adult pursuant to Section 7303-4.3 of this title and convicted
2 of a felony;

3 5. "Person responsible for a child's health, safety or welfare"
4 includes a parent; a legal guardian; a custodian; a foster parent; a
5 person eighteen (18) years of age or older with whom the child's
6 parent cohabitates or any other adult residing in the home of the
7 child; an agent or employee of a public or private residential home,
8 institution, facility or day treatment program as defined in Section
9 175.20 of this title; a teacher of a public or private school; or an
10 owner, operator, or employee of a child care facility as defined by
11 Section 402 of this title;

12 6. "Sexual abuse" includes, but is not limited to, rape, incest
13 and lewd or indecent acts or proposals made to a child, as defined
14 by law, by a person responsible for the child's health, safety or
15 welfare;

16 7. "Sexual exploitation" includes, but is not limited to,
17 allowing, permitting, or encouraging a child to engage in
18 prostitution, as defined by law, by a person responsible for the
19 child's health, safety or welfare or allowing, permitting,
20 encouraging, or engaging in the lewd, obscene, or pornographic
21 photographing, filming, or depicting of a child in those acts as
22 defined by the state law, by a person responsible for the child's
23 health, safety or welfare;

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1 8. "Multidisciplinary child abuse team" means any freestanding
2 team established pursuant to the provisions of Section 7110 of this
3 title. For purposes of this definition, "freestanding" means a team
4 not used by a child advocacy center for its accreditation;

5 9. "Child advocacy center" means a center and the
6 multidisciplinary child abuse team of which it is a member that is
7 accredited by the National Children's Alliance or that is completing
8 a sixth year of reaccreditation. Child advocacy centers shall be
9 classified, based on the child population of a district attorney's
10 district, as follows:

- 11 a. nonurban centers in districts with child populations
12 that are less than sixty thousand (60,000),
- 13 b. midlevel nonurban centers in districts with child
14 populations equal to or greater than sixty thousand
15 (60,000), but not including Oklahoma and Tulsa
16 Counties, and
- 17 c. urban centers in Oklahoma and Tulsa Counties.

18 10. "Assessment" means a systematic process utilized by the
19 Department of Human Services to respond to reports of alleged child
20 abuse or neglect which, according to priority guidelines established
21 by the Department, do not constitute a serious and immediate threat
22 to the child's health, safety or welfare. The assessment includes,
23 but is not limited to, the following elements:

- 24 a. an evaluation of the child's safety, and

1 b. a determination regarding the family's need for
2 services;

3 11. "Investigation" means an approach utilized by the
4 Department to respond to reports of alleged child abuse or neglect
5 which, according to priority guidelines established by the
6 Department, constitute a serious and immediate threat to the child's
7 health or safety. An investigation includes, but is not limited to,
8 the following elements:

9 a. an evaluation of the child's safety or welfare,

10 b. a determination whether or not child abuse or neglect
11 occurred, and

12 c. a determination regarding the family's need for
13 prevention and intervention-related services;

14 12. "Services not needed determination" means a report in which
15 a child protective services worker, after an investigation,
16 determines that there is no identified risk of abuse or neglect;

17 13. "Services recommended determination" means a report in
18 which a child protective services worker, after an investigation,
19 determines the allegations to be unfounded or for which there is
20 insufficient evidence to fully determine whether child abuse or
21 neglect has occurred, but one in which the Department determines
22 that the child and the child's family could benefit from receiving
23 prevention and intervention-related services;

1 14. "Confirmed report - services recommended" means a report
2 which is determined by a child protective services worker, after an
3 investigation and based upon some credible evidence, to constitute
4 child abuse or neglect which is of such a nature that the Department
5 recommends prevention and intervention-related services for the
6 parents or persons responsible for the care of the child or
7 children, but for which initial court intervention is not required;

8 15. "Confirmed report - court intervention" means a report
9 which is determined by a child protective services worker, after an
10 investigation and based upon some credible evidence, to constitute
11 child abuse or neglect which is of such a nature that the Department
12 finds that the child's health, safety or welfare is threatened;

13 16. "Child protective services worker" means a person employed
14 by the Department of Human Services with sufficient experience or
15 training as determined by the Department in child abuse prevention
16 and identification;

17 17. "Department" means the Department of Human Services;

18 18. "Commission" means the Commission for Human Services; and

19 19. "Prevention and intervention-related services" means
20 community-based programs that serve children and families on a
21 voluntary and time-limited basis to help reduce the likelihood or
22 incidence of child abuse and neglect.

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SECTION 3. This act shall become effective November 1, 2008.

51-2-9125 GRS 01/11/08