

THE HOUSE OF REPRESENTATIVES  
Wednesday, March 24, 2010

ENGROSSED

Senate Bill No. 1645

ENGROSSED SENATE BILL NO. 1645 - By: PADDACK of the Senate and THOMSEN AND COOKSEY of the House.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 843.5, as last amended by Section 5, Chapter 3, O.S.L. 2008 and as renumbered by Section 207, Chapter 233, O.S.L. 2009 (21 O.S. Supp. 2009, Section 843.5), which relates to child abuse; applying certain definitions to specified crimes; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 843.5, as last amended by  
2 Section 5, Chapter 3, O.S.L. 2008 and as renumbered by Section 207, Chapter 233, O.S.L.  
3 2009 (21 O.S. Supp. 2009, Section 843.5), is amended to read as follows:

4 Section 843.5 A. Any parent or other person who shall willfully or maliciously  
5 engage in child abuse shall, upon conviction, be guilty of a felony punishable by  
6 imprisonment in the custody of the Department of Corrections not exceeding life  
7 imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine  
8 of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars  
9 (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "child  
10 abuse" means the willful or malicious abuse, as defined by paragraph 1 of subsection B 2

1 of Section ~~7102 1-1-105~~ of ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under  
2 eighteen (18) years of age by another, or the act of willfully or maliciously injuring,  
3 torturing or maiming a child under eighteen (18) years of age by another.

4 B. Any parent or other person who shall willfully or maliciously engage in enabling  
5 child abuse shall, upon conviction, be punished by imprisonment in the custody of the  
6 Department of Corrections not exceeding life imprisonment, or by imprisonment in a  
7 county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars  
8 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or both such fine and  
9 imprisonment. As used in this subsection, “enabling child abuse” means the causing,  
10 procuring or permitting of a willful or malicious act of child abuse, as defined by  
11 paragraph ~~1 of subsection B 2~~ of Section ~~7102 1-1-105~~ of ~~this title~~ Title 10A of the  
12 Oklahoma Statutes, of a child under eighteen (18) years of age by another. As used in  
13 this subsection, “permit” means to authorize or allow for the care of a child by an  
14 individual when the person authorizing or allowing such care knows or reasonably  
15 should know that the child will be placed at risk of abuse as proscribed by this  
16 subsection.

17 C. Any parent or other person who shall willfully or maliciously engage in child  
18 neglect shall, upon conviction, be punished by imprisonment in the custody of the  
19 Department of Corrections not exceeding life imprisonment, or by imprisonment in a  
20 county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars  
21 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and  
22 imprisonment. As used in this subsection, “child neglect” means the willful or malicious

1 neglect, as defined by paragraph ~~3~~ 46 of ~~subsection B of Section 7102~~ 1-1-105 of ~~this title~~  
2 Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by  
3 another.

4 D. Any parent or other person who shall willfully or maliciously engage in enabling  
5 child neglect shall, upon conviction, be punished by imprisonment in the custody of the  
6 Department of Corrections not exceeding life imprisonment, or by imprisonment in a  
7 county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars  
8 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and  
9 imprisonment. As used in this subsection, “enabling child neglect” means the causing,  
10 procuring or permitting of a willful or malicious act of child neglect, as defined by  
11 paragraph ~~3~~ 46 of ~~subsection B of Section 7102~~ 1-1-105 of ~~this title~~ Title 10A of the  
12 Oklahoma Statutes, of a child under eighteen (18) years of age by another. As used in  
13 this subsection, “permit” means to authorize or allow for the care of a child by an  
14 individual when the person authorizing or allowing such care knows or reasonably  
15 should know that the child will be placed at risk of neglect as proscribed by this  
16 subsection.

17 E. Any parent or other person who shall willfully or maliciously engage in child  
18 sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the  
19 Department of Corrections not exceeding life imprisonment, or by imprisonment in a  
20 county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars  
21 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and  
22 imprisonment, except as provided in Section 51.1a of Title 21 of the Oklahoma Statutes

1 or as otherwise provided in subsection F of this section for a child victim under twelve  
2 (12) years of age. Except for persons sentenced to life or life without parole, any person  
3 sentenced to imprisonment for two (2) years or more for a violation of this subsection  
4 shall be required to serve a term of post-imprisonment supervision pursuant to  
5 subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the  
6 Oklahoma Statutes under conditions determined by the Department of Corrections. The  
7 jury shall be advised that the mandatory post-imprisonment supervision shall be in  
8 addition to the actual imprisonment. As used in this section, “child sexual abuse” means  
9 the willful or malicious sexual abuse, as defined by subparagraph b of paragraph 6 2 of  
10 ~~subsection B of Section 7102 1-1-105 of this title~~ Title 10A of the Oklahoma Statutes, of a  
11 child under eighteen (18) years of age by another.

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

17 G. Any parent or other person who shall willfully or maliciously engage in enabling  
18 child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of  
19 the Department of Corrections not exceeding life imprisonment, or by imprisonment in a  
20 county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars  
21 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and  
22 imprisonment. As used in this subsection, “enabling child sexual abuse” means the

1 causing, procuring or permitting of a willful or malicious act of child sexual abuse, as  
2 defined by subparagraph b of paragraph 2 of subsection B of Section 7102 1-1-105 of  
3 ~~this title~~ Title 10A of the Oklahoma Statutes, of a child under the age of eighteen (18) by  
4 another. As used in this subsection, “permit” means to authorize or allow for the care of  
5 a child by an individual when the person authorizing or allowing such care knows or  
6 reasonably should know that the child will be placed at risk of sexual abuse as proscribed  
7 by this subsection.

8 H. Any parent or other person who shall willfully or maliciously engage in child  
9 sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of  
10 the 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 subsection I of this section for a child victim under  
14 twelve (12) years of age. Except for persons sentenced to life or life without parole, any  
15 person sentenced to imprisonment for two (2) years or more for a violation of this  
16 subsection shall be required to serve a term of post-imprisonment supervision pursuant  
17 to subparagraph f of paragraph 1 of subsection A of Section 991a of Title 22 of the  
18 Oklahoma Statutes under conditions determined by the Department of Corrections. The  
19 jury shall be advised that the mandatory post-imprisonment supervision shall be in  
20 addition to the actual imprisonment. As used in this subsection, “child sexual  
21 exploitation” means the willful or malicious sexual exploitation, as defined by

1 subparagraph c of paragraph 7 2 of subsection B of Section 7102 1-1-105 of this title Title  
2 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by another.

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

8 J. Any parent or other person who shall willfully or maliciously engage in enabling  
9 child sexual exploitation 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  
14 exploitation” means the causing, procuring or permitting of a willful or malicious act of  
15 child sexual exploitation, as defined by subparagraph c of paragraph 7 2 of subsection B  
16 of Section 7102 1-1-105 of this title Title 10A of the Oklahoma Statutes, of a child under  
17 eighteen (18) years of age by another. As used in this subsection, “permit” means to  
18 authorize or allow for the care of a child by an individual when the person authorizing or  
19 allowing such care knows or reasonably should know that the child will be placed at risk  
20 of sexual exploitation as proscribed by this subsection.

21 K. Notwithstanding any other provision of law, any parent or other person  
22 convicted of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd

1 molestation of a child under fourteen (14) years of age subsequent to a previous  
2 conviction for any offense of forcible anal or oral sodomy, rape, rape by instrumentation,  
3 or lewd molestation of a child under fourteen (14) years of age shall be punished by death  
4 or by imprisonment for life without parole.

5 SECTION 2. It being immediately necessary for the preservation of the public  
6 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
7 this act shall take effect and be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-23-10 - DO PASS,  
9 As Coauthored.