

SB 1645

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THE STATE SENATE
Monday, February 8, 2010

Senate Bill No. 1645

SENATE BILL NO. 1645 - By: Paddock of the Senate and Thomsen 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:

SECTION 1. AMENDATORY 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), is amended to read as follows:

Section 843.5 A. Any parent or other person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "child abuse" means the willful or malicious abuse, as defined by paragraph ~~1 of subsection B 2~~ of Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A

1 of the Oklahoma Statutes, of a child under eighteen (18) years of
2 age by another, or the act of willfully or maliciously injuring,
3 torturing or maiming a child under eighteen (18) years of age by
4 another.

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

21 C. Any parent or other person who shall willfully or
22 maliciously engage in child neglect shall, upon conviction, be
23 punished by imprisonment in the custody of the Department of

1 Corrections not exceeding life imprisonment, or by imprisonment in a
2 county jail not exceeding one (1) year, or by a fine of not less
3 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
4 Dollars (\$5,000.00), or both such fine and imprisonment. As used in
5 this subsection, "child neglect" means the willful or malicious
6 neglect, as defined by paragraph ~~3~~ 46 of ~~subsection B~~ of Section
7 ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a
8 child under eighteen (18) years of age by another.

9 D. Any parent or other person who shall willfully or
10 maliciously engage in enabling child neglect shall, upon conviction,
11 be punished by imprisonment in the custody of the Department of
12 Corrections not exceeding life imprisonment, or by imprisonment in a
13 county jail not exceeding one (1) year, or by a fine of not less
14 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
15 Dollars (\$5,000.00), or both such fine and imprisonment. As used in
16 this subsection, "enabling child neglect" means the causing,
17 procuring or permitting of a willful or malicious act of child
18 neglect, as defined by paragraph ~~3~~ 46 of ~~subsection B~~ of Section
19 ~~7102~~ 1-1-105 of ~~this title~~ Title 10A of the Oklahoma Statutes, of a
20 child under eighteen (18) years of age by another. As used in this
21 subsection, "permit" means to authorize or allow for the care of a
22 child by an individual when the person authorizing or allowing such

1 care knows or reasonably should know that the child will be placed
2 at risk of neglect as proscribed by this subsection.

3 E. Any parent or other person who shall willfully or
4 maliciously engage in child sexual abuse shall, upon conviction, be
5 punished by imprisonment in the custody of the Department of
6 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
8 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
9 Dollars (\$5,000.00), or both such fine and imprisonment, except as
10 provided in Section 51.1a of Title 21 of the Oklahoma Statutes or as
11 otherwise provided in subsection F of this section for a child
12 victim under twelve (12) years of age. Except for persons sentenced
13 to life or life without parole, any person sentenced to imprisonment
14 for two (2) years or more for a violation of this subsection shall
15 be required to serve a term of post-imprisonment supervision
16 pursuant to subparagraph f of paragraph 1 of subsection A of Section
17 991a of Title 22 of the Oklahoma Statutes under conditions
18 determined by the Department of Corrections. The jury shall be
19 advised that the mandatory post-imprisonment supervision shall be in
20 addition to the actual imprisonment. As used in this section,
21 "child sexual abuse" means the willful or malicious sexual abuse, as
22 defined by subparagraph b of paragraph 6 2 of ~~subsection B of~~

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

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

10 G. Any parent or other person who shall willfully or
11 maliciously engage in enabling child sexual abuse shall, upon
12 conviction, be punished by imprisonment in the custody of the
13 Department of Corrections not exceeding life imprisonment, or by
14 imprisonment in a county jail not exceeding one (1) year, or by a
15 fine of not less than Five Hundred Dollars (\$500.00) nor more than
16 Five Thousand Dollars (\$5,000.00), or both such fine and
17 imprisonment. As used in this subsection, "enabling child sexual
18 abuse" means the causing, procuring or permitting of a willful or
19 malicious act of child sexual abuse, as defined by subparagraph b of
20 paragraph 6 2 of subsection B of Section 7102 1-1-105 of this title
21 Title 10A of the Oklahoma Statutes, of a child under the age of
22 eighteen (18) by another. As used in this subsection, "permit"
23 means to authorize or allow for the care of a child by an individual

1 when the person authorizing or allowing such care knows or
2 reasonably should know that the child will be placed at risk of
3 sexual abuse as proscribed by this subsection.

4 H. Any parent or other person who shall willfully or
5 maliciously engage in child sexual exploitation shall, upon
6 conviction, be punished by imprisonment in the custody of the
7 Department of Corrections not exceeding life imprisonment, or by
8 imprisonment in a county jail not exceeding one (1) year, or by a
9 fine of not less than Five Hundred Dollars (\$500.00) nor more than
10 Five Thousand Dollars (\$5,000.00), or both such fine and
11 imprisonment except as provided in subsection I of this section for
12 a child victim under twelve (12) years of age. Except for persons
13 sentenced to life or life without parole, any person sentenced to
14 imprisonment for two (2) years or more for a violation of this
15 subsection shall be required to serve a term of post-imprisonment
16 supervision pursuant to subparagraph f of paragraph 1 of subsection
17 A of Section 991a of Title 22 of the Oklahoma Statutes under
18 conditions determined by the Department of Corrections. The jury
19 shall be advised that the mandatory post-imprisonment supervision
20 shall be in addition to the actual imprisonment. As used in this
21 subsection, "child sexual exploitation" means the willful or
22 malicious sexual exploitation, as defined by subparagraph c of
23 paragraph 7 2 of subsection B of Section 7102 1-1-105 of this title

1 Title 10A of the Oklahoma Statutes, of a child under eighteen (18)
2 years of age by another.

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

10 J. Any parent or other person who shall willfully or
11 maliciously engage in enabling child sexual exploitation shall, upon
12 conviction, be punished by imprisonment in the custody of the
13 Department of Corrections not exceeding life imprisonment, or by
14 imprisonment in a county jail not exceeding one (1) year, or by a
15 fine of not less than Five Hundred Dollars (\$500.00) nor more than
16 Five Thousand Dollars (\$5,000.00), or both such fine and
17 imprisonment. As used in this subsection, "enabling child sexual
18 exploitation" means the causing, procuring or permitting of a
19 willful or malicious act of child sexual exploitation, as defined by
20 subparagraph c of paragraph 7 2 of subsection B of Section 7102 1-1-
21 105 of this title Title 10A of the Oklahoma Statutes, of a child
22 under eighteen (18) years of age by another. As used in this
23 subsection, "permit" means to authorize or allow for the care of a

1 child by an individual when the person authorizing or allowing such
2 care knows or reasonably should know that the child will be placed
3 at risk of sexual exploitation as proscribed by this subsection.

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-2-10 - DO PASS,
17 As Coauthored.