

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1894

By: Peterson

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2001, Section 843.1, as last amended by  
9 Section 1, Chapter 314, O.S.L. 2008 and Section 1,  
10 Chapter 195, O.S.L. 2003, as amended by Section 2,  
11 Chapter 314, O.S.L. 2008 (21 O.S. Supp. 2008,  
Sections 843.1 and 843.3), which relate to abuse of  
elderly or vulnerable adults; modifying and  
increasing penalties for certain unlawful acts; and  
providing an effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2001, Section 843.1, as  
16 last amended by Section 1, Chapter 314, O.S.L. 2008 (21 O.S. Supp.  
17 2008, Section 843.1), is amended to read as follows:

18 Section 843.1 A. 1. No caretaker ~~or other person~~ shall abuse,  
19 commit financial neglect, neglect, commit sexual abuse, or exploit  
20 any person entrusted to the care of ~~such~~ the caretaker ~~or other~~  
21 ~~person~~ in a nursing facility, or other setting, or knowingly cause,  
22 secure, or permit any of these acts to be done.

23 2. For purposes of this section, the terms, "caretaker",  
24 "abuse", "financial neglect", "neglect", "sexual abuse", and

1 "exploit" shall have the same meaning as ~~such~~ the terms are defined  
2 and clarified in Section 10-103 of Title 43A of the Oklahoma  
3 Statutes.

4 B. ~~1.~~ Any person convicted of a violation of this section,  
5 ~~except as provided in paragraph 2 of this subsection,~~ shall be  
6 guilty of a felony. ~~The violator, upon conviction, and~~ shall be  
7 punished by imprisonment in the county jail for a term not to exceed  
8 one (1) year, or by imprisonment in the custody of the Department of  
9 Corrections for a term of not to exceed ten (10) less than two (2)  
10 years, life or life without parole and by a fine not exceeding Ten  
11 Thousand Dollars (\$10,000.00), or by both such fine and  
12 imprisonment, ~~and in addition, the person shall be subject to the~~  
13 ~~Elderly and Incapacitated Victim's Protection Act.~~ Except for  
14 persons sentenced to life or life without parole, any person  
15 sentenced to imprisonment for two (2) years or more for a violation  
16 of this section shall be required to serve a term of  
17 postimprisonment supervision pursuant to subparagraph f of paragraph  
18 1 of subsection A of Section 991a of Title 22 of the Oklahoma  
19 Statutes under conditions determined by the Department of  
20 Corrections. The jury shall be advised that the mandatory  
21 postimprisonment supervision shall be in addition to the actual  
22 imprisonment. ~~Such person's~~ The imprisonment term imposed pursuant  
23 to this subsection shall further be subject to the provisions of  
24 Section 13.1 of this title for mandatory minimum sentencing.

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

12       C. Consent shall not be a defense for any violation of this  
13 section.

14       D. ~~Except for persons sentenced to life or life without parole,~~  
15 ~~any person sentenced to imprisonment for two (2) years or more for a~~  
16 ~~violation of paragraph 2 of subsection B of this section shall be~~  
17 ~~required to serve a term of postimprisonment supervision pursuant to~~  
18 ~~subparagraph f of paragraph 1 of subsection A of Section 991a of~~  
19 ~~Title 22 of the Oklahoma Statutes under conditions determined by the~~  
20 ~~Department of Corrections. The jury shall be advised that the~~  
21 ~~mandatory postimprisonment supervision shall be in addition to the~~  
22 ~~actual imprisonment~~ In addition, the court at the time of sentencing  
23 shall consider any provisions of the Elderly and Incapacitated  
24 Victim's Protection Act when the victim is an elderly or

1 incapacitated person, as defined by Section 991a-15 of Title 22 of  
2 the Oklahoma Statutes.

3 SECTION 2. AMENDATORY Section 1, Chapter 195, O.S.L.  
4 2003, as amended by Section 2, Chapter 314, O.S.L. 2008 (21 O.S.  
5 Supp. 2008, Section 843.3), is amended to read as follows:

6 Section 843.3 A. Any person who engages in abuse, sexual  
7 abuse, or exploitation of a vulnerable adult, as defined in Section  
8 10-103 of Title 43A of the Oklahoma Statutes, shall be guilty of a  
9 felony. The person, upon conviction, shall be ~~fin~~~~ed not more than~~  
10 ~~Ten Thousand Dollars (\$10,000.00) or be imprisoned~~ punished by  
11 imprisonment in the county jail for a term not to exceed one (1)  
12 year, or by imprisonment in the custody of the Department of  
13 Corrections for a term of not ~~more~~ less than two (2) years, ~~or both~~  
14 ~~such~~ life or life without parole, and by a fine not exceeding Ten  
15 Thousand Dollars (\$10,000.00), or by both such fine and  
16 imprisonment. Except for persons sentenced to life or life without  
17 parole, any person sentenced to imprisonment for two (2) years or  
18 more for a violation of this section shall be required to serve a  
19 term of postimprisonment supervision pursuant to subparagraph f of  
20 paragraph 1 of subsection A of Section 991a of Title 22 of the  
21 Oklahoma Statutes under conditions determined by the Department of  
22 Corrections. The jury shall be advised that the mandatory  
23 postimprisonment supervision shall be in addition to the actual  
24 imprisonment. The imprisonment term imposed pursuant to this

1 sections shall further be subject to the provisions of Section 13.1  
2 of this title for minimum mandatory sentencing.

3 B. ~~Any person who has a responsibility to care for a vulnerable~~  
4 ~~adult as defined by Section 10 103 of Title 43A of the Oklahoma~~  
5 ~~Statutes who purposely, knowingly, or recklessly neglects the~~  
6 ~~vulnerable adult shall be guilty of a felony. The person, upon~~  
7 ~~conviction, shall be fined not more than Ten Thousand Dollars~~  
8 ~~(\$10,000.00) or be imprisoned in the custody of the Department of~~  
9 ~~Corrections for a term of not more than two (2) years, or both such~~  
10 ~~fine and imprisonment.~~

11 C. In addition the court at the time of sentencing, shall  
12 consider any provision of the Elderly and Incapacitated Victim's  
13 Protection Act when the victim is an elderly or incapacitated person  
14 as defined by Section 991a-15 of Title 22 of the Oklahoma Statutes.

15 SECTION 3. This act shall become effective November 1, 2009.

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17 52-1-5074 GRS 01/14/09

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