

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1645

By: Paddack

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2001, Section 843.5, as last amended by  
9 Section 5, Chapter 3, O.S.L. 2008 and as renumbered  
10 by Section 207, Chapter 233, O.S.L. 2009 (21 O.S.  
11 Supp. 2009, Section 843.5), which relates to child  
12 abuse; applying certain definitions to specified  
13 crimes; and declaring an emergency.

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

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

19 Section 843.5 A. Any parent or other person who shall  
20 willfully or maliciously engage in child abuse shall, upon  
21 conviction, be guilty of a felony punishable by imprisonment in the  
22 custody of the Department of Corrections not exceeding life  
23 imprisonment, or by imprisonment in a county jail not exceeding one  
24 (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

1 such fine and imprisonment. As used in this subsection, "child  
2 abuse" means the willful or malicious abuse, as defined by paragraph  
3 ~~1 of subsection B 2~~ of Section ~~7102~~ 1-1-105 of ~~this title~~ Title 10A  
4 of the Oklahoma Statutes, of a child under eighteen (18) years of  
5 age by another, or the act of willfully or maliciously injuring,  
6 torturing or maiming a child under eighteen (18) years of age by  
7 another.

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

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

4 E. Any parent or other person who shall willfully or  
5 maliciously engage in child sexual abuse shall, upon conviction, be  
6 punished by imprisonment in the custody of the Department of  
7 Corrections not exceeding life imprisonment, or by imprisonment in a  
8 county jail not exceeding one (1) year, or by a fine of not less  
9 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
10 Dollars (\$5,000.00), or both such fine and imprisonment, except as  
11 provided in Section 51.1a of Title 21 of the Oklahoma Statutes or as  
12 otherwise provided in subsection F of this section for a child  
13 victim under twelve (12) years of age. Except for persons sentenced  
14 to life or life without parole, any person sentenced to imprisonment  
15 for two (2) years or more for a violation of this subsection shall  
16 be required to serve a term of post-imprisonment supervision  
17 pursuant to subparagraph f of paragraph 1 of subsection A of Section  
18 991a of Title 22 of the Oklahoma Statutes under conditions  
19 determined by the Department of Corrections. The jury shall be  
20 advised that the mandatory post-imprisonment supervision shall be in  
21 addition to the actual imprisonment. As used in this section,  
22 "child sexual abuse" means the willful or malicious sexual abuse, as  
23 defined by subparagraph b of paragraph ~~6~~ 2 of ~~subsection B of~~

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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  
24 when the person authorizing or allowing such care knows or

1 reasonably should know that the child will be placed at risk of  
2 sexual abuse as proscribed by this subsection.

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

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

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

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

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

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