

1 STATE OF OKLAHOMA

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

3 SENATE BILL 2255

By: Sweeden

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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 from 10 O.S. 2001, Section 7115, by Section 207,  
11 Chapter 233, O.S.L. 2009 (21 O.S. Supp. 2009, Section  
12 843.5), which relates to child abuse; clarifying  
13 meaning of certain term; providing an effective date;  
14 and declaring an emergency.

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

16 SECTION 1. AMENDATORY 21 O.S. 2001, Section 843.5, as  
17 last amended by Section 5, Chapter 3, O.S.L. 2008, and as renumbered  
18 from 10 O.S. 2001, Section 7115, by Section 207, Chapter 233, O.S.L.  
19 2009 (21 O.S. Supp. 2009, Section 843.5), is amended to read as  
20 follows:

21 Section 843.5. A. Any parent or other person who shall  
22 willfully or maliciously engage in child abuse shall, upon  
23 conviction, be guilty of a felony punishable by imprisonment in the  
24 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

1 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
2 such fine and imprisonment. As used in this subsection, "child  
3 abuse" means the willful or malicious abuse, as defined by paragraph  
4 1 of subsection B of Section 7102 of this title, of a child under  
5 eighteen (18) years of age by another, or the act of willfully or  
6 maliciously injuring, torturing or maiming a child under eighteen  
7 (18) years of age by another. For purposes of this section, "other  
8 person" shall include a person offering foster care services as  
9 defined pursuant to Section 1-1-105 of Title 10A of the Oklahoma  
10 Statutes.

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

3 C. Any parent or other person who shall willfully or  
4 maliciously engage in child neglect 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. As used in  
10 this subsection, "child neglect" means the willful or malicious  
11 neglect, as defined by paragraph 3 of subsection B of Section 7102  
12 of this title, of a child under eighteen (18) years of age by  
13 another.

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

1 another. As used in this subsection, "permit" means to authorize or  
2 allow for the care of a child by an individual when the person  
3 authorizing or allowing such care knows or reasonably should know  
4 that the child will be placed at risk of neglect as proscribed by  
5 this subsection.

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

1 defined by paragraph 6 of subsection B of Section 7102 of this  
2 title, 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 paragraph 6 of  
20 subsection B of Section 7102 of this title, of a child under the age  
21 of eighteen (18) by another. As used in this subsection, "permit"  
22 means to authorize or allow for the care of a child by an individual  
23 when the person authorizing or allowing such care knows or  
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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 paragraph 7 of  
22 subsection B of Section 7102 of this title, of a child under  
23 eighteen (18) years of age by another.

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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 paragraph 7 of subsection B of Section 7102 of this title, of a  
19 child under eighteen (18) years of age by another. As used in this  
20 subsection, "permit" means to authorize or allow for the care of a  
21 child by an individual when the person authorizing or allowing such  
22 care knows or reasonably should know that the child will be placed  
23 at risk of sexual exploitation as proscribed by this subsection.

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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. This act shall become effective July 1, 2010.

10 SECTION 3. It being immediately necessary for the preservation  
11 of the public peace, health and safety, an emergency is hereby  
12 declared to exist, by reason whereof this act shall take effect and  
13 be in full force from and after its passage and approval.

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