

1 ENGROSSED SENATE AMENDMENTS  
TO  
2 ENGROSSED HOUSE  
BILL NO. 2334

By: Biggs and Sherrer of the  
House

and

Brooks of the Senate

8 An Act relating to crimes and punishments; amending  
9 21 O.S. 2011, Section 843.5, which relates to child  
10 abuse; deleting statutory reference; defining terms;  
11 updating statutory citation; providing clarification  
of certain acts which are not prohibited; and  
declaring an emergency.

12 AUTHOR: Add the following Senate Coauthor: Ivester

13 AMENDMENT NO. 1. Page 8, lines 19 and 20, by deleting after the  
14 word "force" on line 19, and before the period on  
15 line 20, all language and inserting after the word  
"force" on line 19, the words, "pursuant to  
Section 844 of Title 21 of the Oklahoma Statutes"

16  
17 AMENDMENT NO. 2. Page 1, restore the enacting clause

18 AMENDMENT NO. 3. Page 1, restore the title  
19  
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1 Passed the Senate the 22nd day of April, 2014.

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3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2014.

7  
8 \_\_\_\_\_  
9 Presiding Officer of the House  
10 of Representatives

1 ENGROSSED HOUSE  
2 BILL NO. 2334

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8 An Act relating to crimes and punishments; amending  
9 21 O.S. 2011, Section 843.5, which relates to child  
10 abuse; deleting statutory reference; defining terms;  
11 updating statutory citation; providing clarification  
12 of certain acts which are not prohibited; and  
13 declaring an emergency.

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

15 SECTION 1. AMENDATORY 21 O.S. 2011, Section 843.5, is  
16 amended to read as follows:

17 Section 843.5 A. Any parent or other person who shall  
18 willfully or maliciously engage in child abuse shall, upon  
19 conviction, be guilty of a felony punishable by imprisonment in the  
20 custody of the Department of Corrections not exceeding life  
21 imprisonment, or by imprisonment in a county jail not exceeding one  
22 (1) year, or by a fine of not less than Five Hundred Dollars  
23 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
24 such fine and imprisonment. As used in this subsection, "child  
abuse" means the willful or malicious ~~abuse, as defined by paragraph~~

1 ~~2 of Section 1-1-105 of Title 10A of the Oklahoma Statutes,~~ harm or  
2 threatened harm or failure to protect from harm or threatened harm  
3 to the health, safety, or welfare of a child under eighteen (18)  
4 years of age by another, or the act of willfully or maliciously  
5 injuring, torturing or maiming a child under eighteen (18) years of  
6 age by another.

7 B. Any parent or other person who shall willfully or  
8 maliciously engage in enabling child abuse shall, upon conviction,  
9 be punished by imprisonment in the custody of the Department of  
10 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  
12 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
13 Dollars (\$5,000.00) or both such fine and imprisonment. As used in  
14 this subsection, "enabling child abuse" means the causing, procuring  
15 or permitting of a willful or malicious act of ~~child abuse, as~~  
16 ~~defined by paragraph 2 of Section 1-1-105 of Title 10A of the~~  
17 ~~Oklahoma Statutes,~~ harm or threatened harm or failure to protect  
18 from harm or threatened harm to the health, safety, or welfare 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 abuse as proscribed by this subsection.

24

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 ~~46~~ 47 of Section 1-1-105 of Title  
10 10A of the Oklahoma Statutes, of a child under eighteen (18) years  
11 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 ~~46~~ 47 of Section 1-1-105 of Title  
22 10A of the Oklahoma Statutes, of a child under eighteen (18) years  
23 of age by another. As used in this subsection, "permit" means to  
24 authorize or allow for the care of a child by an individual when the

1 person authorizing or allowing such care knows or reasonably should  
2 know that the child will be placed at risk of neglect as proscribed  
3 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 this title or as otherwise provided in  
12 subsection F of this section for a child victim under twelve (12)  
13 years of age. Except for persons sentenced to life or life without  
14 parole, any person sentenced to imprisonment for two (2) years or  
15 more for a violation of this subsection shall be required to serve a  
16 term of post-imprisonment supervision pursuant to subparagraph f of  
17 paragraph 1 of subsection A of Section 991a of Title 22 of the  
18 Oklahoma Statutes under conditions determined by the Department of  
19 Corrections. The jury shall be advised that the mandatory post-  
20 imprisonment supervision shall be in addition to the actual  
21 imprisonment. As used in this section, "child sexual abuse" means  
22 the willful or malicious sexual abuse, ~~as defined by subparagraph b~~  
23 ~~of paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma~~  
24 ~~Statutes,~~ which includes but is not limited to rape, incest, and

1 lewd or indecent acts or proposals, of a child under eighteen (18)  
2 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 2 of Section 1-1-105 of Title 10A of the Oklahoma~~  
21 ~~Statutes,~~ which includes but is not limited to rape, incest, and  
22 lewd or indecent acts or proposals, of a child under the age of  
23 eighteen (18) by another. As used in this subsection, "permit"  
24 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 e of~~  
23 ~~paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma~~  
24 ~~Statutes,~~ which includes but is not limited to allowing, permitting,

1 or encouraging a child under eighteen (18) years of age to engage in  
2 prostitution or allowing, permitting, encouraging or engaging in the  
3 lewd, obscene or pornographic photographing, filming, or depicting  
4 of a child under eighteen (18) years of age by another.

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

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

1 to engage in prostitution or allowing, permitting, encouraging or  
2 engaging in the lewd, obscene or pornographic photographing,  
3 filming, or depicting of a child under eighteen (18) years of age by  
4 another. As used in this subsection, "permit" means to authorize or  
5 allow for the care of a child by an individual when the person  
6 authorizing or allowing such care knows or reasonably should know  
7 that the child will be placed at risk of sexual exploitation as  
8 proscribed by this subsection.

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

17 L. Provided, however, that nothing contained in this section  
18 shall prohibit any parent or guardian from using reasonable and  
19 ordinary force as a means of discipline including, but not limited  
20 to, spanking, switching or paddling.

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

