

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2334

By: Biggs

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8 COMMITTEE SUBSTITUTE

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

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

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

18 Section 843.5 A. Any parent or other person who shall
19 willfully or maliciously engage in child abuse shall, upon
20 conviction, be guilty of a felony punishable by imprisonment in the
21 custody of the Department of Corrections not exceeding life
22 imprisonment, or by imprisonment in a county jail not exceeding one
23 (1) year, or by a fine of not less than Five Hundred Dollars
24 (\$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 ~~2 of Section 1-1-105 of Title 10A of the Oklahoma Statutes,~~ harm or
4 threatened harm or failure to protect from harm or threatened harm
5 to the health, safety, or welfare of a child under eighteen (18)
6 years of age by another, or the act of willfully or maliciously
7 injuring, torturing or maiming a child under eighteen (18) years of
8 age by another.

9 B. Any parent or other person who shall willfully or
10 maliciously engage in enabling child abuse 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 abuse" means the causing, procuring
17 or permitting of a willful or malicious act of ~~child abuse, as~~
18 ~~defined by paragraph 2 of Section 1-1-105 of Title 10A of the~~
19 ~~Oklahoma Statutes,~~ harm or threatened harm or failure to protect
20 from harm or threatened harm to the health, safety, or welfare of a
21 child under eighteen (18) years of age by another. As used in this
22 subsection, "permit" means to authorize or allow for the care of a
23 child by an individual when the person authorizing or allowing such
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1 care knows or reasonably should know that the child will be placed
2 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 ~~46~~ 47 of Section 1-1-105 of Title
12 10A of the Oklahoma Statutes, of a child under eighteen (18) years
13 of age by 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 ~~46~~ 47 of Section 1-1-105 of Title
24 10A of the Oklahoma Statutes, of a child under eighteen (18) years

1 of age by another. As used in this subsection, "permit" means to
2 authorize or allow for the care of a child by an individual when the
3 person authorizing or allowing such care knows or reasonably should
4 know that the child will be placed at risk of neglect as proscribed
5 by 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 this title or as otherwise provided in
14 subsection F of this section for a child victim under twelve (12)
15 years of age. Except for persons sentenced to life or life without
16 parole, any person sentenced to imprisonment for two (2) years or
17 more for a violation of this subsection shall be required to serve a
18 term of post-imprisonment supervision pursuant to subparagraph f of
19 paragraph 1 of subsection A of Section 991a of Title 22 of the
20 Oklahoma Statutes under conditions determined by the Department of
21 Corrections. The jury shall be advised that the mandatory post-
22 imprisonment supervision shall be in addition to the actual
23 imprisonment. As used in this section, "child sexual abuse" means
24 the willful or malicious sexual abuse, ~~as defined by subparagraph b~~

1 ~~of paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma~~
2 ~~Statutes, which includes but is not limited to rape, incest, and~~
3 ~~lewd or indecent acts or proposals,~~ of a child under eighteen (18)
4 years of age by another.

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

12 G. Any parent or other person who shall willfully or
13 maliciously engage in enabling child sexual abuse 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 abuse" means the causing, procuring or permitting of a willful or
21 malicious act of child sexual abuse, ~~as defined by subparagraph b of~~
22 ~~paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma~~
23 ~~Statutes, which includes but is not limited to rape, incest, and~~
24 ~~lewd or indecent acts or proposals,~~ of a child under the age of

1 | eighteen (18) by another. As used in this subsection, "permit"
2 | means to authorize or allow for the care of a child by an individual
3 | when the person authorizing or allowing such care knows or
4 | reasonably should know that the child will be placed at risk of
5 | sexual abuse as proscribed by this subsection.

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

1 ~~paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma~~
2 ~~Statutes, which includes but is not limited to allowing, permitting,~~
3 ~~or encouraging a child under eighteen (18) years of age to engage in~~
4 ~~prostitution or allowing, permitting, encouraging or engaging in the~~
5 ~~lewd, obscene or pornographic photographing, filming, or depicting~~
6 of a child under eighteen (18) years of age by another.

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

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

1 ~~Oklahoma Statutes~~, which includes but is not limited to allowing,
2 permitting, or encouraging a child under eighteen (18) years of age
3 to engage in prostitution or allowing, permitting, encouraging or
4 engaging in the lewd, obscene or pornographic photographing,
5 filming, or depicting of a child under eighteen (18) years of age by
6 another. As used in this subsection, "permit" means to authorize or
7 allow for the care of a child by an individual when the person
8 authorizing or allowing such care knows or reasonably should know
9 that the child will be placed at risk of sexual exploitation as
10 proscribed by this subsection.

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

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

23 SECTION 2. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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