

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR

5 HOUSE BILL NO. 3474

6 By: Nelson

7 COMMITTEE SUBSTITUTE

8 An Act relating to child abuse; amending 21 O.S.
9 2011, Section 843.5, which relates to criminal
10 penalties for child abuse; modifying definition of
11 child abuse; updating statutory references; and
12 providing an effective date.

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

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

16 Section 843.5 A. Any parent or other person who shall
17 willfully or maliciously engage in child abuse shall, upon
18 conviction, be guilty of a felony punishable by imprisonment in the
19 custody of the Department of Corrections not exceeding life
20 imprisonment, or by imprisonment in a county jail not exceeding one
21 (1) year, or by a fine of not less than Five Hundred Dollars
22 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
23 such fine and imprisonment. As used in this subsection, "child
24 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,~~ of a
2 child under eighteen (18) years of age which results in harm or
3 threatened harm or failure to protect from harm or threatened harm
4 to health, safety or welfare of the child, including but not limited
5 to nonaccidental physical or mental injury, sexual abuse or sexual
6 exploitation 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~~ subsection A of this section, of a child under
20 eighteen (18) years of age by another. As used in this subsection,
21 "permit" means to authorize or allow for the care of a child by an
22 individual when the person authorizing or allowing such care knows
23 or reasonably should know that the child will be placed at risk of
24 abuse as proscribed by this subsection.

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, of a child under eighteen (18) years of age by another.

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

8 G. Any parent or other person who shall willfully or
9 maliciously engage in enabling child sexual abuse 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 abuse" means the causing, procuring or permitting of a willful or
17 malicious act of child sexual abuse, as defined by subparagraph b of
18 paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma
19 Statutes, of a child under the age of eighteen (18) by another. As
20 used in this subsection, "permit" means to authorize or allow for
21 the care of a child by an individual when the person authorizing or
22 allowing such care knows or reasonably should know that the child
23 will be placed at risk of sexual abuse as proscribed by this
24 subsection.

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

22 I. Any parent or other person who shall willfully or
23 maliciously engage in sexual exploitation of a child under twelve
24 (12) years of age shall, upon conviction, be punished by

1 imprisonment in the custody of the Department of Corrections for not
2 less than twenty-five (25) years nor more than life imprisonment,
3 and by a fine of not less than Five Hundred Dollars (\$500.00) nor
4 more than Five Thousand Dollars (\$5,000.00).

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

22 K. Notwithstanding any other provision of law, any parent or
23 other person convicted of forcible anal or oral sodomy, rape, rape
24 by instrumentation, or lewd molestation of a child under fourteen

1 (14) years of age subsequent to a previous conviction for any
2 offense of forcible anal or oral sodomy, rape, rape by
3 instrumentation, or lewd molestation of a child under fourteen (14)
4 years of age shall be punished by death or by imprisonment for life
5 without parole.

6 SECTION 2. This act shall become effective November 1, 2014.

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