

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3474

By: Nelson

7
8 COMMITTEE SUBSTITUTE

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

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

1 abuse" means the willful or malicious abuse, ~~as defined by paragraph~~
2 ~~2 of Section 1-1-105 of Title 10A of the Oklahoma Statutes,~~ of a
3 child under eighteen (18) years of age which results in harm or
4 threatened harm or failure to protect from harm or threatened harm
5 to health, safety or welfare of the child, including but not limited
6 to nonaccidental physical or mental injury, sexual abuse or sexual
7 exploitation by another, or the act of willfully or maliciously
8 injuring, torturing or maiming a child under eighteen (18) years of
9 age by another.

10 B. Any parent or other person who shall willfully or
11 maliciously engage in enabling child abuse shall, upon conviction,
12 be punished by imprisonment in the custody of the Department of
13 Corrections not exceeding life imprisonment, or by imprisonment in a
14 county jail not exceeding one (1) year, or by a fine of not less
15 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
16 Dollars (\$5,000.00) or both such fine and imprisonment. As used in
17 this subsection, "enabling child abuse" means the causing, procuring
18 or permitting of a willful or malicious act of child abuse, as
19 defined by ~~paragraph 2 of Section 1-1-105 of Title 10A of the~~
20 ~~Oklahoma Statutes~~ subsection A of this section, of a child under
21 eighteen (18) years of age by another. As used in this subsection,
22 "permit" means to authorize or allow for the care of a child by an
23 individual when the person authorizing or allowing such care knows
24

1 or reasonably should know that the child will be placed at risk of
2 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, 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 2 of Section 1-1-105 of Title 10A of the Oklahoma
21 Statutes, of a child under the age of eighteen (18) 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
24 allowing such care knows or reasonably should know that the child

1 will be placed at risk of sexual abuse as proscribed by this
2 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 2 of Section 1-1-105 of Title 10A of the Oklahoma
23 Statutes, of a child under 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 subparagraph c of paragraph 2 of Section 1-1-105 of Title 10A of the
19 Oklahoma Statutes, of a child under eighteen (18) years of age by
20 another. As used in this subsection, "permit" means to authorize or
21 allow for the care of a child by an individual when the person
22 authorizing or allowing such care knows or reasonably should know
23 that the child will be placed at risk of sexual exploitation as
24 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. This act shall become effective November 1, 2014.

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11 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02/26/2014 -
12 DO PASS, As Amended.

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