

1 **CORRECTED**

2 **SENATE FLOOR VERSION**

3 March 26, 2014

4 **AS AMENDED**

5 ENGROSSED HOUSE
6 BILL NO. 2334

By: Biggs and Sherrer of the
House

and

Brooks and Ivester of the
Senate

[crimes and punishments - child abuse -
clarification of certain acts -

emergency]

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

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

Section 843.5 A. Any parent or other person who shall
willfully or maliciously engage in child abuse shall, upon
conviction, be guilty of a felony punishable by imprisonment in the
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
(\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
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.

1 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
March 26, 2014 - DO PASS AS AMENDED

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