

**SENATE CHAMBER**  
**State of Oklahoma**

DISPOSITION BY SENATE

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**FLOOR AMENDMENT**

No. \_\_\_\_\_

Date: \_\_\_\_\_

Mr. President:

I move to amend Senate Bill 844, Page 4, Line 5 1/2, by inserting a new section to read as follows:  
(See text req. 1780)

Renumber subsequent sections; and

Amend the title to conform.

Submitted by:

\_\_\_\_\_  
Senator Leftwich

Leftwich-NP-FS-SB844

1 "SECTION 2. AMENDATORY 21 O.S. 2001, Section 644, as  
2 last amended by Section 1, Chapter 403, O.S.L. 2008 (21 O.S. Supp.  
3 2008, Section 644), is amended to read as follows:

4 Section 644. A. Assault shall be punishable by imprisonment in  
5 a county jail not exceeding thirty (30) days, or by a fine of not  
6 more than Five Hundred Dollars (\$500.00), or by both such fine and  
7 imprisonment.

8 B. Assault and battery shall be punishable by imprisonment in a  
9 county jail not exceeding ninety (90) days, or by a fine of not more  
10 than One Thousand Dollars (\$1,000.00), or by both such fine and  
11 imprisonment.

12 C. Any person who commits any assault and battery against a  
13 current or former spouse, a present spouse of a former spouse,  
14 parents, a foster parent, a child, a person otherwise related by  
15 blood or marriage, a person with whom the defendant is in a dating  
16 relationship as defined by Section 60.1 of Title 22 of the Oklahoma  
17 Statutes, an individual with whom the defendant has had a child, a  
18 person who formerly lived in the same household as the defendant, or  
19 a person living in the same household as the defendant shall be  
20 guilty of domestic abuse. Upon conviction, the defendant shall be  
21 ~~punished~~ guilty of a felony punishable by imprisonment in the county  
22 jail for not more than one (1) year, or by a fine not exceeding Five  
23 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.  
24 Upon conviction for a second or subsequent offense, the person shall

1 be punished by imprisonment in the custody of the Department of  
2 Corrections for not more than four (4) years, or by a fine not  
3 exceeding Five Thousand Dollars (\$5,000.00), or by both such fine  
4 and imprisonment. The provisions of Section 51.1 of this title  
5 shall not apply to any second or subsequent offense.

6 D. Any person convicted of domestic abuse as defined in  
7 subsection C of this section that results in great bodily injury to  
8 the victim shall be guilty of a felony and punished by imprisonment  
9 in the custody of the Department of Corrections for not more than  
10 ten (10) years, or by imprisonment in the county jail for not more  
11 than one (1) year. The provisions of Section 51.1 of this title  
12 shall apply to any second or subsequent conviction of a violation of  
13 this subsection.

14 E. Any person convicted of domestic abuse as defined in  
15 subsection C of this section that was committed in the presence of a  
16 child shall be ~~punished~~ guilty of a felony punishable by  
17 imprisonment in the county jail for not less than six (6) months nor  
18 more than one (1) year, or by a fine not exceeding Five Thousand  
19 Dollars (\$5,000.00), or by both such fine and imprisonment. Any  
20 person convicted of a second or subsequent domestic abuse as defined  
21 in subsection C of this section that was committed in the presence  
22 of a child shall be punished by imprisonment in the custody of the  
23 Department of Corrections for not less than one (1) year nor more  
24 than five (5) years, or by a fine not exceeding Seven Thousand

1 Dollars (\$7,000.00), or by both such fine and imprisonment. The  
2 provisions of Section 51.1 of this title shall not apply to any  
3 second or subsequent offense. For every conviction of domestic  
4 abuse, the court shall:

5 1. Specifically order as a condition of a suspended sentence or  
6 probation that a defendant participate in counseling or undergo  
7 treatment to bring about the cessation of domestic abuse as  
8 specified in paragraph 2 of this subsection;

9 2. a. The court shall require the defendant to participate  
10 in counseling or undergo treatment for domestic abuse  
11 by an individual licensed practitioner or a domestic  
12 abuse treatment program certified by the Attorney  
13 General. If the defendant is ordered to participate  
14 in a domestic abuse counseling or treatment program,  
15 the order shall require the defendant to attend the  
16 program for a minimum of fifty-two (52) weeks,  
17 complete the program, and be evaluated before and  
18 after attendance of the program by a program counselor  
19 or a private counselor.

20 b. A program for anger management, couples counseling, or  
21 family and marital counseling shall not solely qualify  
22 for the counseling or treatment requirement for  
23 domestic abuse pursuant to this subsection. The  
24 counseling may be ordered in addition to counseling

specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

3. a. The court shall set a review hearing no more than one hundred twenty (120) days after the defendant is ordered to participate in a domestic abuse counseling program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court may suspend sentencing of the defendant

1           until the defendant has presented proof to the court  
2           of enrollment in a program of treatment for domestic  
3           abuse by an individual licensed practitioner or a  
4           domestic abuse treatment program certified by the  
5           Attorney General and attendance at weekly sessions of  
6           such program. Such proof shall be presented to the  
7           court by the defendant no later than one hundred  
8           twenty (120) days after the defendant is ordered to  
9           such counseling or treatment. At such time, the court  
10          may complete sentencing, beginning the period of the  
11          sentence from the date that proof of enrollment is  
12          presented to the court, and schedule reviews as  
13          required by subparagraphs a and b of this paragraph  
14          and paragraphs 4 and 5 of this subsection.

15          b. The court shall set a second review hearing after the  
16          completion of the counseling or treatment to assure  
17          the attendance and compliance of the defendant with  
18          the provisions of this subsection and the domestic  
19          abuse counseling or treatment requirements. The court  
20          shall retain continuing jurisdiction over the  
21          defendant during the course of ordered counseling  
22          through the final review hearing;

23          4. The court may set subsequent or other review hearings as the  
24          court determines necessary to assure the defendant attends and fully

1 complies with the provisions of this subsection and the domestic  
2 abuse counseling or treatment requirements;

3       5. At any review hearing, if the defendant is not  
4 satisfactorily attending individual counseling or a domestic abuse  
5 counseling or treatment program or is not in compliance with any  
6 domestic abuse counseling or treatment requirements, the court may  
7 order the defendant to further or continue counseling, treatment, or  
8 other necessary services. The court may revoke all or any part of a  
9 suspended sentence, deferred sentence, or probation pursuant to  
10 Section 991b of Title 22 of the Oklahoma Statutes and subject the  
11 defendant to any or all remaining portions of the original sentence;

12       6. At the first review hearing, the court shall require the  
13 defendant to appear in court. Thereafter, for any subsequent review  
14 hearings, the court may accept a report on the progress of the  
15 defendant from individual counseling, domestic abuse counseling, or  
16 the treatment program. There shall be no requirement for the victim  
17 to attend review hearings; and

18       7. If funding is available, a referee may be appointed and  
19 assigned by the presiding judge of the district court to hear  
20 designated cases set for review under this subsection. Reasonable  
21 compensation for the referees shall be fixed by the presiding judge.  
22 The referee shall meet the requirements and perform all duties in  
23 the same manner and procedure as set forth in Sections 7003-8.6 and  
24

1 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees  
2 appointed in juvenile proceedings.

3 The defendant may be required to pay all or part of the cost of  
4 the counseling or treatment, in the discretion of the court.

5 F. As used in subsection E of this section, "in the presence of  
6 a child" means in the physical presence of a child; or having  
7 knowledge that a child is present and may see or hear an act of  
8 domestic violence. For the purposes of subsections C and E of this  
9 section, "child" may be any child whether or not related to the  
10 victim or the defendant.

11 G. For the purposes of subsections C and E of this section, any  
12 conviction for assault and battery against a current or former  
13 spouse, a present spouse of a former spouse, parents, a foster  
14 parent, a child, a person otherwise related by blood or marriage, a  
15 person with whom the defendant is in a dating relationship as  
16 defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an  
17 individual with whom the defendant has had a child, a person who  
18 formerly lived in the same household as the defendant, or any person  
19 living in the same household as the defendant, shall constitute a  
20 sufficient basis for a ~~felony charge~~ second or subsequent offense:

21 1. If that conviction is rendered in any state, county or  
22 parish court of record of this or any other state; or

23 2. If that conviction is rendered in any municipal court of  
24 record of this or any other state for which any jail time was



1 served; provided, no conviction in a municipal court of record  
2 entered prior to November 1, 1997, shall constitute a prior  
3 conviction for purposes of a felony charge.

4 H. Any person who commits any assault and battery with intent  
5 to cause great bodily harm by strangulation or attempted  
6 strangulation against a current or former spouse, a present spouse  
7 of a former spouse, parents, a foster parent, a child, a person  
8 otherwise related by blood or marriage, a person with whom the  
9 defendant is in a dating relationship as defined by Section 60.1 of  
10 Title 22 of the Oklahoma Statutes, an individual with whom the  
11 defendant has had a child, a person who formerly lived in the same  
12 household as the defendant, or a person living in the same household  
13 as the defendant shall, upon conviction, be guilty of domestic abuse  
14 by strangulation and shall be punished by imprisonment in the  
15 custody of the Department of Corrections for a period of not less  
16 than one (1) year nor more than three (3) years, or by a fine of not  
17 more than Three Thousand Dollars (\$3,000.00), or by both such fine  
18 and imprisonment. Upon a second or subsequent conviction, the  
19 defendant shall be punished by imprisonment in the custody of the  
20 Department of Corrections for a period of not less than three (3)  
21 years nor more than ten (10) years, or by a fine of not more than  
22 Twenty Thousand Dollars (\$20,000.00), or by both such fine and  
23 imprisonment. As used in this subsection, "strangulation" means a  
24 form of asphyxia characterized by closure of the blood vessels or

1 air passages of the neck as a result of external pressure on the  
2 neck.

3 I. Any district court of this state and any judge thereof shall  
4 be immune from any liability or prosecution for issuing an order  
5 that requires a defendant to:

6 1. Attend a treatment program for domestic abusers certified by  
7 the Attorney General;

8 2. Attend counseling or treatment services ordered as part of  
9 any suspended or deferred sentence or probation; and

10 3. Attend, complete, and be evaluated before and after  
11 attendance by a treatment program for domestic abusers, certified by  
12 the Attorney General.

13 J. There shall be no charge of fees or costs to any victim of  
14 domestic violence, stalking, or sexual assault in connection with  
15 the prosecution of a domestic violence, stalking, or sexual assault  
16 offense in this state.

17 K. In the course of prosecuting any charge of domestic abuse,  
18 stalking, harassment, rape, or violation of a protective order, the  
19 prosecutor shall provide the court, prior to sentencing or any plea  
20 agreement, a local history and any other available history of past  
21 convictions of the defendant within the last ten (10) years relating  
22 to domestic abuse, stalking, harassment, rape, violation of a  
23 protective order, or any other violent misdemeanor or felony  
24 convictions.

1 L. For purposes of subsection D of this section, "great bodily  
2 injury" means bone fracture, protracted and obvious disfigurement,  
3 protracted loss or impairment of the function of a body part, organ  
4 or mental faculty, or substantial risk of death."

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