

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL 649

By: Treat of the Senate

and

ODonnell of the House

COMMITTEE SUBSTITUTE

An Act relating to crime and punishment; amending 21 O.S. 2011, Section 51.1, which relates to second or subsequent offenses; clarifying language; stating certain prohibition; modifying certain maximum sentences; amending 21 O.S. 2011, Section 51.2, which relates to second and subsequent offenses; modifying offenses; updating language; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 51.1, is amended to read as follows:

Section 51.1. A. Except as otherwise provided in the Elderly and Incapacitated Victim's Protection Program and Section ~~3 of this act~~ 51.1a of this title, every person who, having been convicted of any ~~offense punishable by imprisonment in the State Penitentiary~~ felony, commits any crime after such conviction, within ten (10) years of the date following the completion of the execution of the sentence, and against whom the ~~District Attorney~~ district attorney

1 seeks to enhance punishment pursuant to this section of law, is  
2 punishable therefor as follows:

3 1. If the offense for which the person is subsequently  
4 convicted is an offense enumerated in Section 571 of Title 57 of the  
5 Oklahoma Statutes and the offense is punishable by imprisonment in  
6 the ~~State Penitentiary~~ custody of the Department of Corrections for  
7 a term exceeding five (5) years, such person is punishable by  
8 imprisonment in the ~~State Penitentiary~~ custody of the Department of  
9 Corrections for a term in the range of ten (10) years to life  
10 imprisonment.

11 2. If the offense of which such person is subsequently  
12 convicted is such that upon a first conviction an offender would be  
13 punishable by imprisonment in the ~~State Penitentiary~~ custody of the  
14 Department of Corrections for any term exceeding five (5) years,  
15 such person is punishable by imprisonment in the ~~State Penitentiary~~  
16 custody of the Department of Corrections for a term in the range of  
17 twice the minimum term for a first time offender to life  
18 imprisonment. If the subsequent felony offense does not carry a  
19 minimum sentence as a first time offender, such person is punishable  
20 by imprisonment in the ~~State Penitentiary~~ custody of the Department  
21 of Corrections for a term in the range of two (2) years to life  
22 imprisonment.

23 3. If such subsequent offense is such that upon a first  
24 conviction the offender would be punishable by imprisonment in the

1 ~~State Penitentiary~~ custody of the Department of Corrections for five  
2 (5) years, or any less term, then the person convicted of such  
3 subsequent offense is punishable by imprisonment in the ~~State~~  
4 ~~Penitentiary~~ custody of the Department of Corrections for a term not  
5 exceeding ten (10) years.

6 4. If such subsequent conviction is for petit larceny, as  
7 defined pursuant to Section 1704 of this title, the person convicted  
8 of such subsequent offense is punishable by imprisonment in the  
9 ~~State Penitentiary~~ custody of the Department of Corrections for a  
10 term not exceeding five (5) years.

11 B. Every person who, having been twice convicted of felony  
12 offenses, commits a subsequent felony offense which is an offense  
13 enumerated in Section 571 of Title 57 of the Oklahoma Statutes,  
14 within ten (10) years of the date following the completion of the  
15 execution of the sentence, and against whom the ~~District Attorney~~  
16 district attorney seeks to enhance punishment pursuant to this  
17 section of law, is punishable by imprisonment in the ~~State~~  
18 ~~Penitentiary~~ custody of the Department of Corrections for a term in  
19 the range of twenty (20) years to life imprisonment. Felony  
20 offenses relied upon shall not have arisen out of the same  
21 transaction or occurrence or series of events closely related in  
22 time and location. Nothing in this section shall abrogate or affect  
23 the punishment by death in all crimes now or hereafter made  
24 punishable by death.

1 C. Every person who, having been twice convicted of felony  
2 offenses, commits a subsequent felony offense within ten (10) years  
3 of the date following the completion of the execution of the  
4 sentence, and against whom the ~~District Attorney~~ district attorney  
5 seeks to enhance punishment pursuant to this section of law, is  
6 punishable by imprisonment in the ~~State Penitentiary~~ custody of the  
7 Department of Corrections for a term in the range of three times the  
8 minimum term for a first time offender to life imprisonment. If the  
9 subsequent felony offense does not carry a minimum sentence as a  
10 first time offender, the person is punishable by imprisonment in the  
11 ~~State Penitentiary~~ custody of the Department of Corrections for a  
12 term in the range of four (4) years to life imprisonment. Felony  
13 offenses relied upon shall not have arisen out of the same  
14 transaction or occurrence or series of events closely related in  
15 time and location. Nothing in this section shall abrogate or affect  
16 the punishment by death in all crimes now or hereafter made  
17 punishable by death.

18 D. A previous conviction for possession of a controlled  
19 dangerous substance pursuant to Section 2-402 of Title 63 of the  
20 Oklahoma Statutes, or the equivalent law for possession of a  
21 controlled dangerous substance from any other jurisdiction, may not  
22 be used to enhance punishment pursuant to this section of law.

23 E. Notwithstanding subsections A, B and C of this section,  
24 every person who, having previously been convicted of a felony other

1 than a felony enumerated in Section 571 of Title 57 of the Oklahoma  
2 Statutes, is convicted of a second or subsequent felony other than a  
3 felony enumerated in Section 571 of Title 57 of the Oklahoma  
4 Statutes, is punishable by imprisonment in the custody of the  
5 Department of Corrections for a term of not more than the maximum  
6 sentence plus one-fourth (1/4) of the sentence that could have been  
7 imposed for a first conviction of the current offense.

8 SECTION 2. AMENDATORY 21 O.S. 2011, Section 51.2, is  
9 amended to read as follows:

10 Section 51.2. Except as provided in Section ~~3 of this act~~ 51.1a  
11 of this title, no person shall be sentenced as a second and  
12 subsequent offender under Section 51.1 of this title, or any other  
13 section of the Oklahoma Statutes, when a period of ten (10) years  
14 has elapsed since the completion of the sentence imposed on the  
15 former conviction; provided, ~~said~~ the person has not, in the  
16 meantime, been convicted of a ~~misdemeanor involving moral turpitude~~  
17 ~~or a~~ felony. Nothing in this section shall prohibit the use of a  
18 prior conviction for physical or sexually related child abuse as a  
19 prior conviction for second and subsequent offender purposes if the  
20 person is presently charged with a felony crime involving physical  
21 or sexually related child abuse.

22 SECTION 3. This act shall become effective November 1, 2017.  
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