

1 ENGROSSED SENATE
2 BILL NO. 649

By: Treat and Pittman of the
Senate

3 and

4 O'Donnell of the House
5

6 An Act relating to crime and punishment; amending 21
7 O.S. 2011, Section 51.1, which relates to second or
8 subsequent offenses; clarifying language; modifying
9 certain convictions; stating certain prohibition;
10 modifying certain maximum sentences; amending 21 O.S.
11 2011, Section 51.2, which relates to second and
12 subsequent offenses; modifying offenses; updating
13 language; and 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 51.1, is
16 amended to read as follows:

17 Section 51.1. A. Except as otherwise provided in the Elderly
18 and Incapacitated Victim's Protection Program and Section ~~3 of this~~
19 ~~act~~ 51.1a of this title, every person who, having been convicted of
20 any ~~offense punishable by imprisonment in the State Penitentiary~~
21 felony, commits any crime after such conviction, within ten (10)
22 years of the date following the completion of the execution of the
23 sentence, and against whom the ~~District Attorney~~ district attorney
24 seeks to enhance punishment pursuant to this section of law, is
punishable therefor as follows:

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

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

21 3. If such subsequent offense is such that upon a first
22 conviction the offender would be punishable by imprisonment in the
23 ~~State Penitentiary~~ custody of the Department of Corrections for five
24 (5) years, or any less term, then the person convicted of such

1 subsequent offense is punishable by imprisonment in the ~~State~~
2 Penitentiary custody of the Department of Corrections for a term not
3 exceeding ten (10) years.

4 ~~4. If such subsequent conviction is for petit larceny, the~~
5 ~~person convicted of such subsequent offense is punishable by~~
6 ~~imprisonment in the State Penitentiary for a term not exceeding five~~
7 ~~(5) years.~~

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

22 C. Every person who, having been twice convicted of felony
23 offenses, commits a subsequent felony offense within ten (10) years
24 of the date following the completion of the execution of the

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

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

20 E. Notwithstanding subsections A, B and C of this section,
21 every person who, having previously been convicted of a felony other
22 than a felony enumerated in Section 571 of Title 57 of the Oklahoma
23 Statutes, is convicted of a second or subsequent felony other than a
24 felony enumerated in Section 571 of Title 57 of the Oklahoma

1 Statutes, is punishable by imprisonment in the custody of the
2 Department of Corrections for a term of not more than the maximum
3 sentence plus one-fourth (1/4) of the sentence that could have been
4 imposed for a first conviction of the current offense.

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

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

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