

1 ENGROSSED HOUSE  
2 BILL NO. 1406

By: Dollens of the House

3 and

4 Quinn of the Senate  
5

6 An Act relating to criminal procedure; amending 22  
7 O.S. 2011, Sections 991a-17 and 991a-20, which relate  
8 to the Elderly and Incapacitated Victim's Protection  
9 Program; updating language and internal statutory  
10 citations; providing sentencing restriction for  
11 persons convicted of certain crimes; requiring  
12 separate penalties for certain convictions; and  
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a-17, is  
16 amended to read as follows:

17 Section 991a-17. Whenever a person is convicted of an offense  
18 enumerated in Section ~~445~~ 991a-16 of this ~~act~~ title in which the  
19 victim is elderly or incapacitated, the court shall upon conviction:

20 1. Commit the defendant for confinement as provided by law;  
21 provided, the first thirty (30) days of the sentence shall not be  
22 subject to probation, suspension or deferral; provided ~~further, this~~  
23 however, for persons convicted of an offense provided for in  
24 paragraph 1, 2 or 9 of Section 991a-16 of this title, the first  
sixty (60) days of the sentence shall not be subject to probation,  
suspension or deferral. Further, the mandatory minimum period of

1 confinement shall be served in the county jail as a condition of a  
2 suspended or deferred sentence, pursuant to Section 991a of ~~Title 22~~  
3 ~~of the Oklahoma Statutes~~ this title and may be served by night or  
4 weekend incarceration pursuant to Section 991a-2 of ~~Title 22 of the~~  
5 ~~Oklahoma Statutes~~ this title; and

6       2.   a.       Require restitution be paid to the victim for out-of-  
7               pocket expenses, loss or damage to property and  
8               medical expenses for injury proximately caused by the  
9               conduct of the defendant pursuant to Section ~~447~~ 991a-  
10              18 of this ~~act~~ title, or

11       b.       Assign the offender to perform a required term of  
12               community service, according to a schedule consistent  
13               with the employment and family responsibility of the  
14               person convicted, or

15       c.       Require restitution as provided in subparagraph a of  
16               this paragraph and community service as provided in  
17               subparagraph b of this paragraph; and

18       3.       The court may further impose a fine or any other penalty  
19 otherwise provided by law.

20       SECTION 2.       AMENDATORY       22 O.S. 2011, Section 991a-20, is  
21 amended to read as follows:

22       Section 991a-20.   A.   Every person who, having been convicted of  
23 any offense against an elderly or incapacitated person, as  
24 enumerated in Section ~~445~~ 991a-16 of this ~~act~~ title, commits any

1 crime against an elderly or incapacitated person after such  
2 conviction is punishable as follows:

3 1. If the offense of which such person is subsequently  
4 convicted is such that upon a first conviction an offender would be  
5 punishable by imprisonment in the ~~State Penitentiary~~ custody of the  
6 Department of Corrections for any term exceeding five (5) years,  
7 such person is punishable by imprisonment in the ~~State Penitentiary~~  
8 custody of the Department of Corrections for a term of not less than  
9 ten (10) years. If the offense of which such person is subsequently  
10 convicted is provided in paragraph 1, 2 or 9 of Section 991a-16 of  
11 this title and is such that upon a first conviction the offender  
12 would be punishable by imprisonment in the custody of the Department  
13 of Corrections for any term exceeding five (5) years, such person is  
14 punishable by imprisonment in the custody of the Department of  
15 Corrections for a term of not less than twenty (20) years; or

16 2. If such subsequent offense is such that upon a first  
17 conviction the offender would be punishable by imprisonment in the  
18 ~~State Penitentiary~~ custody of the Department of Corrections for five  
19 (5) years or less, then the person convicted of such subsequent  
20 offense is punishable by imprisonment in the ~~State Penitentiary~~  
21 custody of the Department of Corrections for a term of not exceeding  
22 fifteen (15) years. If the offense of which such person is  
23 subsequently convicted is provided in paragraph 1, 2 or 9 of Section  
24 991a-16 of this title and is such that upon a first conviction the

1 offender would be punishable by imprisonment in the custody of the  
2 Department of Corrections for five (5) years or less, such person is  
3 punishable by imprisonment in the custody of the Department of  
4 Corrections for a term of not less than ten (10) years.

5 B. Every person who, having been twice convicted of felony  
6 offenses against an elderly or incapacitated person, commits a third  
7 felony offense against an elderly or incapacitated person within ten  
8 (10) years of the date following the completion of the execution of  
9 the first sentence, shall be punishable by imprisonment in the ~~State~~  
10 ~~Penitentiary~~ custody of the Department of Corrections for a term of  
11 not less than twenty (20) years. If the third felony offense  
12 committed against an elderly or incapacitated person within ten (10)  
13 years of the date following the completion of the execution of the  
14 first sentence is an offense provided for in paragraph 1, 2 or 9 of  
15 Section 991a-16 of this title, the person shall be punished by  
16 imprisonment in the custody of the Department of Corrections for a  
17 term of not less than thirty (30) years.

18 C. All felony offenses arising out of the same transaction or  
19 occurrence or series of events closely related in time and location  
20 shall be considered as one offense for the purposes of this section.

21 D. Nothing in this section shall affect the punishment by death  
22 or life imprisonment without parole in all crimes now or hereafter  
23 made punishable by death or life imprisonment without parole.

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

1 Passed the House of Representatives the 14th day of March, 2017.

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3 \_\_\_\_\_  
4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2017.  
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9 Presiding Officer of the Senate  
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