

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 649

By: Treat and Pittman of the
Senate

and

O'Donnell and Cleveland of
the House

11 COMMITTEE SUBSTITUTE

12 [crime and punishment - modifying certain
13 convictions - updating language - effective date]

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

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

20 Section 51.1 A. Except as otherwise provided in the Elderly
21 and Incapacitated Victim's Protection Program and Section ~~3 of this~~
22 ~~act~~ 51.1a of this title, every person who, having been convicted of
23 any ~~offense punishable by imprisonment in the State Penitentiary~~
24 felony, commits any crime after such conviction, within ten (10)

1 years of the date following the completion of the execution of the
2 sentence, and against whom the ~~District Attorney~~ district attorney
3 seeks to enhance punishment pursuant to this section of law, is
4 punishable therefor as follows:

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

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

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

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

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

1 the punishment by death in all crimes now or hereafter made
2 punishable by death.

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

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

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 04/13/2017 - DO PASS, As Amended and Coauthored.