

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1773

By: Brooks

AS INTRODUCED

An Act relating to child abuse; amending 21 O.S. 2011, Section 843.5, as last amended by Section 1, Chapter 284, O.S.L. 2019 (21 O.S. Supp. 2019, Section 843.5), which relates to penalties for child abuse; modifying certain qualifier; providing definition; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 843.5, as last amended by Section 1, Chapter 284, O.S.L. 2019 (21 O.S. Supp. 2019, Section 843.5), is amended to read as follows:

Section 843.5. A. Any ~~parent or other~~ person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment. As used in this subsection, "child abuse" means the willful or malicious harm or threatened harm or

1 failure to protect from harm or threatened harm to the health,
2 safety, or welfare of a child under eighteen (18) years of age by
3 another, or the act of willfully or maliciously injuring, torturing
4 or maiming a child under eighteen (18) years of age by another.

5 B. Any ~~parent or other~~ person who shall willfully or
6 maliciously engage in enabling child abuse shall, upon conviction,
7 be punished by imprisonment in the custody of the Department of
8 Corrections not exceeding life imprisonment, or by imprisonment in a
9 county jail not exceeding one (1) year, or by a fine of not less
10 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
11 Dollars (\$5,000.00) or both such fine and imprisonment. As used in
12 this subsection, "enabling child abuse" means the causing, procuring
13 or permitting of a willful or malicious act of harm or threatened
14 harm or failure to protect from harm or threatened harm to the
15 health, safety, or welfare of a child under eighteen (18) years of
16 age by another. As used in this subsection, "permit" means to
17 authorize or allow for the care of a child by an individual when the
18 person authorizing or allowing such care knows or reasonably should
19 know that the child will be placed at risk of abuse as proscribed by
20 this subsection.

21 C. Any ~~parent or other~~ person responsible for a child's health,
22 safety or welfare who shall willfully or maliciously engage in child
23 neglect shall, upon conviction, be punished by imprisonment in the
24 custody of the Department of Corrections not exceeding life

1 imprisonment, or by imprisonment in a county jail not exceeding one
2 (1) year, or by a fine of not less than Five Hundred Dollars
3 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
4 such fine and imprisonment. As used in this subsection, "child
5 neglect" means the willful or malicious neglect, as defined by
6 Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a child
7 under eighteen (18) years of age by another. As used in this
8 subsection, "person responsible for a child's health, safety or
9 welfare" means parent, legal guardian, foster parent, a person
10 eighteen (18) years of age or older with whom the child's parent
11 cohabitates or any other adult residing in the home with the child,
12 or an adult who has physical custody or control of the child.

13 D. Any ~~parent or other~~ person responsible for a child's health,
14 safety or welfare who shall willfully or maliciously engage in
15 enabling child neglect shall, upon conviction, be punished by
16 imprisonment in the custody of the Department of Corrections not
17 exceeding life imprisonment, or by imprisonment in a county jail not
18 exceeding one (1) year, or by a fine of not less than Five Hundred
19 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00),
20 or both such fine and imprisonment. As used in this subsection,
21 "enabling child neglect" means the causing, procuring or permitting
22 of a willful or malicious act of child neglect, as defined by
23 Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a child
24 under eighteen (18) years of age by another. As used in this

1 subsection, "permit" means to authorize or allow for the care of a
2 child by an individual when the person authorizing or allowing such
3 care knows or reasonably should know that the child will be placed
4 at risk of neglect as proscribed by this subsection. As used in
5 this subsection, "person responsible for a child's health, safety or
6 welfare" means parent, legal guardian, foster parent, a person
7 eighteen (18) years of age or older with whom the child's parent
8 cohabitates or any other adult residing in the home with the child,
9 or an adult who has physical custody or control of the child.

10 E. Any ~~parent or other~~ person responsible for a child's health,
11 safety or welfare who shall willfully or maliciously engage in child
12 sexual abuse shall, upon conviction, be punished by imprisonment in
13 the custody of the Department of Corrections not exceeding life
14 imprisonment, or by imprisonment in a county jail not exceeding one
15 (1) year, or by a fine of not less than Five Hundred Dollars
16 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
17 such fine and imprisonment, except as provided in Section 51.1a of
18 this title or as otherwise provided in subsection F of this section
19 for a child victim under twelve (12) years of age. Except for
20 persons sentenced to life or life without parole, any person
21 sentenced to imprisonment for two (2) years or more for a violation
22 of this subsection shall be required to serve a term of post-
23 imprisonment supervision pursuant to subparagraph f of paragraph 1
24 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes

1 under conditions determined by the Department of Corrections. The
2 jury shall be advised that the mandatory post-imprisonment
3 supervision shall be in addition to the actual imprisonment. As
4 used in this section, "child sexual abuse" means the willful or
5 malicious sexual abuse, which includes but is not limited to rape,
6 incest, and lewd or indecent acts or proposals, of a child under
7 eighteen (18) years of age by another. As used in this subsection,
8 "person responsible for a child's health, safety or welfare" means
9 parent, legal guardian, foster parent, a person eighteen (18) years
10 of age or older with whom the child's parent cohabitates or any
11 other adult residing in the home with the child, or an adult who has
12 physical custody or control of the child.

13 F. Any ~~parent or other~~ person responsible for a child's health,
14 safety or welfare who shall willfully or maliciously engage in
15 sexual abuse to a child under twelve (12) years of age shall, upon
16 conviction, be punished by imprisonment in the custody of the
17 Department of Corrections for not less than twenty-five (25) years
18 nor more than life imprisonment, and by a fine of not less than Five
19 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
20 (\$5,000.00).

21 G. Any ~~parent or other~~ person responsible for a child's health,
22 safety or welfare who shall willfully or maliciously engage in
23 enabling child sexual abuse shall, upon conviction, be punished by
24 imprisonment in the custody of the Department of Corrections not

1 exceeding life imprisonment, or by imprisonment in a county jail not
2 exceeding one (1) year, or by a fine of not less than Five Hundred
3 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00),
4 or both such fine and imprisonment. As used in this subsection,
5 "enabling child sexual abuse" means the causing, procuring or
6 permitting of a willful or malicious act of child sexual abuse,
7 which includes but is not limited to rape, incest, and lewd or
8 indecent acts or proposals, of a child under the age of eighteen
9 (18) by another. As used in this subsection, "permit" means to
10 authorize or allow for the care of a child by an individual when the
11 person authorizing or allowing such care knows or reasonably should
12 know that the child will be placed at risk of sexual abuse as
13 proscribed by this subsection. As used in this subsection, "person
14 responsible for a child's health, safety or welfare" means parent,
15 legal guardian, foster parent, a person eighteen (18) years of age
16 or older with whom the child's parent cohabitates or any other adult
17 residing in the home with the child, or an adult who has physical
18 custody or control of the child.

19 H. Any ~~parent or other~~ person who shall willfully or
20 maliciously engage in child sexual exploitation shall, upon
21 conviction, be punished by imprisonment in the custody of the
22 Department of Corrections not exceeding life imprisonment, or by
23 imprisonment in a county jail not exceeding one (1) year, or by a
24 fine of not less than Five Hundred Dollars (\$500.00) nor more than

1 Five Thousand Dollars (\$5,000.00), or both such fine and
2 imprisonment except as provided in subsection I of this section for
3 a child victim under twelve (12) years of age. Except for persons
4 sentenced to life or life without parole, any person sentenced to
5 imprisonment for two (2) years or more for a violation of this
6 subsection shall be required to serve a term of post-imprisonment
7 supervision pursuant to subparagraph f of paragraph 1 of subsection
8 A of Section 991a of Title 22 of the Oklahoma Statutes under
9 conditions determined by the Department of Corrections. The jury
10 shall be advised that the mandatory post-imprisonment supervision
11 shall be in addition to the actual imprisonment. As used in this
12 subsection, "child sexual exploitation" means the willful or
13 malicious sexual exploitation, which includes but is not limited to
14 allowing, permitting, or encouraging a child under eighteen (18)
15 years of age to engage in prostitution or allowing, permitting,
16 encouraging or engaging in the lewd, obscene or pornographic
17 photographing, filming, or depicting of a child under eighteen (18)
18 years of age by another.

19 I. Any ~~parent or other~~ person who shall willfully or
20 maliciously engage in sexual exploitation of a child under twelve
21 (12) years of age shall, upon conviction, be punished by
22 imprisonment in the custody of the Department of Corrections for not
23 less than twenty-five (25) years nor more than life imprisonment,
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1 and by a fine of not less than Five Hundred Dollars (\$500.00) nor
2 more than Five Thousand Dollars (\$5,000.00).

3 J. Any ~~parent or other~~ person who shall willfully or
4 maliciously engage in enabling child sexual exploitation shall, upon
5 conviction, be punished by imprisonment in the custody of the
6 Department of Corrections not exceeding life imprisonment, or by
7 imprisonment in a county jail not exceeding one (1) year, or by a
8 fine of not less than Five Hundred Dollars (\$500.00) nor more than
9 Five Thousand Dollars (\$5,000.00), or both such fine and
10 imprisonment. As used in this subsection, "enabling child sexual
11 exploitation" means the causing, procuring or permitting of a
12 willful or malicious act of child sexual exploitation, which
13 includes but is not limited to allowing, permitting, or encouraging
14 a child under eighteen (18) years of age to engage in prostitution
15 or allowing, permitting, encouraging or engaging in the lewd,
16 obscene or pornographic photographing, filming, or depicting of a
17 child under eighteen (18) years of age by another. As used in this
18 subsection, "permit" means to authorize or allow for the care of a
19 child by an individual when the person authorizing or allowing such
20 care knows or reasonably should know that the child will be placed
21 at risk of sexual exploitation as proscribed by this subsection.

22 K. Notwithstanding any other provision of law, any ~~parent or~~
23 ~~other~~ person convicted of forcible anal or oral sodomy, rape, rape
24 by instrumentation, or lewd molestation of a child under fourteen

1 (14) years of age subsequent to a previous conviction for any
2 offense of forcible anal or oral sodomy, rape, rape by
3 instrumentation, or lewd molestation of a child under fourteen (14)
4 years of age shall be punished by death or by imprisonment for life
5 without parole.

6 L. Provided, however, that nothing contained in this section
7 shall prohibit any parent or guardian from using reasonable and
8 ordinary force pursuant to Section 844 of this title.

9 SECTION 2. This act shall become effective November 1, 2020.

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