

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2590

By: Echols

AS INTRODUCED

An Act relating to crimes and penalties; amending 21 O.S. 2011, Section 843.5, as amended by Section 1, Chapter 240, O.S.L. 2014 (21 O.S. Supp. 2018, Section 843.5), which relates to penalties for abuse, neglect and sexual abuse of a child; providing sentencing requirement for persons convicted of certain offenses; 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 amended by Section 1, Chapter 240, O.S.L. 2014 (21 O.S. Supp. 2018, Section 843.5), is amended to read as follows:

Section 843.5. A. 1. 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

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

6 2. Any person convicted of failing to protect a child from harm
7 or threatened harm of child abuse as provided in paragraph 1 of this
8 subsection shall not be sentenced to any penalty that exceeds the
9 penalty received by the actual perpetrator of the child abuse.

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

3 2. Any person convicted of enabling child abuse as provided in
4 paragraph 1 of this subsection shall not be sentenced to any penalty
5 that exceeds the penalty received by the actual perpetrator of the
6 child abuse.

7 C. Any parent or other person who shall willfully or
8 maliciously engage in child neglect shall, upon conviction, be
9 punished by imprisonment in the custody of the Department of
10 Corrections not exceeding life imprisonment, or by imprisonment in a
11 county jail not exceeding one (1) year, or by a fine of not less
12 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
13 Dollars (\$5,000.00), or both such fine and imprisonment. As used in
14 this subsection, "child neglect" means the willful or malicious
15 neglect, as defined by paragraph ~~47~~ 48 of Section 1-1-105 of Title
16 10A of the Oklahoma Statutes, of a child under eighteen (18) years
17 of age by another.

18 D. Any parent or other person who shall willfully or
19 maliciously engage in enabling child neglect shall, upon conviction,
20 be punished by imprisonment in the custody of the Department of
21 Corrections not exceeding life imprisonment, or by imprisonment in a
22 county jail not exceeding one (1) year, or by a fine of not less
23 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
24 Dollars (\$5,000.00), or both such fine and imprisonment. As used in

1 this subsection, "enabling child neglect" means the causing,
2 procuring or permitting of a willful or malicious act of child
3 neglect, as defined by paragraph ~~47~~ 48 of Section 1-1-105 of Title
4 10A of the Oklahoma Statutes, of a child under eighteen (18) years
5 of age by another. As used in this subsection, "permit" means to
6 authorize or allow for the care of a child by an individual when the
7 person authorizing or allowing such care knows or reasonably should
8 know that the child will be placed at risk of neglect as proscribed
9 by this subsection.

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

1 Corrections. The jury shall be advised that the mandatory post-
2 imprisonment supervision shall be in addition to the actual
3 imprisonment. As used in this section, "child sexual abuse" means
4 the willful or malicious sexual abuse, which includes but is not
5 limited to rape, incest, and lewd or indecent acts or proposals, of
6 a child under eighteen (18) years of age by another.

7 F. Any parent or other person who shall willfully or
8 maliciously engage in sexual abuse to a child under twelve (12)
9 years of age shall, upon conviction, be punished by imprisonment in
10 the custody of the Department of Corrections for not less than
11 twenty-five (25) years nor more than life imprisonment, and by a
12 fine of not less than Five Hundred Dollars (\$500.00) nor more than
13 Five Thousand Dollars (\$5,000.00).

14 G. Any parent or other person who shall willfully or
15 maliciously engage in enabling child sexual abuse shall, upon
16 conviction, be punished by imprisonment in the custody of the
17 Department of Corrections not exceeding life imprisonment, or by
18 imprisonment in a county jail not exceeding one (1) year, or by a
19 fine of not less than Five Hundred Dollars (\$500.00) nor more than
20 Five Thousand Dollars (\$5,000.00), or both such fine and
21 imprisonment. As used in this subsection, "enabling child sexual
22 abuse" means the causing, procuring or permitting of a willful or
23 malicious act of child sexual abuse, which includes but is not
24 limited to rape, incest, and lewd or indecent acts or proposals, of

1 a child under the age of eighteen (18) by another. As used in this
2 subsection, "permit" means to authorize or allow for the care of a
3 child by an individual when the person authorizing or allowing such
4 care knows or reasonably should know that the child will be placed
5 at risk of sexual abuse as proscribed by this subsection.

6 H. Any parent or other person who shall willfully or
7 maliciously engage in child sexual exploitation shall, upon
8 conviction, be punished by imprisonment in the custody of the
9 Department of Corrections not exceeding life imprisonment, or by
10 imprisonment in a county jail not exceeding one (1) year, or by a
11 fine of not less than Five Hundred Dollars (\$500.00) nor more than
12 Five Thousand Dollars (\$5,000.00), or both such fine and
13 imprisonment except as provided in subsection I of this section for
14 a child victim under twelve (12) years of age. Except for persons
15 sentenced to life or life without parole, any person sentenced to
16 imprisonment for two (2) years or more for a violation of this
17 subsection shall be required to serve a term of post-imprisonment
18 supervision pursuant to subparagraph f of paragraph 1 of subsection
19 A of Section 991a of Title 22 of the Oklahoma Statutes under
20 conditions determined by the Department of Corrections. The jury
21 shall be advised that the mandatory post-imprisonment supervision
22 shall be in addition to the actual imprisonment. As used in this
23 subsection, "child sexual exploitation" means the willful or
24 malicious sexual exploitation, which includes but is not limited to

1 allowing, permitting, or encouraging a child under eighteen (18)
2 years of age to engage in prostitution or allowing, permitting,
3 encouraging or engaging in the lewd, obscene or pornographic
4 photographing, filming, or depicting of a child under eighteen (18)
5 years of age by another.

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

13 J. Any parent or other person who shall willfully or
14 maliciously engage in enabling child sexual exploitation shall, upon
15 conviction, be punished by imprisonment in the custody of the
16 Department of Corrections not exceeding life imprisonment, or by
17 imprisonment in a county jail not exceeding one (1) year, or by a
18 fine of not less than Five Hundred Dollars (\$500.00) nor more than
19 Five Thousand Dollars (\$5,000.00), or both such fine and
20 imprisonment. As used in this subsection, "enabling child sexual
21 exploitation" means the causing, procuring or permitting of a
22 willful or malicious act of child sexual exploitation, which
23 includes but is not limited to allowing, permitting, or encouraging
24 a child under eighteen (18) years of age to engage in prostitution

1 or allowing, permitting, encouraging or engaging in the lewd,
2 obscene or pornographic photographing, filming, or depicting of a
3 child under eighteen (18) years of age by another. As used in this
4 subsection, "permit" means to authorize or allow for the care of a
5 child by an individual when the person authorizing or allowing such
6 care knows or reasonably should know that the child will be placed
7 at risk of sexual exploitation as proscribed by this subsection.

8 K. Notwithstanding any other provision of law, any parent or
9 other person convicted of forcible anal or oral sodomy, rape, rape
10 by instrumentation, or lewd molestation of a child under fourteen
11 (14) years of age subsequent to a previous conviction for any
12 offense of forcible anal or oral sodomy, rape, rape by
13 instrumentation, or lewd molestation of a child under fourteen (14)
14 years of age shall be punished by death or by imprisonment for life
15 without parole.

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

19 SECTION 2. This act shall become effective November 1, 2019.
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