

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 291

By: Paxton

AS INTRODUCED

An Act relating to crimes and punishment; 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 child abuse; updating statutory references; 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. 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 who shall willfully or  
22 maliciously engage in child neglect shall, upon conviction, be  
23 punished by imprisonment in the custody of the Department of  
24 Corrections not exceeding life imprisonment, or by imprisonment in a

1 county jail not exceeding one (1) year, or by a fine of not less  
2 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
3 Dollars (\$5,000.00), or both such fine and imprisonment. As used in  
4 this subsection, "child neglect" means the willful or malicious  
5 neglect, as defined by ~~paragraph 47 of~~ Section 1-1-105 of Title 10A  
6 of the Oklahoma Statutes, of a child under eighteen (18) years of  
7 age by another.

8 D. Any parent or other person who shall willfully or  
9 maliciously engage in enabling child neglect shall, upon conviction,  
10 be punished by imprisonment in the custody of the Department of  
11 Corrections not exceeding life imprisonment, or by imprisonment in a  
12 county jail not exceeding one (1) year, or by a fine of not less  
13 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
14 Dollars (\$5,000.00), or both such fine and imprisonment. As used in  
15 this subsection, "enabling child neglect" means the causing,  
16 procuring or permitting of a willful or malicious act of child  
17 neglect, as defined by ~~paragraph 47 of~~ Section 1-1-105 of Title 10A  
18 of the Oklahoma Statutes, of a child under eighteen (18) years of  
19 age by another. As used in this subsection, "permit" means to  
20 authorize or allow for the care of a child by an individual when the  
21 person authorizing or allowing such care knows or reasonably should  
22 know that the child will be placed at risk of neglect as proscribed  
23 by this subsection.

1       E. Any parent or other person who shall willfully or  
2 maliciously engage in child sexual abuse shall, upon conviction, be  
3 punished by imprisonment in the custody of the Department of  
4 Corrections not exceeding life imprisonment, or by imprisonment in a  
5 county jail not exceeding one (1) year, or by a fine of not less  
6 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
7 Dollars (\$5,000.00), or both such fine and imprisonment, except as  
8 provided in Section 51.1a of this title or as otherwise provided in  
9 subsection F of this section for a child victim under twelve (12)  
10 years of age. Except for persons sentenced to life or life without  
11 parole, any person sentenced to imprisonment for two (2) years or  
12 more for a violation of this subsection shall be required to serve a  
13 term of post-imprisonment supervision pursuant to subparagraph f of  
14 paragraph 1 of subsection A of Section 991a of Title 22 of the  
15 Oklahoma Statutes under conditions determined by the Department of  
16 Corrections. The jury shall be advised that the mandatory post-  
17 imprisonment supervision shall be in addition to the actual  
18 imprisonment. As used in this section, "child sexual abuse" means  
19 the willful or malicious sexual abuse, which includes but is not  
20 limited to rape, incest, and lewd or indecent acts or proposals, of  
21 a child under eighteen (18) years of age by another.

22       F. Any parent or other person who shall willfully or  
23 maliciously engage in sexual abuse to a child under twelve (12)  
24 years of age shall, upon conviction, be punished by imprisonment in

1 the custody of the Department of Corrections for not less than  
2 twenty-five (25) years nor more than life imprisonment, and by a  
3 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
4 Five Thousand Dollars (\$5,000.00).

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

21 H. Any parent or other person who shall willfully or  
22 maliciously engage in child sexual exploitation shall, upon  
23 conviction, be punished by imprisonment in the custody of the  
24 Department of Corrections not exceeding life imprisonment, or by

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

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

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

23 K. Notwithstanding any other provision of law, any parent or  
24 other person convicted of forcible anal or oral sodomy, rape, rape

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

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

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

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