

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 669

By: Floyd

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5  
6 AS INTRODUCED

7 An Act relating to crime and punishment; amending 21  
8 O.S. 2011, Section 644, as last amended by Section 1,  
9 Chapter 200, O.S.L. 2019 (21 O.S. Supp. 2020, Section  
10 644), which relates to domestic abuse; modifying  
11 punishments; updating statutory reference; and  
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 644, as last  
15 amended by Section 1, Chapter 200, O.S.L. 2019 (21 O.S. Supp. 2020,  
16 Section 644), is amended to read as follows:

17 Section 644. A. Assault shall be punishable by imprisonment in  
18 a county jail not exceeding thirty (30) days, or by a fine of not  
19 more than Five Hundred Dollars (\$500.00), or by both such fine and  
20 imprisonment.

21 B. Assault and battery shall be punishable by imprisonment in a  
22 county jail not exceeding ninety (90) days, or by a fine of not more  
23 than One Thousand Dollars (\$1,000.00), or by both such fine and  
24 imprisonment.

1 C. Any person who commits any assault and battery against a  
2 current or former intimate partner or a family or household member  
3 as defined by Section 60.1 of Title 22 of the Oklahoma Statutes  
4 shall be guilty of domestic abuse which shall be a felony. Upon  
5 conviction, the defendant shall be punished by imprisonment in the  
6 ~~county jail~~ custody of the Department of Corrections for not more  
7 than ~~one (1) year~~ two (2) years, or by a fine not exceeding Five  
8 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.  
9 Upon conviction for a second or subsequent offense, the person shall  
10 be punished by imprisonment in the custody of the Department of  
11 Corrections for not more than four (4) years, or by a fine not  
12 exceeding Five Thousand Dollars (\$5,000.00), or by both such fine  
13 and imprisonment. The provisions of Section 51.1 of this title  
14 shall apply to any second or subsequent offense.

15 D. 1. Any person who, with intent to do bodily harm and  
16 without justifiable or excusable cause, commits any assault,  
17 battery, or assault and battery upon an intimate partner or a family  
18 or household member as defined by Section 60.1 of Title 22 of the  
19 Oklahoma Statutes with any sharp or dangerous weapon, upon  
20 conviction, is guilty of domestic assault or domestic assault and  
21 battery with a dangerous weapon which shall be a felony and  
22 punishable by imprisonment in the custody of the Department of  
23 Corrections not exceeding ten (10) years, or by imprisonment in a  
24 county jail not exceeding one (1) year. The provisions of Section

1 51.1 of this title shall apply to any second or subsequent  
2 conviction for a violation of this paragraph.

3 2. Any person who, without such cause, shoots an intimate  
4 partner or a family or household member as defined by Section 60.1  
5 of Title 22 of the Oklahoma Statutes by means of any deadly weapon  
6 that is likely to produce death shall, upon conviction, be guilty of  
7 domestic assault and battery with a deadly weapon which shall be a  
8 felony punishable by imprisonment in the custody of the Department  
9 of Corrections not exceeding life. The provisions of Section 51.1  
10 of this title shall apply to any second or subsequent conviction for  
11 a violation of this paragraph.

12 E. Any person convicted of domestic abuse committed against a  
13 pregnant woman with knowledge of the pregnancy shall be guilty of a  
14 ~~misdemeanor~~ felony, punishable by imprisonment in the ~~county jail~~  
15 ~~for not more than one (1) year~~ custody of the Department of  
16 Corrections for not more than five (5) years.

17 Any person convicted of a second or subsequent offense of  
18 domestic abuse against a pregnant woman with knowledge of the  
19 pregnancy shall be guilty of a felony, punishable by imprisonment in  
20 the custody of the Department of Corrections for not less than ten  
21 (10) years.

22 Any person convicted of domestic abuse committed against a  
23 pregnant woman with knowledge of the pregnancy and a miscarriage  
24 occurs or injury to the unborn child occurs shall be guilty of a  
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1 felony, punishable by imprisonment in the custody of the Department  
2 of Corrections for not less than twenty (20) years.

3 F. Any person convicted of domestic abuse as defined in  
4 subsection C of this section that results in great bodily injury to  
5 the victim shall be guilty of a felony and punished by imprisonment  
6 in the custody of the Department of Corrections for not more than  
7 ten (10) years, or by imprisonment in the county jail for not more  
8 than one (1) year. The provisions of Section 51.1 of this title  
9 shall apply to any second or subsequent conviction of a violation of  
10 this subsection.

11 G. Any person convicted of domestic abuse as defined in  
12 subsection C of this section that was committed in the presence of a  
13 child shall be punished by imprisonment in the ~~county jail~~ custody  
14 of the Department of Corrections for not less than ~~six (6) months~~  
15 one (1) year nor more than ~~one (1) year~~ three (3) years, or by a  
16 fine not exceeding Five Thousand Dollars (\$5,000.00), or by both  
17 such fine and imprisonment. Any person convicted of a second or  
18 subsequent domestic abuse as defined in subsection C of this section  
19 that was committed in the presence of a child shall be punished by  
20 imprisonment in the custody of the Department of Corrections for not  
21 less than one (1) year nor more than five (5) years, or by a fine  
22 not exceeding Seven Thousand Dollars (\$7,000.00), or by both such  
23 fine and imprisonment. The provisions of Section 51.1 of this title  
24 shall apply to any second or subsequent offense. For every

1 conviction of a domestic abuse crime in violation of any provision  
2 of this section committed against an intimate partner or a family or  
3 household member as defined by Section 60.1 of Title 22 of the  
4 Oklahoma Statutes, the court shall:

5 1. Specifically order as a condition of a suspended or deferred  
6 sentence that a defendant participate in counseling or undergo  
7 treatment to bring about the cessation of domestic abuse as  
8 specified in paragraph 2 of this subsection;

9 2. a. The court shall require the defendant to complete an  
10 assessment and follow the recommendations of a  
11 batterers' intervention program certified by the  
12 Attorney General. If the defendant is ordered to  
13 participate in a batterers' intervention program, the  
14 order shall require the defendant to attend the  
15 program for a minimum of fifty-two (52) weeks,  
16 complete the program, and be evaluated before and  
17 after attendance of the program by program staff.  
18 Three unexcused absences in succession or seven  
19 unexcused absences in a period of fifty-two (52) weeks  
20 from any court-ordered batterers' intervention program  
21 shall be prima facie evidence of the violation of the  
22 conditions of probation for the district attorney to  
23 seek acceleration or revocation of any probation  
24 entered by the court.

1           b. A program for anger management, couples counseling, or  
2           family and marital counseling shall not solely qualify  
3           for the counseling or treatment requirement for  
4           domestic abuse pursuant to this subsection. The  
5           counseling may be ordered in addition to counseling  
6           specifically for the treatment of domestic abuse or  
7           per evaluation as set forth below. If, after  
8           sufficient evaluation and attendance at required  
9           counseling sessions, the domestic violence treatment  
10          program or licensed professional determines that the  
11          defendant does not evaluate as a perpetrator of  
12          domestic violence or does evaluate as a perpetrator of  
13          domestic violence and should complete other programs  
14          of treatment simultaneously or prior to domestic  
15          violence treatment, including but not limited to  
16          programs related to the mental health, apparent  
17          substance or alcohol abuse or inability or refusal to  
18          manage anger, the defendant shall be ordered to  
19          complete the counseling as per the recommendations of  
20          the domestic violence treatment program or licensed  
21          professional;

22          3. a. The court shall set a review hearing no more than one  
23          hundred twenty (120) days after the defendant is  
24          ordered to participate in a domestic abuse counseling

1 program or undergo treatment for domestic abuse to  
2 assure the attendance and compliance of the defendant  
3 with the provisions of this subsection and the  
4 domestic abuse counseling or treatment requirements.  
5 The court may suspend sentencing of the defendant  
6 until the defendant has presented proof to the court  
7 of enrollment in a program of treatment for domestic  
8 abuse by an individual licensed practitioner or a  
9 domestic abuse treatment program certified by the  
10 Attorney General and attendance at weekly sessions of  
11 such program. Such proof shall be presented to the  
12 court by the defendant no later than one hundred  
13 twenty (120) days after the defendant is ordered to  
14 such counseling or treatment. At such time, the court  
15 may complete sentencing, beginning the period of the  
16 sentence from the date that proof of enrollment is  
17 presented to the court, and schedule reviews as  
18 required by subparagraphs a and b of this paragraph  
19 and paragraphs 4 and 5 of this subsection. Three  
20 unexcused absences in succession or seven unexcused  
21 absences in a period of fifty-two (52) weeks from any  
22 court-ordered domestic abuse counseling or treatment  
23 program shall be prima facie evidence of the violation  
24 of the conditions of probation for the district

1 attorney to seek acceleration or revocation of any  
2 probation entered by the court.

3 b. The court shall set a second review hearing after the  
4 completion of the counseling or treatment to assure  
5 the attendance and compliance of the defendant with  
6 the provisions of this subsection and the domestic  
7 abuse counseling or treatment requirements. The court  
8 shall retain continuing jurisdiction over the  
9 defendant during the course of ordered counseling  
10 through the final review hearing;

11 4. The court may set subsequent or other review hearings as the  
12 court determines necessary to assure the defendant attends and fully  
13 complies with the provisions of this subsection and the domestic  
14 abuse counseling or treatment requirements;

15 5. At any review hearing, if the defendant is not  
16 satisfactorily attending individual counseling or a domestic abuse  
17 counseling or treatment program or is not in compliance with any  
18 domestic abuse counseling or treatment requirements, the court may  
19 order the defendant to further or continue counseling, treatment, or  
20 other necessary services. The court may revoke all or any part of a  
21 suspended sentence, deferred sentence, or probation pursuant to  
22 Section 991b of Title 22 of the Oklahoma Statutes and subject the  
23 defendant to any or all remaining portions of the original sentence;



1           6. At the first review hearing, the court shall require the  
2 defendant to appear in court. Thereafter, for any subsequent review  
3 hearings, the court may accept a report on the progress of the  
4 defendant from individual counseling, domestic abuse counseling, or  
5 the treatment program. There shall be no requirement for the victim  
6 to attend review hearings; and

7           7. If funding is available, a referee may be appointed and  
8 assigned by the presiding judge of the district court to hear  
9 designated cases set for review under this subsection. Reasonable  
10 compensation for the referees shall be fixed by the presiding judge.  
11 The referee shall meet the requirements and perform all duties in  
12 the same manner and procedure as set forth in Sections 1-8-103 and  
13 2-2-702 of Title 10A of the Oklahoma Statutes pertaining to referees  
14 appointed in juvenile proceedings.

15           The defendant may be required to pay all or part of the cost of  
16 the counseling or treatment, in the discretion of the court.

17           H. As used in subsection G of this section, "in the presence of  
18 a child" means in the physical presence of a child; or having  
19 knowledge that a child is present and may see or hear an act of  
20 domestic violence. For the purposes of subsections C and G of this  
21 section, "child" may be any child whether or not related to the  
22 victim or the defendant.

23           I. For the purposes of subsections C and G of this section, any  
24 conviction for assault and battery against an intimate partner or a  
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1 family or household member as defined by Section 60.1 of Title 22 of  
2 the Oklahoma Statutes shall constitute a sufficient basis for a  
3 felony charge:

4 1. If that conviction is rendered in any state, county or  
5 parish court of record of this or any other state; or

6 2. If that conviction is rendered in any municipal court of  
7 record of this or any other state for which any jail time was  
8 served; provided, no conviction in a municipal court of record  
9 entered prior to November 1, 1997, shall constitute a prior  
10 conviction for purposes of a felony charge.

11 J. Any person who commits any assault and battery with intent  
12 to cause great bodily harm by strangulation or attempted  
13 strangulation against an intimate partner or a family or household  
14 member as defined by Section 60.1 of Title 22 of the Oklahoma  
15 Statutes shall, upon conviction, be guilty of domestic abuse by  
16 strangulation and shall be punished by imprisonment in the custody  
17 of the Department of Corrections for a period of not less than one  
18 (1) year nor more than three (3) years, or by a fine of not more  
19 than Three Thousand Dollars (\$3,000.00), or by both such fine and  
20 imprisonment. Upon a second or subsequent conviction for a  
21 violation of this section, the defendant shall be punished by  
22 imprisonment in the custody of the Department of Corrections for a  
23 period of not less than three (3) years nor more than ten (10)  
24 years, or by a fine of not more than Twenty Thousand Dollars

1 (\$20,000.00), or by both such fine and imprisonment. The provisions  
2 of Section 51.1 of this title shall apply to any second or  
3 subsequent conviction of a violation of this subsection. As used in  
4 this subsection, "strangulation" means any form of asphyxia;  
5 including, but not limited to, asphyxia characterized by closure of  
6 the blood vessels or air passages of the neck as a result of  
7 external pressure on the neck or the closure of the nostrils or  
8 mouth as a result of external pressure on the head.

9 K. Any district court of this state and any judge thereof shall  
10 be immune from any liability or prosecution for issuing an order  
11 that requires a defendant to:

12 1. Attend a treatment program for domestic abusers certified by  
13 the Attorney General;

14 2. Attend counseling or treatment services ordered as part of  
15 any suspended or deferred sentence or probation; and

16 3. Attend, complete, and be evaluated before and after  
17 attendance by a treatment program for domestic abusers, certified by  
18 the Attorney General.

19 L. There shall be no charge of fees or costs to any victim of  
20 domestic violence, stalking, or sexual assault in connection with  
21 the prosecution of a domestic violence, stalking, or sexual assault  
22 offense in this state.

23 M. In the course of prosecuting any charge of domestic abuse,  
24 stalking, harassment, rape, or violation of a protective order, the

1 prosecutor shall provide the court, prior to sentencing or any plea  
2 agreement, a local history and any other available history of past  
3 convictions of the defendant within the last ten (10) years relating  
4 to domestic abuse, stalking, harassment, rape, violation of a  
5 protective order, or any other violent misdemeanor or felony  
6 convictions.

7 N. Any plea of guilty or finding of guilt for a violation of  
8 subsection C, F, G, I or J of this section shall constitute a  
9 conviction of the offense for the purpose of this ~~act~~ section or any  
10 other criminal statute under which the existence of a prior  
11 conviction is relevant for a period of ten (10) years following the  
12 completion of any court imposed probationary term; provided, the  
13 person has not, in the meantime, been convicted of a misdemeanor  
14 involving moral turpitude or a felony.

15 O. For purposes of subsection F of this section, "great bodily  
16 injury" means bone fracture, protracted and obvious disfigurement,  
17 protracted loss or impairment of the function of a body part, organ  
18 or mental faculty, or substantial risk of death.

19 P. Any pleas of guilty or nolo contendere or finding of guilt  
20 to a violation of any provision of this section shall constitute a  
21 conviction of the offense for the purpose of any subsection of this  
22 section under which the existence of a prior conviction is relevant  
23 for a period of ten (10) years following the completion of any  
24 sentence or court imposed probationary term.

1 SECTION 2. This act shall become effective November 1, 2021.

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3 58-1-285 BG 1/21/2021 10:59:06 AM  
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