

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 393

By: David

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5
6 AS INTRODUCED

7 An Act relating to child neglect; amending 21 O.S.
8 2011, Section 843.5, which relates to child abuse and
9 child neglect; updating statutory reference;
10 establishing duty to furnish certain medical
11 treatment; providing exception; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 843.5, is
15 amended to read as follows:

16 Section 843.5. A. Any parent or other person who shall
17 willfully or maliciously engage in child abuse shall, upon
18 conviction, be guilty of a felony punishable by imprisonment in the
19 custody of the Department of Corrections not exceeding life
20 imprisonment, or by imprisonment in a county jail not exceeding one
21 (1) year, or by a fine of not less than Five Hundred Dollars
22 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
23 such fine and imprisonment. As used in this subsection, "child
24 abuse" means the willful or malicious abuse, as defined by paragraph
2 of Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a

1 child under eighteen (18) years of age by another, or the act of
2 willfully or maliciously injuring, torturing or maiming a child
3 under eighteen (18) years of age by another.

4 B. Any parent or other person who shall willfully or
5 maliciously engage in enabling child abuse shall, upon conviction,
6 be punished by imprisonment in the custody of the Department of
7 Corrections not exceeding life imprisonment, or by imprisonment in a
8 county jail not exceeding one (1) year, or by a fine of not less
9 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
10 Dollars (\$5,000.00) or both such fine and imprisonment. As used in
11 this subsection, "enabling child abuse" means the causing, procuring
12 or permitting of a willful or malicious act of child abuse, as
13 defined by paragraph 2 of Section 1-1-105 of Title 10A of the
14 Oklahoma Statutes, of a child under eighteen (18) years of age by
15 another. As used in this subsection, "permit" means to authorize or
16 allow for the care of a child by an individual when the person
17 authorizing or allowing such care knows or reasonably should know
18 that the child will be placed at risk of abuse as proscribed by this
19 subsection.

20 C. Any parent or other person who shall willfully or
21 maliciously engage in child neglect shall, upon conviction, be
22 punished by imprisonment in the custody of the Department of
23 Corrections not exceeding life imprisonment, or by imprisonment in a
24 county jail not exceeding one (1) year, or by a fine of not less

1 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
2 Dollars (\$5,000.00), or both such fine and imprisonment. As used in
3 this subsection, "child neglect" means the willful or malicious
4 neglect, as defined by paragraph ~~46~~ 47 of Section 1-1-105 of Title
5 10A of the Oklahoma Statutes, of a child under eighteen (18) years
6 of age by another. Notwithstanding paragraph 47 of Section 1-1-105
7 of Title 10A of the Oklahoma Statutes, a parent or guardian has a
8 duty to furnish medical attention for a child under eighteen (18)
9 years of age who is not legally emancipated. As used in this
10 subsection, the "duty to furnish medical attention" means that the
11 parent or guardian having custody or control of a child shall
12 furnish medical treatment in such manner and on such occasions as a
13 reasonably prudent person would provide; provided, however, the
14 parent or guardian shall not be criminally liable for failure to
15 furnish medical attention for medical issues with which the child
16 may be afflicted and that a reasonably prudent person would conclude
17 as minor or trivial.

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 ~~46~~ 47 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, as defined by subparagraph b
5 of paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma
6 Statutes, of 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, as defined by subparagraph b of
24 paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma

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

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

1 malicious sexual exploitation, as defined by subparagraph c of
2 paragraph 2 of Section 1-1-105 of Title 10A of the Oklahoma
3 Statutes, of a child under eighteen (18) years of age by another.

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

11 J. Any parent or other person who shall willfully or
12 maliciously engage in enabling child sexual exploitation shall, upon
13 conviction, be punished by imprisonment in the custody of the
14 Department of Corrections not exceeding life imprisonment, or by
15 imprisonment in a county jail not exceeding one (1) year, or by a
16 fine of not less than Five Hundred Dollars (\$500.00) nor more than
17 Five Thousand Dollars (\$5,000.00), or both such fine and
18 imprisonment. As used in this subsection, "enabling child sexual
19 exploitation" means the causing, procuring or permitting of a
20 willful or malicious act of child sexual exploitation, as defined by
21 subparagraph c of paragraph 2 of Section 1-1-105 of Title 10A of the
22 Oklahoma Statutes, of a child under eighteen (18) years of age by
23 another. As used in this subsection, "permit" means to authorize or
24 allow for the care of a child by an individual when the person

1 authorizing or allowing such care knows or reasonably should know
2 that the child will be placed at risk of sexual exploitation as
3 proscribed by this subsection.

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

12 SECTION 2. This act shall become effective November 1, 2013.

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