

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 2984

By: Albright

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5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2011, Section 843.5, as last amended by
9 Section 1, Chapter 284, O.S.L. 2019 (21 O.S. Supp.
10 2019, Section 843.5), which relates to penalties for
11 abuse, neglect and sexual abuse of a child; providing
affirmative defense under certain circumstances;
12 providing sentencing requirement for persons
convicted of certain crimes; and 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 843.5, as
15 last amended by Section 1, Chapter 284, O.S.L. 2019 (21 O.S. Supp.
16 2019, Section 843.5), is amended to read as follows:

17 Section 843.5 A. Any parent or other person who shall
18 willfully or maliciously engage in child abuse shall, upon
19 conviction, be guilty of a felony punishable by imprisonment in the
20 custody of the Department of Corrections not exceeding life
21 imprisonment, or by imprisonment in a county jail not exceeding one
22 (1) year, or by a fine of not less than Five Hundred Dollars
23 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
24 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 However, it is an affirmative defense if the person accused of
7 failing to protect a child from child abuse had a reasonable
8 apprehension that any action to stop the abuse would result in
9 substantial bodily harm to the person or the child. Any person
10 convicted of failing to protect a child from abuse shall not be
11 sentenced to a penalty that exceeds the penalty received by the
12 actual perpetrator of the abuse.

13 B. Any parent or other person who shall willfully or
14 maliciously engage in enabling child abuse shall, upon conviction,
15 be punished by imprisonment in the custody of the Department of
16 Corrections not exceeding life imprisonment, or by imprisonment in a
17 county jail not exceeding one (1) year, or by a fine of not less
18 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
19 Dollars (\$5,000.00) or both such fine and imprisonment. As used in
20 this subsection, "enabling child abuse" means the causing, procuring
21 or permitting of a willful or malicious act of harm or threatened
22 harm or failure to protect from harm or threatened harm to the
23 health, safety, or welfare of a child under eighteen (18) years of
24 age by another. As used in this subsection, "permit" means to

1 authorize or allow for the care of a child by an individual when the
2 person authorizing or allowing such care knows or reasonably should
3 know that the child will be placed at risk of abuse as proscribed by
4 this subsection. However, it is an affirmative defense if the
5 person accused of enabling child abuse had a reasonable apprehension
6 that any action to stop the abuse would result in substantial bodily
7 harm to the person or the child. Any person convicted of enabling
8 child abuse shall not be sentenced to a penalty that exceeds the
9 penalty received by the actual perpetrator of the abuse.

10 C. Any parent or other person who shall willfully or
11 maliciously engage in child neglect 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. As used in
17 this subsection, "child neglect" means the willful or malicious
18 neglect, as defined by Section 1-1-105 of Title 10A of the Oklahoma
19 Statutes, of a child under eighteen (18) years of age by another.

20 D. Any parent or other person who shall willfully or
21 maliciously engage in enabling child neglect shall, upon conviction,
22 be 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, "enabling child neglect" means the causing,
4 procuring or permitting of a willful or malicious act of child
5 neglect, as defined by Section 1-1-105 of Title 10A of the Oklahoma
6 Statutes, of a child under eighteen (18) years of age by another.
7 As used in this subsection, "permit" means to authorize or allow for
8 the care of a child by an individual when the person authorizing or
9 allowing such care knows or reasonably should know that the child
10 will be placed at risk of neglect as proscribed by this subsection.

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

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

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

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

1 limited to rape, incest, and lewd or indecent acts or proposals, of
2 a child under the age of eighteen (18) by another. As used in this
3 subsection, "permit" means to authorize or allow for the care of a
4 child by an individual when the person authorizing or allowing such
5 care knows or reasonably should know that the child will be placed
6 at risk of sexual abuse as proscribed by this 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, which includes but is not limited to
2 allowing, permitting, or encouraging a child under eighteen (18)
3 years of age to engage in prostitution or allowing, permitting,
4 encouraging or engaging in the lewd, obscene or pornographic
5 photographing, filming, or depicting of a child under eighteen (18)
6 years of age by another.

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

14 J. Any parent or other person who shall willfully or
15 maliciously engage in enabling child sexual exploitation 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 exploitation" means the causing, procuring or permitting of a
23 willful or malicious act of child sexual exploitation, which
24 includes but is not limited to allowing, permitting, or encouraging

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

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

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

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

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22 57-2-9508 GRS 12/26/19

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