

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 16

By: Murdock

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5
6 AS INTRODUCED

7 An Act relating to crime and punishment; amending 21
8 O.S. 2011, Section 649, as last amended by Section 1,
9 Chapter 117, O.S.L. 2015 (21 O.S. Supp. 2018, Section
10 649), which relates to assault and battery upon a
11 peace officer; modifying reference; amending 21 O.S.
12 2011, Section 652, which relates to intent to kill;
13 prescribing certain penalty for assault and battery
14 with intent to kill a peace officer; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 21 O.S. 2011, Section 649, as last
18 amended by Section 1, Chapter 117, O.S.L. 2015 (21 O.S. Supp. 2018,
19 Section 649), is amended to read as follows:

20 Section 649. A. Every person who, without justifiable or
21 excusable cause, knowingly commits any assault upon the person of a
22 police officer, sheriff, deputy sheriff, highway patrolman,
23 corrections personnel, or state peace officer employed or duly
24 appointed by any state governmental agency to enforce state laws
while the officer is in the performance of his or her duties is
punishable by imprisonment in the county jail not exceeding six (6)

1 months, or by a fine not exceeding Five Hundred Dollars (\$500.00),
2 or by both such fine and imprisonment.

3 B. Every person who, without justifiable or excusable cause
4 knowingly commits battery or assault and battery upon the person of
5 a police officer, sheriff, deputy sheriff, highway patrolman,
6 corrections personnel, or other state peace officer employed or duly
7 appointed by any state governmental agency to enforce state laws
8 while the officer is in the performance of his or her duties, upon
9 conviction, shall be guilty of a felony punishable by imprisonment
10 in the custody of the Department of Corrections of not more than
11 five (5) years or county jail for a period not to exceed one (1)
12 year, or by a fine not exceeding Five Hundred Dollars (\$500.00), or
13 by both such fine and imprisonment.

14 C. As used in this section and in ~~Section~~ Sections 650 and 652
15 of this title, "corrections personnel" means any person, employed or
16 duly appointed by the state or by a political subdivision, who has
17 direct contact with inmates of a jail or state correctional
18 facility, and includes but is not limited to, Department of
19 Corrections personnel in job classifications requiring direct
20 contact with inmates, persons providing vocational-technical
21 training to inmates, education personnel who have direct contact
22 with inmates because of education programs for inmates, and persons
23 employed or duly appointed by county or municipal jails to supervise
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1 inmates or to provide medical treatment or meals to inmates of
2 jails.

3 D. For the purposes of this section, assault and battery upon
4 law officers includes any attempt to reach for or gain control of
5 the firearm of any police officer, sheriff, deputy sheriff, highway
6 patrol, corrections personnel as defined in Section 649 of this
7 title, or any peace officer employed by any state or federal
8 governmental agency to enforce state laws.

9 E. For purposes of this section, if an officer is off duty and
10 the nature of the assault or assault and battery relates back to, or
11 in any manner or circumstances has to do with, his or her official
12 position as a law enforcement officer then it shall fall within the
13 meaning of "in the performance of his or her duties" as an officer.

14 F. This section shall not supersede any other act or acts, but
15 shall be cumulative thereto.

16 SECTION 2. AMENDATORY 21 O.S. 2011, Section 652, is
17 amended to read as follows:

18 Section 652. A. Every person who intentionally and wrongfully
19 shoots another with or discharges any kind of firearm, with intent
20 to kill any person, including an unborn child as defined in Section
21 1-730 of Title 63 of the Oklahoma Statutes, shall upon conviction be
22 guilty of a felony punishable by imprisonment in the State
23 Penitentiary not exceeding life.

1 B. Every person who uses any vehicle to facilitate the
2 intentional discharge of any kind of firearm, crossbow or other
3 weapon in conscious disregard for the safety of any other person or
4 persons, including an unborn child as defined in Section 1-730 of
5 Title 63 of the Oklahoma Statutes, shall upon conviction be guilty
6 of a felony punishable by imprisonment in the custody of the
7 Department of Corrections for a term not less than two (2) years nor
8 exceeding life.

9 C. Any person who commits any assault and battery upon another,
10 including an unborn child as defined in Section 1-730 of Title 63 of
11 the Oklahoma Statutes, by means of any deadly weapon, or by such
12 other means or force as is likely to produce death, or in any manner
13 attempts to kill another, including an unborn child as defined in
14 Section 1-730 of Title 63 of the Oklahoma Statutes, or in resisting
15 the execution of any legal process, shall upon conviction be guilty
16 of a felony punishable by imprisonment in the State Penitentiary not
17 exceeding life.

18 D. Any person who commits any assault and battery upon the
19 person of a police officer, sheriff, deputy sheriff, highway
20 patrolman, corrections personnel or state peace officer employed or
21 duly appointed by any state governmental agency to enforce state
22 laws while the officer is in the performance of his or her duties by
23 means of any deadly weapon, or by such other means or force as
24 likely to produce death, or in any manner attempts to kill shall

1 upon conviction be guilty of a felony punishable by imprisonment in
2 the custody of the Department of Corrections for a term of not less
3 than twenty (20) years not exceeding life.

4 The provisions of this section shall not apply to:

5 1. Acts which cause the death of an unborn child if those acts
6 were committed during a legal abortion to which the pregnant woman
7 consented; or

8 2. Acts which are committed pursuant to usual and customary
9 standards of medical practice during diagnostic testing or
10 therapeutic treatment.

11 E. Under no circumstances shall the mother of the unborn child
12 be prosecuted for causing the death of the unborn child unless the
13 mother has committed a crime that caused the death of the unborn
14 child.

15 SECTION 3. This act shall become effective November 1, 2019.

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