

1 **SENATE FLOOR VERSION**

2 February 19, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1773

5 By: Brooks

6  
7 **[ penalties for child abuse - qualifier - effective**  
8 **date ]**  
9

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

11 SECTION 1. AMENDATORY 21 O.S. 2011, Section 843.5, as  
12 last amended by Section 1, Chapter 284, O.S.L. 2019 (21 O.S. Supp.  
13 2019, Section 843.5), is amended to read as follows:

14 Section 843.5. A. Any ~~parent or other~~ person who shall  
15 willfully or maliciously engage in child abuse shall, upon  
16 conviction, be guilty of a felony punishable by imprisonment in the  
17 custody of the Department of Corrections not exceeding life  
18 imprisonment, or by imprisonment in a county jail not exceeding one  
19 (1) year, or by a fine of not less than Five Hundred Dollars  
20 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
21 such fine and imprisonment. As used in this subsection, "child  
22 abuse" means the willful or malicious harm or threatened harm or  
23 failure to protect from harm or threatened harm to the health,  
24 safety, or welfare of a child under eighteen (18) years of age by

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

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

19 C. Any ~~parent or other~~ person responsible for a child's health,  
20 safety or welfare who shall willfully or maliciously engage in child  
21 neglect shall, upon conviction, be punished by imprisonment in the  
22 custody of the Department of Corrections not exceeding life  
23 imprisonment, or by imprisonment in a county jail not exceeding one  
24 (1) year, or by a fine of not less than Five Hundred Dollars

1 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
2 such fine and imprisonment. As used in this subsection, "child  
3 neglect" means the willful or malicious neglect, as defined by  
4 Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a child  
5 under eighteen (18) years of age by another. As used in this  
6 subsection, "person responsible for a child's health, safety or  
7 welfare" means parent, legal guardian, foster parent, a person  
8 eighteen (18) years of age or older with whom the child's parent  
9 cohabitates or any other adult residing in the home with the child,  
10 or an adult who has physical custody or control of the child.

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

1 care knows or reasonably should know that the child will be placed  
2 at risk of neglect as proscribed by this subsection. As used in  
3 this subsection, "person responsible for a child's health, safety or  
4 welfare" means parent, legal guardian, foster parent, a person  
5 eighteen (18) years of age or older with whom the child's parent  
6 cohabitates or any other adult residing in the home with the child,  
7 or an adult who has physical custody or control of the child.

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

1 supervision shall be in addition to the actual imprisonment. As  
2 used in this section, "child sexual abuse" means the willful or  
3 malicious sexual abuse, which includes but is not limited to rape,  
4 incest, and lewd or indecent acts or proposals, of a child under  
5 eighteen (18) years of age by another. As used in this subsection,  
6 "person responsible for a child's health, safety or welfare" means  
7 parent, legal guardian, foster parent, a person eighteen (18) years  
8 of age or older with whom the child's parent cohabitates or any  
9 other adult residing in the home with the child, or an adult who has  
10 physical custody or control of the child.

11 F. Any ~~parent or other~~ person responsible for a child's health,  
12 safety or welfare who shall willfully or maliciously engage in  
13 sexual abuse to a child under twelve (12) years of age shall, upon  
14 conviction, be punished by imprisonment in the custody of the  
15 Department of Corrections for not less than twenty-five (25) years  
16 nor more than life imprisonment, and by a fine of not less than Five  
17 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars  
18 (\$5,000.00).

19 G. Any ~~parent or other~~ person responsible for a child's health,  
20 safety or welfare who shall willfully or maliciously engage in  
21 enabling child sexual abuse shall, upon conviction, be punished by  
22 imprisonment in the custody of the Department of Corrections not  
23 exceeding life imprisonment, or by imprisonment in a county jail not  
24 exceeding one (1) year, or by a fine of not less than Five Hundred

1 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00),  
2 or both such fine and imprisonment. As used in this subsection,  
3 "enabling child sexual abuse" means the causing, procuring or  
4 permitting of a willful or malicious act of child sexual abuse,  
5 which includes but is not limited to rape, incest, and lewd or  
6 indecent acts or proposals, of a child under the age of eighteen  
7 (18) by another. As used in this subsection, "permit" means to  
8 authorize or allow for the care of a child by an individual when the  
9 person authorizing or allowing such care knows or reasonably should  
10 know that the child will be placed at risk of sexual abuse as  
11 proscribed by this subsection. As used in this subsection, "person  
12 responsible for a child's health, safety or welfare" means parent,  
13 legal guardian, foster parent, a person eighteen (18) years of age  
14 or older with whom the child's parent cohabitates or any other adult  
15 residing in the home with the child, or an adult who has physical  
16 custody or control of the child.

17 H. Any ~~parent or other~~ person who shall willfully or  
18 maliciously engage in child sexual exploitation shall, upon  
19 conviction, be punished by imprisonment in the custody of the  
20 Department of Corrections not exceeding life imprisonment, or by  
21 imprisonment in a county jail not exceeding one (1) year, or by a  
22 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
23 Five Thousand Dollars (\$5,000.00), or both such fine and  
24 imprisonment except as provided in subsection I of this section for

1 a child victim under twelve (12) years of age. Except for persons  
2 sentenced to life or life without parole, any person sentenced to  
3 imprisonment for two (2) years or more for a violation of this  
4 subsection shall be required to serve a term of post-imprisonment  
5 supervision pursuant to subparagraph f of paragraph 1 of subsection  
6 A of Section 991a of Title 22 of the Oklahoma Statutes under  
7 conditions determined by the Department of Corrections. The jury  
8 shall be advised that the mandatory post-imprisonment supervision  
9 shall be in addition to the actual imprisonment. As used in this  
10 subsection, "child sexual exploitation" means the willful or  
11 malicious sexual exploitation, which includes but is not limited to  
12 allowing, permitting, or encouraging a child under eighteen (18)  
13 years of age to engage in prostitution or allowing, permitting,  
14 encouraging or engaging in the lewd, obscene or pornographic  
15 photographing, filming, or depicting of a child under eighteen (18)  
16 years of age by another.

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

24

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

20 K. Notwithstanding any other provision of law, any ~~parent or~~  
21 ~~other~~ person convicted of forcible anal or oral sodomy, rape, rape  
22 by instrumentation, or lewd molestation of a child under fourteen  
23 (14) years of age subsequent to a previous conviction for any  
24 offense of forcible anal or oral sodomy, rape, rape by



1 instrumentation, or lewd molestation of a child under fourteen (14)  
2 years of age shall be punished by death or by imprisonment for life  
3 without parole.

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

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

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
9 February 19, 2020 - DO PASS AS AMENDED

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