

1 ENGROSSED SENATE
2 BILL NO. 559

By: Marlatt and Pittman of the
Senate

3 and

4 Hall of the House

5
6
7 [assault - prosecution of assault - penalties -
8 affirmative defense - codification - effective date]
9

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

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 644.2 of Title 21, unless there
13 is created a duplication in numbering, reads as follows:

14 A. For the purpose of this section, the term "another", when it
15 refers to the victim of assault in Section 641 of this title, shall
16 include a human embryo or fetus at any stage of gestation in utero.

17 B. Assault shall include the act of causing a child to be born
18 addicted to or harmed by a narcotic drug, as defined in paragraph 26
19 of Section 2-101 of Title 63 of the Oklahoma Statutes, when the
20 addiction or harm was caused by the illegal use of a narcotic drug
21 by the child's mother while pregnant.

22 C. Any person who commits assault as established in this
23 section, shall be guilty of a misdemeanor punishable by imprisonment
24 in a county jail not exceeding thirty (30) days, or by a fine of not

1 more than Five Hundred Dollars (\$500.00), or by both fine and
2 imprisonment.

3 D. If the illegal use of a narcotic drug by the pregnant woman
4 results in the death of the child, the assault will be a felony
5 offense punishable by imprisonment in the Department of Corrections
6 not to exceed five (5) years, or by imprisonment in a county jail
7 not exceeding one (1) year, or by a fine of not more than Five
8 Hundred Dollars (\$500.00), or both such fine and imprisonment.

9 E. Evidence that the woman is actively enrolled in an addiction
10 recovery program before the child is born, remained in the program
11 after delivery, and successfully completed the program, regardless
12 of whether the child was born addicted to or harmed by the narcotic
13 drug shall be considered in mitigation of punishment.

14 F. This section shall not apply to any lawful act or omission
15 by a pregnant woman with respect to an embryo or fetus with which
16 she is pregnant, or to any lawful medical or surgical procedure to
17 which a pregnant woman consents, performed by a health care
18 professional who is licensed to perform such a procedure.

19 SECTION 2. This act shall become effective November 1, 2015.
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