

1 **SENATE FLOOR VERSION**

2 February 23, 2017

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 649

By: Treat of the Senate

and

6 ODonnell of the House

7
8
9 An Act relating to crime and punishment; amending 21
10 O.S. 2011, Section 51.1, which relates to second or
11 subsequent offenses; clarifying language; stating
12 certain prohibition; modifying certain maximum
13 sentences; amending 21 O.S. 2011, Section 51.2, which
14 relates to second and subsequent offenses; modifying
15 offenses; updating language; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 21 O.S. 2011, Section 51.1, is
19 amended to read as follows:

20 Section 51.1. A. Except as otherwise provided in the Elderly
21 and Incapacitated Victim's Protection Program and Section ~~3 of this~~
22 ~~act~~ 51.1a of this title, every person who, having been convicted of
23 any ~~offense punishable by imprisonment in the State Penitentiary~~
24 felony, commits any crime after such conviction, within ten (10)
years of the date following the completion of the execution of the
sentence, and against whom the ~~District Attorney~~ district attorney

1 seeks to enhance punishment pursuant to this section of law, is
2 punishable therefor as follows:

3 1. If the offense for which the person is subsequently
4 convicted is an offense enumerated in Section 571 of Title 57 of the
5 Oklahoma Statutes and the offense is punishable by imprisonment in
6 the ~~State Penitentiary~~ custody of the Department of Corrections for
7 a term exceeding five (5) years, such person is punishable by
8 imprisonment in the ~~State Penitentiary~~ custody of the Department of
9 Corrections for a term in the range of ten (10) years to life
10 imprisonment.

11 2. If the offense of which such person is subsequently
12 convicted is such that upon a first conviction an offender would be
13 punishable by imprisonment in the ~~State Penitentiary~~ custody of the
14 Department of Corrections for any term exceeding five (5) years,
15 such person is punishable by imprisonment in the ~~State Penitentiary~~
16 custody of the Department of Corrections for a term in the range of
17 twice the minimum term for a first time offender to life
18 imprisonment. If the subsequent felony offense does not carry a
19 minimum sentence as a first time offender, such person is punishable
20 by imprisonment in the ~~State Penitentiary~~ custody of the Department
21 of Corrections for a term in the range of two (2) years to life
22 imprisonment.

23 3. If such subsequent offense is such that upon a first
24 conviction the offender would be punishable by imprisonment in the

1 ~~State Penitentiary~~ custody of the Department of Corrections for five
2 (5) years, or any less term, then the person convicted of such
3 subsequent offense is punishable by imprisonment in the ~~State~~
4 ~~Penitentiary~~ custody of the Department of Corrections for a term not
5 exceeding ten (10) years.

6 4. If such subsequent conviction is for petit larceny, as
7 defined pursuant to Section 1704 of this title, the person convicted
8 of such subsequent offense is punishable by imprisonment in the
9 ~~State Penitentiary~~ custody of the Department of Corrections for a
10 term not exceeding five (5) years.

11 B. Every person who, having been twice convicted of felony
12 offenses, commits a subsequent felony offense which is an offense
13 enumerated in Section 571 of Title 57 of the Oklahoma Statutes,
14 within ten (10) years of the date following the completion of the
15 execution of the sentence, and against whom the ~~District Attorney~~
16 district attorney seeks to enhance punishment pursuant to this
17 section of law, is punishable by imprisonment in the ~~State~~
18 ~~Penitentiary~~ custody of the Department of Corrections for a term in
19 the range of twenty (20) years to life imprisonment. Felony
20 offenses relied upon shall not have arisen out of the same
21 transaction or occurrence or series of events closely related in
22 time and location. Nothing in this section shall abrogate or affect
23 the punishment by death in all crimes now or hereafter made
24 punishable by death.

1 C. Every person who, having been twice convicted of felony
2 offenses, commits a subsequent felony offense within ten (10) years
3 of the date following the completion of the execution of the
4 sentence, and against whom the ~~District Attorney~~ district attorney
5 seeks to enhance punishment pursuant to this section of law, is
6 punishable by imprisonment in the ~~State Penitentiary~~ custody of the
7 Department of Corrections for a term in the range of three times the
8 minimum term for a first time offender to life imprisonment. If the
9 subsequent felony offense does not carry a minimum sentence as a
10 first time offender, the person is punishable by imprisonment in the
11 ~~State Penitentiary~~ custody of the Department of Corrections for a
12 term in the range of four (4) years to life imprisonment. Felony
13 offenses relied upon shall not have arisen out of the same
14 transaction or occurrence or series of events closely related in
15 time and location. Nothing in this section shall abrogate or affect
16 the punishment by death in all crimes now or hereafter made
17 punishable by death.

18 D. A previous conviction for possession of a controlled
19 dangerous substance pursuant to Section 2-402 of Title 63 of the
20 Oklahoma Statutes, or the equivalent law for possession of a
21 controlled dangerous substance from any other jurisdiction, may not
22 be used to enhance punishment pursuant to this section of law.

23 E. Notwithstanding subsections A, B and C of this section,
24 every person who, having previously been convicted of a felony other

1 than a felony enumerated in Section 571 of Title 57 of the Oklahoma
2 Statutes, is convicted of a second or subsequent felony other than a
3 felony enumerated in Section 571 of Title 57 of the Oklahoma
4 Statutes, is punishable by imprisonment in the custody of the
5 Department of Corrections for a term of not more than the maximum
6 sentence plus one-fourth (1/4) of the sentence that could have been
7 imposed for a first conviction of the current offense.

8 SECTION 2. AMENDATORY 21 O.S. 2011, Section 51.2, is
9 amended to read as follows:

10 Section 51.2. Except as provided in Section ~~3 of this act~~ 51.1a
11 of this title, no person shall be sentenced as a second and
12 subsequent offender under Section 51.1 of this title, or any other
13 section of the Oklahoma Statutes, when a period of ten (10) years
14 has elapsed since the completion of the sentence imposed on the
15 former conviction; provided, ~~said~~ the person has not, in the
16 meantime, been convicted of a ~~misdemeanor involving moral turpitude~~
17 ~~or a~~ felony. Nothing in this section shall prohibit the use of a
18 prior conviction for physical or sexually related child abuse as a
19 prior conviction for second and subsequent offender purposes if the
20 person is presently charged with a felony crime involving physical
21 or sexually related child abuse.

22 SECTION 3. This act shall become effective November 1, 2017.

23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
24 February 23, 2017 - DO PASS AS AMENDED