

An Act

ENROLLED SENATE
BILL NO. 649

By: Treat, Pittman and Sharp of
the Senate

and

O'Donnell, Cleveland and
McBride of the House

An Act relating to crime and punishment; amending 21 O.S. 2011, Section 51.1, which relates to second or subsequent offenses; clarifying language; modifying certain convictions; listing certain offenses for inclusion; modifying certain maximum sentences; amending 21 O.S. 2011, Section 51.2, which relates to second and subsequent offenses; modifying offenses; updating language; and providing an effective date.

SUBJECT: Sentencing enhancement

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

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

Section 51.1. A. Except as otherwise provided in the Elderly and Incapacitated Victim's Protection Program and Section ~~3 of this act~~ 51.1a of this title, every person who, having been convicted of any ~~offense punishable by imprisonment in the State Penitentiary 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 seeks to enhance punishment pursuant to this section of law, is punishable therefor as follows:

1. If the offense for which the person is subsequently convicted is an offense enumerated in Section 571 of Title 57 of the

Oklahoma Statutes and the offense is punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term exceeding five (5) years, such person is punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term in the range of ten (10) years to life imprisonment-;

2. If the offense of which such person is subsequently convicted is such that upon a first conviction an offender would be punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for any term exceeding five (5) years, such person is punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term in the range of twice the minimum term for a first time offender to life imprisonment. If the subsequent felony offense does not carry a minimum sentence as a first time offender, such person is punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term in the range of two (2) years to life imprisonment-; and

3. If such subsequent offense is such that upon a first conviction the offender would be punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for five (5) years, or any less term, then the person convicted of such subsequent offense is punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term not exceeding ten (10) years.

~~4. If such subsequent conviction is for petit larceny, the person convicted of such subsequent offense is punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years.~~

B. Every person who, having been twice convicted of felony offenses, commits a subsequent felony offense which is an offense enumerated in Section 571 of Title 57 of the Oklahoma Statutes, within ten (10) years of the date following the completion of the execution of the sentence, and against whom the ~~District Attorney~~ district attorney seeks to enhance punishment pursuant to this section of law, is punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a term in the range of twenty (20) years to life imprisonment. Felony

offenses relied upon shall not have arisen out of the same transaction or occurrence or series of events closely related in time and location. Nothing in this section shall abrogate or affect the punishment by death in all crimes now or hereafter made punishable by death.

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

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

E. Every person who, having previously been convicted of a felony other than a felony enumerated in Section 571 of Title 57 of the Oklahoma Statutes, is convicted of a second or subsequent felony for:

1. Uttering a subscription on instrument as that of one with the same name, as provided in Section 1592 of this title;

2. Receiving or concealing stolen property, as provided in Section 1713 of this title;

3. False personation of another, as provided in Section 1531 of this title;

4. Unauthorized use of a motor vehicle, as provided in Section 4-102 of Title 47 of the Oklahoma Statutes;

5. Grand larceny, as provided in Section 1705 of this title;

6. False declaration of ownership to a pawnbroker, as provided in Section 1512 of Title 59 of the Oklahoma Statutes;

7. Forgery in the second degree, as provided in Section 1577 of this title;

8. Receiving, possessing or concealing a stolen vehicle, as provided in Section 4-103 of Title 47 of the Oklahoma Statutes; or

9. Larceny of merchandise from a retailer, as provided in Section 1731 of this title, is punishable by imprisonment in the custody of the Department of Corrections for a term of not more than twice the maximum sentence that could have been imposed for a first conviction of the current offense.

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

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

SECTION 3. This act shall become effective November 1, 2018.

Passed the Senate the 17th day of April, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2018.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____