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An Act relating to crimes and punishment; amending 21 O.S. 2011, Section 843.5, as amended by Section 1, Chapter 240, O.S.L. 2014 (21 O.S. Supp. 2018, Section 843.5), which relates to child abuse; updating statutory references; and providing an effective date.

By: Paxton

SECTION 1. AMENDATORY 21 O.S. 2011, Section 843.5, as amended by Section 1, Chapter 240, O.S.L. 2014 (21 O.S. Supp. 2018, Section 843.5), is amended to read as follows:

SENATE FLOOR VERSION - SB291 SFLR
(Bold face denotes Committee Amendments)

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

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

20 C. Any parent or other person who shall willfully or
21 maliciously engage in child neglect shall, upon conviction, be
22 punished by imprisonment in the custody of the Department of
23 Corrections not exceeding life imprisonment, or by imprisonment in a
24 county jail not exceeding one (1) year, or by a fine of not less

1 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
2 Dollars (\$5,000.00), or both such fine and imprisonment. As used in
3 this subsection, "child neglect" means the willful or malicious
4 neglect, as defined by ~~paragraph 47 of~~ Section 1-1-105 of Title 10A
5 of the Oklahoma Statutes, of a child under eighteen (18) years of
6 age by another.

7 D. Any parent or other person who shall willfully or
8 maliciously engage in enabling child neglect shall, upon conviction,
9 be punished by imprisonment in the custody of the Department of
10 Corrections not exceeding life imprisonment, or by imprisonment in a
11 county jail not exceeding one (1) year, or by a fine of not less
12 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
13 Dollars (\$5,000.00), or both such fine and imprisonment. As used in
14 this subsection, "enabling child neglect" means the causing,
15 procuring or permitting of a willful or malicious act of child
16 neglect, as defined by ~~paragraph 47 of~~ Section 1-1-105 of Title 10A
17 of the Oklahoma Statutes, of a child under eighteen (18) years of
18 age by another. As used in this subsection, "permit" means to
19 authorize or allow for the care of a child by an individual when the
20 person authorizing or allowing such care knows or reasonably should
21 know that the child will be placed at risk of neglect as proscribed
22 by this subsection.

23 E. Any parent or other person who shall willfully or
24 maliciously engage in child sexual abuse shall, upon conviction, be

1 punished by imprisonment in the custody of the Department of
2 Corrections not exceeding life imprisonment, or by imprisonment in a
3 county jail not exceeding one (1) year, or by a fine of not less
4 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
5 Dollars (\$5,000.00), or both such fine and imprisonment, except as
6 provided in Section 51.1a of this title or as otherwise provided in
7 subsection F of this section for a child victim under twelve (12)
8 years of age. Except for persons sentenced to life or life without
9 parole, any person sentenced to imprisonment for two (2) years or
10 more for a violation of this subsection shall be required to serve a
11 term of post-imprisonment supervision pursuant to subparagraph f of
12 paragraph 1 of subsection A of Section 991a of Title 22 of the
13 Oklahoma Statutes under conditions determined by the Department of
14 Corrections. The jury shall be advised that the mandatory post-
15 imprisonment supervision shall be in addition to the actual
16 imprisonment. As used in this section, "child sexual abuse" means
17 the willful or malicious sexual abuse, which includes but is not
18 limited to rape, incest, and lewd or indecent acts or proposals, of
19 a child under eighteen (18) years of age by another.

20 F. Any parent or other person who shall willfully or
21 maliciously engage in sexual abuse to a child under twelve (12)
22 years of age shall, upon conviction, be punished by imprisonment in
23 the custody of the Department of Corrections for not less than
24 twenty-five (25) years nor more than life imprisonment, and by a

1 fine of not less than Five Hundred Dollars (\$500.00) nor more than
2 Five Thousand Dollars (\$5,000.00).

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

19 H. Any parent or other person who shall willfully or
20 maliciously engage in child sexual exploitation shall, upon
21 conviction, be punished by imprisonment in the custody of the
22 Department of Corrections not exceeding life imprisonment, or by
23 imprisonment in a county jail not exceeding one (1) year, or by a
24 fine of not less than Five Hundred Dollars (\$500.00) nor more than

1 Five Thousand Dollars (\$5,000.00), or both such fine and
2 imprisonment except as provided in subsection I of this section for
3 a child victim under twelve (12) years of age. Except for persons
4 sentenced to life or life without parole, any person sentenced to
5 imprisonment for two (2) years or more for a violation of this
6 subsection shall be required to serve a term of post-imprisonment
7 supervision pursuant to subparagraph f of paragraph 1 of subsection
8 A of Section 991a of Title 22 of the Oklahoma Statutes under
9 conditions determined by the Department of Corrections. The jury
10 shall be advised that the mandatory post-imprisonment supervision
11 shall be in addition to the actual imprisonment. As used in this
12 subsection, "child sexual exploitation" means the willful or
13 malicious sexual exploitation, which includes but is not limited to
14 allowing, permitting, or encouraging a child under eighteen (18)
15 years of age to engage in prostitution or allowing, permitting,
16 encouraging or engaging in the lewd, obscene or pornographic
17 photographing, filming, or depicting of a child under eighteen (18)
18 years of age by another.

19 I. Any parent or other person who shall willfully or
20 maliciously engage in sexual exploitation of a child under twelve
21 (12) years of age shall, upon conviction, be punished by
22 imprisonment in the custody of the Department of Corrections for not
23 less than twenty-five (25) years nor more than life imprisonment,
24

1 and by a fine of not less than Five Hundred Dollars (\$500.00) nor
2 more than Five Thousand Dollars (\$5,000.00).

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

22 K. Notwithstanding any other provision of law, any parent or
23 other person convicted of forcible anal or oral sodomy, rape, rape
24 by instrumentation, or lewd molestation of a child under fourteen

1 (14) years of age subsequent to a previous conviction for any
2 offense of forcible anal or oral sodomy, rape, rape by
3 instrumentation, or lewd molestation of a child under fourteen (14)
4 years of age shall be punished by death or by imprisonment for life
5 without parole.

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

9 SECTION 2. This act shall become effective November 1, 2019.

10 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
11 February 18, 2019 - DO PASS
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