

1 **SENATE FLOOR VERSION**

2 February 13, 2024

3 SENATE BILL NO. 1211

By: Thompson (Kristen) of the
Senate

4 and

5 George of the House
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9 An Act relating to domestic abuse; amending 21 O.S.
10 2021, Section 644, as last amended by Section 1,
Chapter 212, O.S.L. 2023 (21 O.S. Supp. 2023, Section
11 644), which relates to assault and battery; modifying
range of punishment for certain offense; updating
12 statutory language; and providing an effective date.

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

17 SECTION 1. AMENDATORY 21 O.S. 2021, Section 644, as last
18 amended by Section 1, Chapter 212, O.S.L. 2023 (21 O.S. Supp. 2023,
19 Section 644), is amended to read as follows:

20 Section 644. A. Assault shall be punishable by imprisonment in
21 a county jail not exceeding thirty (30) days, or by a fine of not
22 more than Five Hundred Dollars (\$500.00), or by both such fine and
23 imprisonment.
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1 B. Assault and battery shall be punishable by imprisonment in a
2 county jail not exceeding ninety (90) days, or by a fine ~~of~~ not more
3 than One Thousand Dollars (\$1,000.00), or by both such fine and
4 imprisonment.

5 C. Any person who commits any assault and battery against a
6 current or former intimate partner or a family or household member
7 as defined by Section 60.1 of Title 22 of the Oklahoma Statutes
8 shall be guilty of domestic abuse. Upon conviction, the defendant
9 shall be punished by imprisonment in the county jail for not more
10 than one (1) year, or by a fine not exceeding Five Thousand Dollars
11 (\$5,000.00), or by both such fine and imprisonment. Upon conviction
12 for a second or subsequent offense, the person shall be punished by
13 imprisonment in the custody of the Department of Corrections for not
14 more than four (4) years, or by a fine not exceeding Five Thousand
15 Dollars (\$5,000.00), or by both such fine and imprisonment. The
16 provisions of Section 51.1 of this title shall apply to any second
17 or subsequent offense.

18 D. 1. Any person who, with intent to do bodily harm and
19 without justifiable or excusable cause, commits any assault,
20 battery, or assault and battery upon an intimate partner or a family
21 or household member as defined by Section 60.1 of Title 22 of the
22 Oklahoma Statutes with any sharp or dangerous weapon, upon
23 conviction, is guilty of domestic assault or domestic assault and
24 battery with a dangerous weapon which shall be a felony and

1 punishable by imprisonment in the custody of the Department of
2 Corrections not exceeding ten (10) years, or by imprisonment in a
3 county jail not exceeding one (1) year. The provisions of Section
4 51.1 of this title shall apply to any second or subsequent
5 conviction for a violation of this paragraph.

6 2. Any person who, without such cause, shoots an intimate
7 partner or a family or household member as defined by Section 60.1
8 of Title 22 of the Oklahoma Statutes by means of any deadly weapon
9 that is likely to produce death shall, upon conviction, be guilty of
10 domestic assault and battery with a deadly weapon which shall be a
11 felony punishable by imprisonment in the custody of the Department
12 of Corrections not exceeding life. The provisions of Section 51.1
13 of this title shall apply to any second or subsequent conviction for
14 a violation of this paragraph.

15 E. Any person convicted of domestic abuse committed against a
16 pregnant woman with knowledge of the pregnancy shall be guilty of a
17 misdemeanor, punishable by imprisonment in the county jail for not
18 more than one (1) year.

19 Any person convicted of a second or subsequent offense of
20 domestic abuse against a pregnant woman with knowledge of the
21 pregnancy shall be guilty of a felony, punishable by imprisonment in
22 the custody of the Department of Corrections for not less than ten
23 (10) years.

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1 Any person convicted of domestic abuse committed against a
2 pregnant woman with knowledge of the pregnancy and a miscarriage
3 occurs or injury to the unborn child occurs shall be guilty of a
4 felony, punishable by imprisonment in the custody of the Department
5 of Corrections for not less than twenty (20) years.

6 F. Any person convicted of domestic abuse as defined in
7 subsection C of this section that results in great bodily injury to
8 the victim shall be guilty of a felony and punished by imprisonment
9 in the custody of the Department of Corrections for not more than
10 ten (10) years, or by imprisonment in the county jail for not more
11 than one (1) year. The provisions of Section 51.1 of this title
12 shall apply to any second or subsequent conviction of a violation of
13 this subsection.

14 G. Any person convicted of domestic abuse as defined in
15 subsection C of this section that was committed in the presence of a
16 child shall be punished by imprisonment in the county jail for not
17 less than six (6) months nor more than one (1) year, or by a fine
18 not exceeding Five Thousand Dollars (\$5,000.00), or by both such
19 fine and imprisonment. Any person convicted of a second or
20 subsequent domestic abuse as defined in subsection C of this section
21 that was committed in the presence of a child shall be punished by
22 imprisonment in the custody of the Department of Corrections for not
23 less than one (1) year nor more than five (5) years, or by a fine
24 not exceeding Seven Thousand Dollars (\$7,000.00), or by both such

1 fine and imprisonment. The provisions of Section 51.1 of this title
2 shall apply to any second or subsequent offense. For every
3 conviction of a domestic abuse crime in violation of any provision
4 of this section committed against an intimate partner or a family or
5 household member as defined by Section 60.1 of Title 22 of the
6 Oklahoma Statutes, the court shall:

7 1. Specifically order as a condition of a suspended or deferred
8 sentence that a defendant participate in counseling or undergo
9 treatment to bring about the cessation of domestic abuse as
10 specified in paragraph 2 of this subsection;

11 2. a. The court shall require the defendant to complete an
12 assessment and follow the recommendations of a
13 batterers' intervention program certified by the
14 Attorney General. If the defendant is ordered to
15 participate in a batterers' intervention program, the
16 order shall require the defendant to attend the
17 program for a minimum of fifty-two (52) weeks,
18 complete the program, and be evaluated before and
19 after attendance of the program by program staff.
20 Three unexcused absences in succession or seven
21 unexcused absences in a period of fifty-two (52) weeks
22 from any court-ordered batterers' intervention program
23 shall be prima facie evidence of the violation of the
24 conditions of probation for the district attorney to

1 seek acceleration or revocation of any probation
2 entered by the court.

3 b. A program for anger management, couples counseling, or
4 family and marital counseling shall not solely qualify
5 for the counseling or treatment requirement for
6 domestic abuse pursuant to this subsection. The
7 counseling may be ordered in addition to counseling
8 specifically for the treatment of domestic abuse or
9 per evaluation as set forth below. If, after
10 sufficient evaluation and attendance at required
11 counseling sessions, the domestic violence treatment
12 program or licensed professional determines that the
13 defendant does not evaluate as a perpetrator of
14 domestic violence or does evaluate as a perpetrator of
15 domestic violence and should complete other programs
16 of treatment simultaneously or prior to domestic
17 violence treatment, including but not limited to
18 programs related to the mental health, apparent
19 substance or alcohol abuse or inability or refusal to
20 manage anger, the defendant shall be ordered to
21 complete the counseling as per the recommendations of
22 the domestic violence treatment program or licensed
23 professional;

1 3. a. The court shall set a review hearing no more than one
2 hundred twenty (120) days after the defendant is
3 ordered to participate in a domestic abuse counseling
4 program or undergo treatment for domestic abuse to
5 assure the attendance and compliance of the defendant
6 with the provisions of this subsection and the
7 domestic abuse counseling or treatment requirements.
8 The court may suspend sentencing of the defendant
9 until the defendant has presented proof to the court
10 of enrollment in a program of treatment for domestic
11 abuse by an individual licensed practitioner or a
12 domestic abuse treatment program certified by the
13 Attorney General and attendance at weekly sessions of
14 such program. Such proof shall be presented to the
15 court by the defendant no later than one hundred
16 twenty (120) days after the defendant is ordered to
17 such counseling or treatment. At such time, the court
18 may complete sentencing, beginning the period of the
19 sentence from the date that proof of enrollment is
20 presented to the court, and schedule reviews as
21 required by subparagraphs a and b of this paragraph
22 and paragraphs 4 and 5 of this subsection. Three
23 unexcused absences in succession or seven unexcused
24 absences in a period of fifty-two (52) weeks from any

1 court-ordered domestic abuse counseling or treatment
2 program shall be prima facie evidence of the violation
3 of the conditions of probation for the district
4 attorney to seek acceleration or revocation of any
5 probation entered by the court.

6 b. The court shall set a second review hearing after the
7 completion of the counseling or treatment to assure
8 the attendance and compliance of the defendant with
9 the provisions of this subsection and the domestic
10 abuse counseling or treatment requirements. The court
11 shall retain continuing jurisdiction over the
12 defendant during the course of ordered counseling
13 through the final review hearing;

14 4. The court may set subsequent or other review hearings as the
15 court determines necessary to assure the defendant attends and fully
16 complies with the provisions of this subsection and the domestic
17 abuse counseling or treatment requirements;

18 5. At any review hearing, if the defendant is not
19 satisfactorily attending individual counseling or a domestic abuse
20 counseling or treatment program or is not in compliance with any
21 domestic abuse counseling or treatment requirements, the court may
22 order the defendant to further or continue counseling, treatment, or
23 other necessary services. The court may revoke all or any part of a
24 suspended sentence, deferred sentence, or probation pursuant to

1 Section 991b of Title 22 of the Oklahoma Statutes and subject the
2 defendant to any or all remaining portions of the original sentence;

3 6. At the first review hearing, the court shall require the
4 defendant to appear in court. Thereafter, for any subsequent review
5 hearings, the court may accept a report on the progress of the
6 defendant from individual counseling, domestic abuse counseling, or
7 the treatment program. There shall be no requirement for the victim
8 to attend review hearings; and

9 7. If funding is available, a referee may be appointed and
10 assigned by the presiding judge of the district court to hear
11 designated cases set for review under this subsection. Reasonable
12 compensation for the referees shall be fixed by the presiding judge.
13 The referee shall meet the requirements and perform all duties in
14 the same manner and procedure as set forth in Sections 1-8-103 and
15 2-2-702 of Title 10A of the Oklahoma Statutes pertaining to referees
16 appointed in juvenile proceedings.

17 The defendant may be required to pay all or part of the cost of
18 the counseling or treatment, in the discretion of the court.

19 H. As used in subsection G of this section, "in the presence of
20 a child" means in the physical presence of a child; or having
21 knowledge that a child is present and may see or hear an act of
22 domestic violence. For the purposes of subsections C and G of this
23 section, "child" may be any child whether or not related to the
24 victim or the defendant.

1 I. For the purposes of subsections C and G of this section, any
2 conviction for assault and battery against an intimate partner or a
3 family or household member as defined by Section 60.1 of Title 22 of
4 the Oklahoma Statutes shall constitute a sufficient basis for a
5 felony charge:

6 1. If that conviction is rendered in any state, county or
7 parish court of record of this or any other state; or

8 2. If that conviction is rendered in any municipal court of
9 record of this or any other state for which any jail time was
10 served; provided, no conviction in a municipal court of record
11 entered prior to November 1, 1997, shall constitute a prior
12 conviction for purposes of a felony charge.

13 J. Any person who commits any assault and battery by
14 strangulation or attempted strangulation against an intimate partner
15 or a family or household member as defined by Section 60.1 of Title
16 22 of the Oklahoma Statutes shall, upon conviction, be guilty of
17 domestic abuse by strangulation and shall be punished by
18 imprisonment in the custody of the Department of Corrections for a
19 period ~~of~~ not less than one (1) year nor more than ~~three (3)~~ ten
20 (10) years, ~~or by a fine of not more than Three Thousand Dollars~~
21 ~~(\$3,000.00), or by both such fine and imprisonment. Upon a second~~
22 ~~or subsequent conviction for a violation of this section, the~~
23 ~~defendant shall be punished by imprisonment in the custody of the~~
24 ~~Department of Corrections for a period of not less than three (3)~~

1 ~~years nor more than ten (10) years,~~ or by a fine of not more than
2 Twenty Thousand Dollars (\$20,000.00), or by both such fine and
3 imprisonment. The provisions of Section 51.1 of this title shall
4 apply to any second or subsequent conviction of a violation of this
5 subsection. As used in this subsection, "strangulation" means any
6 form of asphyxia; including, but not limited to, asphyxia
7 characterized by closure of the blood vessels or air passages of the
8 neck as a result of external pressure on the neck or the closure of
9 the nostrils or mouth as a result of external pressure on the head.

10 K. Any district court of this state and any judge thereof shall
11 be immune from any liability or prosecution for issuing an order
12 that requires a defendant to:

13 1. Attend a treatment program for domestic abusers certified by
14 the Attorney General;

15 2. Attend counseling or treatment services ordered as part of
16 any suspended or deferred sentence or probation; and

17 3. Attend, complete, and be evaluated before and after
18 attendance by a treatment program for domestic abusers, certified by
19 the Attorney General.

20 L. There shall be no charge of fees or costs to any victim of
21 domestic violence, stalking, or sexual assault in connection with
22 the prosecution of a domestic violence, stalking, or sexual assault
23 offense in this state.

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1 M. In the course of prosecuting any charge of domestic abuse,
2 stalking, harassment, rape, or violation of a protective order, the
3 prosecutor shall provide the court, prior to sentencing or any plea
4 agreement, a local history and any other available history of past
5 convictions of the defendant within the last ten (10) years relating
6 to domestic abuse, stalking, harassment, rape, violation of a
7 protective order, or any other violent misdemeanor or felony
8 convictions.

9 N. Any plea of guilty or finding of guilt for a violation of
10 subsection C, F, G, I or J of this section shall constitute a
11 conviction of the offense for the purpose of this act or any other
12 criminal statute under which the existence of a prior conviction is
13 relevant for a period of ten (10) years following the completion of
14 any court imposed probationary term; provided, the person has not,
15 in the meantime, been convicted of a misdemeanor involving moral
16 turpitude or a felony.

17 O. For purposes of subsection F of this section, "great bodily
18 injury" means bone fracture, protracted and obvious disfigurement,
19 protracted loss or impairment of the function of a body part, organ
20 or mental faculty, or substantial risk of death.

21 P. Any pleas of guilty or nolo contendere or finding of guilt
22 to a violation of any provision of this section shall constitute a
23 conviction of the offense for the purpose of any subsection of this
24 section under which the existence of a prior conviction is relevant

1 for a period of ten (10) years following the completion of any
2 sentence or court imposed probationary term.

3 SECTION 2. This act shall become effective November 1, 2024.

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
5 February 13, 2024 - DO PASS
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