

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3775

By: Duel, **Ford**, and **West (Josh)**

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to crimes and punishments; amending
10 21 O.S. 2021, Section 644, as amended by Section 1,
11 Chapter 212, O.S.L. 2023 (21 O.S. Supp. 2023, Section
12 644), which relates to assault and battery; modifying
13 penalties for certain unlawful acts; making certain
14 acts unlawful; providing penalties; defining term;
15 requiring persons to serve one hundred percent of
16 sentence; prohibiting inmates from receiving earned
17 credits; providing alternate split sentence under
18 certain circumstances; and providing an effective
19 date.

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

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

24 Section 644. A. Assault shall be punishable by imprisonment in
a county jail not exceeding thirty (30) days, or by a fine of not
more than Five Hundred Dollars (\$500.00), or by both such fine and
imprisonment.

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 a
14 period of not more less than four (4) five (5) years, ~~or by a fine~~
15 ~~not exceeding Five Thousand Dollars (\$5,000.00), or by both such~~
16 ~~fine and imprisonment~~ nor more than ten (10) years. The provisions
17 of Section 51.1 of this title shall apply to any second or
18 subsequent offense.

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

1 battery with a dangerous weapon which shall be a felony and
2 punishable by imprisonment in the custody of the Department of
3 Corrections ~~not exceeding~~ for a period of not less than five (5)
4 years nor more than ten (10) years, ~~or by imprisonment in a county~~
5 ~~jail not exceeding one (1) year.~~ The provisions of Section 51.1 of
6 this title shall apply to any second or subsequent conviction for a
7 violation of this paragraph.

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

17 E. Any person convicted of domestic abuse committed against a
18 pregnant woman with knowledge of the pregnancy shall be guilty of a
19 ~~misdemeanor~~ felony, punishable by imprisonment in the ~~county jail~~
20 custody of the Department of Correction for ~~not more than one (1)~~
21 ~~year~~ a period of five (5) years.

22 Any person convicted of a second or subsequent offense of
23 domestic abuse against a pregnant woman with knowledge of the
24 pregnancy shall be guilty of a felony, punishable by imprisonment in

1 the custody of the Department of Corrections for not less than ten
2 (10) years.

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

8 F. Any person convicted of domestic abuse as defined in
9 subsection C of this section that results in great bodily injury to
10 the victim shall be guilty of a felony and punished by imprisonment
11 in the custody of the Department of Corrections for a period of not
12 less than five (5) years nor more than ten (10) years, ~~or by~~
13 ~~imprisonment in the county jail for not more than one (1) year.~~ The
14 provisions of Section 51.1 of this title shall apply to any second
15 or subsequent conviction of a violation of this subsection.

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

1 less than one (1) year nor more than five (5) years, or by a fine
2 not exceeding Seven Thousand Dollars (\$7,000.00), or by both such
3 fine and imprisonment. The provisions of Section 51.1 of this title
4 shall apply to any second or subsequent offense. For every
5 conviction of a domestic abuse crime in violation of any provision
6 of this section committed against an intimate partner or a family or
7 household member as defined by Section 60.1 of Title 22 of the
8 Oklahoma Statutes, the court shall:

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

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

1 shall be prima facie evidence of the violation of the
2 conditions of probation for the district attorney to
3 seek acceleration or revocation of any probation
4 entered by the court.

5 b. A program for anger management, couples counseling, or
6 family and marital counseling shall not solely qualify
7 for the counseling or treatment requirement for
8 domestic abuse pursuant to this subsection. The
9 counseling may be ordered in addition to counseling
10 specifically for the treatment of domestic abuse or
11 per evaluation as set forth below. If, after
12 sufficient evaluation and attendance at required
13 counseling sessions, the domestic violence treatment
14 program or licensed professional determines that the
15 defendant does not evaluate as a perpetrator of
16 domestic violence or does evaluate as a perpetrator of
17 domestic violence and should complete other programs
18 of treatment simultaneously or prior to domestic
19 violence treatment, including but not limited to
20 programs related to the mental health, apparent
21 substance or alcohol abuse or inability or refusal to
22 manage anger, the defendant shall be ordered to
23 complete the counseling as per the recommendations of
24

1 the domestic violence treatment program or licensed
2 professional;

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

1 unexcused absences in succession or seven unexcused
2 absences in a period of fifty-two (52) weeks from any
3 court-ordered domestic abuse counseling or treatment
4 program shall be prima facie evidence of the violation
5 of the conditions of probation for the district
6 attorney to seek acceleration or revocation of any
7 probation entered by the court.

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

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

20 5. At any review hearing, if the defendant is not
21 satisfactorily attending individual counseling or a domestic abuse
22 counseling or treatment program or is not in compliance with any
23 domestic abuse counseling or treatment requirements, the court may
24 order the defendant to further or continue counseling, treatment, or

1 other necessary services. The court may revoke all or any part of a
2 suspended sentence, deferred sentence, or probation pursuant to
3 Section 991b of Title 22 of the Oklahoma Statutes and subject the
4 defendant to any or all remaining portions of the original sentence;

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

11 7. If funding is available, a referee may be appointed and
12 assigned by the presiding judge of the district court to hear
13 designated cases set for review under this subsection. Reasonable
14 compensation for the referees shall be fixed by the presiding judge.
15 The referee shall meet the requirements and perform all duties in
16 the same manner and procedure as set forth in Sections 1-8-103 and
17 2-2-702 of Title 10A of the Oklahoma Statutes pertaining to referees
18 appointed in juvenile proceedings.

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

21 H. As used in subsection G of this section, "in the presence of
22 a child" means in the physical presence of a child; or having
23 knowledge that a child is present and may see or hear an act of
24 domestic violence. For the purposes of subsections C and G of this

1 section, "child" may be any child whether or not related to the
2 victim or the defendant.

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

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

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

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

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

12 2. Any person who commits the offense of aggravated
13 strangulation against an intimate partner or a family or household
14 member as defined by Section 60.1 of Title 22 of the Oklahoma
15 Statutes shall, upon conviction, be guilty of domestic abuse by
16 aggravated strangulation and shall be punished by imprisonment in
17 the custody of the Department of Corrections for a period of not
18 less than five (5) years nor more than ten (10) years, or by a fine
19 of not more than Ten Thousand Dollars (\$10,000.00), or by both such
20 fine and imprisonment. As used in this paragraph, "aggravated
21 strangulation" occurs when the victim begins to lose consciousness
22 or, in fact, loses consciousness as a result of being strangled.

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

4 1. Attend a treatment program for domestic abusers certified by
5 the Attorney General;

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

8 3. Attend, complete, and be evaluated before and after
9 attendance by a treatment program for domestic abusers, certified by
10 the Attorney General.

11 L. There shall be no charge of fees or costs to any victim of
12 domestic violence, stalking, or sexual assault in connection with
13 the prosecution of a domestic violence, stalking, or sexual assault
14 offense in this state.

15 M. In the course of prosecuting any charge of domestic abuse,
16 stalking, harassment, rape, or violation of a protective order, the
17 prosecutor shall provide the court, prior to sentencing or any plea
18 agreement, a local history and any other available history of past
19 convictions of the defendant within the last ten (10) years relating
20 to domestic abuse, stalking, harassment, rape, violation of a
21 protective order, or any other violent misdemeanor or felony
22 convictions.

23 N. Any plea of guilty or finding of guilt for a violation of
24 subsection C, F, G, I or J of this section shall constitute a

1 conviction of the offense for the purpose of this act or any other
2 criminal statute under which the existence of a prior conviction is
3 relevant for a period of ten (10) years following the completion of
4 any court imposed probationary term; provided, the person has not,
5 in the meantime, been convicted of a misdemeanor involving moral
6 turpitude or a felony.

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

11 P. Any pleas of guilty or nolo contendere or finding of guilt
12 to a violation of any provision of this section shall constitute a
13 conviction of the offense for the purpose of any subsection of this
14 section under which the existence of a prior conviction is relevant
15 for a period of ten (10) years following the completion of any
16 sentence or court-imposed probationary term.

17 Q. Persons convicted under the provisions of subsections C, D,
18 E, F, and J of this section:

19 1. Shall be required to serve not less than one hundred percent
20 (100%) of any sentence of imprisonment imposed; and

21 2. Shall not be eligible for earned credits or any other type
22 of credits which have the effect of reducing the length of the
23 sentence to less than one hundred percent (100%) of the sentence
24 imposed.

1 Provided, however, after serving one (1) year of the sentence of
2 imprisonment, the person may participate in a batterers'
3 intervention program for a minimum of fifty-two (52) weeks. Upon
4 successful completion of the batterers' intervention program, the
5 person shall be eligible for immediate release from incarceration
6 and the remainder of his or her sentence, subject to such conditions
7 as the court may prescribe, shall be suspended. The court shall
8 have the authority to revoke, accelerate, or modify the sentence if
9 any condition of the order issued by the court is violated or the
10 person is convicted of a felony or misdemeanor offense while serving
11 his or her suspended sentence.

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

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14 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
15 02/29/2024 - DO PASS, As Amended and Coauthored.
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