

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 2285

By: O'Donnell

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6 AS INTRODUCED

7 An Act relating to sentencing; amending 21 O.S. 2011,
8 Sections 51.1 and 51.2, which relate to punishments
9 for second and subsequent offenses; updating
10 language; modifying sentencing guidelines for second
11 and subsequent convictions; providing exemption from
sentencing guidelines for certain convictions;
prohibiting sentence enhancement for certain
convictions; deleting crime from exclusionary
provision; and providing an effective date.

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

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

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

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

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

21 3. If such subsequent offense is such that upon a first
22 conviction the offender would be punishable by imprisonment in the
23 ~~State Penitentiary~~ custody of the Department of Corrections for five
24 (5) years, or any less term, then the person convicted of such

1 subsequent offense is punishable by imprisonment in the ~~State~~
2 Penitentiary custody of the Department of Corrections for a term not
3 exceeding ten (10) years.

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

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

21 C. Every person who, having been twice convicted of felony
22 offenses, commits a subsequent felony offense within ten (10) years
23 of the date following the completion of the execution of the
24 sentence, and against whom the District Attorney seeks to enhance

1 punishment pursuant to this section of law, is punishable by
2 imprisonment in the ~~State Penitentiary~~ custody of the Department of
3 Corrections for a term in the range of three times the minimum term
4 for a first time offender to life imprisonment. If the subsequent
5 felony offense does not carry a minimum sentence as a first time
6 offender, the person is punishable by imprisonment in the ~~State~~
7 ~~Penitentiary~~ custody of the Department of Corrections for a term in
8 the range of four (4) years to life imprisonment. Felony offenses
9 relied upon shall not have arisen out of the same transaction or
10 occurrence or series of events closely related in time and location.
11 Nothing in this section shall abrogate or affect the punishment by
12 death in all crimes now or hereafter made punishable by death.

13 D. A previous conviction for possession of a controlled
14 dangerous substance may not be considered when determining a
15 sentence pursuant to this section of law.

16 E. A sentence for a felony conviction under the provisions of
17 the Uniform Controlled Dangerous Substances Act may not be enhanced
18 pursuant to this section of law.

19 F. Notwithstanding subsections A, B and C of this section,
20 every person who having previously been convicted of a felony, other
21 than a felony enumerated in Section 571 of Title 57 of the Oklahoma
22 Statutes, is convicted of a second or subsequent felony other than a
23 felony enumerated in Section 571 of Title 57 of the Oklahoma
24 Statutes, is punishable by imprisonment in the custody of the

1 Department of Corrections for a term of not more than the maximum
2 sentence plus one-fourth (1/4) of said sentence that could have been
3 imposed for a first conviction of the current offense.

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

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

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

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