ENGROSSED SENATE
BILL NO. 559

By: Marlatt and Pittman of the Senate

and

Hall of the House

[ assault - prosecution of assault - penalties - affirmative defense - codification - effective date ]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 644.2 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. For the purpose of this section, the term "another", when it refers to the victim of assault in Section 641 of this title, shall include a human embryo or fetus at any stage of gestation in utero.

B. Assault shall include the act of causing a child to be born addicted to or harmed by a narcotic drug, as defined in paragraph 26 of Section 2-101 of Title 63 of the Oklahoma Statutes, when the addiction or harm was caused by the illegal use of a narcotic drug by the child's mother while pregnant.

C. Any person who commits assault as established in this section, shall be guilty of a misdemeanor 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 fine and imprisonment.

D. If the illegal use of a narcotic drug by the pregnant woman results in the death of the child, the assault will be a felony offense punishable by imprisonment in the Department of Corrections not to exceed five (5) years, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not more than Five Hundred Dollars ($500.00), or both such fine and imprisonment.

E. Evidence that the woman is actively enrolled in an addiction recovery program before the child is born, remained in the program after delivery, and successfully completed the program, regardless of whether the child was born addicted to or harmed by the narcotic drug shall be considered in mitigation of punishment.

F. This section shall not apply to any lawful act or omission by a pregnant woman with respect to an embryo or fetus with which she is pregnant, or to any lawful medical or surgical procedure to which a pregnant woman consents, performed by a health care professional who is licensed to perform such a procedure.

SECTION 2. This act shall become effective November 1, 2015.
Passed the Senate the 10th day of March, 2015.

Presiding Officer of the Senate

Passed the House of Representatives the ___ day of ________, 2015.

Presiding Officer of the House of Representatives