

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 912

BY: MICKLE

AS INTRODUCED

AN ACT RELATING TO CRIMES AND PUNISHMENTS; AMENDING

21 O.S. 1991, SECTIONS 886, 888, 1115, 1116 AND
1123, WHICH RELATE TO SODOMY, FORCIBLE SODOMY, RAPE
IN THE FIRST DEGREE, RAPE IN THE SECOND DEGREE,
RAPE BY INSTRUMENTATION AND CHILD MOLESTATION;
PROVIDING ENHANCED PENALTIES; PROVIDING FOR
CODIFICATION; AND DECLARING AN EMERGENCY.

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 1123.1 of Title 21, unless there
is created a duplication in numbering, reads as follows:

Any person convicted of a third or subsequent violation of child
molestation or rape in the first degree, rape in the second degree,
rape by instrumentation, sodomy or forcible sodomy of a child shall
be deemed guilty of a felony and shall be punished by imprisonment
in the State Penitentiary for a term of life without parole, except
the offense of rape in the first degree may be punished by death.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 886, is
amended to read as follows:

Section 886. Every person who is guilty of the detestable and
abominable crime against nature, committed with mankind or with a

beast, is punishable by imprisonment in the penitentiary not exceeding ten (10) years, except as provided in Section 1 of this act.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 888, is amended to read as follows:

Section 888. A. Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony punishable by imprisonment in the penitentiary for a period of not more than twenty (20) years, except as provided in Section 1 of this act.

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or

2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or

3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 1115, is amended to read as follows:

Section 1115. Rape in the first degree is punishable by death or imprisonment in the penitentiary, not less than five (5) years, in the discretion of the jury, or in case the jury fail or refuse to fix the punishment then the same shall be pronounced by the court, except as provided in Section 1 of this act.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 1116, is amended to read as follows:

Section 1116. Rape in the second degree is punishable by imprisonment in the penitentiary not less than one (1) year nor more

than fifteen (15) years, except as provided in Section 1 of this act.

SECTION 6. AMENDATORY 21 O.S. 1991, Section 1123, is amended to read as follows:

Section 1123. A. Any person who shall knowingly and intentionally:

1. Make any oral or written lewd or indecent proposal to any child under sixteen (16) years of age for the child to have unlawful sexual relations or sexual intercourse with any person; or

2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification, urinate or defecate upon a child under sixteen (16) years of age or ejaculate upon or in the presence of a child, or force or require a child to look upon the body or private parts of another person or upon sexual acts performed in the presence of the child or force or require a child to touch or feel the body or private parts of said child or another person, upon conviction, shall be deemed guilty of a felony and shall be punished by imprisonment in the Oklahoma State Penitentiary for not less than one (1) year nor more than twenty (20) years, except as

provided in Section 1 of this act. The provisions of this section shall not apply unless the accused is at least three (3) years older than the victim.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without the consent of that person. Any person convicted of any violation of this subsection shall be deemed guilty of a felony and shall be punished by imprisonment in the Oklahoma State Penitentiary for not more than five (5) years.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

43-2-1313

NP