ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2121

By: Culver of the House

and

Mickle of the Senate

An Act relating to crimes and punishments; amending 21 O.S. 1991, Section 888, as last amended by Section 168, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 888), which relates to forcible sodomy; modifying circumstances constituting forcible sodomy; amending 21 O.S. 1991, Section 1123, as last amended by Section 200, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 1123), which relates to lewd or indecent proposals to a minor and sexual battery; modifying circumstances constituting sexual battery; and providing an effective date.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to crimes and punishments; amending 21 O.S. 1991, Section 888, as last amended by Section 168, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 888), which relates to forcible sodomy; modifying circumstances constituting forcible sodomy; amending 21 O.S. 1991, Section 1123, as last amended by Section 200, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 1123), which relates to lewd or indecent proposals to a minor and sexual battery; modifying circumstances constituting sexual battery; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 888, as last amended by Section 168, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, 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 State Penitentiary for a period of not more than twenty (20) years. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a person under sixteen (16) years of age, shall be punished by imprisonment in the State Penitentiary for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court.

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; or

4. Sodomy committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1123, as last amended by Section 200, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, 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 State Penitentiary for not less than one (1) year nor more than twenty (20) years. The provisions of this section shall not apply unless the accused is at least three (3) years older than the victim. Any person convicted of a second or subsequent violation of subsection A of this section shall be guilty of a felony and shall not be eligible for probation,

suspended or deferred sentence. Any person convicted of a third or subsequent violation of subsection A of this section shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court.

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 <u>or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state</u>.

<u>C.</u> Any person convicted of any violation of this subsection shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for not more than five (5) years.

SECTION 3. This act shall become effective November 1, 2000."

Passed the Senate the 17th day of April, 2000.

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President of the Senate

Passed the House of Representatives the ____ day of _____, 2000.

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Speaker of the House of Representatives