ENGROSSED HOUSE
BILL NO. 2065

By: Benge and Perry of the House

and

Pruitt of the Senate

An Act relating to criminal procedure; 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 proposal or acts with children under sixteen years of age; specifying penalty for engaging in three or more incidents of lewd molestation under certain circumstances; amending 21 O.S. 1991, Section 843, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 57, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7115), which relates to abuse or neglect of a child; specifying penalty for engaging in three or more incidents of sexual abuse under certain circumstances; and providing an effective date.

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

SECTION 1. 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. <u>Any person who commits three or more violations of paragraph 2, 4, or 5 of subsection A of this section against the same victim within a ten-year period and such violations are the subject of a single prosecution shall be punished by imprisonment in the State Penitentiary for not less than twenty (20) years nor more than life.</u>

In addition to a term of imprisonment, a fine may be assessed of not less than Five Hundred Dollars ($500.00) nor more than Ten Thousand Dollars ($10,000.00).

C. 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 State Penitentiary for not more than five (5) years.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 843, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 57, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (10 O.S. Supp. 1999, Section 7115), is amended to read as follows:

Section 7115. Any parent or other person who shall willfully or maliciously engage in child abuse or neglect or who shall otherwise willfully or maliciously injure, torture, maim, use unreasonable force upon a child under the age of eighteen (18), or sexually abuse, sexually exploit or otherwise abuse or neglect such child, or who shall willfully or maliciously cause, procure or permit any of said acts to be done, shall upon conviction be guilty of a felony and punished by imprisonment in the State Penitentiary not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. Any person who commits three or more violations of this section involving sexual abuse upon the same victim within a ten-year period and such violations are the subject of a single prosecution shall be punished by imprisonment in the State Penitentiary for a period of not less than twenty (20) years

nor more than life imprisonment. In addition to a term of imprisonment, a fine may be assessed of not less than Five Hundred Dollars ($500.00) nor more than Ten Thousand Dollars ($10,000.00). As used in this section, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of abuse as proscribed by this section.

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

Passed the House of Representatives the 28th day of February, 2000.

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Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 2000.

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President of the Senate