

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1207

By: Pettigrew

AS INTRODUCED

An Act relating to sex offenders; amending 21 O.S. 1991, Sections 1021, as last amended by Section 276, Chapter 133, O.S.L. 1997, 1021.2, as last amended by Section 277, Chapter 133, O.S.L. 1997, 1021.3, as last amended by Section 278, Chapter 133, O.S.L. 1997, and 1021.4 (21 O.S. Supp. 1998, Sections 1021, 1021.2 and 1021.3), which relate to lewd acts and obscenity; modifying penalties; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1021, as last amended by Section 276, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1021), is amended to read as follows:

Section 1021. A. Every person who willfully either:

1. Lewdly exposes his person or genitals in any public place, or in any place where there are present other persons to be offended or annoyed thereby;

2. Procures, counsels, or assists any person to expose such person, or to make any other exhibition of such person to public view or to the view of any number of persons, for the purpose of sexual stimulation of the viewer;

3. Writes, composes, stereotypes, prints, photographs, designs, copies, draws, engraves, paints, molds, cuts, or otherwise prepares, publishes, sells, distributes, keeps for sale, or exhibits any obscene or indecent writing, paper, book, picture, photograph, motion picture, figure, form of any description or any type of obscene material; or

4. Makes, prepares, cuts, sells, gives, loans, distributes, keeps for sale, or exhibits any disc record, metal, plastic, or wax, wire or tape recording, or any type of obscene material or any other kind of sound recording of any obscene or indecent language, poetry, or songs, or who speaks any words by means of a telephone to any person which are offensive to decency or are calculated to excite vicious or lewd thoughts or acts, or who speaks any other communicable words which are offensive to decency or are adapted to excite vicious or lewd thoughts or acts, shall be guilty, upon conviction, of a felony, punishable by imprisonment in a state correctional facility for not less than one (1) nor more than ten (10) years and shall not be eligible for probation, a suspended sentence or a deferred sentence. The fine for a violation of this subsection shall not be less than Five Hundred Dollars (\$500.00) nor more than Twenty Thousand Dollars (\$20,000.00). ~~Persons convicted under paragraphs 3 and 4 of subsection A of this section shall not be eligible for a deferred sentence.~~

B. Every person who:

1. Willfully solicits or aids a minor child to perform; or

2. Shows, exhibits, loans, or distributes to a minor child any obscene or indecent writing, paper, book, picture, photograph, motion picture, figure, or form of any description, or any type of obscene material for the purpose of inducing said minor to participate in any act specified in paragraphs 1, 2, 3 or 4 of subsection A of this section,

shall be guilty, upon conviction, of a felony, punishable by imprisonment in a state correctional facility for not less than ten (10) years nor more than life and shall not be eligible for probation, a suspended sentence or a deferred sentence. ~~Persons convicted under this subsection shall not be eligible for a deferred sentence.~~

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1021.2, as last amended by Section 277, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1021.2), is amended to read as follows:

Section 1021.2 Any person who shall procure or cause the participation of any minor under the age of eighteen (18) years in any film, motion picture, videotape, photograph, negative, slide, drawing, painting, play, performance or any type of obscene material wherein the minor is engaged in or portrayed, depicted, or represented as engaging in any act of sexual intercourse, in any act of fellatio or cunnilingus, in any act of excretion in the context of sexual activity, in any lewd exhibition of the uncovered genitals or pubic area or areola of the breasts in the context of masturbation or other sexual activity, or in any other exhibition of the uncovered genitals or pubic area or areola of the breasts having the purpose of sexual stimulation of the viewer, or who knowingly possesses, procures, or manufactures, or causes to be sold or distributed any obscene material involving the participation of any minor under the age of eighteen (18) shall be guilty, upon conviction, of a felony, punishable by imprisonment in a state correctional facility for a period of not less than two (2) years nor more than life. The fine for a violation of this section shall not be more than Twenty-five Thousand Dollars (\$25,000.00). Persons convicted under this section shall not be eligible for probation, a suspended sentence or a deferred sentence. The consent of the minor, or of the mother, father, legal guardian, or custodian of the minor to the activity prohibited by this section shall not constitute a defense.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 1021.3, as last amended by Section 278, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1021.3), is amended to read as follows:

Section 1021.3 Any parent, guardian or individual having custody of a minor under the age of eighteen (18) years who

knowingly permits or consents to the participation of a minor in any film, motion picture, videotape, photograph, negative, slide, drawing, painting, play, performance or any other obscene material wherein the minor is engaged in or portrayed, depicted or represented as engaging in any act of sexual intercourse, in any act of fellatio or cunnilingus, in any act of excretion in the context of sexual activity, or in any lewd exhibition of the uncovered genitals or pubic area or areola of the breasts in the context of masturbation or other sexual activity, shall be guilty of a felony, and upon conviction, shall be imprisoned in a state correctional facility for a period of not less than five (5) years nor more than life. The fine for a violation of this section shall not be more than Twenty-five Thousand Dollars (\$25,000.00). Persons convicted under this section shall not be eligible for probation, a suspended sentence or a deferred sentence. The consent of the minor to the activity prohibited by this section shall not constitute a defense.

SECTION 4. AMENDATORY 21 O.S. 1991, Section 1021.4, is amended to read as follows:

Section 1021.4 Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his professional capacity or employment, any film, photograph, video tape, negative, or slide, depicting a child under the age of eighteen (18) years engaged in an act of sexual conduct as defined in Section 1024.1 of this title shall immediately or as soon as possible report by telephone such instance of suspected child abuse to the law enforcement agency having jurisdiction over the case and shall prepare and send a written report of the incident with a copy of the film, photograph, video tape, negative, or slide attached, within thirty-six (36) hours after receiving the information concerning the incident. For the purposes of this section, commercial film and photographic print processor shall mean any person who develops exposed photographic film into negatives,

slides, or prints, or who makes prints from negatives or slides, for compensation. The term shall also include any employee of such a person but shall not include a person who develops film or makes prints for a public agency. Any person who violates the provisions of this section, upon conviction, shall be guilty of a ~~misdemeanor~~ and shall be ~~punished by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail not to exceed one (1) year~~ felony punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) or imprisonment in a state correctional facility for a period of not less than one (1) nor more than ten (10) years, or both such fine and imprisonment.

SECTION 5. This act shall become effective November 1, 1999.

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