

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1222

By: Pope (Tim)

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 1991, Section 1123, as last amended by Section 299, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1123), which relates to lewd molestation of a child; modifying penalty under certain circumstances; amending 21 O.S. 1991, Section 888, as last amended by Section 264, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 888), which relates to forcible sodomy; modifying penalty under certain circumstances; amending 21 O.S. 1991, Section 1115, as last amended by Section 292, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, Section 1115), which relates to rape; modifying penalty under certain circumstances; amending 21 O.S. 1991, Section 701.12, which relates to aggravating circumstances for death penalty; adding aggravating 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 299, Chapter 133, O.S.L. 1997 (21 O.S. Supp. 1998, 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,

1 or secret place, with the unlawful and willful intent and purpose  
2 then and there to commit any crime against public decency and  
3 morality, as defined by law, with the child; or

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

8 5. In a lewd and lascivious manner and for the purpose of  
9 sexual gratification, urinate or defecate upon a child under sixteen  
10 (16) years of age or ejaculate upon or in the presence of a child,  
11 or force or require a child to look upon the body or private parts  
12 of another person or upon sexual acts performed in the presence of  
13 the child or force or require a child to touch or feel the body or  
14 private parts of said child or another person,

15 upon conviction, shall be deemed guilty of a felony. The provisions  
16 of this section shall not apply unless the accused is at least three  
17 (3) years older than the victim. Any person convicted of a second  
18 or subsequent violation of this subsection ~~A of this section~~ shall  
19 be guilty of a felony and shall not be eligible for probation,  
20 suspended or deferred sentence. Any person convicted of a third or  
21 subsequent violation of this subsection ~~A of this section~~ shall be  
22 guilty of a felony. Any person convicted of a second or subsequent  
23 violation of paragraph 4 or 5 of this subsection shall be punished  
24 by life without parole or death. If the State of Oklahoma elects to  
25 seek the death penalty, pursuant to this subsection, the state shall  
26 be required to comply with all statutes regarding the imposition of  
27 the death penalty for the crime of first degree murder.

28 B. No person shall commit sexual battery on any other person.  
29 "Sexual battery" shall mean the intentional touching, mauling or  
30 feeling of the body or private parts of any person sixteen (16)  
31 years of age or older, in a lewd and lascivious manner and without  
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1 the consent of that person. Any person convicted of any violation  
2 of this subsection shall be deemed guilty of a felony.

3 SECTION 2. AMENDATORY 21 O.S. 1991, Section 888, as last  
4 amended by Section 264, Chapter 133, O.S.L. 1997 (21 O.S. Supp.  
5 1998, Section 888), is amended to read as follows:

6 Section 888. A. Any person who forces another person to engage  
7 in the detestable and abominable crime against nature, pursuant to  
8 Section 886 of this title, upon conviction, is guilty of a felony.  
9 Any person convicted of a second violation of this section, where  
10 the victim of the second offense is a person under sixteen (16)  
11 years of age, ~~shall not be eligible for probation, suspended or~~  
12 ~~deferred sentence. Any person convicted of a third or subsequent~~  
13 ~~violation of this section, where the victim of the third or~~  
14 ~~subsequent offense is a person under sixteen (16) years of age,~~  
15 shall be punished by imprisonment in the State Penitentiary for a  
16 term of life or life without parole or death. If the State of  
17 Oklahoma elects to seek the death penalty, pursuant to this  
18 subsection, the state shall be required to comply with all statutes  
19 regarding the imposition of the death penalty for the crime of first  
20 degree murder.

21 B. The crime of forcible sodomy shall include:

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

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

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

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1 SECTION 3. AMENDATORY 21 O.S. 1991, Section 1115, as  
2 last amended by Section 292, Chapter 133, O.S.L. 1997 (21 O.S. Supp.  
3 1998, Section 1115), is amended to read as follows:

4 Section 1115. Rape in the first degree is a felony. Any person  
5 convicted of a second or subsequent violation of Section 1111 of  
6 this title, where the victim of the second offense is under sixteen  
7 (16) years of age, shall be punished by imprisonment in the State  
8 Penitentiary for a term of life without parole or death. If the  
9 State of Oklahoma elects to seek the death penalty, pursuant to this  
10 section, the state shall be required to comply with all statutes  
11 regarding the imposition of the death penalty for the crime of first  
12 degree murder.

13 SECTION 4. AMENDATORY 21 O.S. 1991, Section 701.12, is  
14 amended to read as follows:

15 Section 701.12 Aggravating circumstances shall be:

16 1. The defendant was previously convicted of a felony involving  
17 the use or threat of violence to the person;

18 2. The defendant knowingly created a great risk of death to  
19 more than one person;

20 3. The person committed the murder for remuneration or the  
21 promise of remuneration or employed another to commit the murder for  
22 remuneration or the promise of remuneration;

23 4. The murder was especially heinous, atrocious, or cruel;

24 5. The murder was committed for the purpose of avoiding or  
25 preventing a lawful arrest or prosecution;

26 6. The murder was committed by a person while serving a  
27 sentence of imprisonment on conviction of a felony;

28 7. The existence of a probability that the defendant would  
29 commit criminal acts of violence that would constitute a continuing  
30 threat to society; ~~or~~

31 8. The victim of the murder was a peace officer as defined by  
32 Section 99 of ~~Title 21 of the Oklahoma Statutes~~ this title, or guard

1 of an institution under the control of the Department of  
2 Corrections, and such person was killed while in performance of  
3 official duty;

4 9. The defendant has been convicted of a second or subsequent  
5 violation of paragraph 4 or 5 of subsection A of Section 1123 of  
6 this title; or

7 10. The defendant has been convicted of Section 888 or 1111 of  
8 this title, involving a victim under the age of sixteen (16) years.

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

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