

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1556

By: Pruitt

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 1991, Sections 1021.1, and 1021.2, as last amended by Section 180, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 1999, Section 1021.2), which relate to application of obscenity standard and child pornography; construing application of certain chapter; excepting obscenity standard for child pornography; prohibiting possession, procurement, manufacture, distribution, and selling of child pornography; setting penalty; construing standard for conviction; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1021.1, is amended to read as follows:

Section 1021.1 This ~~act~~ chapter shall not apply to persons who may possess or distribute obscene matter or participate in conduct otherwise prescribed by this ~~act~~ chapter, when such possession, distribution, or conduct occurs in the course of law enforcement activities, or in the course of bona fide scientific education or comprehensive research or study, or bona fide objects of art or artistic pursuits, or like circumstances or justification, where the possession, distribution or conduct is not related to the subject matter's appeal to prurient interest. The standard for obscenity applied in this chapter shall not apply to child pornography as prohibited in Section 1021.2 of this title or Section 3 of this act.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1021.2, as last amended by Section 180, Chapter 5, 1st Extraordinary Session,

O.S.L. 1999 (21 O.S. Supp. 1999, 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, 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, ~~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 and shall be punished by imprisonment for not more than twenty (20) years or by the imposition of a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) or by both said fine and imprisonment. Persons convicted under this section shall not be eligible for a deferred sentence.

B. 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.

C. For purposes of conviction, the prosecution shall not be required to prove the material was obscene, but that it was prohibited by this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1021.2a of Title 21, unless there is created a duplication in numbering, reads as follows:

It is unlawful for any person to possess, procure, manufacture, distribute, or sell child pornography. Upon conviction, the violator shall be deemed guilty of a felony punishable by imprisonment in the State Penitentiary for a term not exceeding twenty (20) years, or by a fine not less than One Thousand Dollars (\$1,000.00) nor more than Twenty Five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.

For purposes of this section, "child pornography" means the participation, photographing, viewing, video taping, painting, drawing or depiction of a child under eighteen (18) years of age in a sexual act or in the context of sexual activity as prohibited by Section 1021.2 of Title 21 of the Oklahoma Statutes.

SECTION 4. 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.

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