

EHB 2301

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THE STATE SENATE
Monday, April 8, 2002

ENGROSSED

House Bill No. 2301

ENGROSSED HOUSE BILL NO. 2301 - By: BRADDOCK, ADAIR, PIATT, NANCE and WORTHEN of the House and WILKERSON of the Senate.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 1040.13a, which relates to facilitating or soliciting sexual conduct with a minor by using a computer; expanding circumstances constituting criminal behavior; amending 21 O.S. 2001, Section 1123, which relates to lewd or indecent proposals to a child; expanding circumstances constituting criminal behavior; stating certain conduct shall not constitute a defense; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1040.13a, is amended to read as follows:

Section 1040.13a. A. A person is guilty of violating the provisions of this section if, for the purposes of facilitating, encouraging, offering or soliciting sexual conduct with any minor, or other individual the person believes to be a minor, the person knowingly transmits by means of computer, or prints, publishes or reproduces by other computerized means, or buys, sells, receives, exchanges, or disseminates, any notice, statement, or advertisement of any ~~minor's~~ name, telephone number, place of residence, physical characteristics or other descriptive or identifying information of a minor or other individual the person believes to be a minor. The

1 fact that an undercover operative or law enforcement officer was
2 involved in the detection and investigation of an offense pursuant
3 to this section shall not constitute a defense to a prosecution
4 under this section.

5 B. Any violation of the provisions of this section shall be a
6 misdemeanor, punishable by the imposition of a fine not to exceed
7 Ten Thousand Dollars (\$10,000.00), or by imprisonment in the county
8 jail not to exceed one (1) year, or by both such fine and
9 imprisonment.

10 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1123, is
11 amended to read as follows:

12 Section 1123. A. Any person who shall knowingly and
13 intentionally:

14 1. Make any oral, written or electronically or computer-
15 generated lewd or indecent proposal to any child under sixteen (16)
16 years of age, or other individual the person believes to be a child
17 under sixteen (16) years of age, for the child to have unlawful
18 sexual relations or sexual intercourse with any person; or

19 2. Look upon, touch, maul, or feel the body or private parts of
20 any child under sixteen (16) years of age in any lewd or lascivious
21 manner by any acts against public decency and morality, as defined
22 by law; or

1 3. Ask, invite, entice, or persuade any child under sixteen
2 (16) years of age, or other individual the person believes to be a
3 child under sixteen (16) years of age, to go alone with any person
4 to a secluded, remote, or secret place, with the unlawful and
5 willful intent and purpose then and there to commit any crime
6 against public decency and morality, as defined by law, with the
7 child; or

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

12 5. In a lewd and lascivious manner and for the purpose of
13 sexual gratification, urinate or defecate upon a child under sixteen
14 (16) years of age or ejaculate upon or in the presence of a child,
15 or cause or expose or force or require a child to look upon the body
16 or private parts of another person or upon sexual acts performed in
17 the presence of the child or force or require a child to touch or
18 feel the body or private parts of said child or another person,
19 upon conviction, shall be deemed guilty of a felony and shall be
20 punished by imprisonment in the State Penitentiary for not less than
21 one (1) year nor more than twenty (20) years. The provisions of
22 this section shall not apply unless the accused is at least three
23 (3) years older than the victim. Any person convicted of a second

1 or subsequent violation of subsection A of this section shall be
2 guilty of a felony and shall not be eligible for probation,
3 suspended or deferred sentence. Any person convicted of a third or
4 subsequent violation of subsection A of this section shall be guilty
5 of a felony and shall be punished by imprisonment in the State
6 Penitentiary for a term of life or life without parole, in the
7 discretion of the jury, or in case the jury fails or refuses to fix
8 punishment then the same shall be pronounced by the court.

9 B. No person shall commit sexual battery on any other person.
10 "Sexual battery" shall mean the intentional touching, mauling or
11 feeling of the body or private parts of any person sixteen (16)
12 years of age or older, in a lewd and lascivious manner and without
13 the consent of that person or when committed by a state, county,
14 municipal or political subdivision employee or a contractor or an
15 employee of a contractor of the state, a county, a municipality or
16 political subdivision of this state upon a person who is under the
17 legal custody, supervision or authority of a state agency, a county,
18 a municipality or a political subdivision of this state.

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

1 D. The fact that an undercover operative or law enforcement
2 officer was involved in the detection and investigation of an
3 offense pursuant to this section shall not constitute a defense to a
4 prosecution under this section.

5 SECTION 3. This act shall become effective July 1, 2002.

6 SECTION 4. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-3-02 - DO
11 PASS.