EHB 1971

THE STATE SENATE
Wednesday, April 13, 2005

ENGROSSED

House Bill No. 1971

As Amended

ENGROSSED HOUSE BILL NO. 1971 - By: PERRY and NANCE of the House and COFFEE of the Senate.

[crimes and punishments - purchase, procurement, or possession of child pornography - modifying penalty - expanding scope - effective date]

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1024.2, is amended to read as follows:

Section 1024.2 It shall be unlawful for any person to buy, procure or possess child pornography in violation of Sections 1024.1 through 1024.4 of this title. Such person shall, upon conviction, be guilty of a felony and shall be imprisoned for a period of not more than ~~five (5)~~ twenty (20) years or a fine up to, but not exceeding, ~~Five Thousand Dollars ($5,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) or by both such fine and imprisonment. Persons convicted under this section shall not be eligible for a deferred sentence.

SECTION 2. AMENDATORY Section 1, Chapter 98, O.S.L. 2003 (21 O.S. Supp. 2004, Section 1959), is amended to read as follows:

(Bold face denotes Committee Amendments)

Section 1959. A. When any person has engaged in, is engaged in, or is attempting or conspiring to engage in any conduct constituting a violation of any of the provisions of ~~Section~~ Sections 1953 or 1958 of Title 21 of the Oklahoma Statutes, the Oklahoma Attorney General or any district attorney in Oklahoma may conduct an investigation of the activity. ~~On approval of the district judge, the~~ The Attorney General or district attorney, in accordance with the provisions of Section 258 of Title 22 of the Oklahoma Statutes and pursuant to the provisions of the Oklahoma Computer Crimes Act, is authorized before the commencement of any civil or criminal proceeding to subpoena witnesses, compel their attendance, examine them under oath, or require the production of any business papers or records by subpoena duces tecum. Evidence collected pursuant to this section shall not be admissible in any civil proceeding.

B. Any business papers and records subpoenaed by the Attorney General or district attorney shall be available for examination by the person who produced the material or by any duly authorized representative of the person. Transcripts of oral testimony shall be available for examination by the person who produced such testimony and their counsel.

Except as otherwise provided for in this section, no business papers, records, or transcripts or oral testimony, or copies of it,

subpoenaed by the Attorney General or district attorney shall be available for examination by an individual other than another law enforcement official without the consent of the person who produced the business papers, records or transcript.

C. All persons served with a subpoena by the Attorney General or district attorney pursuant to the provisions of the Oklahoma Computer Crimes Act shall be paid the same fees and mileage as paid witnesses in the courts of this state.

D. No person shall, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any person with any duly served subpoena of the Attorney General or district attorney pursuant to the provisions of this section, knowingly remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any business papers or records that are the subject of the subpoena duces tecum.

E. Any person violating the provisions of this section shall be guilty, upon conviction, of a misdemeanor.

SECTION 3. This act shall become effective November 1, 2005.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-05 - DO PASS, As Amended.