

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2737

By: Renegar

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending  
9 21 O.S. 2001, Section 1123, as last amended by  
10 Section 14 of Enrolled Senate Bill No. 1830 of the  
11 2nd Session of the 51st Oklahoma Legislature, which  
relates to lewd molestation and sexual battery;  
expanding definition of certain crime; and providing  
an effective date.

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

16 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1123, as  
17 last amended by Section 14 of Enrolled Senate Bill No. 1830 of the  
18 2nd Session of the 51st Oklahoma Legislature, is amended to read as  
19 follows:

20 Section 1123. A. It is a felony for any person to knowingly  
21 and intentionally:

22 1. Make any oral, written or electronically or computer-  
23 generated lewd or indecent proposal to any child under sixteen (16)  
24 years of age, or other individual the person believes to be a child

1 under sixteen (16) years of age, for the child to have unlawful  
2 sexual relations or sexual intercourse with any person; or

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

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

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

18 5. In a lewd and lascivious manner and for the purpose of  
19 sexual gratification:

20 a. urinate or defecate upon a child under sixteen (16)  
21 years of age,

22 b. ejaculate upon or in the presence of a child,

23 c. cause, expose, force or require a child to look upon  
24 the body or private parts of another person,

- 1           d.    force or require any child under sixteen (16) years of  
2                    age or other individual the person believes to be a  
3                    child under sixteen (16) years of age, to view any  
4                    obscene materials, child pornography or materials  
5                    deemed harmful to minors as such terms are defined by  
6                    Sections 1024.1 and 1040.75 of this title,  
7            e.    cause, expose, force or require a child to look upon  
8                    sexual acts performed in the presence of the child, or  
9            f.    force or require a child to touch or feel the body or  
10                   private parts of said child or another person.

11           Any person convicted of any violation of this subsection shall  
12 be punished by imprisonment in the custody of the Department of  
13 Corrections for not less than three (3) years nor more than twenty  
14 (20) years, except when the child is under twelve (12) years of age  
15 at the time the offense is committed, and in such case the person  
16 shall, upon conviction, be punished by imprisonment in the custody  
17 of the Department of Corrections for not less than twenty-five (25)  
18 years. The provisions of this subsection shall not apply unless the  
19 accused is at least three (3) years older than the victim. Any  
20 person convicted of a second or subsequent violation of this  
21 subsection shall be guilty of a felony punishable as provided in  
22 this subsection and shall not be eligible for probation, suspended  
23 or deferred sentence. Any person convicted of a third or subsequent  
24 violation of this subsection shall be guilty of a felony punishable

1 by imprisonment in the custody of the Department of Corrections for  
2 a term of life or life without parole, in the discretion of the  
3 jury, or in case the jury fails or refuses to fix punishment then  
4 the same shall be pronounced by the court. Any person convicted of  
5 a violation of this subsection after having been twice convicted of  
6 a violation of subsection A of Section 1114 of this title, Section  
7 888 of this title, sexual abuse of a child pursuant to Section 7115  
8 of Title 10 of the Oklahoma Statutes, or of any attempt to commit  
9 any of these offenses or any combination of convictions pursuant to  
10 these sections shall be punished by imprisonment in the custody of  
11 the Department of Corrections for a term of life or life without  
12 parole.

13 B. No person shall commit sexual battery on any other person.  
14 "Sexual battery" shall mean the intentional touching, mauling or  
15 feeling of the body or private parts of any person sixteen (16)  
16 years of age or older, in a lewd and lascivious manner and without  
17 the consent of that person or when committed by a state, county,  
18 municipal or political subdivision employee or a contractor or an  
19 employee of a contractor of the state, a county, a municipality or  
20 political subdivision of this state upon a person who is under the  
21 legal custody, supervision or authority of a state agency, a county,  
22 a municipality or a political subdivision of this state. "Sexual  
23 battery" shall also mean the intentional placing of any ejaculate  
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1 substance upon an object with the intent that such object be used,  
2 in any manner, by a person sixteen (16) years of age or older.

3 C. Any person convicted of a violation of subsection B of this  
4 section shall be deemed guilty of a felony and shall be punished by  
5 imprisonment in the custody of the Department of Corrections for not  
6 more than ten (10) years.

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

11 E. Except for persons sentenced to life or life without parole,  
12 any person sentenced to imprisonment for two (2) years or more for a  
13 violation of this section shall be required to serve a term of post-  
14 imprisonment supervision pursuant to subparagraph f of paragraph 1  
15 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes  
16 under conditions determined by the Department of Corrections. The  
17 jury shall be advised that the mandatory post-imprisonment  
18 supervision shall be in addition to the actual imprisonment.

19 SECTION 2. This act shall become effective November 1, 2008.

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21 51-2-10542 GRS 03/04/08  
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