

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE RECOMMENDATION
4 FOR

5 HOUSE BILL NO. 2737

6 By: Renegar

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to crimes and punishments; amending
9 21 O.S. 2001, Section 1123, as last amended by
10 Section 19, Chapter 261, O.S.L. 2007 (21 O.S. Supp.
11 2007, Section 1123), which relates to lewd
12 molestation and sexual battery; expanding definition
13 of certain crime; and providing an effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1123, as
16 last amended by Section 19, Chapter 261, O.S.L. 2007 (21 O.S. Supp.
17 2007, Section 1123), is amended to read as follows:

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

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

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

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

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

16 5. In a lewd and lascivious manner and for the purpose of
17 sexual gratification:

- 18 a. urinate or defecate upon a child under sixteen (16)
19 years of age,
- 20 b. ejaculate upon or in the presence of a child,
- 21 c. cause, expose, force or require a child to look upon
22 the body or private parts of another person,
- 23 d. force or require any child under sixteen (16) years of
24 age or other individual the person believes to be a

1 child under sixteen (16) years of age, to view any
2 obscene materials, child pornography or materials
3 deemed harmful to minors as such terms are defined by
4 Sections 1024.1 and 1040.75 of this title,

5 e. cause, expose, force or require a child to look upon
6 sexual acts performed in the presence of the child, or

7 f. force or require a child to touch or feel the body or
8 private parts of said child or another person.

9 Any person convicted of any violation of this subsection shall
10 be punished by imprisonment in the custody of the Department of
11 Corrections for not less than three (3) years nor more than twenty
12 (20) years. The provisions of this subsection shall not apply
13 unless the accused is at least three (3) years older than the
14 victim. Any person convicted of a second or subsequent violation of
15 this subsection shall be guilty of a felony punishable as provided
16 in this subsection and shall not be eligible for probation,
17 suspended or deferred sentence. Any person convicted of a third or
18 subsequent violation of this subsection shall be guilty of a felony
19 punishable by imprisonment in the custody of the Department of
20 Corrections for a term of life or life without parole, in the
21 discretion of the jury, or in case the jury fails or refuses to fix
22 punishment then the same shall be pronounced by the court. Any
23 person convicted of a violation of this subsection after having been
24 twice convicted of a violation of subsection A of Section 1114 of

1 this title, Section 888 of this title, sexual abuse of a child
2 pursuant to Section 7115 of Title 10 of the Oklahoma Statutes, or of
3 any attempt to commit any of these offenses or any combination of
4 convictions pursuant to these sections shall be punished by
5 imprisonment in the custody of the Department of Corrections for a
6 term of life or life without parole.

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

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

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

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

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