

THE HOUSE OF REPRESENTATIVES
Thursday, March 6, 2008

Committee Substitute for
House Bill No. 2737

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2737 - By: RENEGAR of the House and CORN of the Senate.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 1123, as last amended by Section 14 of Enrolled Senate Bill No. 1830 of the 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.

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

- 1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1123, as last amended by
2 Section 14 of Enrolled Senate Bill No. 1830 of the 2nd Session of the 51st Oklahoma
3 Legislature, is amended to read as follows:
- 4 Section 1123. A. It is a felony for any person to knowingly and intentionally:
- 5 1. Make any oral, written or electronically or computer-generated lewd or indecent
6 proposal to any child under sixteen (16) years of age, or other individual the person
7 believes to be a child under sixteen (16) years of age, for the child to have unlawful
8 sexual relations or sexual intercourse with any person; or
- 9 2. Look upon, touch, maul, or feel the body or private parts of any child under
10 sixteen (16) years of age in any lewd or lascivious manner by any acts against public
11 decency and morality, as defined by law; or

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

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

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

- 10 a. urinate or defecate upon a child under sixteen (16) years of age,
11 b. ejaculate upon or in the presence of a child,
12 c. cause, expose, force or require a child to look upon the body or private
13 parts of another person,
14 d. force or require any child under sixteen (16) years of age or other
15 individual the person believes to be a child under sixteen (16) years of
16 age, to view any obscene materials, child pornography or materials
17 deemed harmful to minors as such terms are defined by Sections
18 1024.1 and 1040.75 of this title,
19 e. cause, expose, force or require a child to look upon sexual acts
20 performed in the presence of the child, or
21 f. force or require a child to touch or feel the body or private parts of said
22 child or another person.

1 Any person convicted of any violation of this subsection shall be punished by
2 imprisonment in the custody of the Department of Corrections for not less than three (3)
3 years nor more than twenty (20) years, except when the child is under twelve (12) years
4 of age at the time the offense is committed, and in such case the person shall, upon
5 conviction, be punished by imprisonment in the custody of the Department of Corrections
6 for not less than twenty-five (25) years. The provisions of this subsection shall not apply
7 unless the accused is at least three (3) years older than the victim. Any person convicted
8 of a second or subsequent violation of this subsection shall be guilty of a felony
9 punishable as provided in this subsection and shall not be eligible for probation,
10 suspended or deferred sentence. Any person convicted of a third or subsequent violation
11 of this subsection shall be guilty of a felony punishable by imprisonment in the custody of
12 the Department of Corrections for a term of life or life without parole, in the discretion of
13 the jury, or in case the jury fails or refuses to fix punishment then the same shall be
14 pronounced by the court. Any person convicted of a violation of this subsection after
15 having been twice convicted of a violation of subsection A of Section 1114 of this title,
16 Section 888 of this title, sexual abuse of a child pursuant to Section 7115 of Title 10 of the
17 Oklahoma Statutes, or of any attempt to commit any of these offenses or any
18 combination of convictions pursuant to these sections shall be punished by imprisonment
19 in the custody of the Department of Corrections for a term of life or life without parole.

20 B. No person shall commit sexual battery on any other person. "Sexual battery"
21 shall mean the intentional touching, mauling or feeling of the body or private parts of
22 any person sixteen (16) years of age or older, in a lewd and lascivious manner and

1 without the consent of that person or when committed by a state, county, municipal or
2 political subdivision employee or a contractor or an employee of a contractor of the state,
3 a county, a municipality or political subdivision of this state upon a person who is under
4 the legal custody, supervision or authority of a state agency, a county, a municipality or a
5 political subdivision of this state. “Sexual battery” shall also mean the intentional
6 placing of any ejaculate substance upon an object with the intent that such object be
7 used, in any manner, by a person sixteen (16) years of age or older.

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

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

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

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

1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
2 dated 03-05-08 - DO PASS, As Amended and Coauthored.