

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 1521

By: Peterson

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishment; amending 21  
8 O.S. 2001, Section 1123, as last amended by Section  
9 14, Chapter 3, O.S.L. 2008 (21 O.S. Supp. 2008,  
10 Section 1123), which relates to lewd molestation and  
11 sexual battery; making certain acts unlawful;  
12 providing penalty; and providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1123, as  
15 last amended by Section 14, Chapter 3, O.S.L. 2008 (21 O.S. Supp.  
16 2008, Section 1123), is amended to read as follows:

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

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

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, except when the child is under twelve (12) years of age  
13 at the time the offense is committed, and in such case the person  
14 shall, upon conviction, be punished by imprisonment in the custody  
15 of the Department of Corrections for not less than twenty-five (25)  
16 years. The provisions of this subsection shall not apply unless the  
17 accused is at least three (3) years older than the victim. Any  
18 person convicted of a second or subsequent violation of this  
19 subsection shall be guilty of a felony punishable as provided in  
20 this subsection and shall not be eligible for probation, suspended  
21 or deferred sentence. Any person convicted of a third or subsequent  
22 violation of this subsection shall be guilty of a felony punishable  
23 by imprisonment in the custody of the Department of Corrections for  
24 a term of life or life without parole, in the discretion of the

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

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

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

1       D. "Sexual battery" shall also mean the intentional touching,  
2 mauling or feeling of the body or private parts of a person fifteen  
3 (15) years of age or younger in a lewd and lascivious manner and  
4 without the consent of that person by a person whose age is less  
5 than three (3) years older than the victim. Any person convicted of  
6 a violation of this subsection shall be deemed guilty of a  
7 misdemeanor.

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

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

21       SECTION 2. This act shall become effective November 1, 2009.

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23       52-1-6052           GRS       01/04/09  
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