

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2226

By: Sykes

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5
6 AS INTRODUCED

7 An Act relating to crimes and punishment; allowing
8 district attorneys to take action for certain
9 transmissions; establishing place of prosecution;
10 designating jurisdiction; defining violation and
11 penalty; prohibiting certain defense; providing for
12 codification; and providing an effective date.

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

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1040.13b of Title 21, unless
16 there is created a duplication in numbering, reads as follows:

17 A. Whenever the district attorney for any district has
18 reasonable cause to believe that an individual, with knowledge of
19 its content, is engaged in sending a transmission or causing a
20 transmission to be sent into this state containing obscene material
21 or child pornography, the district attorney for the district into
22 which the transmission is sent or caused to be sent, may institute
23 an action in the district court for an adjudication of the obscenity
24 or child pornographic content of the transmission. Provided that
conditions of subsection B of this section are present, then it

1 shall be at the discretion of the district attorney whether the
2 action instituted is a juvenile offense as defined in subsection B
3 of this section or whether the action instituted is a felony for a
4 violation of Section 1040.13a of this title.

5 The individual sending the transmission specified in this
6 section may be indicted and tried in any district wherein the
7 transmission is sent, or in which it is received by the person to
8 whom it was transmitted.

9 For purposes of any criminal prosecution pursuant to a violation
10 of this section, the person violating the provisions of this section
11 shall be deemed to be within the jurisdiction of this state by the
12 fact of accessing any computer, cellular phone, or other computer-
13 related or satellite-operated device in this state, regardless of
14 the actual jurisdiction where the violator resides.

15 B. Any individual under eighteen (18) years of age who engages
16 in the original or relayed transmission of obscene or erotic
17 material via electronic media in the form of digital images, videos,
18 or other depictions of real persons under the age of eighteen (18)
19 years, and:

20 1. The original or relayed transmission is of another minor
21 over thirteen (13) years of age and is made with the consent of the
22 pictured individual and is transmitted to five (5) or fewer
23 individual destinations, known or unknown, shall be guilty of a
24 misdemeanor violation of this section punishable by:

- a. fine of Five Hundred Dollars (\$500.00) for the first offense,
- b. a fine of One Thousand Dollars (\$1,000.00) for a second and subsequent offense,
- c. up to forty (40) hours of community service, and
- d. a referral to a juvenile bureau to propose a probation plan which shall be adopted through disposition;

2. The original or relayed transmission is of another minor over thirteen (13) years of age and is made without the consent of the pictured individual, or is sent to six (6) or more individual destinations, known or unknown, shall be guilty of a misdemeanor violation of this section punishable by:

- a. a fine of Seven Hundred Dollars (\$700.00) for the first offense,
- b. a fine of One Thousand Four Hundred Dollars (\$1,400.00) for a second or subsequent offense,
- c. up to sixty (60) hours of community service, and
- d. a referral to a juvenile bureau to propose a probation plan which shall be adopted through disposition; and

3. The original or relayed transmission is of another minor thirteen (13) years of age or younger, with or without the pictured individuals consent, and is transmitted to any number of destinations, known or unknown, shall be guilty of a misdemeanor violation of this section punishable by:

- 1 a. a fine of Nine Hundred Dollars (\$900.00) for the first
2 offense,
3 b. a fine of One Thousand Eight Hundred Dollars
4 (\$1,800.00) for a second or subsequent offense,
5 c. up to eighty (80) hours of community service, and
6 d. a referral to a juvenile bureau to propose a probation
7 plan which may be adopted through disposition.

8 C. The fact that the individual making the transmission and the
9 individual pictured are the same does not alter the criminality of
10 this section.

11 SECTION 2. This act shall become effective November 1, 2010.

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