

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2519 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jason Nelson

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2519

By: Nelson

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to child pornography; amending 21
9 O.S. 2011, Section 1024.1, which relates to child
10 pornography definitions; modifying certain
11 definitions; amending 74 O.S. 2011, Section 151.1,
12 which relates to the Internet Crimes Against Children
13 unit of the Oklahoma State Bureau of Investigation;
14 authorizing Director of the Oklahoma State Bureau of
15 Investigation to enter into certain local cooperative
16 agreements; providing for the appointment of reserve
17 task force agents; establishing powers and duties of
18 reserve task force agents; providing for the renewal,
19 suspension and revocation of agreements; and
20 providing an effective date.

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

22 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1024.1, is
23 amended to read as follows:

24 Section 1024.1 A. As used in Sections 1021, 1021.1 through
~~1021.3~~ 1021.4, Sections 1022 through 1024, and Sections 1040.8
through 1040.24 of this title, "child pornography" means and
includes any visual depiction or individual image stored or

1 contained in any format on any medium including, but not limited to,
2 film, motion picture, videotape, photograph, negative, undeveloped
3 film, slide, photographic product, reproduction of a photographic
4 product, ~~CD-ROM, magnetic disk memory, magnetic tape memory,~~
5 ~~electronic or photo-optical format,~~ play or performance wherein a
6 minor under the age of eighteen (18) years is engaged in any act
7 with a person, other than his or her spouse, of sexual intercourse
8 which is normal or perverted, in any act of anal sodomy, in any act
9 of sexual activity with an animal, in any act of sadomasochistic
10 abuse including, but not limited to, flagellation or torture, or the
11 condition of being fettered, bound or otherwise physically
12 restrained in the context of sexual conduct, in any act of fellatio
13 or cunnilingus, in any act of excretion in the context of sexual
14 conduct, in any lewd exhibition of the uncovered genitals in the
15 context of masturbation or other sexual conduct, or where the lewd
16 exhibition of the uncovered genitals, buttocks or, if such minor is
17 a female, the breast, has the purpose of sexual stimulation of the
18 viewer, or wherein a person under the age of eighteen (18) years
19 observes such acts or exhibitions. Each visual depiction or
20 individual image shall constitute a separate item and multiple
21 copies of the same identical material shall each be counted as a
22 separate item.

23 B. As used in Sections 1021 through 1024.4 and Sections 1040.8
24 through 1040.24 of this title:

1 1. "Obscene material" means and includes any representation,
2 performance, depiction or description of sexual conduct, whether in
3 any form or on any medium including still photographs, undeveloped
4 photographs, motion pictures, undeveloped film, videotape, ~~CD-ROM,~~
5 optical, magnetic ~~disk memory, magnetic tape memory,~~ electronic or
6 ~~photo-optical format~~ solid-state storage, CD or DVD, or a purely
7 photographic product or a reproduction of such product in any book,
8 pamphlet, magazine, or other publication or electronic or photo-
9 optical format, if said items contain the following elements:

- 10 a. depictions or descriptions of sexual conduct which are
11 patently offensive as found by the average person
12 applying contemporary community standards,
13 b. taken as a whole, have as the dominant theme an appeal
14 to prurient interest in sex as found by the average
15 person applying contemporary community standards, and
16 c. a reasonable person would find the material or
17 performance taken as a whole lacks serious literary,
18 artistic, educational, political, or scientific
19 purposes or value.

20 The standard for obscenity applied in this section shall not apply
21 to child pornography;

22 2. "Performance" means and includes any display, live or
23 recorded, in any form or medium;

24 3. "Sexual conduct" means and includes any of the following:

1 a. acts of sexual intercourse including any intercourse
2 which is normal or perverted, actual or simulated,

3 b. acts of deviate sexual conduct, including oral and
4 anal sodomy,

5 c. acts of masturbation,

6 d. acts of sadomasochistic abuse including but not
7 limited to:

8 (1) flagellation or torture by or upon any person who
9 is nude or clad in undergarments or in a costume
10 which is of a revealing nature, or

11 (2) the condition of being fettered, bound, or
12 otherwise physically restrained on the part of
13 one who is nude or so clothed,

14 e. acts of excretion in a sexual context, or

15 f. acts of exhibiting human genitals or pubic areas; and

16 4. "Explicit child pornography" means material which a law
17 enforcement officer can immediately identify upon first viewing
18 without hesitation as child pornography.

19 The types of sexual conduct described in paragraph 3 of this
20 subsection are intended to include situations when, if appropriate
21 to the type of conduct, the conduct is performed alone or between
22 members of the same or opposite sex or between humans and animals in
23 an act of apparent sexual stimulation or gratification.

1 SECTION 2. AMENDATORY 74 O.S. 2011, Section 151.1, is
2 amended to read as follows:

3 Section 151.1 A. The Oklahoma State Bureau of Investigation
4 shall establish an Internet Crimes Against Children (ICAC) unit for
5 the primary purpose of investigating Internet crimes committed
6 against children, including, but not limited to, offenses related to
7 child pornography and solicitation of minors for pornography,
8 prostitution or sex-related offenses. The unit shall additionally
9 promote safe Internet use among children and their parents by
10 various media or printed-material campaigns or by offering
11 educational programs to schools or communities throughout this
12 state. The Bureau shall employ sufficient employees to investigate
13 and implement the ICAC unit.

14 B. The Director of the Oklahoma State Bureau of Investigation
15 is hereby authorized to enter into local cooperative agreements with
16 local law enforcement agencies for the purpose of appointing ICAC
17 Affiliate Task Force Agents to assist the ICAC unit of the Bureau.
18 ICAC Affiliate Task Force Agents shall be employees and commissioned
19 law enforcement officers of the local law enforcement agency
20 entering into agreement with the Oklahoma State Bureau of
21 Investigation and shall not be employees of the Bureau. ICAC
22 Affiliate Task Force Agents shall have general peace officer powers
23 and the authority to arrest persons throughout the state for the
24 purpose of investigating Internet crimes committed against children

1 including, but not limited to, offenses related to child
2 pornography, solicitation of minors for pornography, prostitution or
3 sex-related offenses. ICAC Affiliate Task Force Agents shall
4 promote safe Internet use among children and parents of children by
5 various media or printed-material campaigns or by offering
6 educational programs to schools or communities throughout Oklahoma.
7 The Director of the Bureau may renew, suspend or revoke any
8 agreement appointing an ICAC Affiliate Task Force Agent at any time.
9 ICAC Affiliate Task Force Agents serve solely at the discretion and
10 will of the Director of the Oklahoma State Bureau of Investigation.

11 SECTION 3. This act shall become effective November 1, 2012.

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13 53-2-9284 GRS 02/07/12
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